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Polish Policy of Migration Compared to the EU Solutions

Abstract: *The accession of Poland to the EU prompted the necessity to develop a comprehensive strategy towards foreigners who will most probably be entering the Polish territory on the much bigger scale than before. On the one hand the strategy should take into account the *acquis communautaire* and the Member States' experience with migration, and on the other, the specific Polish political, social, and cultural conditions. The basis and the starting point for this strategy ought to be a defined migration doctrine that will be later reflected in the, implemented programmes and adopted legal acts, as well as political declarations. Moreover, the migration policy ought to consist of two components: the policy towards immigrants and the policy towards emigrants, as the coexistence of the two factors only will allow for resolving the unavoidable demographic and social problems. Accordingly, one of the crucial tasks which needs to be preformed in that context is the development of the principles and methods of informing the society about migration problems. It is essential in order to achieve the acceptance, tolerance and the wish for co-operation in the society of the phenomenon of migration, which is an inevitable result of globalization and evolution of societies. At the same time, it must be remembered that all strictly imposed top-down solutions often lead to conflicts which later require much political and societal energy to be resolved without any guarantee for success.*

Introduction

Movements of people, known as migrations, have been a phenomenon known from the very outset of the human race. What evolved over time were mainly directions of that movement. In the remote past Franks or Germans pressed on Southwards in search for better life. In our days, people from the

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South tend to look for living opportunities in the North where economic resources of Europe have kept accumulating for dozens of years.

It has been generally believed that contemporary migration movements have formed part of significant effects of globalisation. It seems worthwhile, however, to consider the point in more detail. As observed by Daniel Cohen, a French professor of economics, in his excellent book *Globalization and Its Enemies*,¹ immigrants have only accounted for 3% of the world population in our times, whilst their share back in 1913 was 10%. And this what happens in the present we call the time of all-embracing globalisation that registers the entire sphere of modern life in all its areas and aspects. However, is it really true that this implies mass migration? Or perhaps what we deal with is a sort of a wrong logic: globalisation – the all-embracing movement – easiness of moving – mass movement – enhanced migration? D.Cohen goes as far as saying that “*today’s globalisation is immobile*”² giving an example that goods are indeed produced and marketed on the scale of the whole globe, however, most people living in wealthy countries only get to know other societies from the TV or, at best, from a holiday spent in a country they find exotic. Whilst emigration from the above-mentioned South, from poor African countries lost in local armed conflicts and from the ever-inflammable Middle East is in fact indisputable, this is not really the case in much of Europe. In order to work in Brussels one no longer needs to emigrate with the family and settle there down; instead, it is perfectly possible to fly over there from Warsaw (or Paris, Stockholm or Berlin for that case) on Monday and come back home on Friday. Similarly, to provide IT servicing for an American insurance company one is not required to move from his native Delhi – it suffices to be an exquisite computer expert and smoothly use a common language in employer-employee relations. These remarks really make a simple implication: globalising world → increasing migration a much more complex issue.

In that context, migration policies of the “old” European Union Member States have evolved as a plain consequence of a massive inflow of cheap labour which over the Sixties and Seventies of the past Century enabled those countries to achieve an impressive economic growth. This immigration was far from uniform in terms of either origin, culture or religion, however it managed to meet economic demand of that period. The United Kingdom mainly experienced immigration from the former British colonies (India, Pakistan), while France did from North African countries (mainly Algeria). Italy had workers from Morocco and Germany had its “gastarbeiter” from Turkey. The inflow of foreign citizens in those countries happened at a much

¹ D.Cohen, *Globalization and Its Enemies*, MIT Press, Cambridge 2006, p.27.

² *Ibidem*.

higher rate than thinking upon how to ensure proper place for them in their new societies. Most actions undertaken were just immediate measures, intended as *ad hoc* solutions of problems that arose. This could not have stopped tensions and conflicts from growing larger, accumulating and leading, from time to time, to uncontrolled outbursts, for example in the form of setting Turkish's or Moroccan workers' houses on fire. Regional conflicts (in Africa, in the Balkans, in Afghanistan and Chechnya) added their refugees and asylum-seeking people to that mixed and complex kettle.

1. The European Union's migration policy

Common arrangements made at the Community level first regarded the issues of refugees and asylum and only at a later time the EU scope of competence was extended to those concerning economic migration and, finally, to extremely important problems of integration of foreign nationals.

The Dublin Convention of 1990³ was the Community's earliest attempt at dealing with the problem of the State competency to consider applications for asylum. It imposed the general obligation that applications were to be considered by a State of the first entry, in order to eliminate the problem of filing applications to several countries one after another.

As the next step, the Treaty of Maastricht, signed in 1992, named the area of justice and home affairs (including the asylum and migration policies) as that in which collaboration between Member States was required. However, it was only the Treaty of Amsterdam that really became the turning point in that field. It shifted the problem of migration from the 3rd pillar (intergovernmental decisions) to the 1st pillar (Community decisions), thus recognizing validity and necessity of the Community-levels solutions in that area. Moreover, the Treaty of Amsterdam stipulated that such issues as conditions of entry and stay at the EU territory of persons coming from third countries as well as standards regarding visas and stay permits would be regulated upon the Community level. It was also provided that the provisions in questions would start to apply five years after the Treaty entered into force. Furthermore, the Treaty incorporated the provisions from Schengen into the *acquis communautaire*.

As a further consequence of those decisions, settlements agreed during the European Council summit in Tampere (1999) concerned rules on competence of a State responsible for considering asylum applications (as provided for by the Dublin Convention), preparation of common standards as regards the

³ The Dublin Convention of 1990,
http://www.europaworld.org/DEVPOLAWAR/Eng/Refugees/Refugees_DocC_eng.htm

refugee status and adoption of refugees in the UE Member States. The Tampere summit also mentioned the obligation to treat foreign citizens legally staying in the EU countries in a fair manner as well as that of preparation of an effective policy for their integration into their respective new societies. Other important elements of the Tampere summit were an observation that waves of inflowing immigrants could really be foreseen and regulated and that it was desirable to make comprehensive arrangements for being able to eradicate criminal practices of smuggling foreign citizens into the European Union territory. The latter intent, quite understandably, could only be achieved if foreigners were ensured/ guaranteed a set of clear and legally specified possibilities to enter the Community area.

In the wake of the Tampere arrangements the European Commission prepared a number of directives. Particular attention should be paid to three of them, concerning, respectively, as follows:

- principles of joining immigrants' families together,
- the status of the EU residents,
- principles of admission of students and migrating workers.

Another important effect of the summit was the adoption of Commission action plans aiming at: counteracting illegal migration, promotion of voluntary returns to people's countries of origin or provision of support to third countries in the areas of migration and asylum.

In 2004, the Dutch Presidency (July-December) referred to the Tampere settlements because five years provided for their implementations passed. *"It is not our intent to create a fortress Europe"* – declared the Prime Minister of Netherlands, but at the same time he underlined that it was necessary to control the European Union's borders and to reduce the wave of illegal immigration. *"We cannot afford, in the open-bordered European Union, to have no common policy regarding immigration, repatriation and asylum in place"*.

It should be emphasised, that the Dutch Presidency considered protection and support given to countries of origin of refugees when seeking for possible solutions of the problem. Although nobody openly acknowledged that, the idea – previously suggested in the United Kingdom – that centres for refugees could be established outside the European Union's borders – was still present in the background in that context.⁴

In the autumn of 2004 the European Union adopted the Hague Programme. This was assumed to become a subsequent stage on the way to creation of the common migration policy. In reality, however, it failed to

⁴ It is enough here to mention the political outrage that took place after Ukrainian authorities learnt from Western media about plans to create such centres in the territory of Ukraine.

become any significant step among many half-hearted attempts to address the problem, so at best it showed how weak was in fact Member States' will to regulate the problem under a common approach. One important element of the Programme was emphasis laid upon the importance of an external dimension of migration, *i.e.* co-operation with countries of origins of immigrants and financial support to be provided thereto from the Community funds. It was also acknowledged necessary in the Programme to send immigrants who had lost the right to stay in the EU territory to their countries of origin, as well as to prepare minimum standards in this respect, regarding such people's returns and to establish, by the year 2007, the European Return Fund.

The Programme also included an assertion, reassuring to the Member States, that it would be in their scope of competence to fix quotas of immigrants received. Finally, the document emphasised the importance of effective integration of immigrants within their adopting societies. It seems important, in this respect, to appreciate the specific nature of integration measures undertaken as they go both ways: towards immigrants, of course, but towards citizens of the adopting countries as well, this combined with an awareness of the need for cross-cultural dialogue, of tolerance, but also of acceptance for the EU's key values.

The Hague Programme, despite its ambitious profile, turned out to reach just a little beyond the comprehensive Tampere arrangements and, generally, failed to become a significant (and sorely needed) step in building the common policy of migration.

It has to be appreciated, yet, that creation of opportunities for integration with adopting society, including provision to immigrants of legal status comparable to that enjoyed by a country's own citizens is, unfortunately, a very costly process. Worse still, its effects remain uncertain until it finally occurs whether true integration happened or not. European societies generally share a belief that it is necessary to integrate immigrants, however, the problem is who is going to pay the bill. After all, integration should not be regarded as either casual or immediate process. People who come to a given country should be familiar with principles of the process of integration and with bodies responsible, so that they know which are the adopting society's expectations from them.

As revealed by data presented in the report of the International Organization of Migration for 2005, most European countries had positive migration balance, which largely determined whether a country's population increased or decreased. Despite natural growth in the EU as the whole at the beginning of the 21st Century being positive (0.4%), in some Member States, such as Germany (-1.8%), Hungary (-4.1%) or Poland (-0.3%) deaths significantly outnumbered births.

In the context of aggravating migration-related problems it becomes urgent to answer the question: from which direction it is relatively most advantageous for Europe to have its immigrants coming?

Of course, we firstly have to deal with facts stemming from the past. There have been almost 20 million Moslems living in Europe. These people have their families and tend to bring them where they live as soon as they are legally allowed to. The climate following terrorist raids of 11th September 2001 in New York and Washington, 11th March 2004 in Madrid and 7th July 2005 in London translates into hostile attitudes towards Moslems in European societies. It is quite a complex task for Member States' information policy to persuade their societies that not all believers in Islam are fanatics or terrorists.

In this context it seems worthwhile to reflect over arguments put forth by R.Ziemkiewicz in "Newsweek".⁵ Potential accession of Turkey to the European Union has many opponents (vast, poor, different culture, situation beyond proper Europe, *etc.*). However, is it really reasonable for Europe, at the time of such a demand for young immigrants to support European economy, to turn its back on the country which has in fact already come a long way towards European standards and values? Is potential opening the way to immigrants from Africa or Asia, being culturally and mentally even farther, going to be any better? At the same time, one should ask the very same questions in the context of controversies over Ukraine's possible accession to the European Union.

Another issue one must not forget about while considering the Community rules regarding the asylum and migration policy is that legal provisions, if excessively restrictive, might as well have an opposite effect. Namely, they may not result in limiting the inflow of foreigners, but instead cause a shift towards more of them coming and staying illegally, which is much harder to control for the EU Member States or, in fact, any country. When Spain undertook as many as seven actions, between 1991 and 2005, to legalise stays of illegal migrants (in 2005 the action included approx. 1 million persons), its initiative met with mixed feelings. While such Member States as the United Kingdom, Denmark or Netherlands made efforts to aim at sharpening legal provisions on immigration, Spain justified its decision with the lack of consistent common policy on migration and with its intent to have registered and controllable migration in its territory in order to avoid "immigration underground".

The following idea was expressed in a document presented by the Greens/European Free Alliance in the European Parliament on 4 April 2001,

⁵ R.Ziemkiewicz, *Wejście Turka (Enter the Turk)*, "Newsweek" no. 29/2005 from 24.07.2005.

entitled “Towards European immigration and asylum policy”:⁶ “*The immigration policy should not only depend upon the labour market condition. Granting labour permits only to the highly-skilled makes developing countries lose their <intellectual elite> for the benefit of the world’s wealthiest countries*”. This results in even further impoverishment of immigrants’ poor countries of origin and triggers a stream of people’s migration in search for better life.

Thus, the debate on harmonisation of the EU’s migration policy must not overlook the issues of cultural and historical diversity and differences between European societies. As Rita Süßmuth underlined during a seminar held by the Centre for International Relations in Warsaw in September 2003, national migration policies are going to be integrated into the common European migration policy. To illustrate this direction in the way the policy towards third countries’ citizens was shaped she quoted the arrangements made during the Tampere summit, when it was decided that a policy regarding refugees would be brought upon the Community level and time perspective for achieving that was set at 2004. As a point of reference for decisions to be made in the future in that area, the Geneva Convention of 1951,⁷ relating to the status of refugees, was adopted.

2. The Polish migration policy

Poland has yet to address the problem of preparing a strategy for dealing with foreign citizens and the need to formulate specific rules of such dealing, taking into account the *acquis communautaire* on the one hand and other Member States’ experience with the issue of migration as well as its own political, social and cultural characteristics, on the other hand. Several important reasons for difficulties with formulation of a comprehensive migration policy in Poland may be distinguished.

Firstly, Poland has no migration doctrine at all. As put by Professor A.Rajkiewicz in the “Report concerning the State migration policy”: “*such a policy should constitute the fundamental political principle, reflecting Polish reason of State, humanitarian ideas and the philosophy of State, including, in particular, its strategic premises regarding its civilisation*

⁶ http://ec.europa.eu/justice_home/fsj/immigration/fsj_immigration_intro_en.htm

⁷ The Geneva Convention on the status of refugees from 28 July 1951, <http://www.sheltercentre.org/shelterlibrary/publications/486.htm>

*mission and the need to modernise, to revoke to national traditions or principal international documents”.*⁸

To formulate the doctrine essentially means the **articulation** of what is already present in common awareness or what has been written down in the supreme status state document which is the Constitution. It is the role is such a doctrine to reveal the attitude of Poland and of its citizens to “the alien” – *i.e.* whether they accept them and are ready to open up their borders for them, or do they tend to isolate themselves and raise barriers to stop the alien from coming. Also, it should serve as the basis and starting point for any further legal acts adopted, declarations made and programmes formulated in this area.

Unfortunately, in Poland such an explicit and precise doctrine does not exist. The fact is further aggravated by all sorts of contradictions in the way documents are interpreted, the lack of coordination of decisions and the lack of a superior body to solve disputes over those matters. Another reason for this situation is the lack of a centre capable of attracting influential personalities from the areas of politics, administration and social life – each having its own specific priorities and arguments – in order to involve them in preparation of assumptions for the Polish migration policy.

The chaos that is present can be seen even at such a basic level as scope of administrative competence. For example, the Minister of Foreign Affairs has been excluded from decision-making process and the decision, made in 2001, on the establishment of the Office for Repatriation and Foreigners also implied the subsequent release of the Minister of Home Affairs and Administration from that area. Moreover, the supervision over the Community funds earmarked for the aid to be given to refugees and migrants (*e.g.* the European Social Fund, the EQUAL Community Initiative) was entrusted to the Ministry of Labour and Social Policy or to the PHARE Cross-Border Cooperation Programme Implementing Authority (Refugee Fund). This way, there is not a single institution in Poland to effectively supervise its implementation and to formulate the general strategy on the policy.

At the same time, there is no designed body to initiate social or state-level debate concerning the migration policy. Peculiarly, attitudes of political parties are extremely passive in that area, neither Senate (except for the matters regarding Polish emigrants) nor the Sejm seem to care to reveal

⁸ A.Rajkiewicz, “Raport w sprawie polityki migracyjnej państwa” (Report concerning the State migration policy), presented on the session of the Governmental Population Council on 9 July 2004, <http://www.ipiss.com.pl>, p.18; quoted after: M.Okólski, *Imigranci. Przyczyny napływu, cechy demograficzno-społeczne, funkcjonowanie w społeczeństwie polskim* (Immigrants. Reasons of inflow, demographic and social characteristics, functioning in Polish society), “Prace migracyjne” no. 17/1998.

a slightest sign of activity. Moreover, none of the Presidents usually mention the problem.

No effective attempts have been made to involve the environment and organizations of foreigners in the process of creation of migration doctrine, taking advantage of their diversified culture, traditions and expectations they have from the adopting country.

In other words, nothing was done to avoid repeating if only the most striking mistakes made in the field of adopting and integration of foreigners in other European countries which have been much more experienced in these matters and dozens of years longer opened up for “the alien” in their societies.

Finally, no policy has been adopted of informing the society on the assumptions of migration policy, of seeking public opinion on people’s attitudes towards foreigners and level of acceptance of their presence in Polish society.

Professor A.Rajkiewicz, member of the Governmental Population Council and the author of the previously-mentioned report observed, during the work on its preparation, that two different approaches have existed in the way the migration policy was understood.⁹ The first one focuses upon formal and institutional matters, such as legal provisions regulating the principles of entry and stay of foreigners in the territory of Poland, with provisions of the EU Treaties, directives, decisions and recommendations taken into account. Another one, more important in Professor Rajkiewicz’s opinion, for thinking about foreigners and their place in our society, seeks relationships between migration policy and the strategy of the country development, analyses statistic data and demographic forecasts, reaching with the scope of its mindset well beyond circumstances of the present day.¹⁰ The analysis carried out by Professor Rajkiewicz also acknowledges a bi-faceted nature of migration processes: on the one hand, we have to deal with foreigners coming to a state with their families and the whole baggage of often negative experiences, while on the other hand, there are members of the society that adopts them in their homeland, either accepting them or not, revealing either friendly or hostile attitudes towards them and in many instances being culturally quite different. The two facets seem still very far from each other in the case of Poland.

For example, participants of the Ist Demographic Congress that took place in November 2002 in Warsaw, in the “Congress Declaration” named the principal demographic challenges in our country as follows: “*At the beginning of the 21st Century Poland faces serious demographic problems, such as*

⁹ A.Rajkiewicz, op.cit., p.4.

¹⁰ See also: M.Kozień, *Imigranci w Polsce – wyzwania dla polityki społecznej (Immigrants in Poland – challenges for social policy)*, “Polityka Społeczna” no. 11-12/2004.

decreasing number of births, still high mortality, average life expectancies shorter than in the European Union countries, bad condition of public health, difficulties experienced in the process of establishing and developing families, real prospects for reduction of a number of inhabitants for quantitative balance between generations being badly affected'.¹¹

Moreover, one important feature distinguishing Poland from the states of the former EU Fifteen is vast overweight of emigration from over immigration to Poland.¹²

According to an assessment of the Governmental Population Council, in the years 1991-2001 around 84 thousand immigrants came to Poland, half of whom were Polish people coming back to their homeland.¹³ As far as emigration is concerned, as many as 200-250 thousand persons left our country just since 1999.¹⁴ Thus, the balance of external migration has still remained negative. Combining this with an effect of a decreasing number of births, Poland's demographic balance seems very pessimistic indeed. The fact that a clear overweight occurs of emigration over immigration has its deep historical justification: Poles have been leaving their country "for bread" since many dozens of years. Communities of Polish emigrants arose all over the world (United States, Australia, Argentina, West Germany, etc.). The first ones to leave, having settled down, then brought their families, relatives and friends. Post-war social and political changes in Poland only favoured further consolidation of that tradition. According to the Association "Polish Community", there have been around 20 million Poles, including people of Polish origin, living abroad.

To go the other way round – *i.e.* for immigration – there traditionally have been and still is plainly not enough sufficient impulses. There have not been any historically formed groups of immigrants who attract others; their percentage in Poland belongs to the lowest in Europe, at just 0.1%, compared to 8.9% in Germany¹⁵ or 8% in France.¹⁶ This situation is not favoured by

¹¹ See: „Deklaracja I Kongresu Demograficznego w Polsce” (Declaration of the 1st Demographic Congress in Poland), <http://www.rcss.gov.pl/IKongres/kontakt.htm>

¹² Although, according to data of the Federal Office of Statistics in Germany, in 2002 109.5 thousand people left that country, while in 2004 their number increased to 150 thousand (including many highly-skilled professionals along with students and the retired) however in Germany this phenomenon is quite new and not as dangerous, thanks to ample inflow of immigrants, see: F.Gańczak, *Pożegnanie z Haimatem (Farewell to Heimat)*, “Newsweek” no. 30/2005.

¹³ See: A.Rajkiewicz “Raport w sprawie polityki ludnościowej państwa” (Report concerning the State population policy), *op.cit.*, p.5.

¹⁴ *Ibidem.*

¹⁵ <http://www.destatis.de/basis/d/bevoe/bevoetab10.php>

¹⁶ http://en.wikipedia.org/wiki/Demographics_of_France#Immigrants

Polish migration policy, or rather transitional and rudimentary makeshift thereof, which is restrictive and ill-disposed to foreigners.

Education has been another migration-stimulating factor. Several dozens of years of Poland's isolation from the Western Europe and the rest of the world resulted in an enormous urge among young people to make up for the hiatus that arose. As found in data published by UNESCO, about 50% of approx. 1.5 million of foreign students in the world study in the United States academies and institutes, Germany and the United Kingdom occupying two subsequent places. Recently, the Irish joined the group of countries involving in an active educational policy attracting foreign young people and students. As quite an obvious consequence of having studied abroad, a significant proportion of graduates have stayed in the country where they got academic education. This, unfortunately, remains in sharp contrast to attitudes of some province governors in Poland who often refuse foreign graduates the right of extending their stay in Poland, thus requiring them to leave the country.¹⁷

Accordingly, as attempts are made to lay foundations for Polish policy of migration, it seems essential to monitor on a current basis and to evaluate activities undertaken by other countries in that area. After all, such measures as those undertaken in Germany (aiming at naturalization of foreign citizens) or in the USA (an action carried out at present in order to prepare for regularization) are certainly going to influence choices and decisions of Poles migration-wise. The report of German Commission dealing with migration policy, which worked under direction of Rita Süßmuth, clearly indicates that such countries as Poland have been regarded in Germany as a "source" of immigrants who are culturally close.¹⁸

Situation of the "old" European Union Member States in terms of their demographic situation is much better. While some of them still cope with negative natural growth (for example, -1.8‰ in Germany or -0.5‰ in Italy), their overall external migration balance has been positive, which eventually ensures growth of their population. The European Commission's Communication issued in 2000 declared it necessary to quit the attitude of "zero net migration" and to open up to foreigners.¹⁹ In fact, it was the EU new Member States that have formed the principal basis for such an opening, including Poland with its rate of unemployment of over 20% and 400-450

¹⁷ More on the same subject – see: "Raport w sprawie polityki migracyjnej państwa" (Report concerning the State migration policy), op.cit.

¹⁸ R.Süßmuth, *Zuwanderung gestalten - Integration fördern. Bericht der Unabhängigen Kommission "Zuwanderung"*, Bundesministerium des Innern, Berlin 2001.

¹⁹ Communication from the European Commission to the Council and the European Parliament on an open method of coordination for the Community immigration policy. (COM(2001)387).

thousand new cases of economic migrations a year. Moreover, professional pattern of those seeking employment abroad is changing: beside always a significant proportion of low-skilled workers, there have been growing groups of doctors, nurses or well-qualified building and construction engineers. While it was true that when Germany announced its readiness to receive as many as ten thousand of computer scientists, no more than eighty-seven persons in Poland took the opportunity. Nevertheless vast differences in wages in other industries, coupled with better provision for workers' social needs, may form strong enough motivation for people to leave their home country. As a sort of comfort, it is true that – just as it used to be in Germany in the Nineties – at present economic immigrants have begun to come to Poland and perform niche, low-wage jobs as home aids, seasonal workers in agriculture and building, but also, although very slowly yet, highly-skilled professionals from the former Soviet Union countries. Therefore, Poland should prepare itself, following the model of some EU countries, to specify quotas of inflow of immigrants, according to the needs of its economy on the one hand, but also to possibilities of their inclusion in its social and organisational system. However, the most important single task and objective for Polish migration policy should be to stop a decreasing number of population and – on a broader perspective – to reconstruct the population number that is necessary and best suited to the country's needs. Once this is attained, as a subsequent step to achieve, premises for the migration policy should be formulated such as to enable effective integration of “the alien” with Polish society, with the effects of retaining them in the country, avoiding potential conflicts and building upon Poland's great (if historically remote) traditions of tolerance.

Depending on which doctrine is adopted, which migration policy assumptions are made and which co-ordination centre is chosen, necessary methods and means should be defined to achieve desired goals. Thus, for example:

1. criteria for employing foreign citizens should be adopted (assuming that Poland in fact intends to enable them to stay here);
2. criteria for exclusion of unwanted groups have to be defined (if one wants to stimulate an inflow of some specific groups);
3. a programme for absorption of foreign graduates of Polish academies has to be prepared (if one wishes to take advantage of the potential they represent).

The “Report concerning the State migration policy” contains further suggestions relating to institutions and bodies that should be involved in the debate over Polish migration policy. It includes the following to that category:

- a) political and legislative bodies,

- b) governmental administration bodies,
- c) appeal and judicial bodies,
- d) local administration and territorial/local level authorities,
- e) trade unions and employers' representatives,
- f) groups and bodies representing the world of science, including research institutes,
- g) media,
- h) non-governmental organisations and immigrants' associations.²⁰

It is thus quite clear how vast the scope of political and social consultancy is necessary in order to formulate a doctrine of migration and to make basic assumptions for the country's migration policy. This is neither marginal nor temporary issue. Instead, it is imperative that it becomes a part of a strategy of the country development, created basing upon reliable knowledge in such fields as demography, economy, sociology, foreign policy and principles behind functioning of any multi-national society.

Formulation of migration doctrine and policy is just a part of the way to go – and not the hardest one. It has to be followed by a legislative act, by implementation programmes, implementation monitoring and permanent collaboration with the society in order to gain its approval and support.

The process of creation of Polish migration policy must not be postponed or seen as a matter of vague, distant future. Despite a lot of declarations, reports or evaluations, the overall strategy does not exist. In fact – as “Rzeczpospolita” announced early this year, quoting Jan Węgrzyn, General Director of the Office for Repatriation and Foreigners: “*No such policy exists at all in our country. As a matter of fact, it is employers who really decide who is going to settle down in Poland and who is not*”.²¹

Demographic forecasts for Europe are all but optimistic. By 2040 population number in countries of Europe is going to decrease by 9%. If this is not accompanied by a significant growth of percentage of working women or if technological progress fails to reduce the demand for labour, immigrants will occur the only solution. It is estimated that as many of them as 500 thousand a year will be necessary to meet the labour market demands during the period between 2001 and 2020 and then it will only increase.²²

²⁰ “Raport w sprawie polityki migracyjnej państwa” (Report concerning the State migration policy), op.cit., p.25-28.

²¹ “Rzeczpospolita”, 08.02.2005.

²² See: K.Iglicka, *Priorytety i kierunki rozwoju polskiej polityki migracyjnej (Priorities and directions in development of Polish migration policy)*, “Analizy i opinie” no. 13/2003.

3. Situation of foreigners in Poland in the historical perspective

Let us now try to assess situation of a foreigner in Poland: including the rights and the status such person enjoys, in order to evaluate real prospects for migration policy in our country.

Transformations that took place in the Nineties, along with changing Poland's economic, political and social situation, also influenced the attitudes assumed towards the issue of migration. On the one hand, such attitudes were determined by a serious urge to cooperate with Poland's Western partners, to reach out and meet the "free world", long-awaited following years of the communism, and to join modern societies that were open to "the alien". On the other hand, however, as part of its preparation for acquiring the EU membership, Poland was obliged to adopt and apply existing UE restrictions and requirements regarding the asylum or migration policies.

Opening of the borders meant that restrictions in terms of departures and arrivals of Polish and foreign citizens alike were lifted. As an immediate consequence, problems that had previously been only known from information of Western media – namely the need to deal with refugees, illegal immigrants, to regulate the field of employment of foreigners in Polish labour market – began to appear and grow quite serious in the country's public awareness. This, in turn was followed by the issue of defining legal principles for that new area of matters.

Persons coming to Poland may be divided into two basic groups: economic immigrants and refugees. Persons classified to either group demand a different approach and their stays in Poland are regulated by different sets of legal provisions.

Generally, a foreigner in post-war Poland was a rare phenomenon, almost invariably a suspicious one. In fact, few persons voluntarily chose to live in a communist country, so where they did, they tended to be seen as coming on "a mission to fulfil" rather than just as foreigners interested in staying here for good. Because of scarce occurrence, legislation in that field was vague. The Polish Constitution from 1952 entirely overlooked the problem of foreigners. The only related provision was Article 88 that provided for the asylum, namely, that "*the People's Republic of Poland grants to citizens of foreign States persecuted for defending working class interests, for fighting for their national freedom or for scientific or academic activity*". Nevertheless, people seeking and getting asylum in Poland were few, except for some Greeks and Macedonians suppressed in their homeland in the Fifties or Chileans in the Seventies.

The Foreigners Act of 1963 was tailor-made to the temporary needs of its time; thus, it was very general and intentionally left many questions

unregulated. For example, it failed to provide for principles of granting or cancelling permissions for foreign citizens' permanent or temporary stay in Poland, for any procedure of ejecting undesirable persons, or for protection of refugees in the broadest meaning of the term. Delegating the issue of foreigners down to the level of province governors, with legislative regulations being so incomplete, the Act made it impossible to run an effective or consistent migration policy.

Therefore, what we had to deal with in Poland was not only a lack of adequate legislation concerning foreigners, but the lack of separate institutions capable of addressing their problems as well. All matters regarding foreigners were included within the scope of competence of the Ministry of Home Affairs. While the Act of 1963 regulated the issue of competence of bodies with respect to granting the status of refugees to foreigners, it never referred to the question of any specific procedure of granting such a status. In effect, the code of administrative proceedings was used in order to solve such problems, thus becoming the basis for making final decisions against which no right of appeal existed at that time.

Poland did neither accede to the 1951 Geneva Convention relating to the Status of Refugees²³ nor to the New York Protocol of 1967 that complemented it.²⁴ Similarly, the Office of the United Nations' High Commissioner for Refugees was not allowed to act in our country since its presence would have been seen as an infringement of sovereign foreign policy of a communist state.

It was not earlier than during political changes of the early Nineties that Poland became, in 1991, a signatory of both the Geneva Convention and the New York Protocol. In 1992 the Communication Office of the United Nations High Commissioner for Refugees was opened in Warsaw as the accession to the above-mentioned international agreements imposed upon the signatory States an obligation to co-operate with the Office of the High Commissioner. The ratification by Poland, in January 1993, of the European Convention for the Protection of Human Rights and the Fundamental Freedoms of 1950²⁵

²³ The Geneva Convention on the status of refugees from 28 July 1951, <http://www.sheltercentre.org/shelterlibrary/publications/486.htm>, more on the same subject – see: B.Wierzbicki, *Sytuacja prawna uchodźcy w systemie międzynarodowej ochrony praw człowieka (Legal situation of a refugee within the system of international protection of human rights)*, Białystok 1993.

²⁴ The Protocol on the status of refugees adopted on 31 January 1967 in New York, <http://www1.umn.edu/humanrts/instreet/v2prsr.htm>

²⁵ The European Convention on the Protection of Human Rights and Fundamental Freedoms, Rome, 4.11.1950, Polish Journal of Laws, no. 61/1993, item 284-285.

which includes a number of provisions regarding the treatment of refugees, should be seen as another important step.

Finally, the Polish accession to the Convention and the Protocol and later signing of agreements with the Schengen Group States made it necessary to review Polish legislation concerning foreign citizens, including refugees.

As a consequence, when the new Constitution entered into force in Poland in October 1997, the Article 56 provided that: “*Foreigners may take advantage of the right of asylum in the Republic of Poland according to principles defined under the Act*” and that: “*A foreigner staying in the Republic of Poland, who seeks protection from persecution, may be granted the status of a refugee according to appropriate international agreements to which Poland is a party*”.

4. The Foreigners Act of 1997

In June 1997 an amended Foreigners Act was adopted.²⁶ This was mostly the result of it being necessary to adapt Polish to the EU legislation and mainly aimed at providing the freedom of movement of people, as required by the *acquis communautaire*, but also to define measures needed to protect the state against an inflow of undesired persons.

The Act introduced four types of visas: for the stay, for the stay with the right to work, for transit and for repatriation. It defined a number of situations in which a foreigner may be refused granting a visa, such as Poland’s interests being at threat, suspicion of drug trafficking, trading in arms or enabling other persons to illegally cross the border. It introduced permission to stay and live in Poland for a definite period as well as that to settle down. The former one is a novelty in Polish legislation, but a common thing in the EU Member States, while the latter one replaced the card of permanent stay, applied under the rule of the previous Act. Moreover, the new Act also regulated – quite restrictively, in fact – the issue of “invitations”, enabling foreigners, mostly those from beyond the Polish Easter border, to enter the country and stay in it. As it provided for their detailed inspection and registration, as well as obliged the inviting persons to cover costs of stay, medical services or potential ejection of the invited, little wonder it resulted in a decrease of a number of invitations drawn and, in consequence, caused a partial decline of cross-border movement of people.

As further effect of that policy, the Polish relations with its Eastern neighbours deteriorated, since in their opinion limitations and restrictions

²⁶ Ustawa z dnia 25 czerwca 1997 r. o cudzoziemcach, Polish Journal of Laws, no. 114/1997, item 739.

really meant that Poland turned its back at countries of Eastern Europe. The problem is going to come back – in an even more acute form – following Poland’s accession to the European Union (visas will have to be introduced for citizens of the Russian Federation, Belarus and Ukraine).

5. Political asylum and the refugee status

Polish legislation in the area of asylum and the refugee status treats the two categories as separate ones.²⁷ The institution of political asylum has been known in Polish law since long ago, while the notion of a “refugee” has been introduced as late as by the Act of 1997. Thus, Article 1A(2) provides that “a refugee is a person who, as a result of justified fear of being persecuted due to his race, religion, nationality, belonging to a specific social group or to political opinions stays outside the borders of the country he is a citizen of, and who either may not or wants not – as a result of such fear – to take advantage of that country’s protection, or a person who has no nationality and staying, due to similar circumstances, beyond the country of his former settlement, may not or wants not – as a result of such fear – to come back to that country”.

In view of the provisions of the Act of 1997, asylum has been included into attributes of a state’s sovereignty because it is a state that independently decides on granting it where a competent body finds it necessary in order to ensure proper protection for the applying foreigner and where this advocated by an important interest of Poland. In practice, applications for asylum are filed in Poland extremely rarely (see Table 1).

Table 1. Numbers of persons who filed an application for being granted asylum in the territory of the RP in the years 2001-2003 (nationality-wise)

Citizenship	2001	2002	2003	Total
Afghanistan	10	-	-	10
Algeria	-	-	1	1
Armenia	4	3	2	9
Azerbaijan	-	1	3	4
Belarus	5	1	-	6
Bosnia and Herzegovina	1	-	-	1
Bulgaria	1	-	-	1
Estonia	1	-	-	1

²⁷ Compare for example the German legislation, e.g.: Asylbewerberleistungsgesetz, Paragraph 1(7.2), <http://www.bundesrecht.juris.de/bundesrecht/asylblg/inhalt.html>

Georgia	-	2	-	2
Germany	-	1	-	1
Iran	-	-	5	5
Iraqi	-	2	1	3
Kazakhstan	-	5	-	5
Moldova	2	-	-	2
Mongolia	-	-	1	1
Nigeria	1	1	-	2
No citizenship	-	1	1	2
Russia	2	3	2	7
Tajikistan	-	1	1	1
Ukraine	-	4	-	4
Total	27	25	16	68

Source: The Office for Repatriation and Foreigners; Computer Technologies, Registration and Statistics Bureau.

On the other hand, it is a common practice that a person refused the asylum then files for having the status of refugee awarded.

The Act of 1997 provided that any foreigner who met the criteria specified in the Geneva Convention of 1951 and in the New York Protocol of 1967 had the right to apply for the status of refugee, unless such status had been granted in another state. However, the applicant had to file an appropriate application only in person, at the moment he crossed the border. If such a person entered Poland illegally, an application should be filed to the Border Guard officer not later than on the fourteenth day from the date of crossing the border. Article 37(4) defined the procedure to follow in a situation where a foreigner stays in Poland illegally and learns that circumstances putting his life and freedom at threat have just taken place in his country of origin, so that it becomes justifiable for him to apply for the refugee status. In that case such person has the right to file an application as provided for under Polish law, within fourteen days from having learnt about such a situation.

Moreover, the Act of 1997 introduced the notions of “safe country of origin” and “safe third country” – well-known in Western European legislation since long ago, but new to Polish law.²⁸ In this case “safe” means

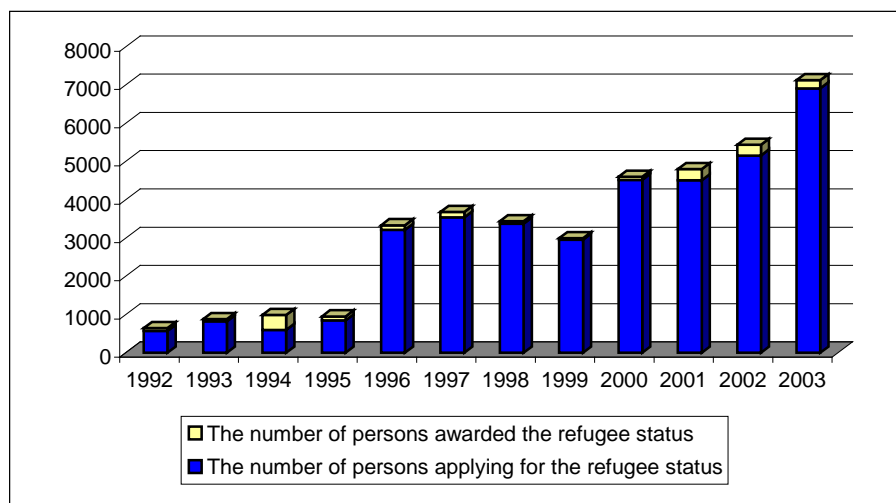
²⁸ See, e.g.: H.Martens, J.McCarty, *Field Report*. “In general no serious risk of persecution” *safe country of origin practice in nine European states*, “Journal of Refugee Studies” no. 11/1998, p.3.

one in which political and legal situation creates no threat of anybody being persecuted due to any reason. These notions have been very significant in the context of awarding the refugee status, as they excluded the possibility of receiving and considering applications from persons coming from “safe countries.” Similarly, an application of a foreigner who does not come from his country of origin, but from one classified as a “safe third country”, is refused the refugee status, because it is the country of his first stay that was competent to consider his application, rather than one to which he came next.

The adoption of this principle prevents the so-called circulating refugees phenomenon where people file their applications in one country after another during their journey.

It should be mentioned that until 2003 over thirty thousand applications for granting the refugee status were filed in Poland. During the same period the status was actually granted to 1419 foreigners. The largest refugee groups were those coming from Bosnia and Herzegovina, Russia (mainly of Chechnyan nationality), Somalia, Sri Lanka and Afghanistan.

Diagram 1. Numbers of persons applying for the refugee status in Poland and numbers of acknowledged refugees in the years 1992-2003.



Source: UNHCR, <http://www.unhcr.pl/statystyki/index.php>

However, just in one year of 2003 there were 6909 persons applying for the refugee status in Poland. In 216 cases the reply was positive, while further 23 persons were given permission for “tolerated stay”.²⁹ Most of those

²⁹ See page 25 of this article for the discussion of the term.

applying as well as of those granted the status came from Chechnya (5581 applications, the status granted in 187 cases), followed by Afghanistan (251), India (236), Pakistan (150) and Armenia (104). Beside the already-mentioned Russian citizens of Chechnyan nationality, the group of people who had the refugee status granted also included citizens of Belarus (10), Georgia (6), Afghanistan, Cuba, Uzbekistan, Vietnam, Somalia, Moldova, Congo, Ethiopia and Sudan.

Thus, the number of persons applying for being granted protection in Poland is increasing. And the trend is in fact experienced throughout the Central Europe. Compared to the year 2002 the number of applications for the refugee status increased by over 33%. At the same time, the number of applications for asylum filed in the "old" EU Member States decreases – by over 25% in 2003 only. Some of those countries reported over 40% less applications.

At present, applications for having the refugee status granted are considered in Poland by the Office for Repatriation and Foreigners (ORF). The Council for Refugees acts as the body of appeal against decisions made by the ORF, while appeals from rulings rendered by the Council may in turn be lodged at Province Administrative Courts. The Council was established on the basis of Article 85(7) of the Act of 1997 and was welcomed with much appreciation by Poland's Western partners as unconventional and promising solution. It is composed of 12 members appointed for 5 years terms of office, some of them being recommended by the Minister of Foreign Affairs and by the Minister of Justice in order for decisions made by the Council not to lay within the scope of competence of Home Affairs exclusively.

During the period when the application for granting the refugee status is considered applicants usually stay in centres for refugees. There have been 11 such centres operating in Poland, mostly situated around Warsaw and in Eastern Poland, *i.e.* inline with the principal directions refugees tend to come from. The largest one is that in Dębak – Podkowa Leśna, where all refugees are sent first before they are given individual allocations. Such allocations are made with such factors as nationality, age and family situation being taken into account. This approach makes it easier to avoid conflicts and favours integration-promoting activities carried out with refugees. Other centres are situated in Białystok (2), Czerwony Bór, Linin, Lublin, Łomża, Łuków, Moszna, Smoszew and Wołomin.

The scope of care and assistance provided to persons lodged in refugee centres include accommodation, food, clothes, medical care, psychological consultancy (where required) and modest pocket money. They do have the right to contact the Office of the United Nations' High Commissioner for Refugees and the Office on its part has the right to contact competent bodies

of administration with requests for information about the current stage of proceedings. Provisions of Article 44 of the Foreigners Act of 1997 ensures granting of the refugee status to a spouse and to minor children of a person who was given such status. However, such persons have no right to work.

The most important stage of the procedure for granting the refugee status is a “status interview” held with a foreigner about situation in his country of origin and reasons for seeking international protection. Such interview is held twice and answers are compared in order to screen potential divergences. It is the responsibility of ORF to check the information gathered against reports published by organisations dealing with human rights (including reports of the UNHCR) or its own sources of information as regards situation in an applicant’s country of origin. The procedure of considering such an application by the first instance should last no longer than 6 months.

Since the 1st of May 2004 Poland has been obliged by the European Union’s provisions regarding asylum. Among other things, they provide for gathering fingerprints from all persons applying for the refugee status in order to prevent applications being filed by the same person in several EU Member States. This raises protests of organisations of refugees which object against it arguing that this way refugees are treated as criminals.

In fact, many explaining procedures, undertaken to consider and assess applications for the refugee status revealed that true reasons for filing them were economic.³⁰

In quite a similar way as Poles sought better life at the turn of the Nineties in Western European countries, nowadays Poland has become a “promised land” or at least a stage to find one for citizens of countries from beyond our Eastern border. However, such factors as economic situation in Poland, high unemployment, the lack of reliable information in the society about needs and objectives of Polish migration policy in many cases combine to stir up hostile attitudes towards foreigners coming to our country. It is a popular belief that they require sharing something which is very scarce in the first place. “Economic refugees” mostly attempt to be very well prepared to play their roles (see also below). In case other than economic reasons of coming to Poland are detected, they destroy any documents identifying them or the country they came from *i.e.* the data that might lead to their readmission. Additionally, for many people Poland has been no more than a transit country stage, as confirmed by the fact that among 3500 applications filed in 1997 as

³⁰ See: I.Popoff, *Uchodźcy w Polsce. Informacja Departamentu Migracji i Uchodźstwa MSWiA (Refugees in Poland. Information from the Department for Migration and Refugees of the Ministry of Home Affairs and Administration)*, “Przeгляд Rządowy” no. 2/1997.

much as 80% procedures had to be discontinued due to lost contact with applicants (who left the country in the meantime).³¹

Poland has been also obliged to develop its migration policy by provisions of the Convention on the status of refugees of 1951, according to which it is mandatory to treat refugees in a manner non less favourable than a country's own citizens, for example in terms of choice of a place to live, of acquiring real estates or movables, acknowledgement of certificates or diplomas or access to studies.

Actually, Poland has already undertaken some steps upon this long way. An order of the Minister of Finance of 1997 required to renounce calculating and collecting the income tax from persons having the refugee status and from those applying for one. The Social Care Act, amended in 1996, awarded foreigners with the refugee status the right to social aid services. Such decisions contribute, to a certain degree, to relieving the hardships experienced by refugees. On the other hand, it has to be remembered that refugees mostly speak very little Polish which is a serious barrier in finding a job. Due to their mostly low level of education they are given low wage jobs and their meagre income implies their living standard (accommodation, food, education for children).

Finally the amendment of the Foreigners Act of 1997 in 2001 should be noticed. Its reviewed provisions already took the Community arrangement made in Tampere into account, as well as experiences of collaboration stemming from participation in the PHARE programme. It provided for giving up the time limit for filing an application for the refugee status, for rationalising the procedures according to which such applications are considered, taking into account the category of an "evidently unjustified application"³² and such changes

³¹ S.Łodziński, *Problemy polityki migracyjnej Polski w latach 1989-1998 a nowa Ustawa o cudzoziemcach (Problems of Poland's migration policy in the years 1989-1998 and the new Foreigners Act)*, Report No. 147, <http://biurosej.gov.pl/teksty/r-147.htm>

³² "An application for having the refugee status granted may be judged as evidently unjustified due to the following reasons:

- an application gives no reasons whatsoever to believe any justified fear exists that the applicant may be persecuted (reasons behind coming to Poland quoted by the foreigner are other than the fear of being persecuted; the foreigner gives no information related to the fear of being persecuted, the foreigner presents facts that are evidently incredible, improbable, apparently contradictory to each other),

- an application is aimed at misleading the responsible body or abusing the procedure (the foreigner concealed the information about having applied for the refugee status in another country, gives untrue information, presents false proofs, has damaged or concealed any evidence significant in his or her proceeding, applied for the refugee status only in order not to be ejected despite previously having an opportunity to file the application, failed to present for

in scopes of competence of bodies of administration dealing with matters of foreigners as establishment of the Office for Repatriation and Foreigners as the State's principal body competent in matters regarding migration.

6. Amendment of the Foreigners Act of 2003

Two Acts of 13 June 2003 – on foreigners and on granting to foreigners protection in the territory of the Republic of Poland, became a subsequent important step on the way to adapt Polish legislation to the Community regulations in the area of migration and asylum policy. Their provisions regulated the principles of awarding visas, the visa obligation imposed onto citizens of Poland's Eastern neighbours and introduced a new form of approval for a foreigner's stay in Poland – the category of tolerated stay. The latter one has been known in a number of European countries³³ and in many cases becomes the last straw to clutch at for unwanted guests.

Permission for tolerated stay may be granted to a foreigner when his expulsion from Poland “*could only take place to a country in which his right to live, to be free and to enjoy personal safety would be at threat, in which he might be an object of torture or inhuman or humiliating treatment or punishment or be forced to work or deprived of the right to a reliable court proceeding or be punished with no proper legal basis in the meaning of the Convention on the protection of human rights*”.³⁴ Having got such permission a foreigners is given a card of stay valid 12 months and enjoys the same rights as persons who obtained permission for inhabitation in Poland for a definite period, which means the right to work in the territory of the country with no additional work permits required, the right to social services, to be paid family, care and children-raising allowances, as well as the right to learn in elementary, middle and secondary schools.

the status interview, failed to inform about having changed a place of stay, left the territory of Poland before final decision was made,

- *indicates that a foreigner came to Poland from a safe country of origin or from a safe third country, to which he has the right of return,*
- *indicates that another country is responsible for considering a given application for the refugee status.*

Where an application is judged evidently unjustified, decision is issued on refusal to grant the refugee status”, quoted after: *Status uchodźcy w Polsce (Refugee status in Poland)*, http://www.hfhrpol.waw.pl/index_pliki/informatory/uchodzcy/status%20uchodzcy_a5.pdf

³³ Compare the form of “Duldung” awarded in Germany, Paragraph 60a, Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländer im Bundesgebiet,

<http://www.aufenthaltstitel.de/aufenthaltsg.html>

³⁴ Article 97(1) of the Act on granting protection to foreigners in the territory of the Republic of Poland, Polish Journal of Laws, no. 128/2003, item 1176.

The form of tolerated stay is applied by a competent province governor, the President of the Office for Repatriation and Foreigners or the Council for Refugees³⁵ after having depleted other possibilities of a foreigner's legal stay in the territory of the Republic of Poland and carrying out of the expulsion decision is not possible due to reasons listed above.

According to Article 70 of the Act on granting protection to foreigners in the territory of the Republic of Poland³⁶ as well as Article 91 of the Social Care Act,³⁷ a foreigner who was awarded the refugee status in Poland, has the right to the so-called integration assistance. This includes monetary benefits the amounts of which depend upon a given person's individual condition,³⁸ covering the costs of the person's health insurance premiums, which enables him to take advantage of the State medical care system as well as access to broadly understood social advisory services (consultancies concerning employment, looking for an apartment, aid for children). Those interested should contact a District Centre of Family Aid in a town where they wish to settle down. No such support is given to a refugee whose spouse is a Polish citizen.

7. Economic immigrants

Economic immigration in Poland is a socially non-uniform phenomenon. Following the turn of 1989 when Polish labour market ceased to be hermetic and purely national, foreigners in search of employment – either legal or otherwise - began to appear here. The former ones were subject to supervision of province offices of employment, which – according to Article 50 of the Act of 1994 on Employment and Counteracting Unemployment³⁹ – have been competent in awarding to employers permission for employing foreigners for a definite period and for specific jobs, taking into account the labour market situation. In practice this means that such permissions were granted only when no Polish citizen looking for a job was – due to a variety of reasons – interested in undertaking a given kind of work. Provisions of the Act exclude a possibility of a foreigner looking for a job on his own after having come to Poland. No sooner than one has got such a permission from a competent province office of employment is one entitled to apply in Polish diplomatic

³⁵ These are, under provisions of the Act of 2003, the bodies competent for awarding permission for tolerated stay.

³⁶ Polish Journal of Laws, no. 128/2003, item 1176.

³⁷ Polish Journal of Laws, no. 64/2004, item 593.

³⁸ At present the amount of it has been fixed between PLN 420 and 1149 per person per month; quoted after: A.Jasiakiewicz, B.Smoter, *Jeśli jesteś uchodźcą (If you are a refugee)*, <http://www.psep.pl/uchod-p.html>

³⁹ Polish Journal of Laws, no. 25/1997, item 128.

representation or a consular office for having permission for stay with the right to work granted. This way, a foreigner may obtain a visa for a stay with the right of work only while he is abroad and for a period not longer than 12 months. Legally employed foreigner has all the rights and obligations resulting from provisions of Polish Labour Code.

A number of foreigners legally employed in Poland has oscillated, since early Nineties, around 12 thousand,⁴⁰ with individual permissions accounting for over 60% of that number, while the remainder includes contract employees of foreign companies carrying out their tasks in Poland. Most permissions have been awarded to citizens of Ukraine, Belarus, Russian Federation – accounting for almost 40% combined. Others come from the United Kingdom, USA, China, Vietnam, France and other countries. What is peculiar here, is that the vast majority of those applying for jobs requiring high skills are citizens of Western European countries and the USA, while unskilled jobs are mainly taken by those coming from the former Soviet Union territory. Management jobs are in most cases manned by citizens of China and Vietnam, this however mainly stems from the fact that they establish one-man companies so it is only natural they manage them.

Beside the above-discussed phenomenon of employing foreigners, there have been over 20 thousand of foreign citizens working in Poland on the virtue of permissions given by directors of province employment offices. Such people stay in Poland on the basis of cards of permanent stay and of the refugee status granted to them. Both groups have the right to legal employment and to the corresponding social care.

Persons employed illegally have formed a group which is much harder to statistically count or socially evaluate. No truly reliable statistical data exist regarding that group. One has to remember that this group mainly includes persons employed by private investors in building sites, home aids, babysitters and seasonal workers in agriculture. Since such persons undertake work in low-wage fields or in those where work is particularly hard, there exists some degree of social approval for employing such groups of foreigners in spite of generally high level of unemployment in Poland. As assessed by the National Labour Inspectorate in 1996, the black employment phenomenon concerned 100-150 thousand of people, but estimates of the National Labour Office are significantly higher and at levels between 800 thousand to 1 million seem much closer to reality.⁴¹ Despite illegal employment being threatened with criminal responsibility in relation to both the employer (fine, loss of the

⁴⁰ See: S.Łodziński, *Problemy polityki ... (Problems of Poland's migration policy...)*, op.cit., p.10.

⁴¹ Ibidem.

right to conduct commercial activity) and the worker (fine, ejection from the territory of the RP), its elimination seems, at least for the time being, impossible. In fact, not even countries with much stronger legal systems, such as Germany or Austria, proved capable of eradicating the problem.

In effect of its accession to the European Union and – in consequence – of the obligation to adopt the *acquis communautaire*, Poland becomes responsible for protecting its outer borders which implies counteracting an inflow of illegal migrants. As discussed above, some people who illegally cross Polish border intend to stay here, while from others our country is just a transit stage. Between 1990 and 1993, most of those arrested for having crossed the border without permission were citizens of Romania, Bulgaria, Ukraine and Russia. On the other hand, the mid-Nineties brought a serious increase of a number of persons coming from Ukraine and Armenia, as well as from Afghanistan, India, Algeria, Moldova and Iraq. An inflow of foreigners from far Asia and Africa is a new phenomenon, but it is no longer occasional. In fact, Poland has been situated at a crossing of European migration routes which cannot be overlooked in any valid assessment of situation in that area.

Conclusion

Creation of Polish migration policy has to take the EU legislation concerning citizenship and the fundamental right of free movement of persons into consideration. Also, it is necessary to develop principles and methods of informing the society on problems of immigrants in such a way as to gain its acceptance for that phenomenon, to stimulate tolerance and an urge to involve in the process of integration. In doing this, one has to be aware that beside foreigners coming from Eastern Europe, relatively close mentally to Poles, persons which are culturally totally different, for example from Asia or Africa, may come here as well. Declining demographic indexes suggest that during the next 25 years Europe should adopt around 50 million people within its borders in order to be able to maintain proper operation of its economy and to see tax revenues covering the needs of European societies that keep getting older.

Development of a harmonised common migration policy at the Community level seems unfeasible, despite repeated declarations from politicians representing different Member States. What is achievable and desirable, instead, is formulation of Polish policy of migration with both international and the Community standards taken into account. This is the task to be done in the immediate future.