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“Transit Migration – A Challenge for Migration Management”

Introduction

The phenomenon of transit migration is the common challenge to both countries of transit and destination origin and destination– to developed and less developed countries. Recognising that the phenomenon of transit migration is mostly irregular, outside formal integration measures and affects countries regionally and even globally, the presentation looks upon possible responses, emphasising the need for multilateral and international co-operation in tackling the problem.

Background and problem

The globalisation has made access to information and travelling easier, trade as well as personal mobility is expanding. Economic prosperity, which also contributes to stability, acts as a pull factor for immigration from countries with less promising economies– both legal as well as irregular. This pull factor is obvious not only in a cross-border context, but definitely in a regional and also a global context.

Economic globalisation does not only create opportunities for highly qualified labour but is also generating opportunities for the poorly qualified unskilled labour force. Especially in the service industries sector there evolved a lot of job opportunities, which require no special training or qualification, not even language skills as reality proves. At the same time social status and salaries connected with these jobs prove to be not very attractive for the domestic population. Consequently these vacancies are filled with immigrants, be it legally or illegally.

It should be recognised that **transit flows** consists of a mix of persons moving with the aim of achieving economic and **social betterment, but also of persons in search of protection against persecution and ill-treatment.** The need to respect the 1951 Refugee Convention and generally the need for respect for the human rights of the irregular migrants remain important.

Summarizing one could say that there is an economically motivated demand (or pull) for labour from receiving countries and a supply/push of labour from sending countries and international migration is the format where the demand and the supply side find together.

The migrant may be in an irregular situation, either because s/he does not comply with the immigration regulations, not responding to the need for cheap labour, or in case of countries with poorer administrative systems, the migration system is insufficient, although

the migrants are to a certain extent tolerated by the society and the State – and may be an important contributor to the economy.

A very large amount of immigrants in destination as well as transit countries in the OSCE region are **outside the formal migration systems, in an irregular situation – and in consequence outside any formal integration measures.**

Upto 6,4 million irregular migrants are estimated to reside in Europe. How did they arrive? The easiest is to arrive with a Schengen visa, and through the completely intra-Schengen transit, the migrants reach the preferred destination, but then enters irregularity through overstaying. Arriving with false or falsified documentation (passport and visa) is another option. As the document security standards get higher and higher so do the standards of the falsifications, and the involvement of organised crime networks increases. If it is not possible to get a visa, and a good falsification is not at hand, border controls need to be avoided, making arriving at less controlled land and sea borders the more favoured option. Another way of getting access to the Schengen territory is through entering the asylum system, although maybe not in need of protection, often through arriving at airports. The migrants are granted a temporary residence permit as asylum seekers as long as the procedure is running. Entering the asylum system could mean that the migrant can raise some funds through working illegally or legally, depending on the rules of the country. The migrant will also gain some time, if the purpose is to get in contact with the right smuggler/trafficker. S/he leaves and does not stay on to wait for the outcome of the asylum procedure. In cases when the asylum channel is used for migration purposes, there is also a tendency that transit routes take shape according to perceived favourable rules in the asylum systems. Thus the asylum channel is de facto perceived as a migration channel by the migrant. The obligation to offer protection to those in need, needs to be up-held, and UNHCR and the States are concerned with maintaining the integrity of the asylum systems.

In many cases migrants organise certain parts of the journey themselves or by the use of established social and family networks, in a vast majority of cases they still rely on specific services provided by smugglers to overcome specific obstacles at certain stages. Today, the complete self-organisation of irregular migration movements by migrants has to be assessed as forming an exception.

The **transit migration routes from the CIS region into Europe**, roughly look as follows: Migrants from the CIS region travel through Russia/ Belarus/ Ukraine into Poland/ Czech Republic/ Hungary/ Slovakia and from then often continue to Spain and Portugal. Legal entry into the Schengen territory with valid tourist/student visas is common and the migrant enters an irregular situation through overstaying and working illegally.

Just a few years ago, ICMPD estimated the yearly irregular inflow from and through the North Africa region to 100,000-120,000 and the numbers are sharply rising. Most Sub-Saharan African migrants heading fro Europe **transit the Magreb region**. Migration routes in the Eastern Mediterranean region go through Syria and Lebanon – from where departures by sea towards Europe take place, or through sea and land through Turkey.

The irregular migrant may not be able to reach the intended country of destination, or this only after prolonged stay in a transit country, due to, for instance as explained above, failed illegal border crossing attempts or due to the need to work (legally or illegally) to raise funds for the onwards smuggling fee or purchase of falsified travel documents/visas. Maybe the

migrants never reach the intended country of destination and get stranded in the transit country.

The integration measures of the State cannot extend to those who officially are not there. Although, to a certain extent, integration has de facto taken place – as, the irregular migrant is contributing to economy – but this integration is definitely **limited by the vulnerability to exploitation the migrant finds him/herself in, in an irregular situation.** The will of a transit country to integrate the migrant is, per definition, not the priority – although during prolonged transit stay, certain integration takes place. This can be exemplified by the labour demand covered by the Sub-Saharan in the North African countries, on their way to Europe.

The phenomenon of transit migration is a challenge to both countries of destination, transit and origin – to developed and less developed countries.

The challenges - and towards possible solutions

- **countries of destination**

A first possibility to decrease irregular migration might be to “replace” it by **legal migration.** The discussion on needs and modalities for increasing labour migration into the Europe Union and the related Green Paper, also discussed by this Forum should be mentioned in this context. However, there exists no empirical evidence that irregular migration decreases if regular increases, on the contrary, experience shows that it rather seems to be the case that enhanced regular migration also leads to more irregular migration.

Another possibility is **regularisation programs**, which decrease stocks of irregular migrants in a country and to make them “available” for the regular labour market as well as the social systems. The recent regularisation campaign in Spain, extending to about 700,000 irregular migrants are legalised, illustrate the large amount of persons we talk about – about 150,000 did not meet the requirements of the regularisation campaign. A strong informal sector acts as the pull factor for irregular migration. The heavy fee of 60,000 € imposed by the Spanish authorities for employing illegal labour should act as a deterrent for the future. These irregular migrants come from Eastern Europe, South America, the CIS countries and from the North and sub-Saharan Africa. Against using regularisation programmes speak that these will rather work as an incentive for more irregular migration in the medium to long term, as migrants expect more “amnesties” to follow. Regularisation campaigns have for years been implemented by several European States. For instance, in 2003, in the Italian regularisation campaign also 700,000 irregular migrants applied for regularisation. Spain has also previously implemented regularisation campaigns, so has Portugal.

Curbing the demand for irregular migrant labour by employers could be seen as a promising strategy in order to reduce irregular migration. This could be done by increasing legal possibilities for **circular labour migration** (e.g. opportunities for seasonal workers) and/or by imposing more severe sanctions on employers in case of illegal employment. In reality the “rotation principle”, i.e. recruitment of foreign labour force on a strictly temporary basis, seldom worked out as initially intended and the majority of “guestworkers” stayed in the receiving countries on a permanent basis. Sanctions on employers have always to come up against the fact that they also hurt economic interests or the interests of “domestic” workers as well, effective controls with sufficient coverage demand for substantial financial and organisational efforts.

- **Countries of transit**

How do the transit countries manage the challenge posed by the transit migration, particularly if it is of irregular nature, keeping in mind that the transit countries provide the hubs for the client recruitments for the **smugglers and traffickers**¹, with corruption links, who organise the onward transport? Generally, the smugglers and traffickers tend to have a more advanced “early warning system” than the States. As concluded during the preparatory meetings, it is obvious that we speak of a real or potential security threat, with transboundary effects, as not controlling the flows will put a strain on neighbourhood relations among countries.

Therefore, it is in the interest of the transit countries to try to **prevent uncontrolled onward transit migration**, through primarily the entry control mechanisms, thus visa and border control. Migration control will continue to largely depend on strict border control policies, stricter law enforcement, more severe sentences for organisers of human smuggling operations, carrier sanctions, document security etc

With regard to stranded migrants who were unsuccessful in their attempts to reach the destination country, a bit simplified, the migration administration has to tackle two basic questions and have to develop the necessary administrative framework accordingly. Firstly, whether the irregular migrant has a possibility for legal residence in the country it is stranded in, and takes that decision in respect of human rights and refugee protection standards, which the transit country is bound by, followed by integration measures. Secondly, whether return to the country of origin is possible. In the case the migrant does not possess identification documents, the country of origin is not willing or able to identify and confirm the origin of the person. For instance, countries having gone through periods of violence have also seen their registries and records destroyed. If return is not possible, stay on humanitarian grounds may be granted.

The main challenges of the transit country is not only the **institutional capacity to deal with the transit flows, ideally a formulated migration policy including the management response to the transit flows**, based upon knowledge and understanding reason and consequence. This policy includes the instruments every country should possess: visa and admission rules, border control, rules on stay and residence, integration, rules on deportation and expulsion, implemented in respect of the country’s obligations in the fields of human rights, including rights of migrants and the UN trafficking and smuggling protocols, and refugee protection.

The end result in the migration chain – integration - is not reachable without channels for orderly migration and measures to prevent irregular migration. Even worse, a deficit in orderly migration provides the perfect breeding ground for the informal sector, with its exploiting elements.

The phenomenon of transit migration requires an international response

¹ It is important to stress that trafficking in human beings is first and foremost a human rights violation, and victims of trafficking require protection and different treatment than smuggled migrants. Often, however, trafficking victims are not yet aware of their fate at the time of the transport, i.e. when crossing borders into transit or destination countries, and can be easily mistaken for and also perceive themselves as regular or irregular migrants. The main difference between smuggling and trafficking, as per definitions in the supplemental protocols to the UN Convention Against Transnational Organised Crime, lies in the purpose of continuous exploitation and the use of force, coercion or deceit in the case of trafficking, as well as in the fact that trafficking does not necessitate illegal border crossing or border crossing at all. .

As the geopolitical location is imperative for the migration management, the countries in a **region, or sub-region, sharing the same migration challenges agree on a harmonised approach towards tackling the problem.** This is one of the main contributions towards international migration management. Transit migration is not a challenge for countries in a state of general reform and transition, but also for countries with advanced administrative systems.

The Eurooean Union is developing approaches for the management of migration, based upon the notion of partnership between countries of origin², transit and destination. The Hague Programme adopted in November 2004 is intended to improve the common capability of the EU Member States to regulate migration flows and the external borders. It calls for the development of partnership with transit regions and countries and the need for intensified co-operation and capacity building to enable the countries to better manage migration. It links migration management issues to supporting measures for integration. Regarding countries and regions of transit, the emerging European Neighbourhood Policy provides the strategic framework for intensifying cooperation and dialogue on asylum and migration including capacity building in national asylum systems, border control and wider cooperation on migration issues. Already by spring 2005 migration issues should be integrated in the Country and Regional Strategy Papers for all relevant third countries.

The development of economic relations in the OSCE region paves the way for co-operation in immigration matters too. Multilateral co-operation, supporting countries in dealing with the challenges posed by transit flows, means maximising the beneficial impact of migration.

In order to reach this, countries need **comprehensive and sustainable migration policies, migration management capacities with a root causes approach,** including development and co-development aspects. Multilateral activities to enhance migration management capacities should focus on how to **enhance operational co-operation to manage migration,** which is the more concrete approach. It is at the same time important to concentrate on the medium and long-term issues, relating to the combating of root causes of irregular flows through **development co-operation, better joint management of migration in terms of development to mitigate illegal migration pressure, including readmission, assisted return and reintegration issues.**

To foster comprehensive and sustainable migration policies, the international community supports capacity-building activities in the fields of migration and anti-trafficking, hereby contributing to **good governance.** The multilateral and/or bilateral co-operation element of such activities contributes to **good neighbourly relations** between States. The underlying security implications of the topic additionally emphasise the importance of co-operation, both formal and informal.

Capacity-building through **experience exchange** has shown to be particularly useful in developing migration policies and systems. As migration usually touches upon several Ministries: interior, including border guards, foreign affairs, labour, such experience exchange should involve a number of ministries. **Best practices** are shared and a **process of approximation to common standards** takes place.

² Measures targeted at the supply side of irregular migration could comprise the fostering of economic growth and enhanced access to income opportunities through long-term development policies in countries of origin, as well as through promoting political stability and human rights in these countries.

The practical effect on how good neighbourly relations can contribute to put an end to uncontrolled transit flow is illustrated by the following example. Country A (at the time in the EU negotiation process) has big problems with transit flows coming through country B. Country B introduces **visa obligations**, which has an immediate effect. Country B contributed good governance in country C. This is an example of close relations and good co-operation in a field traditionally within the sphere of national sovereignty.

Other examples are generally **well-functioning consular co-operation and general informal information exchange mechanisms, including warning and mutual alerting on suspected illegal transit flows.**

Inter-governmental consultative migration dialogues contribute towards enhancing migration management capacities. Of relevance to the OSCE regions is, for instance, the **Budapest Process**, with participating States from Europe as well as the CIS region, and to which ICMPD functions as the Secretariat. The **Ministerial Conference on the Process in Rhodes on 25-26 June 2003** adopted 31 Recommendations focused around the following objectives: i) a substantial reduction of irregular migration; ii) promotion of harmonised pre-entry and entry policies; iii) safeguarding the rights of refugees and reducing the abuse of the asylum procedures; iv) facilitating return and readmission; v) an enhanced role of institutions responsible for immigration and border control in the combat of terrorism. Building upon the Rhodes recommendations, the process is presently, with co-funding from the European Commission, through ICMPD, redirecting the activities to the CIS region. In this context, **the participating States, including the CIS countries, have decided that the Process should focus on the responses to the following main migration challenges:**

- Prevention of irregular migration, notably trafficking and smuggling, through information campaigns; awareness raising on requirements for entry, stay and access to the labour market in main destination countries;
- Document security; production of secure travel and identification documents, including the introduction of biometric features, while respecting international standards on personal data protection;
- Border management in all its aspects; conceptually, technically, training, inter-agency co-operation, simplified procedures for cross-border movements and border delimitation and demarcation;
- Economic and social integration in the countries of destination: exchange of information and experience on regularisation campaigns; registration and documentation of labour migrants in an irregular situation; reduction of the informal sector through the introduction of employer sanctions; labour agreements;
- Fighting trafficking for sexual and labour exploitation through training of police and judiciary, awareness raising, return and reintegration; protection of victims of trafficking;
- Return and readmission: identification, consular co-operation, procurement of travel documents, repatriation (voluntary, non-voluntary), reintegration, readmission agreements;
- Information exchange on legislation, policies and practices relating to the prevention and control of irregular migration among the relevant authorities of the participating States.

Other processes of relevance to the CIS region are, for instance, the Söderköping Process, or the Cross-Border Co-operation Process. The participating States are Belarus, Moldova, Ukraine, Latvia, Lithuania, Estonia, Poland, Romania, Slovakia, Hungary. Also the CIS

Regional Conference organised in 1996 should be mentioned, during which an Action Programme was adopted. Furthermore, the Izyk Kul Dialogue has convened a series of meetings. It is composed of Central Asia, Caucasus, and their neighbours Afghanistan, China, Iran, Mongolia, Pakistan, Russia and Turkey.

In the Mediterranean Region, the 5+5 Dialogue on migration in Western Mediterranean, in which Portugal, Italy, Spain, Malta, France, Mauritania, Morocco, Algeria, Tunisia and Libya participate could be mentioned. The Dialogue on Mediterranean Transit Migration (MTM), in which interested European States as well as Algeria, Egypt, Lebanon, Libya, Morocco, Syria and Tunisia participate could as well be mentioned. ICMPD functions as the Secretariat to this Dialogue.

In the OSCE region, notably the CIS and the Western Balkan regions are undergoing rapid reform processes, as they have become, or are becoming countries of transit and immigration themselves. As illegal labour migration is one of the main challenges for the CIS region experience exchange on **labour agreements, regularisation campaigns, and border management issues**, are of particular relevance, which also has also been pointed out during preparatory meetings.

Anti-trafficking measures are of particular relevance in SEE and the CIS regions, which comprise countries of origin, transit and increasingly also destination, and activities have been and are planned to be implemented in joint efforts with amongst others OSCE and ODIHR, the driving forces in the establishment of National Referral Mechanisms (NRM). An NRM is an institutionalised system and cooperative framework for extending proper protection and assistance to victims of trafficking through referral to and between specialised agencies, including both State and non-State actors, NGOs, law enforcement and prosecution. In response to the fact that still most of the trafficking cases are of transnational nature, ICMPD has proposed to set up also institutionalised Cross-Border Referral Mechanisms to facilitate international cooperation for risk assessment, establishment of safety plans as well as seamless continuation of assistance in case of repatriation.

Finally, a strong informal sector attracts irregular migration. But, the logic can also be reversed: an existing deficit in orderly migration provides the perfect breeding ground for the informal sector, with its exploiting elements.

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Session V

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a Challenge for Migration Management**

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Transit migration

- Affecting both countries of transit, destination and origin
- Mostly irregular – outside formal migration systems (Upto 6,4 million irregular migrants are estimated to live in Europe.)
- Mixed flows: with the aim of achieving social betterment, but also protection against persecution and ill-treatment

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**Transit migration in the
CIS region**

- ♦ Migrants from the CIS region travel through Russia/Belarus/Ukraine into Hungary/Slovakia, and the rest of Europe. Trend, destination Southern Europe (visa overstayers, asylum channel).
- ♦ Intra-CIS transit migration, for instance to Russia/Kazakhstan (overstayers)

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Mediterranean transit migration

- ♦ Through and from the Magreb region: estimate a few years ago 100,000-120,000 yearly, trends rising
- ♦ Eastern Mediterranean: Syria/Lebanon/Turkey, increasingly used



Transit migration - administratively

Challenge for developed as well as poorer administrations:

- ♦ Non-compliance with immigration regulations
- ♦ Insufficient migration systems



Integration

- ♦ Not possible without channels for orderly migration and measures to prevent irregular migration
- ♦ Deficit in orderly migration – perfect breeding ground for the informal sector; vulnerability to exploitation; international crime; security threat



International migration co-operation

- ♦ Contribution to good governance: Capacity building – migration and anti-trafficking, for instance: National Referral Mechanisms; Regional Referral Mechanisms
- ♦ Contribution to good neighbourly relations: Informal inter-governmental migration dialogues. Geopolitical location imperative – regional approach towards tackling a shared migration challenge (visa harmonisation; mutual alerting on suspected flows)



Budapest Process

- ♦ Government driven informal migration dialogue
- ♦ Rhodes Ministerial Conference 2003
- ♦ ICMPD, Secretariat
- ♦ Experience exchange – informal contacts



Redirection towards CIS

Priorities of the Budapest Process, agreed by CIS and European countries:

- ♦ information campaigns in countries of origin;
- ♦ document security;
- ♦ border management;
- ♦ regularisation campaigns;
- ♦ labour agreements;
- ♦ training of police and judiciary on anti-trafficking;
- ♦ return and readmission.



Mediterranean region

- ◆ 5+5 Dialogue on Migration in Western Mediterranean
- ◆ Dialogue on Mediterranean Transit Migration (MTM) ICMPD Secretariat.
