

13th OSCE Economic Forum, Prague, 23-27 May 2005,

Presentation by ICMPD (International Center for Migration Policy Development), Alenka-Mesojedec Pervinsek, Senior Policy Adviser

THE NEED FOR IMPROVING LEGAL LABOUR MIGRATION CHANNELS

I. Introduction

Giving the fact that this presentation is a part of the session on informal sector, the purpose of this paper is primarily to highlight the relevance of good governance and management in the field of labor migration in relation to poor management and its consequence on informal sector.

In order to avoid possible misunderstanding of expressions used in the context of migrations, there is a need at the very beginning to emphasize that expressions used to indicate informal, illegal, irregular, unprotected, unauthorized migrations are synonymous meaning the scope of migration that does not comply with legal prerequisites to enter and stay in country of destination according with its national legislation. In addition to the given explanation there is also a need to stress that regulation on immigration is still in principle prerogative of state sovereignty, although limited by legal obligations deriving from international law.

II Migration potential, its root causes and statistics

Migration flows are not phenomenon of the modern age; they existed and accompanied the development of human kind throughout the history.

Root causes for the migrations have not changed much since then; predominant cause for migration from less developed economic areas to more developed is still the hope/aim of immigrants that their action will lead to better conditions than the ones they are currently expecting. Massive migration flows as the consequence of armed conflicts, environmental disasters, including climatic changes are additional root causes to the first ones, as well as in some cases political changes, as the cases followed by state succession, when new state or states replace the previous one, might be.

Although statistics on legal migration vary mostly because of the absence of harmonized legal concepts on different status of migrants and consequently the structure of migration, the research analysis of international organizations dealing with migration and research institutions worldwide do agree that the migrations are increasing. According to a recent report of UN, international migration is increasing, the total number of migrants, i.e. those

residing in a country other than where they born, was 175 million in 2000, or about 3 percent of the world population. This global number is about twice as large as it was in 1970, and exceeds the 1990 estimate by some 21 million. Most of the world's migrants live in Europe (56 million), Asia (50 million) and Northern America (41 million)- United Nations 2002 report.

In Europe, according to ICMPD research, migration has increasingly become a major policy concern. Clearly, migration has been one of the major factors shaping European societies in demographic, economic, social and political terms in the post –War era. From 1950 to 2000 the total resident foreign populations in Europe grew more than fivefold, from 3,8 million (1,7 percent of total population) in 1950 to 10,9 million (3,3 percent) in 1970, 16 million (4,5 percent) in 1990 and 20 million in 2000. The figures include the legal residents only.

Identification of the size of illegal migrants is difficult, due to the fact that the authorities do not identify themselves. Estimates of illegal migrations can only be derived from existing indicators linked to the phenomenon, such as the number of refused entries and removals, apprehensions of illegal migrants at the border or in the country, rejected applications for asylum or other forms of international protection or applications for obtaining residence permits. Many of illegal migrants are able to find employment in informal sector. According to some sources (Council Resolution on transforming undeclared work into regular employment, October 2003), in EU, the share of informal sector is estimated between 7-16% of EU GDP, although this is not entirely made by illegal migrants.

Reflecting the increased importance of migration as social process, the demand for sound and empirically grounded knowledge, including the statistical data on migrants and their descendants, has greatly increased as well. On a European level, the communitarisation of migration policy with Amsterdam treaty has similarly led to an increased, and it may be argued, even more pronounced demand for sound and more sophisticated data, as has the wider agenda for fostering integration, combating discrimination, and countering racism and xenophobia. In particular, the need for information on patterns and process of migrant integration as well as discrimination, increasingly sophisticated data is demanded since empirical research on both concepts rests on good data on the demographic composition of the immigrant population, information on individual histories, data on labor market structures and the labor marker performance of immigrants, and migrants' educational attainment, to name but the most important aspects (Kraler, 2005).

III. Challenges and gaps related to management of labor migration

In the past much of public debate as well as policy makers focused on immigration flows and the size of the foreign resident population in a given country. It was often restricted to particular categories of migrants as labor migrants or refugees.

Now, the policy interest is much broader, pertaining also to demographic issues (demographic shortages), including the levels, but increasingly also the composition of migration flows.

Wider social, economic and political issues are under consideration, including patterns of immigrant employment, education and residential patterns –issues that may all be subsumed under overarching concern over migrant integration. In addition, with the development of

policies on anti-discrimination on the European level, discrimination has emerged as another policy concern, often coupled with concerns over racism and xenophobia.

Generally the control over migration is necessary in order to maximize the economic advantage.

In developed countries the need for labor migration is in conjunction with their economic growth and the need of labor market for additional workforce, which does not always imply with migration policy and legislation on admission of labor immigrants.

The discrepancy between the needs of economy for additional immigrant workers and restrictive legislation on admission, or as the case might also be, the absence of effective legislation regulating the immigration then results into illegal forms of immigration.

In circumstances of restrictive admission policy, in particular related to the access to labor market, the potential immigrants are more likely to choose illegal paths. This factor is exacerbated by several other push factors in countries of origin. Such factors can include significantly unequal distribution of wealth between countries of origin and countries of destination, decline in industry and agriculture, high unemployment rates, economic pressures, crises in welfare systems, regional or civil conflicts, humanitarian crises, environmental disasters and gender or ethnic discrimination and amount into trafficking and smuggling in human beings

Despite regional commitments to facilitate the legal admission of migrants, governments still continue to respond with rather restrictive approach to immigration policies, thus leaving migrants more vulnerable to illegal forms of migration, including trafficking and to this end with all the varieties of exploitation. Testimony to the fact that restrictive immigration policies fail is the fact that the trafficking and smuggling “business” is considered to be worth 10-15 billion US dollars, second only to drug and arms smuggling. (Widgren J., “Le traffic d’hommes, marches du travail lucrative”, *Courrier International*, July 2000).

IV. The policy rational

The abovementioned contradictions expressed on one hand by demand of labor market in developed countries for increasing inflows of immigrant workers and on another restrictive admission policy, are imperative for more sound policy.

Dealing with sustainable management of labor migration means primarily to adjust policy measures to defined macroeconomic goals and their reflection on demand of labor market on national level taking into account also the fact, that economic globalization increased opportunities for human resources to agglomerate where it is the best rewarded, in the most developed countries. The demand for high skilled immigrants will increase due to the future employment projections in developed countries as a consequence of aging population.

Developed countries have thus already facilitated the immigration of high skilled immigrants, which resulted then, not necessarily in all cases, into brain drain in developing countries. Positive side effects of brain drain are worker remittances, new skills brought by returning migrants and migration- induced “brain exchanges” between the countries that expand possibilities for the transfer of knowledge or technology, while negative effects result on productivity and economic growth in countries of origin.

How to cope with the effect of brain drain and its impact on development of the countries of origin and their economic growth is a matter that requires bilateral or multilateral approach, along with the programs for investment into the education sectors and poverty reduction.

In addition, the consideration of bilateral labor agreements between the countries of origin and countries of destination might scientifically improve the situation and contribute to balanced management of emigration from the developing countries towards the countries of destination.

V. The role of remittances

As stated above, the remittances are positive side effect of immigration.

The migrant remittances, defined as transfers of funds from migrants to their countries of origin have become an increasingly important feature and are recognized as important source of global development finance. They are supplementing the domestic incomes of millions of families across the world. Remittances are second largest source after foreign investment of external funding for developing countries and are expected to rise significantly in the long term. From livelihoods perspective, policy and institutional reforms have a significant role to play in removing barriers in formal banking systems that restrict access by the poor to appropriate financial service.

VI. Recommendations and conclusions

- The lack of legal framework for management of labor migration within the scope of adopted legislative measures on migration increases illegal labor migration; effective institutional and capacity building, transparent legislation and conditions for its implementation, trained administration staff are necessary elements for good governance over labor migration
- Bilateral agreements on labor migration concluded between the countries of origin and countries of destination in particular in areas of short term stay in traditional sectors of constructions, agriculture, domestic service, contribute to reduction of risks of smuggling and trafficking, as well they benefit to the development in countries of origin because of remittances; in addition, they may reduce the effect of brain drain
- Establishment of governmental agencies for employment is one of the solutions, based on practice of countries of origin, as support logistic frame for implementation of bilateral labor agreements; the task of the agencies is to provide information on employment opportunities in partner countries, and to provide necessary information on conditions that must be fulfilled in order to comply the requests for the employment.
- Exchange of information between countries of origin and countries of destination on employment opportunities reduces the risk of exploitation
- Sustainable database on migration structure enables control and effective management of migration
- Support of research institutions contributes to better management of labor migrations
- Co-operation between countries of origin and countries of destination must based on partnership
- Raising of public awareness of using legal channels for immigration vis a vis potential risks of smuggling and trafficking must based on public campaign, addressed through media and information offices

VII. Summary

Cross-border migration has become one of the important issues on political agenda, being on national, regional or global level and has a link with economic development in countries of origin as well as in countries of destination, it tackles developed as well developing and undeveloped countries.

And to the said extent the problems concerning the management of migration policies are a complex issue. On national level, it demands from the government thorough observation and following up of migration flows, good governance in place, interagency co-operation and good statistics on migration flows and their structure as a tool that will then assist as a tool for decision making process on migration policy.

Dealing with management of labor migration means first of all to define macroeconomic goals and their reflection on demand of labor regular market.

The existing State practice in Europe and elsewhere showed that good co-operation based on bilateral or multilateral relations, as appropriate, is the model that indicates compromise solutions, acceptable for the countries of origin and of destination. Effective institutional building, transparent legislation and conditions for its implementation are *conditio sine qua non* for accomplishment of good co-operation.

The purpose of this paper is primarily to highlight the importance of building up of sound migration policy resulting into sustainable migration management, which must reflect the needs of economic policy of the country, in particular when dealing with labor migration and its link to the reduction and avoidance of illegal migrations.

Root causes for illegal migrations are more or less the same, poor economy in the country of origin, environmental catastrophes, climate changes, conflicts are still the most important pool factors for majority of immigrants who decide to take a risk and look for better chances to improve their and the lives of their families risking uncertain ways to reach the countries of destination. Unsatisfied labor demands in countries of destination, coupled with bottlenecks created by restrictive policies of immigration then further contribute to create preconditions for a rise of irregular migration.

The extent of trafficking and smuggling thus still plays an important role in the area of migration industry; the informal sector and its demand for recruitment of illegal immigrants is filling the gaps as a result of lack of legislation, and more often lack in the field of its implementation.

Only comprehensive migration structures with skilled staff administration can improve management of labor migration and reduce the risk of its impact on informal sector.

The choice of different models how to improve better co-operation between different state institutions on national level, as well as in the framework of international co-operation is broad, starting from the possibility of regularization of informal labor migration to possibility of concluding bilateral employment agreements between countries of origin and countries of destination, to develop and apply sustainable visa regime, as well as to provide legal ways for return policy though concluded readmission agreements or fostering voluntary return.