

UNWANTED MIGRATION: WESTERN EUROPEAN POLICIES

Berrak Kurtuluş, Ph.D.

SUMMARY

Migration, refugees and citizenship have moved towards the top of EU agenda in recent years. Immigration policies in every European state have been the firm province of the nation state. But Europe has faced with important migration questions such as dual nationality in the last decades. European governments in the 1980s began to recognise that there was a big need common policies about migration. This paper analyzes major European migration policies especially common policies about migration.

INTRODUCTION

In the United States which is the leading country for immigration in the World, tensions against unwanted migration are becoming higher. In fact, thinking a moratorium as introduced in Congress, and as supported by FAIR (The Federation for American Immigration Reform), would bring a major reduction. Just as one would shut off the main water valve before attempting to fix a leaky pipe, the United States needs to stop immigration for a while.¹ According to Dr. Donald Huddle, Department of Economics, Rice University, if US does not change its immigration policy, by 2006 the annual net costs of immigration will be \$ 108 billion, 66 percent higher than the cost in 1996. The net national cumulative costs for the decade 1997-2006 for all post-1969 immigrants will be \$ 866 billion, an average of almost \$ 87 billion a year.²

Although American economy has a high growth rate, foreign populations are unwanted; under the rising unemployment, the problem is more dramatic in Europe. Despite statements like the French Minister of the Interior's call for zero immigration, immigration and specially illegal migration will continue in the European countries. In fact, as a result of this situation, some groups explain gestapo-like treatment of aliens in Europe.

This paper analyzes major European migration policies over the last decades. It summarizes Europeanisation process, legalization policies and policies towards asylum-seekers.

¹ FAIR, Issue Brief, "Why America Needs a Moratorium on Immigration," 1/99, <http://www.fairus.org/04103604.htm> (28.05.1999), s. 1.

² "The Net Costs of Immigration: The Facts, The Trends, and The Critics," October 22, 1996. FAIR, <http://www.fairus.org/041056.11.htm>, s. 1.

I. The Difficulty of Detering Unwanted Migration

There are some difficulties for deter unwanted migration. Most immigrants are poor; indeed, that is why they leave their countries. But in the last couple decades, there is an enormous problem for sending countries. The collapse of Communist systems; Asian financial crisis; Russian economic collapse; wars in the European borders and in The Middle East; changing political regimes and terrorism that today threaten Europe and make big pressure on the European labor market. There is not anything for to lose for leaving people from their countries, but there is also uncontrollable mass-migration for Europe. Europeans increasingly view migration as national security.³

From the side of migrant receiving countries, international migration is a function of employment demand for cheap foreign labor. Especially after collapse of Communist systems, Western European employers' desire for cheap labor and for the best and brightest. That is why the employer sanctions system not working in Europe. This seems like to close the doorway but open the backside door.

Also acceptance of family reunification is viewed as part of European integration. This process prevents regulation of international migration. Each year, the largest share of legal immigrants enter the Europe through family reunification system.

Within the EU internal frontiers are becoming wider. Fore example Italy, with 8000 kilometres shore, lets a good opportunity hidden passes. In addition to Communist governments has changed the rigid mobility controls after collapse.

II. The Europeanisation of Immigration Policies

Under the above mentioned developments, Adrian Favell points out, "European governments in the 1980s began to recognise that there was a real need to cooperate on these questions within the context of intergovernmental agreements and existing EU institutions. This has, slowly, led to the identification of a series of substantial policy questions for the European Union concerning migration and minorities, which are over and above those developed in each individual national member state."⁴ This means not isolated but collective norms in Europe.

"The most central issue has been the attempt to resolve the free movement versus immigration control dilemma. In parallel with free movement accords (the 'four freedoms' of goods, services, capital and persons), the EU has sought to develop a co-operative agreement on external immigration control with free

³ For security see.: K.Hamilton, ed., **Migration and New Europe**, Washington D.C., Center for Strategic and International Studies, 1994.

⁴ "The Europeanisation of Immigration Politics," European Integration online Papers (EIoP), Vol. 2, No. 10 (15.12.1998), http://eiop.or.at/eiop/texte/1998-010_a-htm, s. 3.

internal borders: the Schengen agreement, now signed by all members apart from Britain and Ireland (with Denmark opting out of certain new provisions of the Amsterdam Treaty). The Schengen agreement provides for open frontiers with closer customs and police cooperation, allowing European citizens to come and go, while monitoring tightly the movement of non-European nationals. Among other measures on criminality and drug trafficking, it also confirms the rule established in the Dublin Convention that asylum seekers, once rejected from one member state, are rejected from all and sent back to the country from which they come."⁵

Also a number of European countries cited the European Employment Services (EURES) as the primary means of recruiting non-national workers and of coordinating regional recruitment policies.⁶

UN have developed policies on preventing the movement of people across borders during conflicts in recent years. The objective of this program is also humanitarian intervention. Sri Lanka, for example, the UN High Commissioner for Refugees (UNHCR) has set up open Relief Centers (ORCs) where people affected by the conflict until conditions stabilize.⁷ Again European overnments also preferred to cite refugee camps instead of their temporary migration during Kosovo Conflict dated 1999.

III. Campaign Against Illegal Work

Although estimates of illegal immigrant populations are very difficult, there were 2.6 million illegal residents within the European Union in 1990 s. Today this amount almost is double. Western European states do serious efforts and some of them appear more effective in this respect.

First of all, with legalization policies, Western European states attempt to fight with illegal migration. Table I shows the major legalizations in Europe:

⁵ Ibid., s. 3.

⁶ ILO, *Migrant Workers*, International Labour Conference, 87th Session, Report III, Geneva, 1999, s. 63, Box 3.1.

⁷ See: Kathryn C.Lawler, *Averting Immigration Emergencies*, U.S.Commission on Immigration Reform, Research Paper, Refugee Policy Group, February 1994, s. 8.

Table I. Summary of Legalizations in Selected Western European States:

Austria :	Small scale and unpublicized administrative legalizations permitted in the 1980s.
Belgium :	Overtime legalization in 1974. Government has since opposed the option.
France :	Routine legalization 1946-1968. Exceptional legalization policy thereafter. 1.4 million legalizations 1948-1981, exceptional legalizations 1972-1973, 40.000; 1977-1979 (Mauricians 1.000; 1980-1981, Sentier, 3.389; 1981-1983, 150.000.
Germany :	Legalization-like policy through nominative recruitment process until 1973, small-scale, unpublicized legalizations on individual basis for humanitarian reasons thereafter; officially eschews legalization policy.
Italy :	Unpublicized small scale legalization possible until(around) 1985, on and off legalization policy in 1987 and 1988 (105.000 applicants) major legalization policy in 1980, 204.000 aliens legalized.
Netherlands :	15.000 aliens legalized in 1975, 850 legalized in 1980.
Spain :	44.000 aliens legalized in 1985-1986. Political movement in support of legalization and Spanish- Moroccan negotiations lead to limited reopening of legalization opportunity for Moroccans by 1991.
Sweden :	Several hundred aliens legalized in 1976 Government has since eschewed legalization.
Switzerland :	Legalization eschewed but cases of excessive rigor policy grants legal status to more than 10.000 aliens, mainly asylum-seekers denied refugee status since 1982.
United Kingdom :	Small-scale legalization 1974-1978.

Source: Marke J. Miller, **Western European Strategies to Deter Unwanted Migration: Neither New Barbarian Invasions Nor Fortress Europa**, U.S. Commission on Immigration Reform, Research Paper, June 1994, s. 31, Table 16.

As seen in Table I, France strikes the eye about legalizations. But "French legalization of 1981 to 1983 served to attract additional illegal immigrants."⁸

European governments also a attempt to cope with unwanted migration under a broad campaign against illegal work. In Europe, governments have refined employer sanctions over the last quarter century. Table II presents sanctions in Western Europe:

⁸ Mark J. Miller, **Western European Strategies to Deter Unwanted Migration: Neither New Barbarian Invasions Nor Fortress Europa**, U.S. Commission on Immigration Reform, Research Paper, June 1994, s. 32.

Table II. Employer Sanctions in Western Democracies :

COUNTRY	LEGAL BASIS	FINE	IMPRISONMENT	CANCELLATION OF RECRUITMENT	PAYMENT OF DEPORTATION TRANSP. COSTS	CLOSURE OF BUSINESS	PENALTIES FOR VIOLATION OF SOCIAL LAWS (HEALTH ACCIDENT, PENSION, INS)	PENALTIES FOR ILLEGAL ALIEN EMPLOYMENT IN LEASING & TEMP. WORK	OTHER
AUSTRIA	ALIENS POLICE LAW SOCIAL INSURANCE ACT	YES		POSSIBLE			YES		
BELGIUM	LAW OF JULY 22, 1976	1,000 TO 20,000 BEL. FR. PER WORKER MAX OF 150,000 BEL. FR.	POSSIBLE 8 DAYS TO 1 MO.	POSSIBLE	YES (INCLUDING FAMILY OF WORKER)	YES	YES		
DENMARK					YES				PROVISION OF FALSE INFO TO AUTHORITIES PUNISHABLE BY FINE & IMPRISONMENT UP TO 6 MOS.

Tablo II. cont.

COUNTRY	LEGAL BASIS	FINE	IMPRISONMENT	CANCELLATION OF RECRUITMENT	PAYMENT OF DEPORTATION TRANSP. COSTS	CLOSURE OF BUSINESS	PENALTIES FOR VIOLATION OF SOCIAL LAWS (HEALTH ACCIDENT, PENSION, INS)	PENALTIES FOR ILLEGAL ALIEN EMPLOYMENT IN LEASING & TEMP. WORK	OTHER
FRANCE	LABOR CODE LAW OF 10/781	2000-2000 WORKER COURT FINE 4000 FR. FOR REPEAT 16870 FR. ADMIN FINE PER WORKER CAN BE DOUBLED OR REDUCED	2 MOS-1 YR, 3 YRS FOR REPEAT	POSSIBLE		MATERIALS & GOODS MAY BE SEIZED CONVICTED ALIEN EMPLOYERS MAY BE BARRED FROM RESIDENCY UP TO 5 YRS.	YES	FINES OF 4000 TO 20000 FR. 8000 TO 40000 FOR REPEAT OFFENDERS AND/OR 2-6 MOS. IMPRISONMENT FOR HIRING ILLEGAL ALIEN TEMP. WORKER OR FOR LEASING	2 MOS-1 YR IMPRISONMENT & 2000 FR. FINE FOR VIOLATION OF COMI RECRUITMENT MONOPOLY, UP TO 3 YRS. IN PRISON 40000 FOR REPEAT OFFENSE 4000-20000 FR. FINE FOR REIMBURSEMENT OF RECRUITMENT COSTS, 8000-40000 FR. & UP TO 6 MOS. FOR REPEAT

Table II. cont.

COUNTRY	LEGAL BASIS	FINE	IMPRISONMENT	CANCELLATION OF RECRUITMENT	PAYMENT OF DEPORTATION TRANSP. COSTS	CLOSURE OF BUSINESS	PENALTIES FOR VIOLATION OF SOCIAL LAWS (HEALTH ACCIDENT, PENSION, INS)	PENALTIES FOR ILLEGAL ALIEN EMPLOYMENT IN LEASING & TEMP. WORK	OTHER
GERMANY	EMPLOYMENT PROMOTION ACT. TEMPORARY EMPLOY. ACT, ACT TO COMBAT ILLEGAL EMPLOYMENT OF 1981	10000 MARKS/WORKER FINE MAY BE INCREASED TO 100000 MARKS	FOR EMPLOYMENT IN CONDITIONS WORSE THAN GERMAN, 3-5 YRS (HINE)	YES			YES	UPTO 3 YRS. & 10000 FINE, UPTO 5 YRS. IN SERIOUS CASES FOR LEASING ILLEGAL ALIENS. MAX FINE MAY BE INCREASED	
ITALY	LAW 243 OF 1986 AND 39 OF 1990	732 TO 3000 US\$	3 MOS. - 1 YR.					ILLEGAL SUBCONTRACTING OF ALIEN SUBJECT TO FINE OF 3000-15000 US\$ AND UP TO 5 YRS	VIOLATION OF EMPLOYMENT OFFICE MONOPOLY FINE 10000 TO 100000 LIRA AND IMPRISONMENT FOR 15 DAYS TO 1 YR.
NETHERLANDS	FOREIGN WORKERS EMPLOYMENT ACT OF 1984 & THE ECONOMIC OFFENSES ACT	UP TO 2000 FL PER ALIEN	UP TO 6 MOS.			YES			
SPAIN		7000-18000 US\$				YES			
SWEDEN	ALIENS ACT	UP TO 2000 SEK	YES						

Table II. cont.

COUNTRY	LEGAL BASIS	FINE	IMPRISONMENT	CANCELLATION OF RECRUITMENT	PAYMENT OF DEPORTATION TRANSP. COSTS	CLOSURE OF BUSINESS	PENALTIES FOR VIOLATION OF SOCIAL LAWS (HEALTH ACCIDENT, PENSION, INS)	PENALTIES FOR ILLEGAL ALIEN EMPLOYMENT IN LEASING & TEMP. WORK	OTHER
SWITZERLAND	LAW ON THE SQUIRN & ESTABLISHMENT OF ALIENS OF 1988	UP TO 5000 SWFR. FOR INTENTIONAL VIOLATION, UP TO 3000 SW. FR. FOR NEGLIGENT HIRING, UP TO 10000 SWFR FOR HOUSING ILLEGAL EMPLOYEE	UP TO 6 MOS FOR HOUSING ILLEGAL EMPLOYEE OR FOR RECEIVING DISM WITHIN 5 YRS	POSSIBLE				YES	
UNITED KINGDOM		NO	NO				YES		EMPLOYER MIGHT PROSECUTED HARBOURING ALIENS

Source: Mark J. Miller, *Employer Sanctions in France: From the Campaign Against Illegal Work*, U.S. Commission on Immigration Reform, Research Paper, University of Delaware, 1995, s. 26-29, Table 1.

Enforcement of employer sanctions begun well into 1982. In France, for example, the August 31, 1983 measures increased the administrative fine for employers of irregular-status aliens from 500 to 2,000 times the minimum hourly wage for each alien illegally employed. As of January 1, 1985, the administrative fine was 26,340 francs, roughly \$ 3,000.⁹ Recent progress in France includes a system in which employers notify authorities of a new employee's identity prior to the onset of employment.¹⁰

⁹ Mark J. Miller, *Employer Sanctions in France: From the Campaign Against Illegal Alien Employment to the Campaign Against Illegal Work*, U.S. Commission on Immigration Reform, Research Paper, University of Delaware, 1995, s. 8.

¹⁰ *Ibid.*, s. 2.

Another dimension about immigrant workers occurs under the collapse of Communist systems. German Ostpolitik, US-Soviet détente and Helsinki Accords opened the door of emigration from Communist countries. But today governments do not want mass-migration and not open visas to citizens of Eastern European countries. In addition to Russian economic collapse makes big pressure on the EU labor market.

CONCLUSION

Migration, refugees and citizenship have moved towards the top of EU agenda in recent years. Immigration policies in every European state have been the firm province of the nation state. But Europe has faced with important migration questions such as dual nationality in the last decades. European governments in the 1980s began to recognise that there was a big need common policies about migration. German Prime Minister Gerhard Schröders' remark that "the governments have to set up common norms for preventing mass-migrations.'I do not want to mention the uniform norms' but at least do 'common norms' for Europe."¹¹

¹¹ "Zaferden Sonra (After Victory)," *Idea Politika*, Number 1 (December-February 1998-99), s. 40.