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KRYSTYNA IGLICKA

Dilemmas of the European migration politics

The perspective of Poland

Migration politics constitutes a wide range of regulations for a given state concerning the migration of the population through its territory and through borders. It comprises the policy on foreigners and the policy concerning own citizens. Since models of the migration policy present in literature focus on liberal democracies which shifted from “sending areas” into regions of immigration and transit, the emigration element in most models is completely ignored. Different situations exist in new member countries, including Poland which had and continues to have a population outflow considerably exceeding the inflow.

I. Contemporary migrations in Europe - areas of tensions and risks

The results of the referenda in France and the Netherlands in the case of the draft constitutional treaty were a shock for political elites. The source of the crisis of the European project resulted from not only contradictions in the interests of member states on further integration, but above all anxieties stemming from fears of rising social costs due to enlargement and the inflow of “aliens”. In Europe immigration and also immigrants have often constituted this axis of debates and political campaigns are often most easily won based on old prejudices, historical events, stereotypes or simply myths. “No” in the referenda represented an attempt to express opposition not only to

the political elites in given countries but also a voice of fear against the invasion of aliens. The increase in xenophobic attitudes combines on one side undoubtedly a deeper intensity of immigration phenomena, and on the other with a lack of integration programs and the social debate about aliens - both positive and negative - due to the effects of the inflow of immigrants for recipient societies. Xenophobia can take the form of the racist riots but can also be reflected for example in anti-union attitudes or slogans of the political parties¹.

The free flow of workers is this field of European integration, which in the period of negotiations preceding the 1st May 2004 enlargement stirred up particularly great controversy. Even in the period before the constitutional referendum in France, that is one after enlarging the European Union and one year into positive experience of the Great Britain, Ireland and Sweden with opening their labour markets for new member states, emotions revived in the European forum towards newcomers and aliens, and the spirit of the Polish plumber began terrorizing societies in the countries of the old Union. Working out common comprehensive principles accepted by the EU 25 on migration policy, though indispensable, seems recently more and more problematic.

The idea of the free flow of persons has a relatively long history at the European level. Contrary to popular beliefs, the issue of doing away with controls on the internal borders of states of the European Economic Community does not have its genesis in the Schengen agreements. The discussion on the “passport union” project facilitating the free movement within member countries for citizens of ECC member states was already initiated during the conference of the ECC heads of state in Paris, December 1974. At first, vague proposals were put forward for the creation of the passport union, or even a common passport for citizens of ECC member states². The Schengen Agreement was concluded among governments of the Benelux states, Germany and France on July 14th, 1985. Behind the idea of the Schengen agreements there was a desire to create conditions for the fuller of states for the inhabitants as well for economic development from the unhindered movement of persons. Already back then, organised crime traversing borders and the mass inflow of economically motivated immigrants were recognised as the greatest risks to the Schengen zone³.

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Therefore in 1992 the treaty was also signed for the European Union regulating the framework of the so-called III pillar with principles of cooperation in the area of justice and home affairs (JHA), it established matters of asylum and immigration as new areas for cooperation⁴. The Amsterdam treaty and Tampere summit of October 1999, devoted to issues of justice and home affairs, are both recognised as turning points in the creation of a common migration and asylum policy for the Union. The final inclusion of the Schengen chapter in JHA came exactly through the ratification of the Amsterdam treaty in 1999. Moreover, in the treaty the areas of migration and asylum were moved from the third, intergovernmental “soft law” pillar to the first community pillar where they became the jurisdiction of the European Commission. The entire process of transfer lasted five years, from 1999 till 2004. That period was characterized by intense work on the question of migration mainly with reference to border issues and security of EU citizens, contributing incontrovertible achievements for the Union.

The conclusions of the Tampere summit in 1999 however talked also about the necessity of a comprehensive approach towards the problems of migration and asylum, which should take into consideration the various political, humanitarian, and developmental aspects of the phenomena – and equally the migrants’ country of origin⁵.

Since working out the Amsterdam document and instating the implementation of the Tampere program much has passed. The problem of political cohesion of the common migration project and the conformity of legislative mechanisms with the approach towards the process of creation and implementation of the migration policies of individual countries of the Union still remains open. It seems that proposal of the opened method of coordination, i.e. establishing long-term guidelines at the EU level and adapting those guidelines to the policies and migration situations for a given country will not lead to achieving greater cohesiveness among national migration politics, since regional divergences and particular interests turn out to be too significant.

The idea of working out a joint methodology at the EU level on statistical data collection of personal flows and their interpretation however has been positively evaluated.

It would facilitate an essential analysis from the EU migration policy point of view of the phenomena and migration trends on the scale of whole united Europe, which in turn would allow for the more effective management of flows⁶.

During the evaluation of the Tampere program last year, distinct motifs appeared, indicating that although the Union should not create “fortress Europe”, special attention should be given to the phenomenon of illegal migration, especially the one supported by organised crime. In the newest European discourse, the aspect of securitization of migration clearly dominates, and its humanitarian aspect is dangerously narrowed to the idea of improving protection in source regions for political refugees, i.e. to creating, for example, refugee camps outside the EU countries.

Since the Europeanization of migration policy does not limit itself only and exclusively to the transfer of regulations and institutional solutions, but it also embraces systems of beliefs and discourse on the topic in question, one can expect that the gradual securitization of discourse on migration policies will also come in countries “expecting immigration”, as for example Poland, Hungary or Czech Republic⁷.

Also recent proposals of the Commission in the area of a common migration and asylum policy with reference to the migrants’ country of origin are unusually modest and they clearly concentrate on the internal security aspects of “fortress Europe”. Brussels wants to increase the cooperation with states considered as sources of illegal immigration, mainly in North Africa, and more specifically with Tunisia, Morocco, Libya, Algeria, as well as with Ukraine. The Commission is going to offer financial assistance to these countries for equipping and training the border guards. With all above mentioned countries Brussels wants to sign re-admission agreements which would make it possible to send back illegal immigrants arrived from these countries and caught in the EU territory. The Commission also suggests creating joint sea patrols with the navy ships and border guard from all Mediterranean states of the EU.

Some of these proposals already at the negotiation stage evoke certain anxieties and fears. In new member states, such as in Poland, refugee camps trigger clearly negative associations and determined reluctance. The neighbours of Poland - Ukrainians believe that signing such agreements will cause Ukraine to transform at a rapid pace from the country of migration and transit for illegal immigrants at present into a country of temporary immigration or even residence immigration, for which the country’s institutions as well as the society are completely unprepared. The very idea is being perceived in Ukraine as an attempt to push the problem off to a weaker and less prepared country bordering with “fortress Europe”.

The tightened control of entries, usage of modern identity identification equipment, regional exchange of personal data, concerning among others persons which have violated law – all those have become necessary means in the contemporary world. However, they concentrate mainly on the control of anticipated personal flows and therefore they are not sufficient for liquidation of the negative phenomena and migration related problems, which Europe has been faced with for a long time.

Although managing the employment migration is one of the main purposes of a common migration policy, at present from the position of new member states it is hard to accept attempts to establish principles of common management of employee migration from the third countries, when establishment of uniform rules on migrants is impossible – for workers from new states of the Union. The problems of the European Union also concern poor immigrants who are already settled on the EU territory and who from the beginning of their stay were pushed to the margin of the social life being associated with a majority of a differing pathology.

Therefore I think that the common migration policy of the European Union in the immediate future will limit itself to the joint fight against illegal immigration and trafficking in people, and for a long time governments of national states will still have the freedom and the free hand in creating their own migration policy which will be headed towards bigger and bigger restrictions either in the name of protection of their labour markets or the dominant culture. France can be an example; the government have just announced toughening of the law as a reaction to the riots caused by immigrants. Some countries of the old Union have also introduced more strict regulations, for example accelerated deportation of immigrants who represent a threat to state security. Facilitation of revoking citizenship and residence rights in the framework of national policies also has been introduced. However one should also remember that even the most restrictive migration policies will not stop migration for illegal work not only because of unemployment in the sending regions, but also because of demand for cheap foreign labour in recipient regions.

In the world after September 11th, 2001, March 11th, 2004 and July 7th, 2005 international migrations have stopped being an object of only demographic-social debates, which attempted to balance issues of economic growth and cultural integration with the problem of the prosperity and contentment of electors. The relation between in-

ternal security and immigrants seems in the present situation to gain more and more significance. However, it also becomes the object of a dangerous demagoguery. One can see that the humanitarian approach and its supporters do not play such a strong role in the discourse on migration policies anymore.⁸

Unfortunately, it is to be feared that as migration pressure increases on Europe; the more violently nations of Western Europe will be defending their cultural identity, thus resisting the invasion foreigners. It will happen more certainly if the populist right wing continues to heat public anti-foreigners sentiments. A danger results from the fact that it is relatively easily and straight forward to concentrate the attention of the so called average citizen (so-called man in the street) on issues of unwelcome immigrants. After all, foreigners always stand out for some reason, whether it is the colour of skin, religion or accent⁹.

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common migration policy of the EU is presently only at the phase of an administrative-bureaucratic realization of the traditional model of the migration policy.

As I have mentioned before, in Europe immigrants often constitute this axis in debates and political campaigns, where old prejudices, historical events, stereotypes, or simply myths most easily win. In the situation of dramatic conflict, as was the case of terrorist attacks in Madrid or London, it is easy to write about a hidden enemy which we treat like a friend. It is hard to realize that “this other” was pulled to us mainly to do the jobs, we do not want to undertake and who has been treated for years merely as the cheap labour force.

The problem or rather a phenomenon of the inflow of new immigrants to the European Union area cannot be postponed or avoided for many reasons. One cannot claim that moving problems of immigration beyond the framework of democratic debate and putting them in the context of state security will result in spontaneous self-resolution of the immigration problem.

The migration policy encompasses many platforms of interaction among the state, its citizens and foreigners. Its aims are decided by economic, social, political and ideological factors of individual states. The migration policy is also formed by international conventions and values internalized by the national state, which does not allow governments to freely “turn off the tap” and puts a question mark on the final results

of restrictions. In recent years gradual working out of common approach towards immigration is becoming an important event at the international level in the European Union. Member states aspire to achieve a balance between restrictions and respect for liberal values¹⁰. It is a fact, unfortunately, that compared to other fields of international relations – such as trade, capital flow, arms control, – an institutional regime defining rules of population movements is relatively underdeveloped and the Schengen agreement cannot even regulate flows for the purposes of work, issues of residence or integration.

It seems that the common migration policy of the EU is presently only at the phase of an administrative-bureaucratic realization of the traditional model of the migration policy. Regulations of the inflow and on both the short- and long-term stay of immigrants as well as regulations on the status and rights of accepted immigrants, particularly the integration policy remain in the realm of national states. However, more and more institutions, norms and international standards exercise more and more influence on states, at times significantly modifying their policy on immigrants.

The participation of new member states can prove helpful in shaping of the European migration policy. Since, as indicated by different findings of international research, they possess significant emigration experience but little experience in co-existence with immigrants. Thus, they are more considerably open the inflow of foreigners. The process of securitisation of migration policy in such countries, as for example Poland, has not been an evolutionary one related to politics and election platforms. Although the issues of security in all of its aspects (criminal, social, economic) have been present in debates, nonetheless it is interesting that though securitisation aspect in recent European debates dominates, in the case of Poland it has led to the liberalization of regulations on foreigners rather than to their toughening. The bill on foreigners of 1997 was much less open and friendly than the bill of 2003¹¹.

One can state that the Europeanization of the policy on foreigners in the majority of new member states actually reached a level of the absorption (Radaelli 2000, Featherstone 2003)¹² where institutional-legal achievements were accepted as a whole. However, the norms and beliefs on given policies have not been sufficiently internalised to form a social perception of the phenomenon¹³. At present, one can already see visible resemblances between countries of the old EU and new members on the issue of de-

mand for a qualified workforce which lacks in the native labour market. Immigrants will certainly also contribute to the success and the economic development of the Central European region, of which the recruitment should not be depended on current attempts of strict framework for management of migration in the present fortress under the name Europe.

II. Poland's Migration Policy 1945-1989¹⁴

From 1945 until the collapse of communism in 1989, Poland's migration policy, like that of other Soviet Bloc countries, reflected isolationist principles. The only law dealing with migration was the Aliens Act of 1963. Since it was implemented at a time when few foreigners entered Poland (yearly numbers oscillated at around 1,000 and, in majority, pertained to returned Polish migrants) therefore the Act defined very broadly only the conditions of entry into the country, internal movement, and departure.

Polish citizens could not easily leave the country because of the restrictive passport and exit-visa policies. Therefore those who decided to leave the country did it once and forever. In all, an estimated six million people left Poland in the post-war period (i.e. 1945-1989).

III. Trends in Migration after 1989

The collapse of the Soviet empire in 1989 not only transformed Poland's political and economic structure, it also changed the country's ethnic make-up and disrupted established emigration trends. The new migratory trends that have occurred on Polish territory after 1989 were as follows:

- the massive short-term mobility of citizens from the former Soviet Union;
- labor migration to both Eastern and Western Europe;
- permanent migration into Poland, mainly from other Eastern European countries;
- the formation of new immigrant communities of Chinese, Vietnamese, and Armenian origin;
- inflows of asylum seekers;
- lower levels of emigration;
- the return of Polish citizens living abroad.

IV. The Impact of Joining the EU

Much of Poland's policy has been made in reaction to changes in migration patterns to and from Poland. But the country has also had to align its laws with those of the EU before it could join in May 2004.

Indeed, joining the EU helped Poland set a policy agenda and focused the government's attention on the most pressing migration issues, namely its visa policy and border protection.

Like the other accession candidates, Poland's immigration policy had been based on the limited amount of European Union legislation in this area; these immigration-related provisions were part of the full EU body of law known as the 'acquis', which constitutes all membership obligations.

V. New Policy Concerns

After the year 2004 Polish migration policy still plays secondary, subservient role to other policies. Yet, while the mass labor migration of Polish emigrants toward countries of EU-15 that opened their labor markets for Poles i.e. UK and Ireland has occurred unexpectedly after 1 May 2004, future Polish migration policy faces various new challenges. This includes, for example, the need to prevent the outflow of specialists sought in Western European countries.

Immigration has not been discussed intensely in terms of social or economic policy, nor has it been perceived as an element within these policies.

Being adopted by the European Committee of the Council of Ministers in the last weeks of December, the 2006 announcement of the European Commission, concerning directions for development of the common migration policy of the European Union¹⁵ suggests, among others, in the framework of further work on an EU common migration policy the necessity to include areas which so far have not been taken into consideration, in the framework of conceptualisation of this policy. These new areas are:

- Legal migration, included in the sphere of both internal and external policies of the Union, and the integration of foreigners,
- Taking into consideration regions of emigration which border on the east and the south-east of the EU.

- Taking into consideration areas of Asia and Latin America as new areas, from which over the long term immigrants will be coming to the UE.

The points above are particularly important for Poland, as well as the other new member states. The result of which is that the EU is preparing for an increased inflow of legal immigrants and will be expecting them mainly from the countries which are to the east of Poland. For some of them, particularly the Ukraine, Poland, by virtue of geographical and cultural closeness, could become an area for legal work or even residence.

The globalization of trade and labour markets and the decreasing demographic potential requires a certain opening of the borders which can be hard to reconcile with the means of entry control being introduced.

Therefore also, in individual members states of the old union a silent assumption is emerging, that the demand for low and medium qualified labourers in these countries will be fulfilled by workers arriving from new member states through internal Union migrations, in the framework of so-called opening of the labour markets. Highly qualified personnel will be recruited from the third countries.

In these assumptions, whether we like it, or not, there is a lot of logic. Immigrants that take second-rate jobs and come from other cultures, were associated in the past in the recipient societies of Western Europe mainly with certain pathologies. From the other side, immigrants making second-rate works and without prospects for promotion felt alienated socially and culturally. Such a situation led to the mainstream exclusion of large parts of the immigrants in West-European societies, creating ethnic ghettos and social tensions and resulted in a crisis of the multicultural model. For Europe, educated immigrants were never a problem, since they were working in positions according their qualifications of degree. The problem was the poor immigrants. The preceding assumptions so adopted will be equilibrating, in my opinion, possible tensions in the cultural background. Poles, Lithuanians, Czechs or Slovaks are integrating easily as there aren't also possible conflicts from religious or cultural backgrounds between new strangers and the recipient society.

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It is important, for consideration, what new about the shared politics new members can/should carry the migration EU into debate. Especially, in accordance with the communiqué, unusually a more distant development of the shared European politics concerning labour migration is an essential element, which has led to the EU for increasing economic benefits stemming from the migration. And which, if necessary, conclusions from the shared migration politics can swim for the Polish economic and social policy.

Action expected in the Announcement, both as part of the politics of the domestic as well as outside EU, the EU is aimed at increasing the attractiveness among others as region entertaining legal migrants at the simultaneous fight against the illegal migration. Apart from facilitation in conveniently to the labour market determined of category of immigrants, like e.g. of high-qualified and seasonal workers, creating a Portal for Immigration, a European Portal for Professional Mobility or also a European Portal of the Mobility of Academics is predicted. They also suggest forming membership migration centres which would be in individual countries for the promotion of getting a legal job and to provide assistance in finding this job or spreading information about different forms of the professional mobility (e.g. swappings of students) in countries UE.

There is no doubt that there are economies built by immigrants (legal and illegal) in such countries as the USA, Canada or also Australia. Without a doubt, after 1945 the immigrants contributed to the unusually dynamic rise in economies of states of Western Europe. With the 2004 opening of the labour markets by Great Britain, Ireland and Sweden and pulling hundreds of thousands of immigrants (in the coincidence of two first countries) from new membership states is an undoubted success of these states and economies.

The Polish economy is also developing dynamically. However immigrants aren't a factor contributing to the rapid rise. A question whether at any time they will be, is arising and if yes, because almost all experts think that sooner or later we will also become the country of immigration, whether the ones which Poland will need are sure to really come? It concerns an accurate specification of the demand for the Polish labour market in the short and long term period. Demographic forecasts will need to establish at least a weak correlation between the demand of the labour market for a deter-

mined specialization and the supply of graduates from secondary and higher schools as to the needed classifications. In these models and scenarios, one should accept the strong competitiveness of membership states and their efforts against a legal, foreign workforce. So, it also concerns the appropriate articulation of our needs and the really judge the situation in Europe.

Both the migration frameworks built at present and for the future shared Europe 27 are establishing states and a priori-shared and past migration of all states of the Union. However, it isn't so. Immigration to countries of Western Europe began right after 1945. Adding to the initial stream of foreign workers, a migration of families followed in the majority of old Union states that caused the formation of numerous ethnic minorities. Apart from the inflow of refugees, streams of the migration based on 'family joining' claims (in a sense, self sustained source of the inflow) still form important component of immigration statistics in the UE-15 countries. So, the old Union countries receive a continuous supply of the foreign workforce characterized by a migration channel connected with family members coming to join workers.

However the new member states are alone. Agnieszka Weiner calls it, they are still waiting for immigration. The census list for Poland in 2002 only records about forty thousand legal immigrants in the country, and the estimates of illegal immigrants aren't even in the tens of thousands (these should not be confused with paid migrants working illegally in Poland because the majority of them are staying in Poland on legal visas and aren't prolonging their stay over the time determined by the visa).

There is no doubt that the states of Centre Europe which for demographic reasons are performing the role of a reservoir for the workforce, currently undertaking works demanding low or average professional qualifications in UE-15 countries shortly will desperately need hands to work. 2006 was the first year in which for Poland one may

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note that in many firms, and in spite of high unemployment numbers, deficiencies appeared in terms of the skilled workers needed for employment.

Such deficiencies will expand in the future. Financial incentives for babies or extending maternity leaves probably won't be enough to induce Poles to have such a number children so that immigrants aren't needed. Pro-family politics should go hand in hand with the rise in the financial outlays of the state on the system of the care of children or also increasing the professional activity of women. However, it is unusually expensive and governments of states of old Europe a long time ago already discovered that providing the right inflow of a foreign workforce was a less expensive and easier way.

Now this legal inflow should theoretically be managed as part of the shared, foreign migration policies. Yet, one should not delude themselves that the miraculous dynamic growth in the economy of the last 5 years, where pay in Poland has risen and the costs of the work will diminish, such that we will become a more attractive country for the legal work of Ukrainians, Russians, Vietnamese, Chinese or Armenians rather than Germany, Great Britain, France or Ireland.

Opening the labour markets for seasonal works from the Ukraine is taking place, in my opinion, a few years too late. The research on Ukrainian immigration preferences indicates that Poland ranks in the 6th place, behind Russia, with Germany, Spain, Italy or Portugal ahead. One should not also delude oneself that as part of the shared internal migration politics that Bulgarians or Romanians within the framework of opening will suddenly arrive. One should already learn a lesson from it, thinking with what happened in such distant geographically and culturally countries like Spain or Portugal - why do migrants from Ukraine prefer this direction, and are there in such large numbers that they are driving out migrants from North Africa countries.

In the European arena, one should point out both the past experience in migration of new member states and the consequences resulting from it, for the present and in the future. The passivity concerning the assumptions worked out as part of the common migration politics of the EU can deprive us of greater chances of legal immigrants the qualifications of which the Polish economy will need. Immigrants, in accordance with the assumption, that were supposed to increase the benefits of migration in all the partner countries.

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Prof. Krystyna Iglicka – lecturer at the Leon Kozminski Academy of Entrepreneurship and Management, co-ordinator of the program on Migration and Home Security in the Center for International Relations.

¹ K. IGLICKA, *Unijny wymiar bezpieczeństwa z perspektywy migracji międzynarodowych i dylematów wielokulturowości*, „Raporty i Analizy” CSM 7/04, (www.csm.org.pl).

² A. GRAŚ, *Porozumienie z Schengen – geneza i stan obecny*, [in:] *Polska droga do Schengen – opinie ekspertów*, Warsaw: ISP, 2001.

³ B. WYŻNIKIEWICZ, *Przyszłość rynków pracy w świetle porozumień z Schengen*, [in:] *Polska droga do Schengen – opinie ekspertów*, Warsaw: ISP, 2001.

⁴ A. BERNATOWICZ, *Wspólna polityka azylowa i migracyjna – europejskie i polskie dylematy*, [in:] „Polska w Europie” 2004, 3 (47).

⁵ Ibidem.

⁶ K. IGLICKA, P. KAŻMIERKIEWICZ, M. MAZUR-RAFAŁ, *Zarządzanie migracją – przypadek i doświadczenia Polski w odniesieniu do dyrektyw Komisji Europejskiej*, Warsaw: ISP-CSM, 2003.

⁷ A. WEINAR, *Europeizacja polskiej polityki migracyjnej wobec cudzoziemców 1990–2003*, Warsaw: Scholar, 2006.

⁸ K. IGLICKA, *Unijny wymiar bezpieczeństwa*, op. cit.

⁹ W. ANIOŁ, *Migracje międzynarodowe a bezpieczeństwo europejskie*, Warszawa: PAN ISP, 1992.

¹⁰ A. WEINAR, *Europeizacja polskiej polityki*, op. cit.

¹¹ Ibidem.

¹² C. M. RADAELLI, *Policy Transfer in the European Union: Institutional Isomorphism as a Source of Legitimacy*, “Governance” 2000, 13 (1), p. 25–43; K. FEATHERSTONE, *In the Name of “Europe”*, [in:] K. FEATHERSTONE, C. M. RADAELLI, eds., *The Politics of Europeanization*, Oxford: Oxford UP, 2003, p. 3–26.

¹³ A. WEINAR, *Europeizacja polskiej polityki*, op. cit.

¹⁴ The paragraphs below were published in: K. IGLICKA, *EU Membership Highlights Poland’s Migration Challenges*, Washington DC: Migration Information Source, Migration Policy Institute, April 2005; and K. IGLICKA, *Kierunki rozwoju polskiej polityki migracyjnej w ramach obszaru legalnej migracji pracowniczej na lata 2007–2012*, „Raporty i Analizy” CSM, 1/07.

¹⁵ *Communication from the Commission to the Council and the European Parliament: The Global Approach to Migration one Year on: Towards a comprehensive European Migration Policy*, Brussels, 30.11. 2006 COM(2006) 735 final.