

EUROPEAN PARLIAMENT



*Directorate General for Research*

WORKING PAPER

**MIGRATION AND ASYLUM  
IN CENTRAL AND EASTERN EUROPE**

*People's Europe Series*

W-9

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EUROPEAN PARLIAMENT



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**MIGRATION AND ASYLUM  
IN CENTRAL AND EASTERN EUROPE**

**MEETING OF THE EP COMMITTEE ON CIVIL LIBERTIES  
AND INTERNAL AFFAIRS WITH THE CORRESPONDING  
COMMITTEES OF THE TEN ASSOCIATED COUNTRIES  
FROM CENTRAL AND EASTERN EUROPE,**

**BRUSSELS, 10 AND 11 JUNE 1996**

*People's Europe Series*

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### Foreword

This working paper is based on the public hearing organized in the framework of the joint meeting in Brussels between the Committee on Civil Liberties and Internal Affairs of the European Parliament and the responsible parliamentary committees of the ten associated countries in Central and Eastern Europe (10-11 June 1996) on organized crime, migration and asylum. The responses to a questionnaire which was sent to the Interior Ministries or equivalent of the CEECs constitutes a further source of information. Thirdly, NGOs acting in Central and Eastern Europe contributed to the completion of this document.

We would like to express our thanks to the representatives of UNHCR and ECRE in Brussels and in the CEECs as well as to the Hungarian Red Cross and the Committee on Migrations, Refugees and Demography of the Council of Europe among many others.

We express our thanks to the following authorities for the information they have sent us:

- Petko Sertov, Director, International Cooperation Service, Interior Ministry of the Republic of Bulgaria.
- Nina Prokopová, Director of the International Relations Department, Interior Ministry of the Czech Republic.
- Daimar Liiv, Chairman of the Legal Committee, Riigikogu Estonian Parliament.
- Gyula Rádi, Head of the International Department, Interior Ministry, Republic of Hungary
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- A. Zielinska, Ministry of Internal Affairs of the Republic of Poland.
- M. Saghi, First Secretary, Mission of Romania to the EU.
- Tudor Amza, Director-General for Strategy Integration with Europe and Public Relations, Interior Ministry, Romania
- L. Hudeu, Interior Minister of the Slovak Republic
- G. Mravljak, Counsellor to the Minister, Head of International Cooperation Office, Ministry of Foreign Affairs, Republic of Slovenia

This document is the result of the work of the meeting on asylum and immigration. A second document contains information on organized crime.

Mr **Luis MARINHO** (Socialist, Portugal), chairman of the European Parliament Committee on Civil Liberties and Internal Affairs, pointed out that asylum and immigration policies could no longer be considered from an exclusively national point of view, nor that of the European Union alone, but had to take account of our Eastern neighbours. In fact our policies had reciprocal effects. Tighter border controls and changes in visa policy discouraged illegal immigration into EU countries. Conversely, if the EU decided that asylum-seekers could be sent to CEECs because they were considered 'safe third countries', the number of political asylum-seekers would substantially increase in the CEECs. Our futures were therefore linked.

Mr **Bertel HAARDER** (liberal, Denmark), rapporteur, gave an overview of the situation:

The 1989 revolutions in Central and Eastern Europe caused profound changes in the existing landscapes of migration. Political liberalization and easing of emigration, along with the problems of transition to a market economy, higher unemployment rates due to restructuring processes and environmental degradation resulted in the largest movements of people since the end of the Second World War. However, the massive population movements to Western Europe and North America anticipated in more pessimistic scenarios did not occur. Flows to these regions, especially to Germany, have declined, while Central and Eastern Europe faces an increasing influx of people from the Third World.

In many CEECs, data systems remain inadequate and it is very difficult to assess stocks, flows and the skill profile of migrants. The lack of information makes an exact distinction between permanent immigration and temporary movements almost impossible. Additionally, it must be stressed that the Central and Eastern Europe region does not constitute a homogenous entity, but is made up of countries each of which has its own problems and its own political, economic and social priorities. Nevertheless recent migration flows in Central and Eastern Europe can be characterized by some major trends.

## Migration

### 1. Transit migration

The term 'transit migrant' is normally used for those persons who enter the territory of a State in order to travel to another. Many of them find their journey delayed by control procedures.

**Transit migrants are a very heterogenous group;** country of origin, educational background, age, sex, religion or nationality can be very different. The IOM (International Organization for migrations) surveys found various motivations.

Some of the migrants who live and work in the region of transit while preparing for the final part of their journey have decided not to give up a status of relative wealth in exchange for an uncertain future in Western Europe or North America. Others become stranded in the sub regions due to increasing difficulties of reaching the countries of destination. The tightening of external borders after the entry in force of the Schengen agreement aggravates the situation. This seems to increase the demand for the services of professional migrant traffickers who can offer better chances of slipping through

international borders. The Baltic States, for instance, face an enormous increase of illegal migration to Scandinavia which is mainly organized by human traffickers from Moscow<sup>1</sup>.

Transit migration has become an important trend in some countries which serve as intermediate and temporary stopovers for immigrants intending to go to Western Europe and North America. They come from Turkey, Albania and former Yugoslavia, but also from distant countries like Afghanistan, Bangladesh, Iraq and Somalia.

The Czech Republic receives transit migrants from the CIS, from the Balkans and from Asia. Poland is a transit country for migrants from the Western part of the CIS. Two main routes go through Bulgaria. The first is used by migrants from the Middle East who intend to go to Germany and Austria. The second, from the CIS and Romania, crosses Bulgaria en route to Greece. In Slovenia, 191 000 people were legally crossing state borders in 1995<sup>2</sup>

The number of immigrants increases and exceeds the number of emigrants in some countries for economic reasons. **Bulgaria and Romania remain main sending countries, while other countries like Hungary, the Czech Republic, Poland, Slovenia and the Slovak Republic, where the economy is taking off faster, experience a greater influx of workers who settle down as permanent residents.**

## 2. Illegal migration and trafficking in human beings

Illegal transit migrants can be divided into two categories: those who enter illegally and those who cross the border of a state (legally or illegally) and then try to leave to another country where they would stay illegally.

There is a high level of diversity of transit migration flows which are often well organized and **can change quickly with new routes continuously opening up**. Trafficking agencies often provide a complete package. Many of these agencies exploit migrants as a cheap source of labour in legal enterprises or force them to prostitution through extended networks. In Romania, procurers take away passports from prostitutes, who cannot seek help from the police due to their illegal status<sup>3</sup>.

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<sup>1</sup>Statement of the representative of the Republic of **Lithuania** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>2</sup>Statement of the representative of the Republic of **Slovenia** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>3</sup>Statement of the representative of the Republic of **Romania** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

Migration and Asylum in Central and Eastern Europe

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*Number of illegal border crossings from 1993 to 1995*

Bulgaria	39 033 (persons staying illegally)
Czech Rep.	77 729
Estonia	no illegal border crossing in 1995; exact numbers for 1993 and 1994 are not available
Hungary	40 072
Latvia	5 205 deportation orders, 7 511 illegal immigrants were detained, it is estimated that 30 000 have entered Latvia illegally (1995)
Lithuania	1 433 (number of illegal immigrants deported in 1994 and 1995)
Poland	48 000 (persons detained for illegal border crossing 1993-1995)
Romania	16 800 (15 000 have been expelled, 1,800 have been returned to their home countries)
Slovak Rep.	7 886 illegal immigrants have been detained
Slovenia	16 917

*Based on official answers of the CEECs Ministries of Interior to the European Parliament, DG IV's questionnaire, June 1996.*

*Main regions of origin of illegal migrants*

Bulgaria	Arab countries, Turkey, Iran, South East Asia, Africa, Romania, CIS, former Yugoslavia
Czech Rep.	Bulgaria, Macedonia, Romania, Serbia, Turkey; India, Iraq, Sri Lanka, Vietnam
Estonia	Turkey (Kurds)
Hungary	Bulgaria, Romania, Turkey, Former Yugoslavia, CIS
Latvia	Afghanistan, Bangladesh, Iran, Iraq, Vietnam; Belarus, Moldova, Russia, Ukraine
Lithuania	Afghanistan, Bangladesh, India, Iraq, Pakistan, Somalia, Sri Lanka; Belarus
Poland	Africa; Asia; Armenia, Moldova, Russia, Bulgaria, Romania
Romania	Egypt; Bangladesh, Iran, Iraq, Pakistan, Sri Lanka; Turkey
Slovak Rep.	Afghanistan, China, Iran, Iraq, Vietnam; Romania, Turkey, former Yugoslavia
Slovenia	Egypt; Bangladesh; Bosnia-Herzegovina, Romania, Turkey

*Based on official answers of the CEECs Ministries of Interior to the European Parliament, DG IV's questionnaire, June 1996.*

It should be noted that the profit made by organized crime from clandestine immigration, (illegal work, prostitution, price of false documents, etc.) is estimated at between 100 million and 1.1 billion dollars per year. Most clandestine immigrants come via the Balkans<sup>4</sup>.

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<sup>4</sup>Jürgen STORBECK, coordinator of the Europol Drugs Unit, September 1996.

**Asylum**

Asylum seekers have been increasing in numbers importance during the last few years. Western Europe's policy has changed from 'uncoordinated liberalism to harmonized restrictionism'<sup>5</sup> countries like Hungary and the Czech Republic have consequently become regions of destination. This gives rise to grave concern about the possible intention of creating a buffer zone in Central and Eastern Europe, where some countries have not brought their legislation, structures and administrative practice in line with the 1951 Geneva Convention and its 1967 New York Protocol or have not even signed it. Other countries have not brought their legislation, structures and administrative practices into line with this Convention. Bilateral readmission agreements have become the principal legal instruments of cooperation on refugees, with the EU Member States and among CEECs countries themselves. It is important to note that, even though in reality the main aim of these accords is the readmission of asylum-seekers, they do not always contain provisions regarding them. It is vital therefore that guarantees of protection for asylum-seekers are included in all the agreements. It is, for example, very important to ascertain the real prospects for an asylum-seeker whose application is refused or being able to apply for asylum in the country of readmission. Financial resources for the handling of asylum procedures and temporary assistance are often very limited, and 'refoulement' or return of a refugee to the country of origin or a third country considered as safe may occur.

The CEECs have become a transit area since 1989. In Poland, it is estimated that about 100,000 asylum seekers have crossed the country while only 590 made an asylum application. Many of the migrants apply for asylum only after they have been intercepted by the police, others continue their journey to Western Europe before a decision is made.

*Total number of asylum seekers since 1991 and average percentage of approvals*

Country	Number of applicants	Percentage of approval
Bulgaria	1 394 (since the creation of the national Bureau for Territorial Asylum of Refugees/1993)	No official data
Czech Rep.	7 633	17.4%
Estonia	Since no legislation concerning refugees is in force, statistics are not available. In 1995 and 1996, no applications were received.	No official data
Hungary	2 184 (till 1995)	86.4%
Latvia	Since no legislation concerning refugees is in force, statistics are not available	No official data
Lithuania	Since no legislation concerning refugees is in force, statistics are not available.	No official data
Poland	2 798 (1994-1996)	12% (1995)

<sup>5</sup> International Journal of Refugee Law, 1994, p 165

Migration and Asylum in Central and Eastern Europe

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Country	Number of applicants	Percentage of approval
Romania	3 517	15%
Slovak Rep.	715	54.5%
Slovenia	96	1.92%

Source: Ministers of Internal Affairs, answers to the European Parliament, DG IV's questionnaire, June 1996

*Main countries of origin of asylum seekers*

Bulgaria	Ethiopia, Afghanistan; former Yugoslavia
Czech Rep.	Afghanistan, Iraq; Armenia, Russia, Ukraine; Bulgaria, Romania
Estonia	Since no legislation concerning refugees is in force, statistics are not available
Hungary	Romania, CIS, former Yugoslavia
Latvia	Since no legislation concerning refugees is in force, statistics are not available.
Lithuania	Since no legislation concerning refugees is in force, statistics are not available.
Poland	Afghanistan, Bangladesh, India, Iraq; Armenia
Romania	Somalia; Bangladesh, Iran, Iraq, Sri Lanka
Slovak Rep.	Algeria, Angola, Somalia, Afghanistan, Iraq, Pakistan, Armenia, Azerbaijan, Turkey
Slovenia	Bangladesh, Iraq; Albania, Bosnia-Herzegovina, Kosovo, Serbia

Source: Ministers of Internal Affairs, answers to the European Parliament, DG IV's questionnaire, June 1996

Although some of the CEECs have made considerable progress in the protection of refugees, others offer almost no prospect of obtaining asylum. In Estonia, Latvia and Lithuania, no laws on refugees have come into force and there is no special treatment for asylum seekers. If they enter these countries illegally, these persons 'bear administrative responsibility and those who cannot be deported will be taken to interim camps'<sup>6</sup>. Nevertheless, before expulsion the governments of these countries can make exceptions if the life or freedom of the applicant are in real danger.

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<sup>6</sup>Statement of the Estonian Parliament in the questionnaire for the June 96 meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

*Accession to the 1951 Geneva Convention and its 1967 Protocol*

Bulgaria	Czech Rep.	Estonia	Hungary	Latvia	Lithuania	Poland	Romania	Slovak Rep.	Slovenia
Yes	Yes	No	Yes	No	No (due for 97?)	Yes	Yes	Yes	Yes

Source: Ministers of Internal Affairs, answers to the European Parliament, DG IV's questionnaire, June 1996

**Safe country rule**

'Safe country of origin' rule for asylum seekers of the following CEECs countries is applied in the following Member States:

Denmark	Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovenia.
Germany	Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovak Republic.
Finland	Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic.
United Kingdom	Bulgaria, Poland, Romania.
The Netherlands	Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovak Republic.

In some CEECs there is no guarantee that an asylum seeker who is really in need of protection is not returned to his country of origin.

Bulgaria<sup>7</sup>

There have been several occasions when the UNHCR-Sofia has come across cases where asylum seekers had been deported to Bulgaria on the basis of the safe third country rule and then back to their country of origin. This happened in spite of the intervention of UNHCR who didn't consider these countries as safe.

Czech Republic

According to the legal basis an applicant or a refugee may not be expelled to the country of origin or a third country where his life or freedom would be threatened. They may not be extradited to a country where the national law prescribes the death penalty for a crime they are accused of.

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<sup>7</sup>UNHCR Sofia, Asylum and Migration in Bulgaria, Note to DG IV, July 96 and Migration News Sheet, April 1996, p 8

However the German Administrative Court of Frankfurt/Oder suspended the execution of an expulsion order concerning a stateless Palestinian to the Czech Republic because of the danger that he might have been returned to Lebanon where he could have faced political persecution.

### Estonia

The administration deals with the cases of asylum seekers by deporting people to their country of origin or detaining them. Before repatriation the Estonian administration negotiates with the countries of destination and tries to achieve a certain security standard for the expelled. This exists currently with Turkey, because in the years 1993 and 1994 most immigrants came from the southeast of Europe, especially Turks and Kurds. The Turks were returned to Turkey and the Kurds were expelled to Sweden or Finland pursuant to agreements with these countries.

Furthermore refugees are not repatriated, as government officials ensure, into countries or areas which are in a state of war. Still there are no formal guarantees against sending asylum seekers back to their country of origin where they might have to fear for their life or freedom. As a result of all this **some EU countries have considered that Estonia is not a safe third country.**

### Hungary

Hungary is progressing in the process of reconsidering its geographical restriction for asylum and tries to consider each application for asylum following the safe country criteria such as described by EU and UNHCR<sup>8</sup>. As examples were quoted the fact that an asylum seeker from Somalia would never have been sent back to his country in war, or the Bosnian refugees under temporary protection forced to go back to their country if the conditions for their return were not fulfilled.

### Latvia

There has been a pressure in recent years to change the legal situation. The former Swedish Minister of Immigration Affairs announced after his visit to Latvia in February 1995 that it could be considered a safe third country. The Swedish Immigration Board acted in May 1995 according to this opinion by deciding to return an Iraqi to Latvia because 'the man will be received in Latvia and does not risk being sent further'. However this decision was overturned by the Aliens Appeal Board, mainly on the grounds that Latvia had not ratified the 1951 Geneva Convention.

In March and April 1995, 128 Kurdish refugees were seeking asylum in this area. During their odyssey through Latvia, Lithuania and the Russian Federation they crossed Latvian territory 13 times until most of them were finally admitted to Olaine Refugee Camp close to Riga. This is a sign that there are still no concrete tendencies towards formal guarantees against 'refoulement'.

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<sup>8</sup>Statement of the representative of the Republic of Hungary at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

### Lithuania

The Law on Refugee Status in the Republic of Lithuania was adopted in July 1996, has not come into force yet, but will probably do so in early 1997. This could be the base for a several years long process to change from an mainly transit area into an area with defined asylum procedures.

According to the Ministry of Internal Affairs people are not expelled from its territory if their life or freedom would be in danger. Those leaving the country do so voluntarily and at their own expense.

Since the 1951 Geneva Convention has not been ratified there is a lack of fair procedure and appropriate legislation and asylum seekers are treated like other immigrants.

### Poland

Poland respects the principle of 'non-refoulement' but no guarantees exist that an asylum seeker whose request was rejected in another country and was then, pursuant to the safe third country rule, sent to Poland would have access to the Polish asylum procedure. Poland considers its neighbouring countries (Czech Republic, Slovenia, Ukraine, Belarus, Lithuania and Kaliningrad (Russia) as safe countries<sup>9</sup>

### Romania - Slovakia

Both these countries declare they take all necessary precautions against expelling refused asylum seekers to countries where their life and freedom could be in danger.

### **Readmission agreements**

Several readmission agreements have been concluded. Under these agreements, although each has its own particular conditions, each contracting party undertakes to take back any person who, coming from its territory, is found to be irregularly within the borders of another contracting party<sup>10</sup>.

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<sup>9</sup>Statement of the representative of the Republic of **Poland** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>10</sup>European Council on Refugees and Exiles, Asylum in Europe II, London, 1994, p 162

*Countries with which readmission agreements have been concluded*

Bulgaria	Germany, Greece, Poland, Slovakia, Switzerland
Czech Rep.	Austria, Canada, Germany, Hungary, Poland, Romania, Slovakia
Estonia	Latvia, Lithuania, Finland
Hungary	Austria, Croatia, Czech Rep., France, Poland, Romania, Slovakia, Slovenia, Switzerland, Ukraine
Latvia	Estonia, Lithuania
Lithuania	Poland
Poland	In the EU: BENELUX, Germany, Greece, Italy; in Central Europe: Bulgaria, Croatia, Czech Rep., Hungary, Moldavia, Slovak Rep., Romania, Ukraine
Romania	In the EU: Austria, BENELUX, France, Germany, Greece, Italy, Spain, Sweden; in Central Europe: Czech Rep., Hungary, Poland, Slovakia; India, Switzerland
Slovak Rep.	Austria, Bulgaria, Croatia, Czech Rep., Hungary, Poland, Romania, Slovenia, Ukraine
Slovenia	Austria, BENELUX, Canada, Croatia, France, Greece, Hungary, Lithuania, Romania, Slovakia, Switzerland

*Based on official answers of the CEECs Ministries of Interior to the European Parliament's, DG IV's questionnaire, June 1996.*

Many CEECs lack the financial resources to provide complete protection for refugees. The Baltic States in particular need Western support in order to be able to ratify the 1951 Geneva Convention and to implement its objectives<sup>11</sup>.

**Mrs Hedy d'Ancona** (Socialist, Netherlands) referred to the catastrophic situation of forced population movements - involving millions of people. She, as well as **Mr Jan Wiebenga** (Liberal, Netherlands) and **Mrs Maria Zimmermann** (Socialist, Germany) considered that **the restrictive policies conducted in recent years by the EU Member States had only moved the problems elsewhere**. The countries of Central and Eastern Europe were now facing problems of both asylum and immigration.

The introduction of an efficient asylum protection system in Central and Eastern Europe will not be possible without a joint effort on a European scale. The 'transfer of burden' of asylum seekers eastwards might result in restrictive measures or practices in order to discourage refugees from residing within the territories of the CEECs, the resources of which are much more limited (eg by not ratifying the Geneva

<sup>11</sup>Statements of the representatives of the Republics of **Lithuania and Estonia** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

Convention or ignoring its provisions). It is a question of human rights protection, concluded **Mrs. d'Ancona**. The Baltic States cannot implement the objectives of the 1951 Geneva Convention, which is a basis for its ratification, without the economic and technical support from Member States of the EU<sup>12</sup>. Coordination of the relevant policies and the involvement of the CEECs in Western initiatives are vital in order to prevent such a situation.

### **Coordination of policies**

Some fifteen multilateral forums currently deal with migration and asylum, and about 30 to 45 sub-groups responsible for specific matters have been set up. Since 1991, many CEECs have developed close cooperation with UNHCR and IOM and are actively participating in the activities of the CDMG and the CAHAR. Similarly, regional initiatives and specialized forums like the Budapest Group dealing with uncontrolled migration have been set up. However, no single body seems to have the necessary political influence to induce the European governments to harmonize their refugee and asylum policies. Additionally, a general agreement on the sharing of the 'burden' of asylum seekers could facilitate the handling of refugee protection<sup>13</sup>.

### **Material and technical assistance**

The CEECs can scarcely bear the costs arising out of increasing migration and refugee flows because they are experiencing budgetary austerity and grave problems in the introduction of a market economy. Bilateral financial and technical assistance is not sufficient. Baltic countries in particular cannot face the implementation of the Geneva Convention.

### **Human rights protection**

Assistance should be provided, concluded **Mr. Marinho**, but it was important that this aid is used for asylum seekers, not for repressive purposes such as tightening of border controls.

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<sup>12</sup>Statement of the representative of the Republic of **Estonia** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>13</sup>Statement of the representative of the Republic of **Estonia** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

**Border controls**

The future enlargement of the EU must not end up in the creation of a buffer zone for the 'fortress (Western) Europe'. It should be taken into account that the eastern borders of the Baltic States and Poland will be the new borders of the EU, therefore the participation of EU Member States in the creation of efficient border control systems in these countries is an important investment for the future<sup>14</sup>

The way towards harmonization of migration policy will necessitate a continuing dialogue between sending and receiving countries, including joint control of borders, provision of information, and agreements concerning guest worker programs and family reunion. The cooperation of the **Baltic States** with EU Member States is satisfactory, however, improvements have to be made at all levels. In particular the connection to European information networks on illegal migration, technical assistance and preparation for participation in the activities of European institutions remain important problems<sup>15</sup>. Cooperation between **Poland** and the EU took on a new dimension after Poland had applied for membership of the EU. A task force for cooperation in the Third Pillar composed of the representatives of the Minister of the Interior, the Minister of Foreign Affairs and the Minister of Justice has been established and determines the principles of cooperation and assesses activities in this field. Poland is especially interested in cooperation with Europol, border guards of EU Member States, coordination of the development of civil and criminal law and harmonization of refugee law<sup>16</sup>.

**Slovakia** has implemented systems of information exchange.

**Hungary** has renewed its border control system in order to bring it into line with the standards of the Schengen agreement.

The **Slovenian government** is working closely together especially with main destination countries of transit migrants such as Germany. Currently repatriation of temporary refugees from the EU who go back to Bosnia-Herzegovina through Slovenia is a main point of cooperation with neighbouring countries and member states of the EU<sup>17</sup>.

The **Romanian authorities** have intensified information exchange and cooperation with border guard units of many European countries. Although the EU has given considerable assistance for the

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<sup>14</sup>Statement of the representative of the Republic of **Estonia** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>15</sup>Statement of the representative of the Republic of **Lithuania** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>16</sup>Statement of the representative of the Republic of **Poland** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>17</sup>Statement of the representative of the Republic of **Slovenia** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

modernization of border control points in the framework of the PHARE programme, the technical equipment is still inadequate for the handling of increasing transit migration<sup>18</sup>

Country	
Bulgaria	<p>It is the task of the National Security Service to control the flows of Bulgarian and foreign citizens. The Directorate of the National Police is competent for allowing residence on Bulgarian territory and the issuing of the necessary documents to Bulgarian and foreign citizens. The national Border Guard Service is in charge of the 'physical' protection of the border which is carried out by conscript servicemen at 178 border control posts, by technical means and with trained dogs. In order to fight illegal immigration, the Ministry of the Interior has worked out a large scale programme</p> <p>This programme makes reference to the PHARE programme and includes cooperation with the Coordination Committee for European Integration at the Ministerial Council of the Republic of Bulgaria. Bilateral agreements containing readmission provisions have been signed with Germany, Greece, Switzerland, Poland and Slovakia. Agreements with the Czech Republic, Denmark and Spain are under preparation.</p>
Czech Rep.	<p>Act n° 123/1992 Coll. on the Residence of Aliens, as amended by other laws and Act No 216/1992 Coll. on Travel Documents and Travelling Abroad stipulates the conditions of entry and residence in the territory of the Czech Republic. Checks of persons and means of transport at border crossings and at airports with international traffic are executed by the Alien Police of the Czech Republic. The Czech Republic implements the tasks of the 'Budapest Process'<sup>19</sup> and provides information on illegal migration through the International Centre for Migration Policies Development. In order to secure the borders and to facilitate border clearance, agreements have been concluded with neighbouring countries such as Germany, Austria and the Slovak Republic. Such agreements are, inter alia, a basis for the exchange of information on illegal migration.</p>

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<sup>18</sup>Statement of the representative of the Republic of **Romania** at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>19</sup>The **Budapest Group** deals with uncontrolled migration issues. 36 countries (including Canada, USA, Australia, Russia, Moldova, Ukraine..) as well as several international organizations are members of this group. It seems to be the only forum where specialists on immigration issues gather from the EU countries, the associated countries and the CIS countries.

Country	
Estonia	<p>In order to fight illegal immigration, the National Border Guard Board has improved cooperation with the border guard of Latvia and Russia and with Interpol, for instance by organizing seminars and meetings for professional staff. The level of cooperation and information exchange with Western Europe and the EU (SOPEMI) is satisfactory. Estonia also provides the International Organization for Migration with updated information.</p> <p>The EU has given only moderate help to the national Border Guard Board in the framework of the PHARE programme which focuses on frontiers bordering the EU states, whereas illegal immigration into Estonia mostly occurs on the border between Estonia and Russia.</p>
Hungary	<p>Since 1989 the external and internal criteria of border control have changed significantly in order to bring the practice of border control in Hungary into conformity with Western Europe. Large-scale border traffic, international organized crime and illegal immigration have necessitated a renewal of the systems of control which is also necessary to bring it in line with the guidelines of the Schengen Agreement. Hungary has introduced a double screening system which meets the principles concerning control technology of the Schengen Agreement (Art. 6, § 2). Units which are able to close down borders immediately have been set up. In the course of the preparation for joining the Schengen Agreement, the information system must be completed. On internal borders, efficient control is carried out by permanently operating border check points.</p>
Latvia	<p>Latvia is improving cooperation with Estonia and Lithuania and has received assistance from Interpol for border crossing points with Russia and Belarus. In the context of the PHARE programme, Latvia is preparing the creation of data bases and computer networks.</p>
Lithuania	<p>Protection of the Lithuanian-Belarus border has been increased. The Ministry of Foreign Affairs is increasing its activity related to the problems caused by the flows of illegal migrants in the following fields: negotiating an agreement with the Russian Federation, Ukraine and Belarus on the readmission of illegal migrants; sending ministerial notes to the representatives of the states from which the illegal migrants come, cooperation with Poland concerning border control problems is being strengthened.</p>
Poland	<p>Since 1990, the statutory scope of tasks of the border guards includes smuggling illegal migrants (Act on the Border Guards, 12 Oct. 1990), which is lately dominated by international criminal groups. Great assistance was given from Germany (training assistance, equipment...). Plans are in project within the PHARE framework for 1996-1999.</p>

## Migration and Asylum in Central and Eastern Europe

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Country	
Romania	Border controls have been tightened in order to improve the identification of false passports and travel documents, forged visas and means of transport for trafficking in human beings. The granting of visas for persons from emigration countries has become more restrictive.
Slovak Rep.	The Slovak Republic has concluded bilateral agreements concerning the coordination of border controls with all the neighbouring countries. Systems of information exchange have been implemented.
Slovenia	In order to fight illegal migration the Slovenian police has developed close cooperation with neighbouring countries and the main destination countries, for example Germany. This cooperation includes information exchange and the coordination of measures concerning prevention and investigation related to trafficking in human beings and in the detection of the use of forged documents.

## **Country reports**

**Bulgaria**

1 Migration

Migration flows through Bulgaria are constantly increasing and become the source of illegal organizations and profitable illegal business. **Due to its geographical situation, Bulgaria is one of the main gateways to Europe.** During 1994 and 1995, two million people entered from Turkey and Greece, 2,600 of them were denied entry. Border controls have been tightened and the visa policy has become stricter<sup>20</sup>. In the same period, 300 000 persons have emigrated from Bulgaria.

*Persons sanctioned as irregularly staying in Bulgaria*

1993	1994	1995
14 654	12 537	11 842

*Source: Interior Ministry, Bulgaria, June 1996.*

*Immigrants who have settled in the country*

1993	1994	1995
4 418	7 418	11 837

*Source: Interior Ministry, Bulgaria, June 1996.*

The authorities estimate the number of clandestine residents at 15 000. Statistics vastly underestimate the number of foreign workers in Bulgaria, where the law has allowed them easy access to the job market. Most foreigners are therefore working without a permit; approximately 75% have unskilled jobs in trade and services, 6% work in the building trade and 7% in the entertainments industry<sup>21</sup>.

Most of the migrants want to go to Western Europe, the US and Scandinavia. The main regions of origin are Arab countries, Turkey, Iran, South East Asia, Africa, Romania, CIS and former Yugoslavia.

**Readmission agreements**

Readmission agreements have been signed with Poland, Switzerland, Germany, Slovakia and Greece and are in preparation for signing with Spain, France and Romania. The Bulgarian government has adopted the standard draft recommended by the European Commission as a basis of negotiation.

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<sup>20</sup>UNHCR Sofia, Asylum and Migration in Bulgaria, note to DG IV, July 1996

<sup>21</sup>John SALT, Current developments in Eastern European international migration, 6th Conference of European Ministers responsible for migration affairs, Council of Europe, June 1996, in IOM Review, October 1996

## 2. Asylum

Since the creation of the National Bureau for Territorial Asylum of Refugees in 1993, approximately 1300 asylum seekers have applied. **The main countries of origin are Afghanistan, former Yugoslavia and Ethiopia.**

*Refugee status granted by 31 January 1996*

Country	Adults	Children	Total
Afghanistan	61	35	96
Iraq	6	0	6
Zaire	4	0	4
Sudan	2	0	2
Ethiopia	2	0	2
Iran	1	0	1
Somalia	1	0	1
Stateless	1	0	1
<b>Total:</b>	<b>78</b>	<b>35</b>	<b>113</b>

*Source: Red Cross, Sofia, 1996*

The refugees from former Yugoslavia were invited to submit formal applications for asylum, though a provision does exist in the ordinance on refugees for granting temporary protection status.

The registration of Bosnians for voluntary repatriation started in February. It was carried out mainly by the Bulgarian Red Cross and UNHCR Sofia. The government does not participate in the repatriation process.

### Procedure and legal basis

Bulgaria ratified the 1951 Geneva Convention and its Protocol of 1967 on 12 May 1993 without reservations. Under the constitution, it is the President of the Republic who has the right to grant asylum. An ordinance on the granting of refugee status was approved by Decree n° 207 of the Council of Ministers. Under this ordinance, the government is supposed to provide shelter and basic treatment for registered asylum seekers. However, in practice only a small group of vulnerable asylum seekers is accommodated in houses rented by the government<sup>22</sup>. The legal basis for the National Bureau for Territorial Asylum of Refugees (NBTAR) is a decision of the Council of Ministers. The draft Refugee Law has been before the National Assembly since 1994 without being submitted for discussion. Meanwhile an improved version is being drawn up.

**Despite the fact that no veritable refugee legislation exists, the NBTAR as a specialized governmental body has been registering asylum seekers since 1993. Nevertheless, in 1995 some**

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<sup>22</sup>UNHCR Sofia, Asylum and Migration in Bulgaria, note to DG IV, July 1996

asylum seekers complained of police harassment, notwithstanding the presentation of their NBTAR document identifying them as asylum seekers. There are no refugee reception/registration centres in the country and a refugee law is not foreseen in the near future due to the low priority of refugee problems compared with other socio-economic problems. Both the NTBAR and the Helsinki Committee have been counselling and advising refugees

Large-scale transit migration, the socioeconomic situation and the conflict in neighbouring former Yugoslavia affect efforts to cope effectively with refugees. Similarly, the lack of an effective social system and the difficulties of the economy in absorbing the costs of refugees will hinder programmes for refugees in Bulgaria. Nevertheless, health and mental health services were free for refugees in 1995. Children had free access to public education and free language courses were organized. The Bulgarian Red Cross is the main NGO providing social services and material assistance to persons in need, in 1995, the BRC was running three projects for 950 asylum seekers<sup>23</sup>

A significant number of asylum seekers prefer to go to Western Europe despite the fact that they could be recognized as convention refugees in Bulgaria. They contact UNHCR, NBTAR or NGO's, requiring intervention to prevent expulsion<sup>24</sup>

**The lack of a legal framework and an appropriate infrastructure, bad coordination structures between different ministries and above all the economic situation have led to serious problems in the field of asylum. Potential asylum seekers are denied entry at border stations. UNHCR has no access to the airport at Sofia and can act at land borders only in the company of governmental counterparts (NTBAR). UNHCR Sofia has come across cases where asylum seekers were returned to Bulgaria on the basis of the 'safe third country' rule and were then deported from Bulgaria, sometimes despite UNHCR intervention<sup>25</sup>. The Bulgarian Red Cross mentions two cases of asylum seekers returned to Jordan in 1996<sup>26</sup>.**

### 3. Border control

It is the task of the National Security Service to control the flows of Bulgarian and foreign citizens while the Directorate of the National Police is competent for residence on Bulgarian territory and issuing the necessary documents to Bulgarian and foreign citizens. The national Border Guard Service is in charge of the 'physical' protection of the border which is carried out by conscript servicemen at 178 border control posts and with technical means and trained dogs. In order to fight illegal immigration, the Ministry of the Interior has worked out a large scale programme. This programme refers to the PHARE programme and includes cooperation with the Coordination Committee for European Integration at the Council of Ministers of the Republic of Bulgaria. Resolution n° 360 of the Council of Ministers adopted on 29 April 1996 is the basis for the establishment of a National Migration Information System<sup>27</sup>. Bilateral agreements containing readmission provisions have been signed with Denmark (end 1996), Czech Republic (end 1996), France, Germany, Greece, Spain (end 1996), Switzerland, Poland and Slovakia

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<sup>23</sup>Bulgarian Red Cross, Country Report 1995

<sup>24</sup>Bulgarian Red Cross, Country Report 1995

<sup>25</sup>UNHCR Sofia, Asylum and Migration in Bulgaria, note to DG IV, July 1996

<sup>26</sup>ECRE, biannual general meeting, Lausanne, October 1996

<sup>27</sup>Statement of the Bulgarian delegation to the 6th Conference of European Ministers responsible for migration affairs, June 1996

## Czech Republic

### 1. Migration

In the past the Czech Lands were one of the major sources of emigration in Europe<sup>28</sup>. Today, the Czech Republic has become a **transit country** for migration into the Western European countries (in particular to Germany). Nevertheless, **increasingly foreigners stay** in the country for an extended period or **permanently** due to the good economic situation: 160 000 foreigners held a residence permit in the Czech Republic at the end of 1995. There were 50 000 in 1992. The largest group with permanent residence permits were Poles and Slovaks and with long term residence permits Bulgarians, Russians, Ukrainians, Poles, Chinese, Germans and people from former Yugoslavia<sup>29</sup>.

### **Illegal immigration**

From 1993 to 1995, a total number of 77,729 aliens were discovered illegally crossing the state borders of the Czech Republic. In most cases aliens enter Czech territory from the Slovak Republic, stay in the Czech Republic only for a short period and then illegally cross the state borders to the West, especially into Germany. The main countries of origin are Serbia and Macedonia, Bulgaria, Turkey, Romania, Sri Lanka, Vietnam, Iraq, Afghanistan, India, the Ukraine and Algeria. It should be noted that in 1996, the number of illegal migrants from the former Yugoslavia has diminished significantly (from 22 % of the illegal migrants to 6 %), while there were increasing numbers of immigrants from Iraq, Algeria, Turkey and Afghanistan<sup>30</sup>. 91 600 persons (66.5 %) were refused entry in 1994. Most of these aliens (58 804 persons, 63.3 %) are returned from German border crossings and from Slovak border crossings (65 821 persons, 17.3 %) **The increase of the Asian community is very evident recently** (20 000 persons at the end of 1995)<sup>31</sup>.

The Czech Republic is involved in multilateral structures dealing with migration problems, evaluation of trends of migratory movements, regulations for the management of migratory flows and prevention of uncontrolled migration, such as for example the committees of the Council of Europe, or the IOM (1995). The Czech Republic participates in the **Berlin-Budapest Group**<sup>32</sup> and provides information on illegal migration through the International Centre for Migration Policies Development. In order to secure the border and to facilitate border clearance, agreements have been concluded with the neighbouring

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<sup>28</sup>The Czech Republic is geographically close to Germany, a country towards which emigration of Czechs had already started before 1880, together with emigration to Ireland, the United Kingdom, the Netherlands, Belgium, France and the Scandinavian countries

<sup>29</sup>CTK News Agency, Prague, 1995

<sup>30</sup>The Prague Post, 3 December 1996

<sup>31</sup>Statement by the delegation of the Czech Republic to the sixth Conference of European Ministers responsible for migration affairs, Council of Europe, Warsaw, June 1996

<sup>32</sup>The **Budapest Group** deals with uncontrolled migration issues. 36 countries (including Canada, USA, Australia, Russia, Moldova, Ukraine..) as well as several international organizations are members of this group. It seems to be the only forum where specialists on immigration issues gather from the EU countries, the associated countries and the CIS countries.

countries of Germany, Austria and the Slovak Republic. Such agreements are, inter alia, a basis for the exchange of information on illegal migration.

### Trafficking in human beings

Checks on persons and transport at border crossings and airports with international traffic are carried out by the Alien Police of the Czech Republic<sup>33</sup>

In 1994, measures were adopted to strengthen border crossing controls (visa policy in line with the EU Council regulations of September 1995, agreement with Slovakia. .). **Illegal immigration seems to have decreased, but trafficking in human beings did not.** The activities of organized gangs, operating at international level, became more secretive and better organized<sup>34</sup> The use of forged, tampered and stolen travel documents for the illegal crossing of state borders is continuously on the rise. As the Czech Republic has concluded visa free agreements with many developed countries, the demand for Czech Republic passports has risen. This can be deduced from the rising amount of loss of documents, about 10 000 passports a year. The price of a passport ranges from 500 to 1000 DEM<sup>35</sup>, 15 000 DEM with a visa for the USA. The Aliens Police of the Czech Republic concludes that illegal migration of aliens is connected with internationally organized crime, such as people smuggling, dealing in forged documents, car thefts, stolen antiques, arms, drugs, trade in women, money laundering etc. . Under the Penal Code of the Czech Republic crossing borders and organizing border crossing are criminal offences. From 1993 to 1995, 412 persons were criminally prosecuted for this offence.

## 2. Asylum

From 1990 to the end of November 1996 the Czech Republic received a total number of 11,234 applications for refugee status.

### *Number of asylum applications*

1990	1991	1992	1993	1994	1995	1996	TOTAL
1 790	1 979	817	2 193	1 188	1 407	1 858 (Nov.)	11 234

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<sup>33</sup> Act n° 123/1992 Coll. on the Residence of Aliens, as amended by other laws and Act n° 216/1992 Col. on Travel Documents and Travelling Abroad stipulates the conditions of entry and residence in the territory of the Czech Republic.

<sup>34</sup> During 1994, 676 persons were registered at the border police headquarters as participating in people smuggling, among whom 68 % were Czech citizens, 11.2 % were former Yugoslavian citizens and 5.7 % were Slovak. In comparison to 1993, the number of Czech and Slovak smugglers has increased, while the number of Vietnamese smugglers has fallen to half (source: Directorate of the Aliens and Border Police of the Czech Republic, 1995)

<sup>35</sup> 1 DEM = 0,52 ECU

*Main countries of origin 1995*

Romania	491
Bulgaria	330
Afghanistan	107
Iraq	80
Armenia	60
Russia	44
Ukraine	44
Angola	30
Sri Lanka	29
Somalia	27
Former Yugoslavia	12

*Source: Ecumenical commission for refugees in Brno, July 1996*

From the total number of 11.234 applications in the period from 1990 to the end of November 1996 approximately **15 per cent** were granted refugee status annually on average.

*Percentage of approvals of asylum applications*

1990	1991	1992	1993	1994	1995	1996
1.5%	3.63%	27.9%	11.1%	9.4%	3.7%	16.3% (Nov.)

**Temporary protection**

1 178 persons from former Yugoslavia have been granted temporary protection in humanitarian centres in the Czech Republic, 603 are accommodated in government-run centres. It is estimated that an additional 4 800 persons from former Yugoslavia have been granted a permanent residence permit under the Aliens Law<sup>36</sup>. For the others (exclusively for refugees from Bosnia-Herzegovina) the permit has been extended until September 1997.

About half the people living in the humanitarian centres have decided to repatriate themselves voluntarily. They are being assisted by the Czech government, which is providing airfares and money to help them re-integrate in Bosnia<sup>37</sup>.

<sup>36</sup>UNHCR Prague, M. Radhouane NOUICER, Head of Liaison Office, Asylum procedure in the Czech Republic, Note to the European Parliament, DG IV, June 1996, p 3

<sup>37</sup>ECRE, biannual meeting, Lausanne, October 1996

### Procedure and legal basis

The Czech and Slovak Federal Republic to which the Czech Republic is successor ratified the 1951 Convention and its Protocol of 1967 on 26 November 1991, without reservations<sup>38</sup>.

In the opinion of the Czech government the legislation and administrative structures in this field are in line with the Convention and its Protocol. As for **the limitation of refugee status to five years**, in April 1996 the Czech Parliament approved an amendment to the Law on Refugees lifting this limitation. It entered into force in July 1996, after a period of 5 years' residence in the country as a recognized refugee, it is possible to apply for citizenship.

The Ministry of the Interior is responsible for asylum policy. Decisions in the first instance are taken by the Directorate of Aliens and border police services within this Ministry. In the event of a negative decision, any appeal has to be submitted to the Minister of Justice. The highest authority for review of a negative decision is the Supreme Court.

The fact that an applicant has already been rejected in a Member State of the EU does not constitute in itself a reason for the rejection of his/her asylum application if he /she complies with the procedural requirements. However, the Czech Republic applies the same criteria for the granting of refugee status as the countries of the EU. Therefore, in practice, an asylum seeker whose application has already been rejected in a Member State of the EU on substantial grounds has only a slight chance of obtaining refugee status in the Czech Republic.

A foreigner who wants to apply for asylum is obliged to inform the passport control officials of his intention without delay. After the claim is received, the asylum seeker can travel to a reception centre and after one month to a refugee camp. Asylum seekers may enter Czech territory without valid travel documents and illegal immigrants are not expelled if they claim that they have left their country of origin because of 'well-founded fear'. A later application in a refugee camp is possible if the asylum seeker was unable to express his intention when entering the country for 'objective reasons' (Art 20 of Law n° 498/1990). A failure to appear at the refugee camp 'without delay' and to file an asylum application within 24 hours (Art 5 (5) of Law n° 498/1990) does not lead to a denial of access to the asylum procedure. Czech authorities consider it the obligation of the asylum seeker to state clearly his or her request and therefore no information is volunteered by Czech authorities regarding the possibility of applying for asylum if the asylum seeker does not ask for it. This is of concern in the context of the **specific situation of the airport**, because deportation to the country of departure will more easily be implemented if the need for asylum is not clearly communicated or recognized<sup>39</sup>.

An alien may not be expelled to a country requiring his/her extradition, if the law of the State concerned prescribes the death penalty for such a crime (Art 18 (2)).

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<sup>38</sup>National legislation. Refugee Act 498/90 (16/11/90) amended by law No. 317/93 (8/12/93) and law No. 150/96 (31/5/96), Aliens Act 123/92 (4/3/92)

<sup>39</sup>UNHCR, 1996

### Safe Country Rule

In practice problems occur especially when aliens are returned to the Czech Republic under readmission agreements. The Czech authorities are not informed about the fact that a returned person has applied for asylum in another country and that the asylum application was not examined on its merit. **No written information on the asylum procedure and necessary steps for access to Czech territory is available at the border. UNHCR and NGO's who could give legal advice are allowed to be present in border areas but they cannot maintain a systematic presence due to insufficient resources. UNHCR and NGO partners have performed several border missions and have been given complete cooperation by all officials concerned. Moreover, UNHCR is initiating a border monitoring project on the Czech/German border. In most cases interpretation into languages other than Czech, German, Russian, French and English is not provided<sup>40</sup>.** This unsatisfactory situation was confirmed when the Administrative Court of Frankfurt/Oder suspended the execution of an expulsion order concerning a stateless Palestinian who was to be sent back to the Czech Republic in accordance with the 'safe third country' rule on 12 March 1996. The judges acknowledged that the Palestinian could be returned to the Lebanon where he could face political persecution if he was sent to the Czech Republic. The judgement was based, inter alia, on an evaluation by Amnesty International, according to which the Czech authorities would refuse the asylum-seeker entry into the country<sup>41</sup>

**Asylum seekers** are accommodated in refugee centres. The Ministry of the Interior provides three refugee centres for standard asylum seekers, nine residence centres for persons with refugee status and 15 humanitarian centres for temporary refugees from former Yugoslavia. They receive free food, accommodation, basic health and mental health care and pocket money. Primary school education is free for the children of asylum seekers.

**Recognized refugees** can benefit for a maximum period of a year from accommodation in an integration centre run by the Refugee Department. After this period, they can be integrated into the Czech communities with the assistance of the local authorities, through a project funded by the Refugee Department. The project started in 1994, so that for the refugees recognized before 1994, there are no available funds and it is very difficult to find accommodation.

**Rejected asylum seekers** waiting for the decision of the High Court are treated like foreigners and are allowed by the Alien Police to stay in the country and wait for the decision. For them, accommodation, work, medical care, etc. are very problematic. UNHCR provides funds, through NGO's, to pay for accommodation for them in refugee camps<sup>42</sup>.

It should be mentioned that refugee community organizations have recently been set up (Bosnian, Armenian), as well as an umbrella organization of local NGO's, the Czech Refugee Committee<sup>43</sup>.

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<sup>40</sup>UNHCR Prague, note to the European Parliament, DG IV, June 1996

<sup>41</sup>Migration News Sheet, April 1996

<sup>42</sup>ECRE, biannual meeting, Lausanne, October 1996

<sup>43</sup>Society of citizens assisting emigrants, Country report for the ECRE biannual meeting, May 1996.

**Readmission agreements**

Readmission agreements with the neighbouring countries have been concluded as follows:

with the Slovak Republic (valid as of 1 January 1993), Austria (1 November 1992), Poland (30 October 1993), Romania (26 May 1994), Germany (1 January 1995), Hungary (5 August 1995).

An Agreement with Canada was signed and will enter into force after the expiry of 30 days from the day of the exchange of diplomatic notes confirming the fulfilment of internal conditions.

Readmission agreements under preparation:

Negotiations with Slovenia are being conducted, draft proposals have been sent to Ukraine, Belarus, Bulgaria and Russia and expert talks with France and the Netherlands are being prepared. All agreements signed at a governmental level were supplemented by procedural arrangements between the ministries of the interior of both countries.

## Estonia

### 1. Migration

Estonia has become a multiethnic country where the nature of migration is influenced by the events following the rise and collapse of the former Soviet Union. Immigration has strained Estonian society as almost 1.4 millions of mostly Soviet Union citizens have passed through the country in the last 45 years<sup>44</sup> not including Soviet military personnel. The result was a radical change in the composition of the population after World War II

In fact, the occupation in 1940 by the former USSR opened the flood gates for Russians to pour into Estonia. From 1945 to 1989 the proportion of Estonians in the population fell from 95% to 61.5%. The proportion of Russians rose from less than 5% to 30.3%. According to the 1989 census, other large minorities were Ukrainians (3.1%), Byelorussians (1.8%), Finns (1.1%) and 2 500 Germans. The non-Estonian population is generally urban, while the rural areas are mainly inhabited by Estonians<sup>45</sup>.

At present, migration patterns have reversed<sup>46</sup>. While at least 10 000 migrants came each year to Estonia for 50 years, since 1990 about 100 000 aliens have returned to their 'home land' Russia, Ukraine, Belarus and countries of the EU (e.g. Germany, Finland) and the other CIS countries (e.g. Azerbaijan).

### **Illegal migration and trafficking in human beings**

Officially at present **Estonia is not a transit country** for illegal migration to Scandinavia or Western Europe<sup>47</sup>

Illegal immigrants, mostly Turks and Kurds, entered Estonia in 1993 and 1994. The Turks were sent back to Turkey after negotiation and the Kurds were removed to Sweden and Finland pursuant to agreements with these countries which initially were their States of refuge. In 1995 and 1996, no illegal immigrants arrived in Estonia due to the greater efficiency of the border controls<sup>48</sup>. According to other sources, 220 persons were detained for illegal entry in 1995, mainly Iraqis and Iraqi Kurds (39%), Russians (19%), Turks (8%), Azerbaijanis (4%) and Ukrainians (3%)<sup>49</sup>.

Currently the Department of Illegal Immigration of the National Citizenship and Immigration Board deals with illegal immigrants on the basis of the Aliens Act (1993). The possibilities of expelling an

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<sup>44</sup>Statement of the Minister of Internal Affairs, Republic of Estonia, to the 6th Conference of European Ministers responsible for migration affairs, Warsaw 1996

<sup>45</sup>Statistisches Bundesamt, Monographs on countries: Estonia, 1996

<sup>46</sup>SIPAVIČIENĒ (Audra), International Migration in the Baltic States: New Patterns and Policy, Vilnius, 1996, p 11-12

<sup>47</sup>Estonian Parliament, Daimar Liiv, President of the legal committee, answer to DG IV's questionnaire, May 1996

<sup>48</sup>It may also be caused by a change in the profile of the smugglers, trafficking in people before 1995, now engaged in a more profitable drug trafficking.

<sup>49</sup>Migration News Sheet, April 1996, p 15, quoting the state citizenship and immigration board of Estonia

illegal immigrant are considered by the above mentioned Board, whereafter the police can be asked to put him in a transit camp. The final decision is made by administrative or city courts which can extend the transitional period. According to Art 171 of the Code on Violation of Administrative Law negotiations shall be held with the country of origin in case of expulsion.

In order to fight illegal immigration, the National Border Guard Board has improved cooperation with the border guards of Latvia and Russia and with Interpol and has also organized seminars and meetings of professional staff. The level of cooperation and information exchange with Western Europe and the EU (SOPEMI) is satisfactory. Cooperation with Finland is excellent<sup>50</sup>. Estonia also provides the International Organization for Migration with updated information.

The EU has given only moderate help to the National Border Guard Board within the framework of the PHARE program. The reason for this lies in the restrictions in the PHARE program which focuses on the frontiers bordering the EU states, whereas illegal immigration would mostly occur on the border between Estonia and Russia.

Estonian legislation does not currently deal with all the new criminal aspects of illegal trafficking of people, but the new penal code should cover these areas. It will also include liability of employers using the labour of illegal immigrants, organizing border crossing, etc.<sup>51</sup>

### Procedure and legal basis

On 22 June 1993 the Estonian Parliament adopted a law on aliens which provoked tensions and strong criticism from official representatives of the Russian Federation. Under this law, anyone who was not an Estonian national, i.e. of non-Estonian descent, and had settled in the country after 1940 following the 'russification' of Estonia, was considered an alien. This definition applied to almost a third of the population, particularly to most of the Russian- and Ukrainian-speaking inhabitants. Until then, such people had had a permanent residence permit and they would have had to apply for naturalization within two years if they did not wish to be considered aliens. According to the new law, aliens would have had to apply to renew their work permit and residence permit every five years. Residence permits could have been refused to unemployed aliens, criminals and members of foreign secret services and armed forces. Naturalization would have been subject to the following conditions: the applicant to have lived in Estonia for at least two years, to take an Estonian language test (1 500-word vocabulary) and swear an oath on the Constitution.

The CSCE and the Council of Europe considered the text too vague and President Meri refused to ratify the law. A new draft was adopted on 8 July 1993, which states that **any person having the right of residence before 1 July 1990 continues to have this right in the Independent Republic of Estonia**. This has certainly reduced the legal uncertainty for most foreigners, but it remains for some groups (particularly retired Red Army officers resident in Estonia) whose legal status is unclear as they have no right of residence.

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<sup>50</sup>Statement of the representative of the Republic of Estonia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>51</sup>Statement of the representative of the Republic of Estonia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

## Readmission agreements

It seems Estonia has concluded readmission agreements with Latvia, Lithuania and Finland. There are no fixed rules for the expulsion of those who arrive illegally from Russia<sup>52</sup> and no negotiations in this field. The Estonian Government was hoping to sign a border agreement with Russia on 2 December 1996, but there had been criticism, because the draft border agreement did not keep to the border stipulated by the 1920 Tartu Peace Treaty<sup>53</sup>, so no agreement was reached.

## 2. Asylum

**Estonia has not acceded to the 1951 Geneva Convention**, although there is constant pressure by UNHCR and the Nordic countries to do so. A working group under the chairmanship of the Minister of the Interior<sup>54</sup> is expected to report on this subject to the government.

Although Estonia has not joined the Geneva Convention of 1951, some refugees from the CIS have been accepted and been given residence permits. During the civil war in Georgia, the Estonian government evacuated people of Estonian origin<sup>55</sup>. In 1995 and 1996, no applications for asylum have been received<sup>56</sup>.

If it is absolutely unavoidable (in case of danger to the life or freedom of an asylum seeker who has already entered Estonian territory) the government can make an exception and allow the submission of an application for a residence permit under the Aliens Law. Each of such cases should be dealt with individually. Nevertheless, **according to the UNHCR, the first option regarding asylum seekers coming from neighbouring countries is to return them there, and there are no formal guarantees against sending asylum seekers back to the country of origin.**

Since there is no appropriate procedure for asylum applications, persons staying in Estonia illegally will 'bear administrative responsibility'. They are deported from Estonia immediately or sent to camps<sup>57</sup>. That means that Estonia has so far used a policy of deportation and detention instead of a refugee policy.

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<sup>52</sup>Unlike Sweden in its negotiations with Estonia, Finland does not require Estonia to become party to the 1951 Geneva Convention. Negotiations between the two countries on visa-free travel, to be introduced in 1997, are currently going on. Finland insists, inter alia, on police cooperation and on introducing electronic checks on Estonian passports (Migration Newsheet 02/96)

<sup>53</sup>Press Agency, 4 December 1996

<sup>54</sup>Created by decree 342/K of 15 April 1996

<sup>55</sup>Statement of the representative of the Republic of Estonia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>56</sup>Statement of the representative of the Republic of Estonia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>57</sup>Statement of the representative of the Republic of Estonia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

After Finland exceptionally admitted the 86 detained asylum seekers from Estonia in early 1995, UNHCR Stockholm is not aware of any new cases of asylum applications

However, it should be underlined that the policy of the government has not changed<sup>58</sup>. Before accession to the Convention of 1951 the term 'refugee' should be introduced into Estonian law. It is also important to determine what reservations, if any, should be made and to create structures for the handling of applications or the treatment of refugees during the provisional asylum period. It will be necessary to create a data control system with the participation of the Ministry of Foreign Affairs, decide on temporary accommodation and estimate the costs of these measures. Resources especially for the establishment of special refugee centres are not available. Similarly, the lack of a readmission agreement with Russia makes a ratification of the 1951 Geneva Convention very difficult.

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<sup>58</sup>UNHCR Stockholm, Asylum in Baltic countries, Note to the European Parliament, DG IV, July 1996

## Hungary

### 1 Migration

The characteristics of migration in Hungary are related to both its geographical situation and its history, including the dissolution of the Austro-Hungarian Empire and the strong migration patterns of Hungarians living in neighbouring countries. The relative openness of Hungary's former communist government also explains the peculiarity of the situation. The war in former Yugoslavia has strongly affected the migration landscape in Hungary. Transit migration is an extremely multi-causal and volatile phenomenon. The social status of the transit migrants is diverse. Among them are intellectuals, manual workers and small-scale market traders. Over half are under the age of 30<sup>59</sup>.

**Many migrants use Hungary as a springboard to further migration**, because it is the most 'Western' country of the region. It allows migrants to settle, experiment and prepare for further migration<sup>60</sup>.

The situation with regard to **permanent migration** has fluctuated, the number of foreigners holding work permits changing from 48 700 in 1990 to 18-20 000 per year in the following years. The largest group is **Romanians**, although their numbers are going down. There is an increasingly large group of **Chinese**; many of them run small businesses, some of them to launder money and others to find investment opportunities. The number of Chinese currently resident in Hungary is estimated at 10 000. In addition, Russian and Bulgarian capital is increasingly finding its way into Hungarian banks<sup>62</sup>.

### **Illegal migration and trafficking in human beings**

'The political and economic changes of the Eastern and Central European countries, mass economic migration from East to West, the deepening South Slav crisis (,,) have created an absolutely new situation for Hungary'<sup>63</sup>

The size of the changes can be illustrated by the rapid increase of **illegal migration**, and international organized crime related to the smuggling of people

Forgery of official documents for instance involved 12241 persons for the 1993-1995 period<sup>64</sup>. Between 1991 and 1995, 1361 persons were arrested for assisting illegal border crossing. The majority of them were smugglers of people, but it was impossible to prove a criminal act (acceptance of compensation, belonging to a trafficking organization).

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<sup>59</sup>IOM, Study on Migration, Hungary, 1996

<sup>60</sup>IOM, Study on migration, Hungary, 1996

<sup>62</sup>John Salt, Current developments in international migration in Eastern Europe, IOM, October 1996

<sup>63</sup>Council of Europe, Dr. Gabor VILAGOSI, Political State Secretary of the Hungarian Ministry for Interior, 6th Conference of European ministers responsible for migration affairs, Warsaw, June 1996

<sup>64</sup>Ministry of Interior, note to DG IV, June 1996

*Nationalities of the smugglers of people*

Romanian	Hungarian	Slovak	Yugoslav	Turk	Chinese
208	161	138	96	69	15

Source: Ministry of Interior, Budapest, 1996.

**From 1992 to 1995, the Border Guard caught 13 969 people for counterfeiting public documents**  
 The Hungarian Border Guard has been reorganized in order to reduce illegal migration and trafficking in human beings, for example by the replacement of enlisted personnel with professional staff. Special organizations like the directorates' investigations groups and the Action Service of the Border Guard were set up. The operative investigation of smugglers of people is based on the Police Act. Bilateral agreements on cooperation have been concluded with a number of countries.

The Border Guard has not organized preventive campaigns relating to the smuggling of women and minors because this is not a characteristic problem in the region. In certain cases women travelling from the Baltic States or the CIS to the West obviously for the purpose of prostitution are observed, but they do not commit offences under Hungarian law because they travel legally

In Hungary, the smuggling of people is rated a crime, while the assistance of such is classified as a minor offence. Amendment of the legal classification of trafficking in human beings in the Criminal Code has been initiated in order to bring the legislation into line with EU standards Hungary is participating in the Budapest Group on illegal migration<sup>64</sup>.

The legislation regarding the residence of foreigners and the rules concerning foreign labour are rather strict in Hungary At the same time, entering the country as a tourist is possible as a result of visa-free agreements with neighbouring countries and others. These contribute to the high number of foreigners staying illegally in Hungary or trying to migrate further.

*Unauthorized crossing of the border*

1993	1994	1995	1996 (end November)	TOTAL
15 025	12 988	12 059	9 966	46 691

Source: Ministry of Interior, Budapest, 1996

The most active border section is the Austrian border, followed by the Romanian, the Slovenian and the Slovakian sections<sup>65</sup>.

<sup>64</sup>The **Budapest Group** deals with uncontrolled migration issues. 36 countries (including Canada, USA, Australia, Russia, Moldova, Ukraine..) as well as several international organizations are members of this group. It seems to be the only forum where specialists on immigration issues gather from the EU countries, the associated countries and the CIS countries.

<sup>65</sup>On the Austrian-Hungarian border, there are three corridors to enter or leave the countries = one for Schengen countries' citizens, one for Hungarian citizens, the third for the citizens of countries where you need a visa to enter any Schengen state.

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*Number of those expelled or returned by country*

	1993	1994	1995	1996 (-30/04)
Romania	592 066	139 706	138 266	26 242
Yugoslavia	33 538	17 034	7 532	1 700
CIS	39 543	38 672	2 308	40 630
Ukraine	-	39 273	152 451	1 182
Bulgaria	16 753	11 021	8 361	11 021

*Source: Ministry of Interior, Budapest, 1996.*

Since 1989 border control has changed significantly in order to bring the practice of border control in Hungary into conformity with European standards. Stricter rules were introduced in October 1991 to ensure a consistent check upon the requirements for entry into the country (validity of travel documents, visa, money required to stay in Hungary, etc ). Between 1993 and 1995, the Hungarian border guards **refused entry to almost 1.5 million people.**

The Act on controlling foreigners, which entered into force on 1 May 1994, reinforced the possibilities for the Hungarian authorities to restrict entry at their borders. Large scale border traffic, international organized crime and illegal immigration have necessitated a renewal of the system of control which is also necessary to bring it in line with the guidelines of the Schengen Agreement. Hungary has introduced a double screening system which meets the principles concerning control technology of the Schengen agreement (Art. 6, § 2). In the course of the preparation for joining the Schengen Agreement, the information system must be completed. On internal borders, efficient control is carried out by permanently operating border check points. The representative of the Republic of Hungary underlined that abolition of the obligation to carry visas for citizens of neighbouring countries is possible if border controls are improved<sup>66</sup>.

Before 15 July 1996, most illegal foreigners stayed in the camp of Kerepestarcsa. Following recommendations by human rights organizations, the Minister of the Interior decided to close the camp on 15 July 1995. Asylum-seekers of European or non-European origin who stay in Hungary illegally are now kept in nine semi-closed detention facilities (eight at land border points as well as a facility at the airport) administered by border guards. Those facilities - with the exception of the one at the airport - are located in border areas. Given that these centres are scattered throughout the country, counselling and access to UNHCR's determination procedure have become more difficult. Asylum-seekers may not be informed adequately about the procedure. The same also applies to those in police custody and in prisons<sup>67</sup>.

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<sup>66</sup>Statement of the representative of the Republic of Hungary at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>67</sup>UNHCR-Background information on the situation of non-Europeans in Hungary in the context of the 'safe third country' concept, November 1995

### Readmission agreements

Hungary has concluded several agreements concerning readmission and the reduction of illegal migration. The main structure and provisions are the same in each agreement. Readmission of those caught for illegal border crossing may be requested within 90 days of the arrest, and a response has to be given within two days. These agreements do not provide effective guarantees for those arrested for illegal border crossing if they happen to be asylum-seekers. Nor is there any guarantee that asylum applications will be examined. Although these agreements include a reference to the adherence of the signatory States to the principles of the 1951 Geneva Convention, there are no rules of procedure on handling asylum applications by the border guards or the aliens police<sup>68</sup>

#### *Readmission agreements - number of persons sent back to their country*

	Austria	France	Romania	Ukraine	Switzer-land	Czech Rep.	Slovak Rep	Croatia	Slo-venia	Poland
Signed	Oct 92	16 12 1996	Sept 92	Feb. 93	Feb. 94	Nov. 94	Aug. 94	Dec. 92	Dec 92	
Entered into force	Apr. 95		Apr 95	Jun. 94	Jun. 95	Jun. 95	Apr 95	Not yet	Not yet	
Number of persons transferred back to their country	29		1307	88	--	--	46	9	19	--

*Source: Ministry of Interior, Budapest, December 1996*

## 2. Asylum

#### *Number of asylum seekers from Europe in Hungary*

1989	1990	1991	1992	1993	1994	1995	1996	Total
36	3 520	921	458	207	468	130	126	5 866

*Source: Ministry of Interior, Budapest, June and December 1996*

In 1990 an unusually high number of refugees arrived in Hungary, because of the revolution in Romania and the arrival of Romanians from the Hungarian minority<sup>69</sup>.

<sup>68</sup>Migration News Sheet, April 1996

<sup>69</sup>Hungarian Interchurch Aid, Counselling on Alien Law and Refugee Matters, Country Report, Budapest, 1996

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*Composition of European applicants by country of origin (%)*

	1989	1990	1991	1992	1993	1994	1995	1996
Romania	75	97.5	39	24.7	7.7	15.4	19.2	9.1
USSR/CIS	14	1.7	6.5	4.5	4.3	8.2	14.6	14.7
Former Yugoslavia	2.8	-	52.7	67.5	87.8	76.3	64.6	65.2
Other	8.2	0.8	1.8	3.3	0.2	0.1	1.6	11.4

Source: *Idem*

In 1996, several citizens from Turkey applied for asylum.

*Percentage of approvals*

1989	1990	1991	1992	1993	1994	1995	1996
97.2	72.7	47.1	103*	77.1	115.5*	89.2	50

Source: *Idem*

\*In excess of 100% because of the number of cases started in the preceding year and evaluated in the current year

*Number of non-European asylum applications<sup>70</sup>*

1990	1991	1992	1993	1994	1995	1996
450	380	401	261	231	460	468

Source: *Idem*

10% of the applications of non-European asylum seekers were accepted by the UNHCR Branch Office Budapest under the Statute of the Office of the UN High Commissioner for Refugees and the Geneva Convention. People arriving from Afghanistan enter Hungary illegally and generally with false documents. Consequently, the authorities take the decision to expel them but, due to humanitarian reasons repatriation has not been carried out recently<sup>71</sup>.

**Temporary protection** seems to have no legal basis and is found only for **humanitarian reasons**<sup>72</sup>, but Hungary provided temporary protection for asylum seekers from the territory of former Yugoslavia on humanitarian grounds as follows<sup>73</sup>:

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<sup>70</sup>Non-Europeans cannot be granted refugee status under the 1951 Geneva Convention due to the geographical limitation made by the Hungarian government.

<sup>71</sup>Hungarian Interchurch Aid, Counselling on Alien Law and Refugee Matters, Country Report, Budapest

<sup>72</sup>Country Report 1995 of the Hungarian Interchurch Aid

<sup>73</sup>UNHCR Budapest, UNHCR-Background information on the situation of non-Europeans in Hungary in the context of the 'safe third country' concept, November 1995

1991	1992	1993	1994	1995	1996
48 485	15 021	4 593	2 386	5 046	61

Source: *Idem*

Taking into account that the conditions for a safe return home have not been provided in any of the successor states affected by the war - reconstruction has not or has hardly begun, amnesty laws have not entered into effect yet, the original homes of the asylum seekers are still occupied (East Slavonia), etc. - the identity cards and temporary residence permits of asylum seekers registered in Hungary have been extended every 4 months (until May 1997)<sup>74</sup>. It seems a large number of these persons have already left Hungary

Following the Dayton Agreement, the government stopped admitting refugees from former Yugoslavia starting on 15 January, except in specific cases as family reunification.

### Procedure and legal basis

Pursuant to the decision of the Council of Ministers held on 24 March 1989, Hungary acceded to the Geneva Convention of 1951 and its Protocol of 1967. Hungary was the first of the countries in Central and Eastern Europe to join these international agreements. Due to the prevailing political and economic circumstances, some reservations were made.

Accordingly Hungary applied the (a) version of Chapter B, Art 1 of the Convention, so that Hungary grants refugee status **only to people persecuted as a result of events in Europe**. Non-European refugees still have the possibility of turning to the Budapest Office of the UNHCR. Preparations for lifting the geographical limitations are in progress. It should be said that Hungary has, however, limited international obligations towards non-European refugees under international agreements for the protection of human rights, such as the European Convention for the Protection of Human Rights and Basic Freedoms (1994) and the UN Convention against torture and other cruel, inhuman and degrading treatment or punishment (1988)<sup>75</sup>.

Hungarian legislation and public administration are in line with the Convention of 1951 and its Protocol of 1967. However, the laws concerning asylum procedures and the legal status of refugees do not cover all problems<sup>76</sup>.

A separate organization for the evaluation of asylum requests has been created. Applications must be submitted to the local organs of the Refugee and Migration Office. This office also decides on appeals against refusals of the request. Applicants who are refused may initiate judicial procedures to review the Office's decisions

Nevertheless, there are certain **points of concern** for the UNHCR: **Hungary applies a 72 hour deadline for European asylum seekers**. Therefore an application may be refused merely on procedural grounds. As a consequence of mandatory medical screening (tuberculosis, parasites, venereal diseases)

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<sup>74</sup>Council of Europe, Dr. Gábor Vilagosi, Political State Secretary the Hungarian Ministry for the Interior, Statement by the delegation of Hungary to the sixth conference of European Ministers responsible for migration affairs, Warsaw, June 1996.

<sup>75</sup>UNHCR, Background information on the situation of non-Europeans in Hungary in the context of the 'safe third country' concept, November 1995.

<sup>76</sup>Country Report 1995 of the Hungarian Interchurch Aid

in the course of the asylum procedure, a refusal may be based on grounds of endangering public health which is in contradiction of the provisions of the 1951 Convention. Due to a pre-screening procedure applied in practice (without any kind of legal basis), 80% of the applicants allowed to enter the first instance procedure are Hungarians from the neighbouring countries (mainly from Romania), as well as 80% of the recognized refugees. Due to the recent change of regime the security police (normally in charge of the investigation of criminal cases) has been authorized to deal with refugees arriving at Budapest airport despite the fact that the police have had no proper training in this area. The involvement of NGO's is neither typical nor frequent in Hungary. Nor does free legal aid as a state institution exist<sup>77</sup>.

Convention refugees have almost the same rights as Hungarian citizens. However, they are exempt from military service and cannot vote. Persons from former Yugoslavia seeking temporary protection can either live in a private home or go to a refugee camp maintained by the government, where they get free meals and lodging. Medical care is free for all persons under protection. Nevertheless, there are not sufficient services for those arriving with traumas caused by the war. Employment, which is not allowed without a work permit, causes the biggest problem. The Hungarian laws specify that a job cannot be filled by a foreigner as long there is a Hungarian citizen applying for it. However, training programs for refugees have been initiated<sup>78</sup>.

The rejection of an asylum request in a Member State of the European Union is not in itself a reason for rejection in Hungary, although it is taken into account.

After rejection of an asylum request a continued stay in Hungary is possible under Section 32 (1) of Act n° LXXXVI/1993 on the entry and residence of foreigners in Hungary which provides that nobody shall be returned to a country or a region where the danger of persecution for reasons of race, religion, nationality and political views could be faced. However, Hungary has not established formal procedures to ensure compliance with Art 33 of the 1951 Convention<sup>79</sup>.

The abolition of geographical limitations in relation to the 1951 Convention will radically change the situation of refugees in Hungary. Modifications not only of the refugee laws, but also of alien laws will be necessary<sup>80</sup>.

### **Safe country rule**

Until the Hungarian authorities lift the geographical reservation, UNHCR advises against returning to Hungary non-European asylum-seekers who have arrived from third countries. There are no guarantees that they will receive effective protection in Hungary<sup>81</sup>.

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<sup>77</sup>UNHCR Budapest, UNHCR-Background information on the situation of non-Europeans in Hungary in the context of the 'safe third country' concept, November 1995

<sup>78</sup>Country Report 1995 of the Hungarian Interchurch Aid

<sup>79</sup>UNHCR Budapest, UNHCR-Background information on the situation of non-Europeans in Hungary in the context of the 'safe third country' concept, November 1995

<sup>80</sup>Country Report 1995 of the Hungarian Interchurch Aid

<sup>81</sup>UNHCR, Background information on the situation of non-Europeans in Hungary in the context of the 'safe third country' concept, November 1995

## Latvia

### 1. Migration

Due to its geographical location and complicated history Latvia has traditionally been a multi-ethnic State. The number of migrants residing in Latvia is not significant by Western-European standards, however, another unique and specific phenomenon has developed in Latvia. In accordance with the Resolution of the Supreme Council of Latvia of 15 October 1991, 'On renewal of Republic of Latvia Citizens' rights and fundamental principles of Naturalization', citizenship was restored to those individuals who had citizenship as of 17 June 1940 and their descendants. Latvian citizenship was not granted to those persons who arrived on Latvian territory during the period of more than fifty years of Soviet occupation, when Latvia was incorporated into the USSR. The total number of persons without Latvian citizenship is estimated to be over 700,000. These people do not integrate well as most of them do not know the Latvian language. Therefore, the integration (and naturalization as one of its forms of implementation) of non-citizens is an important task of internal policy<sup>82</sup>.

#### *Immigration during the Soviet period*

It is estimated that during the 50 years of the Soviet Empire several million people, including military personnel, the number of whom has never been included in official statistics, moved throughout the country. Some who came during these years have left Latvia, but a significant number of them are still resident there.

#### *Migration during the first years of recovered independence*

After 1991 the migration flow turned in the opposite direction. People who were not satisfied with the changes taking place left Latvia. The withdrawal of Russian Federation troops also diminished the number of inhabitants

There are still many people in Latvia who entered legally under the Soviet legislation, but did not regularize their situation after independence. This category includes mainly former guest workers in the textile industry from Vietnam and Mongolia<sup>83</sup>.

It is obvious that the migration issue is complicated and closely concerned with economic, social and national relations

#### *Control of legal migration*

Since 1 July 1992 the law on 'residence and abode of foreign citizens and stateless persons in the Republic of Latvia' has been in force. It regulates short and long term immigration as well as expulsion orders for those persons who violate the law. In April 1995 the law was amended. Currently the Minister

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<sup>82</sup>Report on the Republic of Latvia to the 6th Conference of European Ministers responsible for migration affairs, Warsaw, June 1996

<sup>83</sup>Migration News Sheet, February 1996, p 5

of the Interior may cancel the refusal of a residence permit. A person who legally resides in Latvia may appeal against the refusal in court.

### **Illegal immigration and trafficking in human beings**

In 1995, out of an estimated 30,000 illegal border crossings, 7 511 persons were detained. Since 1993, 5 205 persons have received deportation orders<sup>84</sup>.

**The main regions of origin of illegal immigrants are Russia, Belarus, Ukraine, Moldova, Iraq, Iran, Bangladesh, Vietnam and Afghanistan<sup>85</sup>.**

In order to reduce the flow of illegal migrants via Latvia, on 17 April 1995, Saeima added a new paragraph 78 to the Latvian Criminal Code which imposes criminal punishment for illegal trafficking of migrants across the border, of imprisonment up to 5 years.

For the trafficking of 5 or more people, individuals can be imprisoned for 5-10 years with property confiscation. Officials who are involved in migrant trafficking can be imprisoned for up to 7 years with property confiscation.

The amendments include punishment for illegal migrants of up to 3 years imprisonment or a fine worth 60 minimum monthly salaries (approx. USD 3000)

### *Border guards*

The Border Guards are subordinate to the Ministry of Defence. The current government is planning to reform the unit so that the Border Police come under the authority of the Ministry of the Interior.

The first steps of this reorganization have already been taken<sup>86</sup>.

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<sup>84</sup>Statement of the representative of the Republic of Latvia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>85</sup>Statement of the representative of the Republic of Latvia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>86</sup>The efficiency of the work of the Border Guards in 1995 has been shown through the following figures:

- the number of Latvian inhabitants having crossed the border is approximately 1 790 000.
- the number of foreigners is 1 610 000.
- 857 400 cars entered, 839,900 left the country.
- the number of detention cases for: drug trafficking equalled 14, and for all types of weapon trafficking equalled 463.
- the number of ships and boats checked was 9 330.
- the number of people detained for holding invalid documents totalled 249, which included 47 people for holding forged passports.

Several measures have been taken in order to improve border controls. Latvia has received assistance in the context of the PHARE program and this includes improvement of border crossing points and preparations for the future creation of data bases and computer networks. Cooperation with Estonia and Lithuania is increasing. Interpol has also provided assistance with the border crossing points. On 26 February 1996 the border guard authorities of Latvia and Russia signed an agreement on information exchange and coordination of activities related to the prevention of human trafficking and illegal migration<sup>87</sup>.

### **Olaine Camp**

A detention camp for illegal immigrants in Olaine (20 km from Riga) has been established, with financial help from the Swedish government. Currently about 150 people are staying in this camp. One month costs 100 Lats (200 USD) per person, compared to the minimum salary of 28 Lats<sup>88</sup>. Mr Epersen, Commissioner on Democratic Institutions and Human Rights of the Council of the Baltic Sea States, stressed that the prolonged detention of asylum seekers in the camp was in violation of the European Convention of Human Rights (not yet ratified by Latvia)<sup>89</sup>.

### **Readmission agreements**

Latvia has signed readmission agreements with Estonia and Lithuania and has submitted proposals for such agreements to Finland, Russia, Ukraine and Belarus.

## **2. Asylum**

Due to the lack of legislation in this field, asylum seekers do not officially exist in Latvia. Refugees are treated as 'ordinary' migrants and can be detained if they enter the country illegally. Most asylum seekers come from Russia, where they cannot be returned without travel documents or other conclusive evidence that they entered Latvian territory via Russia. Those who manage to evade detention try to go to Finland, Sweden or elsewhere by ship, often under unsafe conditions<sup>90</sup>.

### **Procedure and legal basis**

Latvia has not signed the 1951 Geneva Convention and its 1967 New York Protocol. The Latvian representative at the joint committee meeting held in Brussels on 10-11 June stressed that there are some major arguments against accession to the 1951 Convention<sup>91</sup>.

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<sup>87</sup>Migration News Sheet, April 1996

<sup>88</sup>Migration News Sheet, February 1996

<sup>89</sup>Migration News Sheet, May 1996

<sup>90</sup>World Refugee Survey, 1996, p 153

<sup>91</sup>Statement of the representative of the Republic of Latvia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

- the majority of people entering Latvia illegally intend to apply for asylum in another country
- Latvia cannot afford to become a host country for those individuals whose asylum requests have been rejected in EU Member States
- Russia and Belarus do not readmit any asylum seekers; the border with the Russian Federation is not marked.

Nevertheless, the authorities in Latvia have stated that the necessary steps to establish internal procedures with regard to accession to the 1951 Geneva Convention have been taken and that the principle of 'non-refoulement' is applied<sup>92</sup>. However, according to UNHCR Stockholm, no concrete move towards a refugee policy has been made and there are no formal guarantees against refusing entry. Many foreigners detained in the Olaine Camp could be asylum seekers, probably a figure of 130 persons (mainly Iraqis and Afghans).

Like Estonia, Latvia has underlined the importance of concluding readmission agreements with Russia as a precondition for creating any kind of refugee policy. Although Latvia is not considered a 'safe third country', there has been pressure to change this and the former Minister of Immigration Affairs of Sweden announced after his visit to Latvia in February 1995 that the country could already be considered safe. This view was confirmed in late May 1995, when the Swedish Immigration Board decided to return an Iraqi to Latvia because 'the man will be received in Latvia and does not risk being sent further'. However, this decision was overturned by the Aliens Appeal Board, mainly on the ground that Latvia had not ratified the 1951 Geneva Convention<sup>93</sup>.

During two weeks in March and April 1995, Latvia, Lithuania and the Russian Federation were involved in an odyssey of asylum seekers that came to be known as the 'train of despair'. On 21 March 1995, 128 persons described as 'Kurdish refugees' in the press were caught by Latvian authorities on a bus near Riga. Officials at the Latvian Ministry of the Interior announced that the group would be taken to the countries through which they had travelled. Russian authorities placed the group into a train that went back to Latvia and Lithuania. The refugees went to Kaliningrad where they were put into a train to Vilnius, the capital of Lithuania. By 29 March, the group had reportedly crossed Latvian territory times. UNHCR Stockholm described the situation in the train as 'very bad'. As a result of this criticism, the group (now 105 persons) was transferred to the Olaine camp<sup>94</sup>.

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<sup>92</sup>Report of the Republic of Latvia to the 6th Conference of European Ministers responsible for migration affairs, Warsaw, June 1996

<sup>93</sup>UNHCR Stockholm, Asylum in Baltic countries, Note to the European Parliament, DG IV, July 1996

<sup>94</sup>World Refugee Survey, 1996, p 153-154

## Lithuania

### 1. Migration

After the break-up of the Soviet Union, the character and tendencies of the migration processes have entirely changed - before 1990, many immigrants came from the former Soviet Union. After 1990, a great number of inhabitants started to leave the country. In 1992, people leaving outnumbered people entering the country by 22 000, in 1993: 13 000, 2 500 in 1994 and 1 700 in 1995<sup>95</sup>.

According to the law only close relatives (parents, children and spouses of the citizens of the Republic of Lithuania) may immigrate into Lithuania, i.e. reside there on a permanent basis. The annual immigration quota, confirmed by the Seimas, is 2 500 persons annually. In 1993, 307 foreigners immigrated to Lithuania, 1 893 in 1994 and 2 270 in 1995<sup>96</sup>.

As an Associated Member of the EU, Lithuania tries to fulfil the requirement of the free movement of persons and has therefore signed the memorandum 'On the common visa regime' which is the basis for mutual agreements with Estonia and Latvia aimed at the simplification of movements of the citizens of these countries<sup>97</sup>.

Being at the crossroad of migration processes, Lithuania has become a kind of 'waiting hall' for hundreds of foreign citizens on the way to their final destination, the EU countries. Since autumn 1995, neither the Russian Federation nor Belarus have agreed to negotiate on signing agreements on readmission of the illegal immigrants of third countries. Before this date, the return of illegal migrants to Belarus and the Russian Federation was unproblematic.

The situation is nonetheless aggravated by the fact that no treaty on the demarcation of the State borders with Latvia exists<sup>98</sup>.

### **Illegal migration and trafficking in human beings**

During 1995 the Republic of Lithuania detained 1 630 illegal migrants, of which 87 % came from Afghanistan, India, Pakistan, Sri Lanka and Bangladesh. Most of them (85 %) came from Russia or Belarus where they had been living for a long time. **In comparison with 1994, the number of illegal migrants increased ten times.** Out of the 1 630 illegal migrants, 369 were expelled, the others are

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<sup>95</sup>Statement by the delegation of Lithuania to the 6th Conference of European Ministers responsible for Migration affairs, Council of Europe, Warsaw, June 1996

<sup>96</sup>Legal basis = law on immigration, adopted in September 1991; law on legal status of foreigners, September 1991; law on citizenship, December 1991; law on emigration, November 1991.

<sup>97</sup>Statement by the delegation of Lithuania to the 6th Conference of European Ministers responsible for migration affairs

<sup>98</sup>Statement of the representative of Lithuania at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament, June 1996

detained in the Lithuanian-Polish border regions (Lazdijai, Marijampolė, Vikauiskis) and a few of them in the Lithuanian-Belarussian region<sup>99</sup>

Migration News Sheet gives different numbers:

*Illegal immigrants detained in Lithuania*

1992	1993	1994	1995
378	1 109	1 998	2 073

Source: Migration Newsheet, April 1996

Illegal migrants usually choose Germany or Scandinavian countries as countries of destination

In 1996, cooperation with Poland on border control is being strengthened. Information exchange and cooperation with Member States of the EU could be improved, therefore negotiations with Finland, Germany and the UK related to technical support are in progress<sup>100</sup>.

Lithuania has received observer status in the International Organization for Migration and the country also takes part in the activities of the **Budapest Group**<sup>101</sup> dealing with issues of illegal migration. Nevertheless, illegal migration remains a burning problem due to the lack of effective border control and of qualified specialists.

### Readmission agreements

Lithuania has concluded a readmission agreement with the Republic of **Poland**. There were intense negotiations related to a readmission agreement with **Belarus** which, however, failed because of imperfect internal legislation in Belarus and heavy financial expenses. Representatives of Belarus stressed that there were no camps for illegal migrants and that Belarus had not signed similar agreements with CIS-countries although the borders have been opened. On 24 November 1995, a Draft Agreement on travel for the citizens of both countries and a protocol of readmission were given to the Embassy of **Ukraine**. In December 1995 a meeting of Lithuanian and Ukrainian experts was held. It seems these negotiations are proceeding.

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<sup>99</sup>Virgilijus BULOVAS, Minister of Internal Affairs of the Republic of Lithuania, answer to DG IV's questionnaire, May 1996.

<sup>100</sup>Statement of the representative of the Republic of Lithuania at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>101</sup>The **Budapest Group** is dealing with uncontrolled migration issues. 36 countries (including Canada, USA, Australia, Russia, Moldova, Ukraine..) as well as several international organizations are members of this group. It seems to be the only forum where specialists on immigration issues gather from the EU countries, the associated countries and the CIS countries.

## 2. Asylum

Lithuania continues to be used as a transit country by asylum seekers trying to reach Scandinavia. The authorities have given priority to border controls as in the other Baltic countries, while refugee protection has not been developed. **No distinction between asylum seekers and illegal migrants is made**, therefore no exact numbers of asylum seekers are available<sup>102</sup>.

**Although the Law on Refugee Status in the Republic of Lithuania was adopted on 4 July 1995, it has not come into force yet.** Foreigners' applications for refugee status are covered by a separate resolution of the Government of the Republic of Lithuania. The implementation of the refugee policy is supported by Finland, Sweden and Norway who have contributed 1 million in each country's currency. UNHCR made a financial contribution of 134 000 USD.

In order to adopt the Government's resolution and to prepare for the coming into force of the refugee law it is necessary to establish:

- 1) a Refugee Reception Centre: currently it is planned to establish a centre near Kaunas with the financial assistance of Denmark, Finland, Sweden and Norway.
- 2) an information system of data collection, processing and transmission: despite the support of IOM preparations are not coming along very well<sup>103</sup>.

This could form the basis of a several year long process that could transform the country from a region of transit for asylum seekers hoping to reach Northern Europe to a region with defined asylum procedures at a level that corresponds to minimum standards of treatment<sup>104</sup>.

The Republic of Lithuania has not ratified the 1951 Geneva Convention, but ratification is planned for the beginning of 1997 providing the Scandinavian donor countries and the UNHCR do not withdraw their financial support<sup>105</sup>.

For quite some time, Lithuania managed to return practically all illegal arrivals, including asylum seekers, to Belarus, where they had come from. Although there is no readmission agreement with this country, the practice seemed to be based on a 'gentlemen's agreement' between the border guards at local level. After it ceased to function, the Lithuanian Government resorted to detention. It is not clear how many of the detained 'illegal' migrants are asylum seekers. However, the Lithuanian authorities have agreed to an advance implementation of their refugee law, which constitutes a preliminary status determination and at the same time to training government officials. The final decision on status will be taken when the refugee law is in force (supposedly in early 1997).

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<sup>102</sup>UNHCR Stockholm, Asylum in Baltic countries, note to the European Parliament, DG IV, July 1986

<sup>103</sup>Statement of the representative of the Republic of Lithuania at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>104</sup>World Refugee Survey, 1996, p 154

<sup>105</sup>Statement by the delegation of Lithuania to the 6th Conference of European Ministers responsible for Migration affairs, Council of Europe, Warsaw, June 1996

According to the Ministry of Internal Affairs, a person is not expelled from the Republic of Lithuania to a country where his/her life or freedom is exposed to danger. If a person wishes to return to his/her country of origin, he/she leaves the Republic of Lithuania on his/her own will and his/her own means. However, Lithuania is not considered a 'safe third country' since the 1951 Geneva Convention has not been ratified and asylum seekers are treated like other (illegal) immigrants due to the lack of minimum standards of a fair procedure and appropriate legislation.

## Poland

### 1 Migration

Poland has been struck with a sudden wave of refugees during recent years. The issue was not anticipated and the country was facing its own problems of transition<sup>106</sup>.

Nevertheless the country has also become a place for **permanent or extended stay** for many migrants due to open borders and liberal entry rules, while Germany's borders are closing up.

**Poland has become an important transit country in the nineties. In 1995, 82 million people crossed the borders of the country legally and 36 million Poles temporarily left as a consequence of the liberalization of visa policy.**

### **Illegal migration and trafficking in human beings**

It is estimated that up to 1,000,000 people illegally cross the territory of Poland<sup>107</sup> every year. About 150 000 aliens, mainly coming from Ukraine, Lithuania, Belarus, Russia and Romania, have been refused entry at the borders<sup>108</sup>.

From the beginning of 1996 until the end of April, 15,500 attempts to cross the border illegally were noted. Two main transit trails lead through the country: the 'Balkan trail' is used by Romanians, Bulgarians and citizens from former Yugoslavia who enter legally because regulations allow a three-month stay without a visa. Then they try to cross into Germany illegally. Strong cooperation between German and Polish border guards is now discouraging many illegal travellers. The second emigration trail via Poland runs from the Lithuanian border to Germany. This route, mainly used by Asians, is dominated by citizens from Afghanistan, Iran, Iraq, India, Pakistan and Sri Lanka<sup>109</sup>. 48 000 people illegally crossing the border were detained during the last three years.

The number of illegal migrants caught at this border has almost doubled from previous years. The smuggling of people across this eastern border is apparently constantly rising and increasingly better organized. Those organizing such smuggling operations operate networks of couriers and guides, and their profits are comparable to the profits of drug traffickers. For leading a group into Germany, a courier network charges from USD 2000 to USD 5000 per person. In countries such as Afghanistan and India, whole families often pitch in to send one of their members to the West, hoping that the person will then bring over the rest of the family.

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<sup>106</sup>Library of Congress, European Law Division, Poland, March 1994

<sup>107</sup>Statement of the representative of the Republic of Poland at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996 & Helsinki Foundation for Human Rights, Asylum and Migration in Poland, Answer to the questionnaire of DG IV, July 1996

<sup>108</sup>Helsinki Foundation for Human Rights, Asylum and Migration in Poland, Answer to the questionnaire of DG IV, July 1996

<sup>109</sup>DUKACZEWSKI (Piotr), Refugees Rising, in: Voice-Society, 23 June 1996, p 16

It is increasingly less common for refugees to try their luck crossing Poland illegally on an individual basis, in car boots or by hiding on trains<sup>110</sup>

*Main regions of origin of illegal immigrants from 1993 to 1995*

Romania	13 247
Bulgaria	2 563
Ukraine	3 390
Armenia	3 069
Russia	1 966
Moldova	1 250
Asia, Africa	6 087 (India: 1,321)

*Source: Ministry of Internal Affairs, Poland, June 1996*

Migration from Asia and Africa is increasing rapidly. Some of the immigrants from this region reach Poland from the former USSR and are taken across the border by organized groups in which mainly Poles, Lithuanians, Belarusians and Ukrainians, but also Hindus and Vietnamese are involved. Estimates concerning the number of foreigners staying and often working in Poland illegally vary between 50,000 and 200,000<sup>111</sup>

The conclusion of new bilateral agreements plays an important role in the improvement of cooperation in the fight against border-related criminality. Measures aimed at the rationalization of expulsion such as deportation by planes and preparations for the creation of detention centres have been implemented. The equipment of the Border Guards, including a helicopter protection system, new control stations, computers and additional transport utilities, has been improved, particularly with the assistance from Germany. Poland takes part in the PHARE program and has received 15.4 million ECU for a further tightening of the Eastern border and the development of a more efficient information and communication system. The coordination of border controls has become more efficient.

### **Readmission agreements**

Readmission agreements have been concluded with some of the countries in the Schengen group (Germany, Belgium, Italy, Luxembourg, the Netherlands), and with Bulgaria, Greece, Croatia, the Czech Republic, Hungary, Moldova, Slovakia, Romania and Ukraine. Readmission provisions are included in the agreements on visa-free traffic with Austria, Estonia, Latvia, Lithuania, Switzerland. Transfer of people between Poland and Russia or Belarus are dealt with under the Act on Legal Relations on the Polish-Soviet border.

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<sup>110</sup>Major Jaroslaw Zukowicz, spokesman for the National Border Guard Headquarters, in Voice, June 1996.

<sup>111</sup>PAP News Agency, Warsaw, 18 June 1996

The Chief Headquarters of the Border Guards has prepared draft agreements only on readmission with the following countries:

1. Belarus, Lithuania, Russia, Slovakia, Sweden  
(negotiations are in progress)
2. Canada, China, India (negotiations have not started yet).

The biggest number of readmissions takes place at the German-Polish border. Since the conclusion of the readmission agreement with Germany on 7 May 1993, 18 000 persons have been readmitted

## 2. Asylum

### *Asylum applications in Poland*

1994	1995	1996 (Nov included)
556	842	2 700

Source: UNHCR Poland, December 1996

In 1994, nearly two thirds of the applicants were granted refugee status. In 1995, only one in eight asylum seekers was granted convention status. Many treat Poland only as stopover to the West, therefore a great number of asylum seekers disappear during the procedure. Nevertheless UNHCR is aware of claims in which no decision was made for over a year. Similarly, prospects of recognition are limited and an expeditious procedure does not exist.<sup>112</sup>

### *Main countries of origin of asylum seekers in July 1996*

Country	Number
Sri Lanka	157
Afghanistan	146
Armenia	138
Iraq	63
India	56
Bangladesh	47

Applicants come from 36 countries; the number of people from the former Soviet Union has decreased<sup>113</sup>, but from September 1996 there has been a significant increase in applications due to readmitted asylum seekers sent back by Germany. This increase is the result of two factors - the Polish

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<sup>112</sup>UNHCR Warsaw, Background information on the situation in Poland in the context of the 'safe third country' concept

<sup>113</sup>DUKACZEWSKI (Piotr), Refugees Rising, in: Voice-Society, 23 June 1996, p 16

western border is better guarded and it is more difficult to cross the border to Germany; secondly there are more asylum seekers who come to Poland with the intention of staying in the country<sup>114</sup>.

### **Procedure and legal basis**

On 27 September 1991, Poland acceded to the 1951 Geneva Convention and its 1967 Protocol. The European Convention for the Protection of Human Rights and Fundamental Freedoms was ratified on 19 January 1993. National legislation concerning refugees is mainly contained in the Aliens Act. A new Aliens Act has been drafted, but has not entered into force yet. In the meantime, the procedure for refugee status determination is laid down in the Administrative Procedure Code.

Contrary to Art 35 of the 1951 Geneva Convention, UNHCR has not been allowed access to and input into the draft<sup>115</sup>. Poland also applies the recommendation of the UNHCR concerning minimum standard guarantees with one important exception **there is no protection during the period of appeal against a negative decision in the first instance.**

The intention to apply for refugee status can be stated at entry onto Polish territory, or during the stay to the Office of Migration and Refugees of the Ministry of Internal Affairs. This office conducts interviews related to the circumstances that led to the applicant's leaving his/her country of origin. The final decision is issued by the Ministry of the Interior. Illicit border crossing, lack of documents or staying illegally on Polish territory may lead to expulsion or detention. Referral to a detention centre does not exclude the possibility of applying for refugee status.

According to UNHCR, the admission of refugees at land borders remains problematic. There are no guarantees that people requesting asylum at borders have access to the refugee status determination procedure, particularly if they do not have valid travel documents, which is contrary to Art 33 of the 1951 Convention. Similarly, it is possible that an asylum seeker cannot articulate his fears due to the lack of interpretation services in certain languages. No guarantees exist that an asylum seeker whose request has been rejected in other countries due to the 'safe third country' rule and who therefore is readmitted in Poland has access to the asylum procedure<sup>116</sup>.

During the provisional asylum period, the asylum seeker, who has been issued a certification of registration by the Office of Migration and Refugees, can stay in a refugee centre which provides full board and medical care. At the moment, the government runs four reception centres (Dębak, Lublin, Bielsko-Biała, Smoszewo)<sup>117</sup>. Convention Refugees can be employed or receive unemployment pay.

Their children can attend primary or high school for free. Housing remains the biggest problem because refugees can live in one of the three refugee centres only for 15 months. The Office for Migration and Refugees prepares integration programs in order to help refugees adapt to the new circumstances, but

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<sup>114</sup>ECRE, biannual general meetings report, Lausanne, October 1996

<sup>115</sup>UNHCR Warsaw, Background information on the situation in Poland in the context of the 'safe third country' concept

<sup>116</sup>UNHCR Warsaw, Background information on the situation in Poland in the context of the 'safe third country' concept

<sup>117</sup>UNHCR Warsaw, Background information on the situation in Poland in the context of the 'safe third country' concept

resources are very limited. A month in a refugee centre costs about zł 700, which corresponds to nearly as much as two month's wages for the Poles employed there<sup>118</sup>.

NGOs provide two kinds of assistance: humanitarian protection and free legal aid. However, there has been little assistance from the Polish authorities. UNHCR has financed an integration program for refugees which was implemented by the Office for Migration and Refugee Affairs. Asylum requests from individuals whose applications have been rejected in a Member State of the EU are also examined. Poland respects the principle of 'non-refoulement'<sup>119</sup>.

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<sup>118</sup>DUKACZEWSKI (Piotr), Refugees Rising, in: Voice-Society, 23 June 1996, p 16

<sup>119</sup>Helsinki Foundation for Human Rights, Asylum and Migration in Poland, Answer to the questionnaire of DG IV, July 1996, p 2

## Romania

### 1 Migration

Although Romania has been a source of emigration since the revolution in 1989, fewer citizens are now leaving the country. In 1990, 96 919 Romanians permanently settled abroad. In 1994, this figure was only 18 148, while 21 643 Romanians who left the country in the communist period returned to their home country between 1990 and 1995<sup>120</sup>. **Romania remains a transit country for most of the migrants, although many give up their plan to go to Western Europe and try to find work in Romania.**

#### **Illegal migration and trafficking in human beings**

At the moment, Romania faces serious problems concerning the prevention of illegal immigration. During the last three years, 45 000 foreigners have been refused entry, 15 000 living illegally in the country have been discovered by the authorities, but stay more or less legally in the country. More than 1 800 have been returned to their countries of origin.

The majority come from Turkey, Sri Lanka, Bangladesh, Iran, Iraq, Pakistan and Egypt and intend to go to the West, especially Germany.

Due to Afro-Asiatic immigration the activities of human traffickers have sharply increased. In conformity with the recommendations concerning the prevention of illegal migration of the 5th Conference of European Ministers responsible for migration affairs, held in Athens in 1993, the Romanian authorities have implemented several legislative and administrative measures which reduced illegal migration by 30% in 1995. Border controls have been tightened in order to improve the possibilities of identifying false passports and travel documents, forged visas and means of transport for trafficking in human beings. Within the framework of the PHARE program, border posts have been modernized. The granting of visas for people from emigration countries (a list containing 77 countries has been introduced) has become more restrictive. Staff of the Border Police are trained in special courses at the Police Academy of the Ministry of the Interior. Additionally, information exchange and cooperation with border police units in Belgium, France, Germany, Greece, Bulgaria, the Czech Republic, Hungary, the Slovak Republic, Turkey, Ukraine and the Federal Republic of Yugoslavia have been improved. The Ministry of the Interior has concluded several agreements in order to strengthen cooperation in the fight against human trafficking and the forgery of travel documents.

Despite these activities, the lack of financial resources makes efficient border controls and especially the expulsion of illegal immigrants to their country of origin very difficult. Cooperation with Europol remains an important political option for Romania. Although the cooperation level with the Member States and Institutions of the European Union is quite satisfactory, relations could be amplified<sup>121</sup>

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<sup>120</sup>Statement of the representative of the Republic of Romania at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>121</sup>Statement of the representative of the Republic of Romania at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

### Readmission agreements

Romania has negotiated and concluded readmission agreements with 15 countries in Europe and with India. Readmission agreements have been concluded with the following countries Austria, Benelux, Czech Republic, France, Germany, Greece, Hungary, India, Italy, Poland, Slovakia, Slovenia, Spain, Sweden and Switzerland.

The 'Law on foreigners' will be debated by the new Romanian Parliament during 1997.

### 2. Asylum

Since 1991 3 517 applications for refugee status have been received in Romania. The main countries of origin for the asylum seekers are Iraq, Iran, Bangladesh, Somalia and Sri Lanka. Romania accepted 14-16% of the applications.

The Committee for Migration Problems received 30 asylum applications by citizens of former Yugoslavia who were temporarily displaced because of the war<sup>122</sup>.

*From 1 January 1990 to 31 May 1996:*

Asylum applications	3 221
Recognized refugees	485
Applications rejected at first instance	1 204
Voluntary withdrawals of applications	214
Applicant deceased	2
Known departure from Romania without prior withdrawal of the application	175
Application pending at first instance	1 131

*Source: UNHCR, Bucharest, June 1996*

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<sup>122</sup>Ministry of Interior, Directorate General for strategy, integration with Europe and public relations, Director General, Colonel dr. Tudor AMZA, Bucharest, answer to DG IV's questionnaire, May 1996.

Country of origin of asylum seekers:

Country of origin	Asylum applications registered	Cases pending at first instance
Albania	329	0
Bangladesh	798	384
India	133	83
Iran	249	112
Iraq	419	114
Pakistan	264	28
Somalia	421	88
Sri Lanka	305	182
Other	323	140

*Source: UNHCR, Bucharest, June 1996*

### Procedure and legal basis

Romania acceded to the 1951 Geneva Convention and its Protocol of 1967 without reservations according to Law n° 46/1991. A committee for migration problems was created (decision No. 417/91). The recommendations of the UNHCR concerning the minimum standard guarantees are applied. The law concerning the status of refugees in Romania entered into force on 5 May 1996 and is in line with the 1951 Convention and its Protocol. Asylum seekers coming from war torn areas can be granted refugee status for humanitarian reasons even if the conditions of the 1951 Geneva Convention are not fulfilled<sup>123</sup>. During the provisional asylum period the asylum seeker has the right to a temporary identity document, to the necessary living support and to social assistance.

Refugee status is not granted to a foreigner who has committed a crime against peace and humanity or a crime in Romania for which Romanian law provides a sentence of more than three years (Art 4 of the Law on the Status of Refugees). Foreigners applying for asylum in Romania have to submit a written and detailed application to a diplomatic mission, to a consular office, to the General Department of border police or to Romanian territorial bodies. If the application is made to the border police, the foreigner is allowed to enter the country if he has valid entry documents and the necessary visa or if he is arriving directly from the territory where his life or freedom are in danger. Responsibility for interviewing the applicant and analysing the reasons for receiving refugee status lies with a commission appointed by the government and composed of representatives of the Ministry of Foreign Affairs and the Ministry of Labour and Social Protection. UNHCR representatives can assist in the proceedings. The commission will decide whether to approve or reject the application within 30 days of its receipt (Art

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<sup>123</sup>Statement of the representative of the Republic of Romania, at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

10 of the Law on the Status of Refugees) According to Art 11, refugee status can also be refused if the asylum seeker dishonestly refuses to provide all data and information necessary for the Romanian authorities to deal with the request, if he tries to obtain refugee status by giving false data or information or if he does not observe the obligation stipulated in Art 10 (e. g. the asylum seeker must undergo a medical examination and remain at the residence locality; unless otherwise authorized).

An appeal against the decision of the commission is possible.

According to Art 15 of the Law on the Status of Refugees a convention refugee has the right to stay on Romanian territory and receive adequate documents, to work in Romania, to undertake all forms of education and to receive refundable support within the limits of the state's financial possibilities<sup>124</sup>

Romania applies the principle of 'non-refoulement' and the authorities take all necessary precaution to prevent asylum seekers whose applications have been rejected from being sent to countries where their life and liberty would be in danger

Nevertheless, the new Law on Refugees contains some doubtful provisions: **Refugee status may be granted only for three years (Art 22 of Romanian Refugee Law), subject to a further two-year extension.**

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<sup>124</sup>Romanian Business Journal, The law concerning the status and conditions of refugees in Romania, April 1996, p 12

**Slovak Republic**

1. Migration

**The Slovak Republic is one of the main transit countries for migration flows from the South and East to Western Europe. During the last three years, about 180 million people have legally entered and left the country<sup>125</sup>. In this period, 7 886 people have been detained because of illegal border crossing.**

The strongest migration pressure comes from former **Yugoslavia, Romania, the CIS, Vietnam, China, Turkey, Afghanistan and Tunisia**. The aim of the emigrants is to reach the developed countries of Western Europe, especially Germany. Slovak authorities denied entry to 78 400 people in 1994 and 86,087 in 1995. Many aliens entered the Slovak Republic legally but failed to leave after the expiration of the visa. They wait for opportunities to illegally cross the Austrian or Czech border or try to find illegal employment. During the period from 1 June 1994 to 30 September 1995, 653 people were expelled from the territory of the Slovak Republic, most of them from the Ukraine (227), former Yugoslavia (106), Turkey (77) and Romania (75)<sup>126</sup>.

The general conditions of entry and sojourn of aliens in the territory of the Slovak Republic are laid down in Law n° 73/1995. In accordance with this law foreigners may enter the Slovak Republic only with a valid travel document and a visa, which is not needed by citizens of European states (except those from Albania, Macedonia, the Federal Republic of Yugoslavia and Bosnia-Herzegovina)<sup>127</sup>.

The Slovak Republic has concluded bilateral agreements concerning the coordination of border controls with all neighbouring countries. Systems of information exchange have been implemented.

In comparison with the preceding period, 1994 was a turning point in this field when a total of 4 073 permits for long-term stay and 2 392 for permanent residence were issued. The same trend continued in 1995 when 3 022 long-term and 2 225 permanent residence permits were issued. These numbers indicate that Slovakia, as the result of its stabilizing economic situation and also of measures introduced by certain West European countries against migrants began to **change from a prevalingly transit country to one where migrants prefer to settle**. At present the largest group of aliens located in the Slovak Republic is formed by citizens of **South-East and East European countries**. By far the largest proportion of these are economic migrants, as shown by the highest amount of long-term stay permits issued for the purpose of employment or business activities in comparison with all other forms of stay<sup>128</sup>.

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<sup>125</sup>Data given by the Ministry of Interior, May 1996 and confirmed by the written statement of the Slovak Delegation at the Conference of European Ministers of the Council of Europe, June 1996

<sup>126</sup>Report of the Aliens Police to the IOM Conference in Piestany/Slovak Republic, 14 November 1995

<sup>127</sup>Written statement of the Slovak delegation to the 6th Conference of European Ministers responsible for migration affairs, Warsaw, 1996

<sup>128</sup>Statement by the delegation of the Slovak Republic to the 6th Conference of European Ministers responsible for Migration Affairs, Council of Europe, Warsaw, June 1996

## Readmission agreements

Readmission agreements have been concluded with all neighbouring countries (Austria, Hungary, Ukraine, Poland, Czech Republic) and with Romania, Bulgaria, Croatia and Slovenia. They contain provisions on the return of their own citizens and those of third states. Agreements with the Benelux countries are under preparation

## 2. Asylum

Since 1 January 1993, 715 applications for refugee status have been registered in the Slovak Republic. The application procedure was stopped in 376 cases because the applicants had left the camp before any decision has been taken. The Migration Office has no information where they have gone.

From the other 339 applicants, 185 were granted refugee status, which corresponds to a percentage of approvals of 54.5%<sup>129</sup>

**The applicants for refugee status mainly come from the following countries: Afghanistan, Algeria, Angola, Armenia, Azerbaijan, Iraq, Pakistan, Somalia, Turkey (Kurds), Sri Lanka.**

UNHCR Slovakia quotes other numbers:

Year	Applications	Recognition	Rate
1992	87	55	63.2%
1993	96	38	39.6%
1994	140	54	38.6%
1995	359	66	18.4%
<b>Totals</b>	<b>682</b>	<b>213</b>	<b>31.2%</b>

Because of difficulties associated with the access to asylum procedures, the UNHCR believes that the number of applications is lower than the actual number of people intending to enter the refugee status determination procedure.

Officially, the criteria for granting refugee status corresponds to the definition of the 1951 Geneva Convention and its 1967 Protocol. According to UNHCR, **the ability to learn/speak Slovak** is very much taken into consideration. That is why many of the recognized refugees are 'in situ' refugees, for instance students from former Communist countries who arrived before 1990 and hold or will hold Slovak academic degrees. Applications by people from the former Soviet Union, especially Armenians, are almost always unsuccessful. Applicants without valid documents are also rarely successful, regardless of the strength of their claim<sup>130</sup>.

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<sup>129</sup>Ministry of Interior of the Slovak Republic, note to DG IV, May 1996

<sup>130</sup>UNHCR Bratislava, Asylum and Migration in the Slovak Republic, note to DG IV, July 1996, p 2

## Procedure and legal basis

In 1991 the Czechoslovak Federal Republic ratified the 1951 Geneva Convention and the 1967 New York Protocol on the Legal Status of Refugees without any reservations<sup>131</sup>

Applicants have to fulfil the criteria stated by Art. 1 of the 1951 Geneva Convention on the Legal Status of Refugees which was taken into the Act on Refugees without any reservations. Section 2, § 7 of the Act of Refugees includes the possibility for a foreigner to obtain refugee status in the Slovak Republic for humanitarian reasons

Act n° 283/1995 is not only in line with the provisions of the Geneva Convention, but also with the General Declaration on Human Rights, the European Convention for the Protection of Fundamental Freedoms and Human Rights, the 1959 Agreement on the Rights of Children as well as further bilateral and multilateral agreements and treaties between the Slovak Republic and neighbouring countries.

The new Act on Refugees provides a unique procedure. The Migration Office of the Ministry of the Interior is the first instance in this process. The Minister of the Interior constitutes the authority of appeal. A further appeal against his decision can be made at the Supreme Court of the Slovak Republic. The application and the situation in the country of origin are carefully examined; all available sources are used (Ministry of Foreign Affairs, UNHCR, consular offices)

Nevertheless, UNHCR has some grave concerns about refugee practice in the Slovak Republic **The greatest problem asylum applicants have to face is access to the procedure.** According to the new Refugee Law n° 283/95, undocumented applicants must apply for refugee status within **24 hours** after entering the Slovak Republic (Art. 4(2)b). The Aliens and Border Police have to determine who may be allowed access to the procedure. UNHCR has protested that the actions of the Aliens and Border Police have been arbitrary and inconsistent. When people are denied access, there is no possibility of appeal. Written decisions have not been issued. UNHCR has intervened in many cases where applicants asked for asylum at the offices of UNHCR and then were directed to the Aliens and Border Police. There they were either refused or placed in detention for up to 30 days. Several cases went to the Slovak Constitutional Court before the Migration Office and the Aliens Police agreed to relax their internal instructions to allow for a broader range of exceptions for failure to comply with the 24 hour rule. In addition, the Aliens and Border Police are now obliged to issue written decisions. Nevertheless, the Aliens Police continue to arbitrarily deny access to asylum procedures without written justification. Oral rejections (often racially pejorative) have not ceased to be the norm<sup>132</sup>.

During the refugee status determination procedure, applicants pass through medical quarantine at the Reception Centre in Adamov-Gbely. During this period, freedom of movement is limited for medical reasons. After the quarantine, applicants can leave the Centre for defined periods of time.

The first interview is held by the Migration Office. Those who appeal against a negative decision are taken to the Humanitarian Centre in Brezova pod Bradlom. During this time, the Migration Office bears the costs of lodging and food

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<sup>131</sup>The National Council of the Slovak Republic has adopted a new Act on Refugees, n° 283/1995 Col. that entered into force on January 1st, 1996. Some provisions of the Act on Refugees, n° 498/1990 Col. adopted by the former Federal Assembly did not correspond to the said Convention and its Protocol

<sup>132</sup>UNHCR Bratislava, Asylum and Migration in the Slovak Republic, note to DG IV, July 1996, p 2

Refugee status is refused if the applicant does not meet the conditions of Art 1 A2. of the 1951 Geneva Convention, if he/she has committed a crime against peace and humanity, if he/she comes from a safe third country or a safe country of origin, if he/she has been finally sentenced for a particularly serious intentional crime or if he/she has been sentenced for acts against the UN Charter objectives and principles<sup>133</sup>.

NGOs play an important role in refugee protection in the Slovak Republic, although the attitude of the government/Migration Office towards these organizations is more one of grudging tolerance than partnership. Slowly the Migration Office is beginning to realize that the NGOs can accomplish things beyond its capability. However the relationship is antagonistic because the decisions of the Migration Office and the Aliens Police remain a source of legal concerns

A rejection of an asylum request in a Member State of the EU is not a cause for a rejection in the Slovak Republic. The Act on Refugees contains the principle of 'non-refoulement.' Nevertheless there are no guarantees, in practice, that the life and liberty of a deported person would not be in danger. It should be stated that often a 'prohibition of stay' is stamped into the passport, and while the individual is not removed from the country physically, remaining in the Slovak Republic would be illegal and subject the asylum-seeker to further sanctions<sup>134</sup>.

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<sup>133</sup>UNHCR Bratislava, Asylum and Migration in the Slovak Republic, note to DG IV, July 1996, p 2

<sup>134</sup>UNHCR Bratislava, Asylum and Migration in the Slovak Republic, note to DG IV, July 1996, p 2

Slovenia

1. Migration

During the Communist era, economic reasons caused migrations from other parts of former Yugo-slavia to Slovenia, which is now **mainly a transit area**. Nevertheless, it is **becoming a target country not only for refugees, but also for illegal migrants**. The use of counterfeit documents is increasing and illegal crossing of the state borders is more and more organized<sup>135</sup>.

**Illegal migration and trafficking in human beings**

*Number of foreigners crossing the border illegally.*

1992	1993	1994	1995
4 746	8 698	4 044	4 175

*Source: Ministry of Interior, Slovenia, 1996.*

*Number of people rejected at the border*

1992	1993	1994	1995
41 528	50 287	37 337	~40 000

*Source: UNHCR Ljubljana, Asylum and Migration in Slovenia, Note to DG IV, July 1996*

Most of the illegal entries into the country were recorded at the border with Croatia and Hungary. At the border with the Republic of Croatia, the majority of illegal entries were committed by citizens of Bosnia and Herzegovina; most of the people crossing the border to Hungary come from Romania, Egypt, Bangladesh and Turkey.

The destination of illegal migrants is mainly Western Europe.

In order to fight illegal migration the Slovene police has developed close cooperation with neighbouring countries and the main destination countries, for example Germany. This cooperation includes information exchanges and the coordination of measures concerning prevention and investigation related to trafficking in human beings and in the detection of the use of forged documents.

The criminal law of Slovenia stipulates a prison sentence of up to three years for a person who engages in the illegal trafficking of others across the state border of Slovenia, or for a person who for self-seeking purposes or as part of an organized group traffics another person across the border. The Act on Employment of Foreigners on the other hand, stipulates a fine for employers who illegally employ foreigners.

<sup>135</sup>Written statement of the Slovenian delegation on the 6th Conference of European Ministers responsible for migration affairs, June 1996

### Readmission agreements

The Republic of Slovenia has signed agreements with the following countries. Canada, Croatia, Hungary, Austria, France, the Benelux States, Greece, Slovakia, Switzerland, Lithuania, Romania. Readmission agreements with Italy, Poland, Bulgaria, Bosnia and Herzegovina, Macedonia, the Czech Republic, Denmark, Estonia and Latvia are under preparation.

In 1994, 4 554 foreigners were returned to third countries by Slovenian authorities, while 1 683 were readmitted.

### 2. Asylum

The number of applications for asylum has been around 100 from June 1991 until now.

#### *Asylum applications*

1991-1993	1994	1995	1996
54	30	6	6

*Source: Ministry of Interior, Slovenia 1996.*

#### *Main countries of origin of the asylum seekers*

Kosovo	Serbia	Monte-Negro	Bosnia-Herzeg.	Croatia	Iraq	Albania	Bangladesh
20	12	2	19	12	19	4	3

*Source: Ministry of Interior, Slovenia 1996.*

In recent months, the number of applications for asylum has been increasing, especially with asylum seekers coming from Iran<sup>136</sup>. At the end of 1995, the first two convention refugees were recognized; they originate from former Yugoslavia<sup>137</sup>.

From 1991 on, there were about 60,000 people seeking **temporary protection** in Slovenia due to the wars in Croatia and Bosnia-Herzegovina. In December 1995, about 20 500 temporarily displaced people were still living in Slovenia, mostly with relatives and friends; at the end of November 1996, this number was 10 500<sup>138</sup>. In addition UNHCR estimates that 3 000 refugees from Bosnia and Herzegovina remain in Slovenia without any kind of status. This difference of 10 000 is composed of returnees to Bosnia, people who have left to third countries and people who have had the opportunity to regulate their status in Slovenia in a different way by getting working visas, temporary residence permits etc... A law on **temporary protection** has been adopted (1996), but is not yet implemented. Under this law, the status of temporary refugees corresponds to the status of convention refugees. The government will be entitled

<sup>136</sup>UNHCR Ljubljana, Asylum and Migration in Slovenia, Note to DG IV, December 1996

<sup>137</sup>UNHCR Ljubljana, Asylum and Migration in Slovenia, Note to DG IV, December 1996

<sup>138</sup>UNHCR Ljubljana, Asylum and Migration in Slovenia, Note to DG IV, December 1996

to determine a quota of people to be accepted and the conditions under which this quota is to be met. The antagonism between temporary protection and voluntary repatriation remains a legal problem. It seems the government will determine when there is no more need for protection by a bilateral agreement with the country of origin<sup>139</sup>.

### **Procedure and legal basis**

The Republic of Slovenia ratified both the 1951 Geneva Convention and its Protocol of 1967 without any reservations. According to the UNHCR Ljubljana the main obstacle to a fair and efficient asylum procedure lies in insufficient asylum legislation. The term 'asylum seeker' is not clearly defined, and the recommendations of the UNHCR concerning the minimum standard guarantees are not included, although they are implemented in practice. The legislation concerning refugees should soon be entirely harmonized with the Convention of 1951, with implementation of the new Asylum Act which is being finalized with the help of UNHCR.

Each application for the granting of refugee status is verified as required in the Act of Foreigners. Even if refugee status is not awarded, the asylum seeker is not sent back to his country of origin in this event of danger for his life and freedom due to race, religion, ethnic affinity or political views or if the asylum seeker could be exposed to torture or inhuman or degrading treatment (Art. 33. of the Act on Foreigners).

However, asylum applications must be made **three days** after entering the country, otherwise the request is rejected on procedural grounds and the application is not examined on its merits. During the provisional asylum period asylum seekers are accommodated in the Transitional Hostel for Foreigners and receive basic medical assistance. There is no NGO dealing with convention refugees so far<sup>140</sup>.

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<sup>139</sup>Statement of the representative of the Republic of Slovenia at the meeting of the Committee on Civil Liberties and Internal Affairs of the European Parliament with corresponding Committees of the Parliaments of the Countries of Central and Eastern Europe, June 1996

<sup>140</sup>UNHCR Ljubljana, Asylum and Migration in Slovenia, note to DG IV, July 1996

**QUESTIONNAIRE**

**1. The fight against international organized crime**

Three major areas should be examined:

- (1) the fight against organized crime
- (2) illicit drug trade
- (3) money laundering associated with these crimes.

**(1) The fight against organized crime**

Could you outline the situation in your country? What is the legislation? How is the law enforced?

Do you consider the existing situation to be satisfactory or on the contrary, do you think that the existing provisions and mechanisms need further improvement in order to achieve the required levels of efficiency?

**(2) Illicit drug trade**

Could you outline the situation in your country (statistics, legislation, implementation of the legislation, proposals in discussion ...)?

Could you describe the drugs trafficking routes?

Did your country sign or ratify the 1988 UN Convention on narcotic drugs?

Does your country use the coordinating function of the UN Drug Control Programme (UNDCP - Task Force) with regard to assistance concerning training and equipment?

**(3) Money laundering**

The money laundering directive (91/308/EEC) has largely been implemented in the Member States of the EU. Money laundering is a criminal offence and rules have been set up aimed at protecting financial systems from money laundering; credit and financial institutions are obliged to cooperate actively with the relevant authorities in this regard.

What is the situation in your country? Did you implement control mechanisms? Is there legislation in this field? At what level? What are your country's plans for the future?

**Regarding the intraregional cooperation among CEEC states, how do you evaluate the level of cooperation in judicial and police cooperation in the three specified areas (drugs, stolen vehicles, money laundering)?**

How do you perceive the police cooperation project of the International Law Enforcement Academy in Budapest?

Have you joint projects through the PHARE programme in your country? With other CEEC states for joint activities in these areas? What are your projects?

What suggestions do you have for future developments in this area?

**Regarding the bilateral cooperation between your country and Member States of the EU**, has your country signed bilateral agreements with some Member States of the EU? Could you give a brief description of these agreements or relations and evaluate their effects?

**Regarding the cooperation between CEECs and the EU**, how do you evaluate the level of cooperation in the field of Justice and Home Affairs? What improvements could be made?

## **2. Asylum and immigration**

### **Asylum**

#### **Description of the situation in your country**

How many official applications did your country receive from asylum seekers during recent years? Which are the main countries of origin? What percentage of asylum applications were accepted? On the basis of which criteria?

How many temporarily displaced persons are there?

#### **Procedure and legal basis**

Has your country ratified the 1951 Geneva Convention relating to the status of refugees and its Protocol of 1967? With reservations? If this is the case, what are these reservations?

Do you apply the recommendations of the UNHCR in relation to the minimum standard guarantees?

What is the status of an asylum seeker during the provisional asylum period?

Which criteria lead to an immediate refusal of refugee status?

How important is the action of the non-governmental organizations?

Did you bring your legislation and administrative structures and practice in the refugee field into line with the 1951 Convention and its Protocol?

Does your country examine the asylum requests of any persons who have been refused asylum in a Member State of the EU? In the event of such persons being subsequently sent back to their country of origin, do you make sure that their life and liberty will not be in danger there?

## Migration

### Border controls

Give a brief outline of the situation in your country. What is the estimated scope of illegal migrations to and through your country? How many migrants have entered or have left your country in the last 3 years? How many have been refused entry at your borders? Which are the main countries of origin? Which are the main destination countries? Did you examine ways of tightening border controls, particularly by drawing up bilateral and multilateral agreements which provide for exchanges of information between states on flows of illegal migrants and the entry methods used?

### Trafficking in human beings

What measures did your country implement to identify more successfully the networks involved in the trafficking of human beings and the transit routes used?

Did you organize prevention campaigns aimed specifically at women and minors?

Does legislation in your country make a specific reference to the criminal offence of trafficking in human beings?

### Trafficking sanctions

What measures did you implement designed to combat clandestine migration in all its forms? Are there provisions for penalties for traffickers and employers of illegal migrants?

### Readmission agreements

Has there been any case of readmission? Did your country initiate negotiations or conclude agreements with a view to facilitating the readmission of asylum seekers of illegal migrants?

(a) with EU Member States?

(b) with other countries?

COUNTRY:

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