BRATISLAVA INTERNATIONAL SCHOOL OF LIBERAL ARTS

IMMIGRATION TO THE EUROPEAN UNION

BACHELOR THESIS

BRATISLAVA 2010   **Paula Nürnbergerová**

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DECLARATION OF ORIGIN

I, the undersigned, Paula Nürnbergerová, hereby declare that I have produced this thesis on my own using sources listed in "Bibliography", under the guidance of my thesis advisor prof. PhDr. František Novosád, CSc.

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Abstrakt

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Moja práca prináša zhrnutie a vysvetlenie politiky Európskej únie v oblasti imigrácie. Moja práca je orientovaná na imigráciu obyvateľov z tretích krajín do členských štátov Európskej únie. K lepšiemu pochopeniu tejto problematiky je dôležité preštudovať jednotlivé oblasti ako je história imigrácie a teda zistiť aký postoj k imigrácií a imigrantom majú jednotlivé členské štáty, legálna, ilegálna migrácia a azylová politika. Pre európsku úniu je nutné vytvoriť spoločnú politiky pre všetky tieto oblasti. Európska únia ako spoločenstvo štátov bez vnútorných hraníc medzi členmi musí prijímať spoločné pravidlá o imigrácií. Bez zavedenia spoločnej politiky by organizácia legálnej imigrácie a boj proti ilegálnej v celosvetovom migračnom prúdení len jednotlivými štátmi bola nielen neefektívna ale mohla by mať distrukčné účinky na ekonomiky niektorých členov EÚ. Preto dokumenty ako je Európsky pakt o imigrácií a azyle dôležitým krokom v celoeurópskom riešení tohto problému.

Kľúčové slová: členské krajiny EÚ, krajina pôvodu, imigrácia, integrácia, legálny imigrant, ilegálny imigrant, azyl, tretia krajina, priťahajúce/nútiace faktory

Abstract

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My thesis brings summarisation and explanation of the European Union's policy in the area of immigration. It is focused on immigration of third countries inhabitants to member states of the European Union. To better understand these issues it is important to study the individual areas, as history of immigration, legal and illegal migration and asylum policy, and thus to find out what attitude towards immigration and immigrants the individual member states have. For the European Union it is necessary to create a common policy for all these areas. The European Union as a community of states without internal borders among its members has to adopt common rules for immigration. Without introducing a common policy, organisation of legal immigration and fight against illegal immigration in worldwide migration flows just by the individual states would be not only ineffective but it could also have destructive impacts on the economic systems of some EU members. Therefore documents like the European Pact on Immigration and Asylum are important steps towards all European solution of this issue.

Key words: member states of EU, country of origin, immigration, integration, legal immigrant, illegal immigrant, asylum, 3rd country, pull/push factors

Preface

Migration has recently been inflected in various forms in the whole world. Migration has its strengths, like getting new labour force for economically developed countries and providing a better life for people from poor or by natural disasters endangered countries of the world. Migration has also its dark side, like loss of labour force in sending countries, but also clash of the cultures and following conflicts among immigrants and residents of the host country. There is no doubt that at present migration is a source, from which many economic powers benefit. In current trend of diminishing population in industrialised countries the governments of these countries are aware that they need to solve this issue. Besides family support policy, support and control of legal migration is a way how to solve continuous trend of population ageing.

The European Union plays an important role in current world economy and it will need human resources to fill labour market also in future. Current state of the developed countries forces them to compete together, which one will attract more qualified workers to fill vacancies. For some European states that need immigrants it is more advantageous to cooperate and so to compete states like the United States, Canada or Australia.

Also the other side of migration is discussed on the European ground, namely the conflicts that are occurring with arrival of other cultures into the member states. Terrorist attacks or just dissimilarity of immigrants cause hostile moods of domestic inhabitants towards some cultures. Unsuitable integration policy of member states can only worsen these disturbances.

The thesis reflects the current state of immigration policy including its legal and illegal aspects and asylum. Though the European institutions are trying to find a compromise solution that would be suitable for the all member states there are still opinions of disagreement with the individual steps. For that reason I used not just the official documents and EU directives but also various researches and articles expressing opinions of these points at issue.

Contents

Introduction

For the European Union immigration solution is a different problem than in the United States or in Australia. At least from the theoretical point of view Düvell (2009) says that the EU has a specific situation when solving immigration. The territory of the EU does not lie at a separate continent like in the case of the USA, but it is bordering with Asia in big part and is very close to Africa. Europe is affected by long history of wars too, they were forming current political systems and political culture of the individual states. That is why the European Union is created by culturally and politically different states. However policy of the EU creates open space of the member states with excellent infrastructure and thus easy possibility of movement.

Another characteristic that influences migration is an economic position of states. According to it and according to labour market the governments can determine exact number of legal migrants they can admit. Taking into account geographical and economic characteristics of the all member states, it is necessary to create a policy capable to meet all their needs. In order that such a policy would not be too general and at the same time not to limit the needs of some states it is very complicated to create a system convenient for all.

To better understand this policy I focused on analysis of the official documents and of directives from offices of the European political institutions supplemented with various researches, analysis and articles of nongovernmental institutions, think tanks or journals. I used terminology according to Asylum and Migration Glossary developed by the European Migration Network (2010).

To facilitate understanding of the text and to avoid inaccuracies I would like to explain the most important terms connected with migration and specifically with immigration into the European Union. The most fundamental term is migration, which stands for a process of moving from one state to another for various reasons. In the European context we differentiate immigrants – those that enter the EU from other than member countries – and emigrants – residents of the EU that leave a member state and their destination is a country outside the territory of the EU. Also terms like

member state (the EU member country) and a 3rd country (non-member state of the EU) are connected with this. In this case as a host country will be termed one of the member states and a sending country is a country from which immigrants departed. There is a differentiation in the EU between external and internal borders. External borders are bordering all the territory of the European Union, i.e. all the borders between member and non-member countries, and internal borders are between member states.

Among immigrants living in the EU also a question of integrating new residents into host society is being solved. The term integration means a process of ensuring basic rights, non-discrimination and equal treatment with immigrants same as it is granted to the residents of the member states.

There are various kinds of immigration:

1) Legal immigration – is an entry of a foreigner into the host country after fulfilling the all legal conditions. In this case all the authorities of the host country are aware that immigrant is present.

    a. Legal migration can be connected with economic activity and then such a migrant is called an economic migrant. Economic migration is conditioned by a situation at the labour market of the host country. *See Chapter 3.*

    b. Another way how to get a status of a legal immigrant is the asylum system. Each refugee from countries endangered by wars, political regime or natural disasters can apply for asylum protection that the member states offer. This protection comprises getting a residence permit, if there is a real danger for refugees in their country of origin. *See Chapter 4.*

2) Illegal immigration – is a presence of a 3rd country resident at the territory of a member state without fulfilling or not fulfilling anymore (overstayers) conditions of entry. A criminal activity is usually linked to it, as smuggling and trafficking in human beings. *See Chapter 5.*

1.   Immigration in the European Union

Although migration of population from various parts of the world was topical not only in the last century, to define and to understand current immigration policy of the European Union it is important to know the history of migration since the half of the 20th century. There was a flow of migrants to Europe from other world countries recorded after World War II. These immigrants came mainly from former colonies of some European great powers (for example from former French Algeria, Morocco and others) (Gallis, 2005). Another immigration wave, especially from third countries, came into the emerging European Economic Community at late 1950s and early 1960s. Especially the 60s are known as a period of great immigration boom mainly into countries as France, Great Britain, Austria, the Netherlands and Belgium, as mentioned by Castles and Miller (as cited in Düvell, 2009, p. 331). Immigrants were coming to these states especially from the countries they had historical relations with, as for example immigrants from francophone Africa were coming into France, from India and the Caribbean to the UK and immigrants from Indonesia to the Netherlands (Düvell, 2009). During the 60s and 70s, when couple of economic crises came about (as for example oil shortage in 1973) (Giquel, "n.d."a), the individual states were inviting so called „guest workers" that should have stayed in the host country only for a certain period. This political approach does not accept immigration as an ordinary and necessary phenomenon in the worldwide society but only as a contemporary need for the state labour market. This European concept of „guest workers immigration" was typical especially for Germany and Austria, but these countries did not solve integration policy of these guests, because it was regarded as a temporary solution of economic issues (Düvell, 2009).

Founding Treaty of Rome included only basis of asylum and immigration policy (Giquel, "n.d."b). National governments were the only ones that had all the powers to manage immigration flows into individual states. They alone were determining how many foreign workers they will admit and what integration policy they will apply. It happened many times that these states admitted workers from 3rd countries without integrating these new inhabitants into new society, as workers were accepted only for

a determinate period (Gallis, 2005). One of the mistakes that governments of that time made was underestimation or complete neglecting of integration policy. Many temporary workers stayed to live and work in the country they came to because in their country of origin they would have no possibility to get employed, and even if they could get a job it would not be paid as well as in the member state.

On the contrary many governments supported so called multiculturalism and were defending rights of immigrants to manifest their own identity. Aliens were not supported at all and they were forced to adopt culture of the host country. This resulted in formation of areas where immigrants were preserving their own habits and religions. When there was a later effort of governments to integrate these immigrants into society and to „force" them to adopt a culture of the country, they met with opposition. Immigrants even more isolated themselves into ghettos that we can see in peripheries of many European metropolises.

1.1. Integration of the Immigrants in the European Countries

We can see importance of integration policy on how situation unfolded in some European states (France, Germany, Great Britain) and their cities. It is not sufficient for governments and institutions to act only in the area of admitting new workers but also in the area of their social inclusion. Such as France that has made efforts lately, so that all its inhabitants feel to be French. This includes knowledge of language, history and traditions. During immigration interviews to get French citizenship, the applicants must comply with all this to become rightful citizens of French Republic (Borkert, Bosswick, Heckmann &Lüken-Klaßen, 2007). Recently in France there was a question of French identity topical. This issue was declared and initiated officially by French Minister of Immigration, Eric Besson, on 2nd November 2009 (Hamdi, 2010). Many people criticized this step as an unnecessary provocation. According to interview with Dominique Sopo (president of nongovernmental organisation SOS Racism) in journal SME (2010) this discussion was needlessly causing racist and xenophobic opinions. May be these laws are in contrary to liberal policy rules, but how can a state carry out its function properly if its citizens do not acknowledge same values? That is the reason

why not only France but also other states that are „overcrowded" with immigrants, like for example Germany, the Netherlands, Great Britain but lately also Spain, Italy, feel necessary to cope with integration issue.

Integration of immigrants into new society includes efforts from sides, the immigrants and the host country as well. Immigrants should learn habits and culture of a new country, learn rights and obligations that the country offers, gain and secure their ground and status and establish relationship with domestic residents. On the other side state should make sure that some institutions exist and operate efficiently that will ensure sufficient education for them about the host country. Another important step of the host country is that immigrants should be treated equitably, so that they have the same rights as domestic residents. That will ensure equality among host inhabitants and foreigners and there will be no reason for immigrants to isolate themselves into their own communities. These communities are often hardly controllable from outside as they are open only for members of a certain nation or religion and they are governed by the rules of its members' country of origin. We can see these communities, especially the Muslim ones, in several European metropolises.

In the field of integration the European Commission takes action by publishing reports evaluating work of national governments and of the European Union in general. On the basis of these reports it is possible to evaluate the progress that countries had made and possibly what other steps shall be taken. Lately the Commission presented Third Annual Report on Migration and Integration monitoring process of policy developments in this field in the individual Member states (Commission of the European Communities, 2007b). The individual national governments and local institutions must act so as not to discriminate immigrants in favour of domestic residents. Immigrants shall have the same rights but also obligations as all the other host country residents. States should also take the steps to integrate immigrants into civic life, as for example participation in elections and so on. The European Union can ensure coordination and information exchange in this case, perhaps cooperation in the field of applying integration policy into practice. The European Union leaves competences to each Member state to create their own national programmes for integration of foreigners.

Each Member state creates integration policy taking into account various factors. The policy is influenced by overall immigration situation in the country, by current political situation and by overall philosophy of the nation, i.e. what is its attitude towards admitting and integration of immigrants into their society. We can see on states like France, the Netherlands and Great Britain, Germany and states of the southern Europe how variously they deal with the integration issue. France maintains policy *„L'intégration à la française"* that is trying to create in France a homogenous and united society (Borkert, Bosswick, Heckmann &Lüken-Klaßen, 2007). This model is similar to policy of assimilation that is based on formal equality (Düvell, 2009). However, in order that immigrant could use the same rights as a domestic resident, he has to fully adjust to culture of the host country. On the contrary the Netherlands and Great Britain preferred policy of multiculturalism, what is official support of ethnic minorities (Borkert, Bosswick, Heckmann &Lüken-Klaßen, 2007). Theory of multiculturalism promotes ethnic diversity, but at the same time it guarantees social equality and possibility to participate in public life of the host country (Düvell, 2009). However, the Netherlands has been changing this policy lately especially after various terrorist attacks in the world and after murder of significant famous Dutch filmmaker Theo van Gogh by Islamic radicals ("Cabinet 'declares war' on Islamic extremism", 2004). In southern European countries as Spain and Italy, where a great immigration boom came only in the last decade, there is still a lack of comprehensive integration policy. According to Düvell these countries slowly exercise so called concept of interculturalism where theories of multiculturalism and integration are put together (Düvell, 2009). This means that immigrants are smoothly integrated into society without necessity to give up their ethnic identity.

The biggest minority of immigrants from 3rd countries is the Muslim community. There are estimations in researches that 15 to 20 millions Muslims live in the EU. They are than the biggest religious minority in the EU. The most of them live in France, Germany, Great Britain, Spain, Italy, the Netherlands and Belgium (Gallis, 2005). The Muslims are not just religiously, but also ethnically and linguistically different from native Europe population. These differences are causing many cultural conflicts what often causes religious and racial intolerance. Bad integration of Muslims in social life

causes that these communities are even more isolating themselves and often becoming more radical. The terrorist attacks in last years made impression on people in the whole world, that Islam is dangerous and radical religion. The Muslims themselves perceive the war against terrorism as the war against Islam. It is necessary to differentiate which countries they come from and thus what nationality they are. For example in Great Britain the Muslims are mostly from the south of Asia, in France from the north of Africa and in Germany Muslims live that mainly come from Turkey. In the last years refugees from various regions, where armed conflicts rule, has been coming in the European Union. The Balkans, Somalia, Iraq and Gaza Strip are these regions (Gallis, 2005). Various immigration policies in various Member countries and often also discrimination by authorities and residents are causing that especially young Muslims that grew up in enclosed Islamic ghettos are becoming more radical. Uneven treatment creates gap between European and Muslim society. For example in France it is usual that contemporary young Muslim generation is not able to integrate themselves and decide to which ethnic group they belong. Young immigrants born in France speak French and they often know French culture better then the culture of their ancestors and they are often a target of discrimination because of their "dissimilarity". Therefore "ethnic immigrants" (term according to John Ardagh (2000, p. 220) for those with different origin (African, Asian or Caribbean), whether born or not born in France or with or without French citizenship) feel restlessness and they are rather enclosing themselves into communities with people who respect them and do not expose them to indirect discrimination (Ardagh, 2000). In the last years demonstrations of hatred are frequent on both sides, of native residents and of Islamic immigrants as well – caricatures of prophet Mohamed (2005), murder of film-maker Theo van Gogh by the young Dutchman of Morocco origin (2004), but also terrorist attacks on the London underground (2005), Madrid bomb attacks (2004).

Also for this reason it is important that all the states with immigrants inflow from 3rd countries find a solution how efficiently integrate immigrants into society. These measures should not apply only to incoming immigrants but also to other nationalities that live in the host country for a longer time. National governments must find appropriate policy that would help immigrants to learn language, traditions and manners

of the host society. Integration should not mean complete loss or limitation of their nationality and they should not be discriminated for their „dissimilarity" as the European Union guarantees.

2.   Are the Immigrants Needed In the EU? And Are They Welcome?

One of the European Union priorities is to maintain and support single market, what comprises free movement of capital, goods, services and persons. This free movement of persons provides for movement of labour force and thereby filing the gaps on the labour market. However also the European Union experiences gradual loss of labour force out of the EU population. According to estimations and statistics population stock in working age should decrease by 50 millions (European Parliament, 2009). This decrease is caused by low natality rate and by increasing average age of the total EU population. This trend will cause troubles in labour, financial and social situation of countries within couple of decades. Ratio of population in working age and of population over 65 years should decrease from 4:1 to 2:1 (Commission of the European Communities, 2009b). This is the reason why it is necessary to address this problem so that states could ensure replenishment of workers to job vacancies and thus keep economy stable. Besides, they should create policies to support families and demographic recovery of the countries. However, these policies are good only from long-term point of view, since increasing natality rate will be shown only after a period of several decades.

Admitting workers from 3rd countries seems to be good solution to increase population quickly. Immigration has been important factor of the EU population structure already in presence. Out of the total population stock (according to the latest data 493 millions in 27 Member countries) immigrants from 3rd countries represent 3,8 % (what is about 18,5 millions). There is increasing trend in migration. While at 1990s of the last century migration varied from half of million to one million per year, in presence it is 1,5 to 2 millions of migrants a year (Commission of the European Communities, 2007c).

It is important from this point of view for the individual states to coordinate immigrant's flows, especially of those that are suitable for job vacancies, and thus make economy of the country stable. According to the European Union it is important that each country determines exactly the number of legal immigrants according to situation

at the labour market of the country. The European Union only determines the rules what criteria and means the Member states shall use when admitting immigrant workers.

In many countries these immigrants are not welcome especially by domestic residents that have an image that immigrants are taking jobs from domestic residents and thus burdening social system of the country, as well as that these foreigners have often lower wages than domestic residents at the same position and thus average wage of the state decreases, what makes wages of domestic workers decrease. The contrary is true, if majority of jobs in the country is filled in, the productiveness of the country is increased and thus wage increase is induced. Many times the immigrants are those discriminated against domestic residents when interviewed for new employment (Lesay, 2009, p. 22).

Another reason why governments should concentrate on legal migration is that it would prevent illegal immigration. The better condition for legal workers are created, the fewer reasons to migrate illegally they have. Illegal migration burdens budgets of the countries that have to arrange return of illegal immigrants to the territory of their state of origin or to the state where they entered the territory of the European Union. Activities of various criminal groups that are smuggling and trafficking in human beings are connected with illegal immigration as well (European Values Network, 2008, p. 37). It is the good immigration policy that can prevent various tragedies and violations of human rights that are connected with illegal migration.

The criticism of blue card lies in the fact that even it is issued as an European permit, its conditions are changing depending on a member state. As mentioned in document European Think Tank, Bruegel (2008), in states like Romania it is enough for blue card applicants to find a job with wage 400 EUR, while in other European countries this wage would not be accepted. Furthermore this card does not solve a problem that will arise when too many high-skilled will leave the countries of origin (so called brain drain). Bruegel suggests to find an inspiration in H1B visa in the USA that enables to study at universities and later after successful graduation to get a work permit. Getting a "Blue Diploma" and a possibility to get employment in a member country would make the EU to be more attractive for high-skilled workers from 3rd countries (Weizsäcker, 2008).

3.   Economic Migration

Ongoing demographic development in the most of the European Union member countries implies diminishment of working age population in the whole European Union. That is why it is necessary that the countries take action, and to regulate legal migration is one of the best short-term solutions. Admission of workers from third countries and thus filling the job vacancies is an advantage for the workers from the poorest third countries and for the host country as well.

When setting criteria each country shall act in accordance with its own labour market but it shall obey bilateral agreements between the member countries and the third countries as well. These agreements shall stipulate exact number of workers that are to be allowed to enter labour market of the individual member countries, in a way that does not burden labour and social system of the EU country and so that not too many people of working age leave the countries of origin.

According to the criteria set by a country, the country admits employees to job vacancies if there are no suitable labour forces available for these vacancies at the domestic market. These job applicants admitted from a 3rd country must have a certain education and experience to apply for a certain job. Employees from third countries must prove they have an employment contract concluded with an employer from the member country, as well as health and social insurance and that they have sufficient means for their living. These migrants will receive residence permit for period of 1 to 5 years. These migrants have the right to so called family reunification. This means that if an immigrant receives a residence permit, he has the right to take his family members with him (wife/husband and minor children) ("Council Directive 2003/86/EC", 2003). The Directive was adopted on 22nd September 2003 by the European Council of the European Union so that the residents of third countries living at the territory of the EU (and those that will come not only for the purpose of economic migration but as refugees as well) have the same rights to family life as all the citizens of the EU. This family union allows immigrants to live their ordinary life and they become more easily integrated.

Each member country has to evaluate the situation at its labour market alone and according to it determine the criteria for admission of economic immigrants. The individual states are setting quotas to determine exactly the number of workers that the countries will admit. These quotas are adjusted by the countries according to whether they want to determine the number of economic immigrants per year or per the individual economic sectors which are short of labour force. These states must take into account also the other categories of migrants that will enter the territory (refugees, asylum applicants, illegal immigrants) (Commission of the European Communities, 2004).

Also bilateral agreements between the governments of the individual member states and the governments of the third countries are used for regulation of incoming economic immigrants. According to these agreements countries can control immigrants influx for specific job vacancies. The member countries mostly conclude these agreements with other states from which the most of the immigrants flow (legal and illegal). These agreements support not only economic migration but they also fight against illegal immigration. The agreements help and facilitate entry into the EU and thus immigrants have no reason to use illegal ways of entry. These agreements also mean better relations among the countries, especially with those, that they have long-lasting problems with, particularly in the migration issue. These agreements are often used for seasonal work in member countries within industries with lack of domestic labour force.

For example Spain lately begun to have troubles with illegal immigrants flows. The Spanish government concluded bilateral agreements with 6 countries, with those from which the greatest influx of illegal migrants came (Bulgaria, Colombia, the Dominican Republic, Ecuador, Morocco and Romania) (Commission of the European Communities, 2004).

Migration quotas setting the number of workers to be admitted are used to conclude bilateral agreements properly. These quotas are set by the governments in cooperation with employers' organizations, trade unions and labour offices. Quotas are stipulated for employers' industries, geographic regions of the host country or according to the immigrants' country of origin. The stipulated quotas can be changed according to

changing conditions at the labour market or according to relations with the third countries. If a country of origin does not comply with and does not keep bilateral agreements, the host country can reduce the quotas. That was the case of Italy towards Morocco in 2001, when the Italian government decreased the quotas because Morocco did not cooperate (Commission of the European Communities, 2004). On one hand quotas are offered as reciprocal services to third countries for their cooperation in readmission of illegal immigrants. On the other hand conclusion of bilateral agreements and stipulation of quotas can cause disagreements and destroy future cooperation with other countries that did not get an offer for agreement.

One of the measures how to acquire economic migrants for a member country is to admit workers from illegal sources. Many countries have troubles with numerous population of illegal immigrants that use so called "hidden economy". These steps are undertaken especially of humanitarian reasons. Countries are trying to incorporate these immigrants into their society, so that they do not stay on its edge and that they do not become a target of organized crime. The purpose of programmes "fait accompli" is legal regulation of illegal workers' conditions into an official status with residence permit (Commission of the European Communities, 2004). This legal regulation enables citizens, which normally would not meet the conditions, to get residence permit. This will change their illegal immigrant status to legal status and thus they gain the same rights and duties as the citizens of the state have. Some member states applied this legal regulation just for once, but the other had to take this step more often. In this way the states get a track of the population groups that stay in the country. And this method also means to get new means for state social system. The disadvantage of this method is that some countries will get a reputation that they easily admit illegal immigrants. Immigrants rely on getting residence permit in some time and for that reason they come into a country illegally instead of fulfilling often strict reception criteria.

The latest directive adopted by the Council of the European Union enables and simplifies admission of highly qualified workers from third countries. Authorisation called "Blue Card" will be issued for highly qualified workers. They with get working permit with this card and also residence permit to stay in the territory of the member state. The new directive enables prompter and more effective procedure of admitting

immigrants from third countries. At the same time this directive sets unified procedure of workers admission. Thus there will be no disadvantages or advantages for workers that are granted by national legal regulations. The applicants for an EU Blue Card must fulfil several criteria. The applicants must prove in their application that they have a valid work contract for a job that the country does not have enough candidates for at the domestic labour market. Workers from third countries must have higher education qualifications, on condition that studies needed to acquire the degree lasted at least three years, or higher professional qualifications in the given profession with at least five years of professional experience. Salary must be specified in the work contract and its amount shall not be lower than 1,5 times the average monthly salary in the host country (or lower than 1,2 times if a country is in particular need of labour force for the position) ("Council Directive 2009/50/EC", 2009).

The EU Blue Card is issued for a period of one to four years or shorter according to work contract duration. This card gives to economic immigrants the same rights and duties as to the nationals of the member country concerning working conditions, education, social security, access to goods and services and freedom of movement at the territory of the member state. EU Blue Card holders may use the right to family unification and so they can bring their closest family members if their stay lasts more than 3 months ("Council Directive 2009/50/EC", 2009). If they stay in one member country for 18 months they have the right to move with their family to other European states within the Schengen Area (Council of the European Union, 2009).

4.   Asylum Seekers

Asylum is a form of protection given to refugees from other countries by the host state. Asylum is granted to refugees that have well-founded fear that in the country of origin they would be persecuted or punished on grounds of their race, religion or membership in some social or political group („Reception of Asylum Seekers",n.d.). The European Union grants this form of protection to refugees as defined in international conventions on human rights as well. The European Community wishes to represent humanitarian principles in its asylum policy making and thus to become a safe place for everybody who seeks protection in its territory. Member states are working on establishing of a new Common European Asylum System (CEAS) which is inspired by these principles („Asylum in the EU", n.d.).

The Tampere conference in 1999 adopted conclusions for the first stage of asylum policy. This included harmonisation of legal regulations of the all member states. This stage was evaluated in Green Paper on future Common European Asylum System in 2007. The European Commission in this document evaluates the existing legal aspect of asylum policy and calls for another steps within the second stage of improving asylum policy. In the Hague Programme, adopted in 2004 by representatives of all then existing members states, the EU committed itself to realise a higher standard of harmonisation of asylum and other supplementary protection. In this programme the European Community undertakes to adopt measures and legal regulations that will set the common asylum policy for all of the EU members until 2010. Introduction of the common policy will be based especially on effective cooperation among the states.

As a first step to higher common standard, procedural standards will be introduced and defined precisely. As mentioned in the Green Paper it was shown in practice that the existing legislation in the area of asylum procedure process, 2005/85/EC, provides big differences in application of this process, especially as regards to "the provisions on accelerated procedures, border procedures and inadmissible applications" (Commission of the European Communities, 2007a, p.3). Another step to harmonisation should go through common reception conditions, as for example access of applicants to the labour

market. According to the existing Directive 2003/9/EC there are wide divergences in admission of applicants as regards material conditions granted, healthcare or access to social and work life in a country ("Council Directive 2003/9/EC", 2003). In the Green Paper the Commission calls for adjustment of methods and criteria of granting the protection and of different definition of terms as refugee and beneficiary of subsidiary protection (Commission of the European Communities, 2007a). Directive 2004/82/EC sets two various legal statuses for these two possible ways of protection ("Council Directive 2004/82/EC", 2004). That is why the Commission proposed that these two ways shall be strictly defined or that a legal frame shall be created, in which only one protection status would be granted to an applicant with the same rights for both categories. In order to grant the same conditions to applicants in each country the Commission calls for the same solution in addressing applicants needs. In this step this means to create a professional assistance (medical and psychological) for the most vulnerable refugees at their entry into a member state. In the process of asylum application and of considering the application, professionals and linguistic and cultural experts on the countries of origin should assist. This expert group should not only help refugees, but it should also find out what are their experience, skills and education and possibly to help in their integration to the labour market of the member country. This assistance will help to better and faster integrate asylum applicants into the host country (Commission of the European Councils, 2007a).

The European Asylum Support Office was established recently for the purpose of control and to ensure better cooperation among states. It should facilitate introduction of new legal regulations into practice and ensure exchange of information on asylum seekers in the individual states. It should serve for coordination of steps of the individual states as well as for addressing problems of some states, asylum systems of which are under great pressure. This office was established by the Regulation of the European Parliament and of the Council in 2009 (Commission of the European Councils, 2009c). According to this Regulation its main tasks include exchange of information and good practice among member countries - to unify the most suitable and effective procedures; to get and exchange information on the countries of origin of asylum applicants (information on geographic and political characteristics of the third

countries, this includes cooperation with governmental and nongovernmental organisations). This office was established in order to organise transfers of persons with asylum protection from states that are under particular pressure of applicants inflow than other. Besides growing total number of refugees (up to 12 millions in 2008), the number of asylum seekers differs in the individual countries. The number within the EU varies in the individual member states from 0% up to 90% (European Parliament- Press Service, 2009a, para 2). Especially due to their geographical situation some states are facing excessive pressure of refugees and therefore, within solidarity mechanism among member states, resettlement of applicants from countries with high inflow of refugees to countries with lower number of asylum applications must function. Another task that the Office shall execute is cooperation and representation of the EU member countries in relation to 3rd countries. The Support Office shall play great role in support of state offices in training on methods of applications handling. This office shall also supervise training of teams of asylum experts that will be deployed to member states that need to improve and train their offices in asylum policy. The members of these groups are experts in interpreting and in knowledge on the countries of origin and are chosen out of member countries asylum experts. Upon request of member countries these groups are sent there. The Office works also with statistical data and based on that it evaluates situation not only in the member countries but in other countries as well. Based on this information it can anticipate, at least partially, a mass arrival of refugees from certain countries (change of political regime, worsening social situation in 3rd countries, etc.).

The EU does not focus only on internal relations and cooperation among the governments of member countries to improve asylum policy. The EU cooperates with international organisations in the area of asylum and refugees as well, as for example UNHCR (The UN Refugee Agency) and with other non-governmental organisations. This cooperation is a sign of solidarity expression and lies in organisation of resettlement of refugees from third countries to the EU member countries. Displacement is financed by the European Refugee Fund (ERF) from 2008 and the funds are reallocated in connection with a member state according to how many refugees it received. Participation of states in this programme is voluntary and 10 member states participated in 2009 (Sweden, Denmark, Finland, the Netherlands, the United Kingdom,

Ireland, Portugal, France, Romania and Czech Republic) (Commission of the European Communities, 2009a, p.3). The UNHCR in emergency cases usually addresses the member states with request for reception of refugees from endangered world countries (Syria, Jordan, Iraq). This cooperation is advantageous not only for states, but also for refugees. The states know exact data on refugees received and the refugees are not exposed to a risk connected with immigration, as various illegal ways of entry into a host state. The UNHCR worked out a statistical study on asylum applicants in industrialised countries. The UN considers 44 world countries to be industrialised, out of that 27 member countries of the EU (UNHCR- The UN Refugee Agency, 2009a, p.2). According to statistics on resettlement, the European Union received only 6.7% (4,378 persons) out of total number of refugees resettled worldwide (UNHCR- The UN Refugee Agency, 2009b, p.2). This number is low considering fact that the EU states form majority of the industrialised states. However the European countries are receiving comparably more "spontaneous" asylum applications (out of 185,550 asylum applications, 139,600 were in the EU-27) (UNHCR- The UN Refugee Agency, 2009a).

The European Union takes steps that lead to full harmonisation of asylum policy at its territory. If cooperation of states is to be achieved, their policies should not differ. The European Asylum Support Office is an important intermediator of these steps, but it is also a representative of the all EU states and of their asylum processes when dealing with 3rd countries and international organisations such as the UNHCR. This united cooperation under leadership of the Office provides an efficient solution of this problem. Although the second stage of the Common European Asylum System was planned for period 2006-2010, its completion will be postponed to 2012, as this part of immigration demands longer planning process, legislation to be worked out in detail and successful implementation of these regulations.

Even the European Union takes all the steps to ensure fair treatment of refugees and to provide them the best protection at the territory of the member states, criticisms exist that question the activities of the European institutions. According to Bjarte Vandvik, who in Amsterdam Law Forum published her article on decrease of number of refugees that cross the EU borders, the European policy directed against entry of illegal

immigrants has impact also on refugees trying to enter the EU. The stricter controls on external borders are causing that except of illegal migrants also asylum-seekers are prevented to enter. Also agreements between member states and 3rd countries on possibility of readmission of caught migrants trying to enter a member state back to the country of origin or to transit country are the reason why many refugees are withhold from getting a possibility to apply for asylum protection. That is why CEAS should consider also these circumstances and the European Union should take steps that will prevent these activities (Vandvik, 2008).

5.   Illegal Immigration And Return

Besides increasing inflow of legal migrants into the European Union, a great part of immigrants is formed by so called illegal immigrants. There are no exact data existing on number of illegally present people on the territory of the EU. It is estimated that there are about 4,5 to 8 millions of illegal migrants in the EU (European Parliament-Press Service, 2009b). These numbers are estimated based on the statistics on number of detained, deported immigrants and of applications for asylum protection refused. Also thanks to so called national regularisation procedures the information is gained what immigrants live at the territories of the individual member states (Commission of the European Communities, 2004, p.11).

There are many routes used by third country nationals for entering the EU. A status of an illegal migrant has a person that illegally crosses the borders of a member state on land, at sea or by air. They often use counterfeit documents for entry or they cross the borders without control. Or, on the contrary, some immigrants enter the country with valid visa documents or they use visa waver agreements, but they stay beyond the allowed duration of their permitted stay. Illegal migration is connected with existence of various criminal groups that „help" to organise arrival of third country nationals that would normally not get permission to enter. Illegal immigrants are often forced to use smuggling as a way of entry to the member states and later during their stay they are facing exploitation and human trafficking. These criminal groups, often connected with mafia, are organising all the „immigration process", but illegally. These organised criminal groups are representing a great danger from the human rights point of view. To solve illegal migration it is important to differentiate the ways of illegal entry, namely smuggling from human trafficking. While in smuggling migrants decide alone and voluntarily about the way of entry, in trafficking migrants are involuntarily manipulated by criminal organisations (Bertozzi, 2009).

The European Union, as a community that respects and defends all the international human rights regulations, is trying to prevent these illegal ways. The agency FRONTEX

(European Agency for the Management of Operational Cooperation at the External Borders) estimates that just during the first half of 2009 there were 51,600 cases of illegal border crossings ("Sea patrols and recession discourage illegal immigrants", 2009). Reputedly there was a decrease of these cases recorded comparing to 2008, when there are about 175,000 estimated cases of illegal border crossings during the whole 2008 (FRONTEX, 2008, p.12). There were more than 10,000 victims reported from 22 member states (FRONTEX, 2008, p.14). The member states, in effort to prevent this inhuman treatment and tragedies that cost lives, want to prevent all reasons, which cause (although indirectly), influence and support decisions to migrate illegally.

The reasons of third countries nationals to migrate are influenced by factors that can be divided to „push" and „pull" factors. The push factors are those that force people to leave their country for a longer time period. These factors include bad economic or political situation, various conflicts or natural disasters. For these reasons people are forced to find a new life in a country with a more stable economy and political situation. The criteria as these are attracting 3rd countries nationals and are regarded to be so called pull factors. Europol classifies as a pull factor also operation of criminal groups that deal especially with illegal transport of immigrants. This is how immigrants are trying to get to member countries even if they do not meet entry conditions and criteria for getting work and residence permit (Europol, 2008). The steps undertaken by the European Union in fight against illegal immigration are based on limitation or total elimination of these factors.

Active cooperation with 3rd countries belongs to policy priorities for elimination of illegal immigration. This cooperation lies in financial and material assistance for 3rd countries that shall use these means to better secure borders. Agreements on material assistance are concluded especially with countries from which there is a biggest immigrants inflow – East and South of Europe, the Balkans, the countries of North Africa, countries of Latin America and Asia (Commission of the European Communities, 2006). This cooperation proves to be very advantageous, as it brings the positives for both sides. Libya, one of the key countries for cooperation in the field of illegal migration, itself stimulates cooperation with the whole European Union and with

the individual states as well. Libya is a country that faces enormous pressure of immigrants from the whole Africa continent and it is used as a transit country for these immigrants, whose targets are the EU states ("Libya asks for more European help to stop illegal immigration", 2009). On the other side also the individual member countries gain from these agreements, because the process of illegal immigrations return is facilitated. This is also the case of agreement between Italy and Libya that enables the Italian government to directly return ships caught with illegal migrants back to Libya. Thanks to this agreement Libya draws on material privileges for improvement of border controls. These agreements appear to be very advantageous and effective. The statistics show that the number of people caught trying to enter the EU illegally was decreased by a half already in the first half of 2009 (more than 67,000 illegal immigrants using water way were caught in 2008, in the first six months of 2009 it was only about 15,700 people) ("50 percent fewer illegal African emigrants reaching Europe", 2009).

One way how to prevent illegal immigration is also to improve border security. The European Union is trying to solve this problem by common cooperation of the all member states. The external borders of the EU are formed by 42,000 kilometres of sea borders and by 8,800 kilometres of land frontier ("Sea patrols and recession discourage illegal immigrants", 2009). All of the members bear the responsibility for protecting the all external borders of the Union, this means that proportionality is applied and that all the states are financially participating in this area. There is an exactly planned budget allocation for the individual funds in the programme planned for the period of 2007-2013, 'Solidarity and Management of Migration Flows', (e.g. 759 millions for the European Return Fund, 2152 millions euro for external borders management) (Commission of the European Communities, 2005). Also agency FRONTEX (European Agency for the Management of Operational Cooperation at the External Borders) shall contribute to external borders protection. It was established in 2004 ("Origin", n.d. a) and its task is to coordinate cooperation among the member states, technical assistance for external borders protection, information gathering and immigration analysis evaluation ("Európska agentúra...(FRONTEX)", 2009). This agency cooperates with other international organisations responsible for security, such as EUROPOL, CEPOL and others ("Tasks", n.d.). Better protection of travel documents, such as biometric

identifiers adopted in the Council Regulation (EC) No. 2252/2004, is related to borders protection as well.

In order to fight against illegal human trafficking some regulations shall be adopted that will make this illegal and inhuman way of business to be more difficult. In presence, even under threat of sanctions, this activity is highly profitable for criminal organisations. This is why it is necessary, also in cooperation with 3rd countries, to give more sanctions for this activity in case of its detection and thus make it less lucrative for its actors (Commission of the European Communities, 2005b, p.5). To decrease income of human traffickers it is necessary to decrease the need of their services, i.e. to offer to migrating people other alternative of entering the EU member countries. Operation of such activities is arranged at illegal, so called shadow, market in the countries. Employment of illegal immigrants determines that demand for illegal labour force exists and that the immigrants are encouraged to use illegal ways of migration (Commission of the European Communities, 2006, p.8). Besides that illegal employment and human trafficking is connected with inhuman treatment of people, it also creates so called shadow economy. According to estimation this activity earns up to 7-16% of GDP (gross domestic product) of the EU ("Council resolution on transforming undeclared work into regular Employment", 2003, para.6). This activity thus reduces great income opportunities of economic and social system of a given country and even burdens a country budget that has to take into account investments into activities of police that will be revealing these cases and returning illegal immigrants to their country of origin. For this reason a directive was proposed that would determine minimal sanctions against employers of illegally staying labour force (Commission of the European Communities, 2007b).

To fight illegal immigration in the EU efficiently it is necessary to know a profile of an illegal migrant and reasons that force him to migrate. According to statistics (statistics are made of data on caught illegal immigrants) an average illegal immigrant is mostly a man from 20 to 30 years old, though there is an increase of the number of women in recent years. These immigrants mostly have no professional qualification and for that reason they can not apply for qualified positions and thus to get work permit. People

have not just economic reasons for emigration, such as lack of employment opportunities or low wages level in their country of origin. Many times these illegal migrants are people that have no right to asylum protection granted by the states of the Union but they are being expelled from their homes by a long-lasting political regime or natural disasters in their country. As illegal immigrants they have a chance to get employment at the jobs that the domestic inhabitants have no interest in and are called "3D jobs" (dirty, dangerous and demanding) (Commission of the European Communities, 2004, p.11). They are in danger of injury and inadequate treatment at these jobs. In case of injury at work they have no healthcare because they are staying in the country illegally and they are afraid of revelation and as they have no health insurance because employers are not paying it for them.

In case of illegal immigrants detentions according to directives of the European Parliament and the Council so called policy of return is applied. In this case all the immigrants that enter the territory of the EU illegally or their asylum application is rejected are obliged to execute decision issued by a member country. These decisions are two-staged. In the first stage it is a decision on return of a 3rd country national to the country of origin. At this stage the return is left in power of an immigrant who has a deadline for return. If he exceeds the deadline the person is qualified as dangerous for the state security and an expulsion decision is issued. In this case mass expulsions are organised when couple of member states cooperate to organise expulsion of a certain group of inhabitants to their common country of origin (Commision of the European Communities, 2005c). In 2009 more than 100 illegal immigrants of Vietnamese origin were deported from Germany and Poland. There were massive protests of nongovernmental organisations that opposed this decision. According to them the decision and cooperation of these states did not consider the individual cases separately and therefore they realised so called group deportation ("Vietnamese immigrants in mass deportation", 2009). Also a re-entry ban can be issued for a person that has already violated expulsion decision more times or they constitute a threat for a state (Commision of the European Communities, 2005c).

When authorities in a member country proceed to punishment of an illegal immigrant, it is necessary to know the background of the act. It is necessary to know whether an immigrant entered the country through smuggling, when he is fully responsible for his action. In this case it is necessary to take especially preventive measures, as to inform inhabitants of "sending" countries about the danger connected with illegal migration. On the contrary as for the immigrants brought to the EU through criminal groups as victims of trafficking, it is necessary to treat them in a protective manner, since they have been exposed to infringement of their basic human rights. Here it is important to determine who is a criminal (organisers and accomplices in human trafficking) and who is a victim (Bertozzi, 2009).

6.   European Pact on Immigration and Asylum

The European Union's effort to unify policies of the all member states in the area of immigration and asylum and also in fight against criminal activities as smuggling and human trafficking was formulated in European Pact on Immigration and Asylum. This document was presented by French Minister of Immigration and was adopted during French Presidency of the Council of the European Union, which main priority exactly was to solve immigration problems. For French Republic immigration was and still is one of the most significant factors influencing French society. This decision was supported also by other significant European politicians. Former Commissionaire for Justice and Home Affairs, Jacques Barrot, supported adoption of this document, as well as its target to harmonise policies of the all member states - „This disunity of migration policies in the Schengen Area without frontiers is a nonsense." (Barrot, J., 2009).

The European Pact on Immigration and Asylum calls for cooperation in five areas of migration that are influencing the European Community (Bertozzi, 2008). The first step is to take measures to improve organisation of legal migration, as for example introduction of so called blue card and a solidarity system. This principle will enable even distribution of highly qualified workers coming to the EU into the individual member states based on their capacities ("The European Pact on Immigration and Asylum", 2008). Next point covers common solution of illegal immigration. The Pact calls on and directs that all the states organise joint fights in order to decrease number of illegal flows heading to the EU. The main tool to fight illegal immigration is to improve readmission agreements as well as to fight actively against criminal groups that organise smuggling and human trafficking ("The European Pact on Immigration and Asylum", 2008). In the field of increasing efficiency and improving border controls a great emphasis was laid on already existing agency FRONTEX and the Pact proposes the establishment of two separate offices. One would be only for cooperation and help for states on the southern external border of the EU and the second for the eastern member states ("The European Pact on Immigration and Asylum", 2008). Introduction of higher technical parameters for visa (biometric identification system), till 2012 at the latest,

will help to make illegal flows entry to be more difficult as well (Ministre de l'Immigration, de l'Intégration, de l'Identité nationale et du Développement solidaire, 2008). Point 4 deals with building a common asylum policy with support of newly established European Asylum Support Office (Ministre de l'Immigration, de l'Intégration, de l'Identité nationale et du Développement solidaire, 2008). Finally it aims to improve common migration policy by improving external relations. Member states should conclude mutually advantageous agreements with 3rd countries on exchange of highly qualified workers or on readmission of illegal immigrants back to their countries of origin. These agreements will improve circular migration, what will bring benefits not only for the member states but for the migrants' countries of origin as well ("The European Pact on Immigration and Asylum", 2008).

There is no doubt that the European Pact on Immigration and Asylum means contribution to development of unifying European immigration policy. The Pact is a first document that regulates this development and outlines steps that need to be taken in order to unify the immigration policy. However even this document is not fully clear and specific. A research carried out by Institut Français des Relations Internationales (Ifri) analysis weaknesses of the Pact and what could be the results. The editor of the research Christophe Bertossi analysis up to date policy of the EU and whether the Pact facilitates change and harmonisation. Bertossi says that before new millennium the European Community was refusing immigration and was promoting „zero immigration". However in times of globalisation it is necessary to play an important role also in immigration. Gradually aging population and thus loss of labour force made the EU to adjust immigration policy to the needs of labour market. Besides, the EU started to play an important role in the world economy and new economic conditions are creating need for migrants to fill job vacancies. The European Pact plays role in defining a new policy that will meet these targets. Bertossi sees the benefits of the Pact namely in fact that the states will hold a common policy and thus they will form one great and powerful economic unit for qualified migrants. Nowadays the individual member states would scarcely play important competition role comparing to the other industrialised world states. However he criticises that the individual states are setting regulations according to their economic possibilities. Such a qualification and selection

of migrants according to regulations enables states to choose what migrants they will admit into the country. No limitation of extent of these regulations can lead to extensive regulations what would resemble „zero immigration" policy (Bertossi, 2009).

Another weakness of this document is that it does not deal with all illegal immigrants. Although so called overstayers enter the EU labour market legally, they stay in the member state illegally also after the permitted term has expired. Ifri in the text mentions that these undocumented migrants are a result of legal migration regulations. The European Pact on Immigration and Asylum deals also with a need of cooperation between the EU and 3rd countries. Here the Pact proposes solution of „co-development" that will help development of economies of less developed countries. The report points out that the Pact does not define exactly according to what criteria the target countries for assistance will be selected. The author also states correctly that poverty is not the only one push factor of immigration and among the reasons for migration also a political regime or various natural disasters play important roles. These solutions to suppress illegal flows are suitable only from the long-term point of view and they do not solve the problem now.

Conclusion

In my thesis I tried to synoptically outline functioning of immigration and asylum policy of the European Union. To get an overview on official standpoint of the EU towards this area I had to proceed mainly from the official documents published by the European institution when working out this thesis. From this point of view it is clear that the EU has lately intensively worked on improving the policy. Also the member states must solve these issues together, whether they have problems with immigrants or on the contrary they are trying to attract them. They realise that with the existing Schengen Area and so called policy of open borders between states individual steps would not be effective or often would be contradictory. Of course immigration is not the main target of solution for the all members and therefore we can see many regulations coming out of states like France, Germany, the Netherlands, the UK or lately also Italy and Spain, whose home affairs are affected by mass immigration into their territory.

On the other side of the official regulations there are nongovernmental organisations and research teams dealing with the issues of migration. They asses realistically functioning of the regulations in practice and eventually they offer solutions to improve the situation. In my work I tried to present these standpoints. Though these institutions understand complexity of this issue and demandingness of its solution, they appeal to governments of the member countries to cooperate with them in order to come to the ideal outcome.

Process of introducing the best possible migration and asylum policy is by a long sight from being at the end of its road. The European Commission and Committees of the European Parliament are gradually following application of the regulations in practice and what impacts they have not only on economy of countries but on human rights as well. Not all the regulations suit the all member states as the European Union is a community of states often with completely different political system, economy and culture. Tradition of the countries themselves influences the residents' perception of immigration and immigrants.

In my opinion the European Union is so far getting on well to reach the target of common immigration policy and at the same time to hold the position of area for asylum seekers, where they are provided with all the humanitarian aid. I would reproach the attempts of some member states to give up redundant number of immigrants by cooperating with 3rd countries on their return. In this case often senseless obstructions happen and a chance is taken away from those looking for a better life in developed countries. However, I believe that also with support of nongovernmental institutions this issue will be solved to satisfaction of the all member states and immigrants as well.

Resumé

Migrácia populácie sa v súčasnej dobe rieši nielen ako problém, ale aj ako potreba vo všetkých štátoch sveta. Súčasné migračné toky sa začali formovať už po druhej svetovej vojne, kedy nastalo veľké prúdenie utečencov, ale aj prisťahovalcov hľadajúcich lepšie pracovné príležitosti. Po tomto období sa vyformovali štáty, ktoré sa stali hlavnými prijímateľmi imigrantov, a to USA, Kanada, a niektoré európske štáty ako Veľká Británia, Francúzsko, Holandsko, Nemecko a Rakúsko. Európske štáty lákali k sebe najmä migrantov z území, kde sa pred druhou svetovou vojnou nachádzali ich kolónie svojim aj ekonomicky lepšie sa rozvíjajúcim hospodárstvom.

Európska únia v súčasnosti pociťuje potrebu postupného zaplňovania svojho pracovného trhu imigrantmi, keďže populačný vývoj ukazuje, že do roku 2060 sa počet obyvateľov v produktívnom veku zníži až o 50 miliónov. Členské štáty EÚ tvoria ucelený hospodársky priestor, a preto je nutné, aby všetky štáty mali uznanú spoločnú prisťahovaleckú politiku. Táto politika sa zameriava na spoločné riešenie a organizovanie prílevu legálnych imigrantov, na zabránenie príchodu nelegálnej migrácie a vytvorenie spoločnej azylovej politiky. K tomuto účelu sa ustanovilo niekoľko nových inštitúcií, ktoré majú riešiť problémy spojené s migráciou a zabezpečiť výmenu informácií medzi jednotlivými členskými štátmi. Práve výmena informácií a informovanosť vlád a inštitúcií štátov, a zároveň zabezpečenie spolupráce s tretími krajinami pomôže efektívnejšie riešenie tejto problematiky.

Na druhej strane v prípade Európskej únie existuje problém, že jednotlivé členské štáty sa od seba odlišujú nielen ekonomicky ale aj kultúrne. A práve aj kultúra danej spoločnosti ovplyvňuje názory a postoj občanov k imigrácii a imigrantom ako takým. Jedným z dôležitých podmienok na prijímanie imigrantov je ekonomická situácia v danej krajine. To či vôbec a koľko imigrantov daná krajina prijme musí vláda krajiny rozhodnúť podľa potrieb domáceho trhu. No nie vždy sa takéto rozhodnutia vlád stretnú s uznaním u domáceho obyvateľstva. Prijímanie cudzincov na pracovný trh sa spája aj s ich začlenením do spoločnosti. To je často nemožné z dôvodu, že imigranti sa necítia

vítaní v krajine, a preto ich spolunažívanie s domácim obyvateľstvom v ich novej krajine je mnohokrát problematický.

V prvej kapitole mojej práce sa venujem zhodnoteniu imigrácie z jej historického hľadiska. Po druhej svetovej vojne, v období 50-ých až 70-ých rokoch nastal hlavný prílev migrantov zo štátov bývalých kolónií (do Francúzska to boli imigranti zo Severnej Afriky, do Veľkej Británie z Indie a Karibiku a do Holandska z Indonézie) ale aj ako následok politík niektorých krajín (Nemecko a Rakúsko) k prilákaniu tzv. „guest workers"- pracovníci pozývaní na určité pracovné pozície. V niektorých krajinách bola integrácia týchto imigrantov zanedbaná alebo len dodatočne implementovaná. Prijímajúce krajiny totiž nerátali, že prisťahovalci zostanú žiť v prijímajúcej krajine po celý život, a tak urobia aj ich nasledujúce generácie. Títo migranti mali len pomôcť k rozbehnutiu ekonomiky po vojne a táto ich „výpomoc" mala byť len dočasná. Vlády neskôr zistili potrebu začlenenia prisťahovalcov do spoločnosti, aby nenastávali výrazné strety medzi prijímajúcou a „cudzou" kultúrou. Na základe rôzneho vnímania prítomnosti imigrantov v krajine každá vláda tvorila vlastnú politiku integrácie. Preto v európskych štátoch môžeme nájsť niekoľko druhov integračných politík- multikulturalizmus vo Veľkej Británii a Holandsku, asimilácia vo Francúzsku a interkulturalizmus, ktorý je zmiešanie asimilácie a multikulturalizmusu a uplatňuje sa najmä v krajinách, ktoré sa len nedávno stali atraktívnou destináciou pre prisťahovalcov (Taliansko, Španielsko).

Pri integrácií je v mnohých štátoch problém, že imigranti sú často z kultúrne a náboženský veľmi odlišných krajín. Pri interakcií s domácim obyvateľstvom často dochádza ku konfliktom, ktoré v poslednej dobe zasiahli aj európske štáty. Vraždy, násilnosti a útoky na strane imigrantov a aj prijímajúcej spoločnosti nútia vlády k riešeniu tejto otázky. Niektoré štáty ako Francúzsko aktívne rieši postavenie imigrantov v spoločnosti ako aj mieru ako vedia prevziať kultúru prijímajúcej spoločnosti.

Mnohokrát nepokoj medzi domácim obyvateľstvom spôsobuje aj fakt, či sú vôbec imigranti potrebný v členských krajinách. Mnohé názory poukazujú na to, že

prisťahovalci odoberajú prácu domácim a pritom znižujú životnú úroveň domáceho obyvateľstva, keďže imigranti predstavujú lacnú pracovnú silu pre zamestnávateľov. Tento problém má aj druhú stranu a to, že štatistiky ukazujú, že imigranti obsadzujú tzv. nebezpečné pozície, tie, ktoré nie sú chcené domácimi pracovníkmi. K imigrácií pridáva fakt, že prisťahovalci budú čoraz viac žiaduci pre nepriaznivý demografický vývoj európskeho obyvateľstva.

V ďalších častiach svojej práce som sa venovala jednotlivým druhom imigrácie a postoju Európskej únie k nim. Legálna imigrácia predstavuje najmä prijímanie ekonomických prisťahovalcov, tých čo sú prilakávaní do členských štátov na voľné pracovné pozície. K zlepšeniu organizovania prílivu legálnych migrantov EÚ prijala nariadenie podľa, ktorého uchádzači o vstup s kvalifikáciou majú možnosť získať tzv. modrú kartu vďaka, ktorej môžu užívať podobné práva ako občania EÚ. Držiteľom modrej karty sa dáva povolenie na pobyt na určitú dobu, ktorú je možné predĺžiť, takisto môžu využívať právo zlučovania rodín, ako aj cestovanie v rámci EÚ. K legálnej migrácií patrí aj krátkodobé prijímanie sezónnych pracovníkov.

Azylová ochrana poskytovaná utečencom je ďalším spôsobom imigrácie. Európska únia plní záväzky vyplývajúce z medzinárodných zmlúv a poskytuje ochranu utečencom ohrozovaných v krajinách ich pôvodu neľudským zaobchádzaním, kvôli ich názorom, vierovyznaniu alebo rasovému pôvodu. Poskytovaná azylová ochrana podlieha zložitému systému ochrany, posúdeniu a prípadnému návratu uchádzačov o azyl. Na lepšie riešenie azylových otázok v jednotlivých členských štátoch bol nariadením EÚ založený Európsky podporný úrad pre azyl. Tento úrad má na starosti nielen pomoc pri uplatňovaní azylovej politiky v členských štátoch, ale aj spoluprácu s tretími krajinami ako aj inými úradmi a medzinárodnými organizáciami pre azylantov.

Okrem legálneho prijímania imigrantov existujú a aj toky do Európskej únie podporované kriminálnymi organizáciami prevádzačov. Tieto prúdy privádzajú mnoho nelegálnych imigrantov do členských štátov. Európska únia sa snaží zabrániť a úplne zrušiť tieto nelegálne toky nielen pre dopad na ekonomiku krajín, ale aj na ochranu

základných ľudských práv. Lepším zabezpečením vonkajších hraníc EÚ sa inštitúcie akou je aj FRONTEX snažia predísť pašeráctvu a obchodovaniu s ľuďmi.

V poslednej kapitole som sa venovala dokumentu prijatému členskými štátmi, ktorý zahŕňa všetky imigračné problémy. Európsky pakt o imigrácií a azyle sa venuje podpore legálnej imigrácie, zároveň aj boju proti nelegálnej imigrácií, ako aj dodržiavaniu práv pre uchádzačov o azyl. Tento pakt zaväzuje aj k lepšej a účinnejšej spolupráci s krajinami pôvodu, aby bol zaručený návrat nelegálnych prisťahovalcov ako aj cirkulácia legálnych migrantov.

K vysvetleniu tejto problematiky som sa pridržiavala oficiálnych nariadení vydaných Európskymi inštitúciami ako aj výskumami uskutočňovanými rôznymi „think-tanks" organizáciami a inými mimovládnymi inštitúciami.

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