

# **Policies on irregular migrants**

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# **Part I – Policy for combating irregular migration in the Republic of Armenia**

*Vardan Gevorgyan*



## **Objective and content baseline**

The objective of this report is to assess the policy applied by the Republic of Armenia for the eradication of irregular migration. This assessment was achieved by analysing the migration situation and examining the rights of government agencies as prescribed in the legislative domain dealing with the regulation of migration processes. The activity of these organisations in the framework of their aptitude was also considered.

The Republic of Armenia is the only state within the former Soviet Union that has remained a migrant-exporting country since it secured its territorial status (especially from 1988 on). Consequently, the issue of combating irregular migration flows is mainly associated with a series of problems faced by the Republic of Armenia, and the problems caused in Europe and worldwide for receiving states and their residents by the illegal stay of Armenian citizens.

The approach proposed here considers the emigration flows from the Republic of Armenia to foreign states, with a particular focus on policies addressing the issues of migrants illegally penetrating or unlawfully residing abroad.

### **1. Brief analysis of the migration situation in the Republic of Armenia: irregular migration versus general migration processes**

#### **1.1. General information on irregular migrants**

Since 1988 and in the period following the collapse of the Soviet Union, the Republic of Armenia generated migration flows of an intensity unprecedented in the previous seventy years. According to official data issued by the Republic of Armenia Government, the annual average negative balance of foreign migration in 1991-95 was about 100 000 persons.<sup>1</sup>

The high unemployment rate in the country from 1996 to 2001 was the origin of the economic migration phase, which followed the period of concentrated emigration. In this phase, according to the same official source, the annual average negative balance of the Republic of Armenia's foreign migration was estimated at over 50 000 persons.

The third phase of intensive migration flow out of the Republic of Armenia started in 2002. From then on, the volume of emigration from the Republic of Armenia rapidly and drastically decreased to reach an annual average deficit

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1. Source: "Concept for State Regulation of Population Migration" dated 25 June 2004.

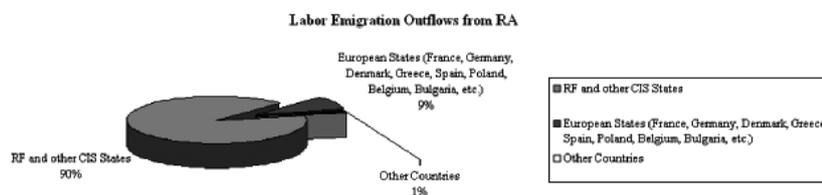
of only 6 500 persons for 2002-03. In 2004, the balance of foreign migration to and from the Republic of Armenia even took a positive trend of over 2 000 persons. This trend was confirmed in 2005 when this same indicator registered around 12 000 persons. In the first half of 2006, this indicator registered the same volume.<sup>2</sup>

This phenomenon is however affected by the fact that seasonal migrants represent a massive proportion of the economic and labour migrants from Armenia. Many migrants leave Armenia in the early months of the year to take up seasonal employment in the Russian Federation or other CIS states and return to their home country in the last couple of months of the year, thus decreasing the absolute value of the annual average negative balance of foreign migration.

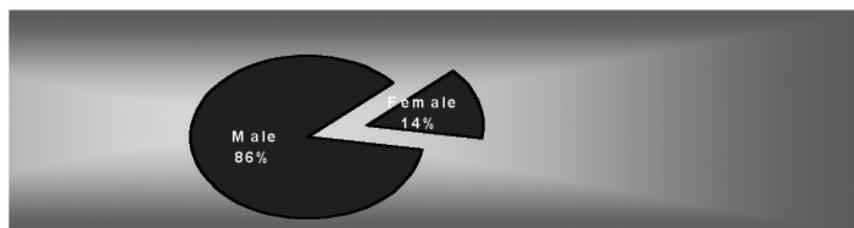
Until now, there has been no information system available that would enable us to determine the precise volume of migration outflows from Armenia, or even the number of Armenian residents irregularly residing abroad. In order to characterise the migration situation in Armenia, this report will refer to different sources, specifically: expert research outcomes; official statistics; and research conducted within the scope of this report.

According to diverse expert research, between 1990 and 2005, 700 000 to 1 300 000 people left Armenia to settle in foreign states. Other expert research carried out in Armenia, on emigration outflows originating from the Republic of Armenia, has provided the data depicted in Chart 1.<sup>3</sup>

*Chart 1: Destinations of labour emigration from Armenia, 2002 to 2005*



*Chart 2: Gender balance of labour emigration from Armenia, 2002 to 2005*



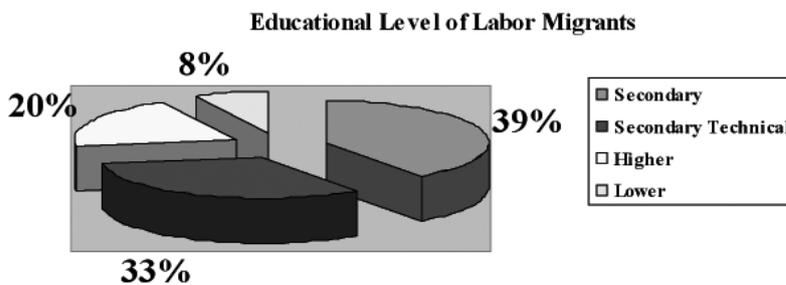
2. Source: Generalised Reports on Registration Results of Passenger Flows at the Republic of Armenia Border Zone Terminals.

3. Source: "Labour Emigration from Armenia from 2002 to 2005", joint research by OSCE and Modern Social Technologies NGO.

In the years 2002 to 2005, 4.1 per cent of male migrants and over 14 per cent of female migrants left the Republic of Armenia for a country belonging to the European Union to seek a job. The remaining 86 per cent of female labour migrants included those searching for a job in the USA. Most labour migrants (86.6 per cent) were married, and the same proportion were in the age group 21-50. The average age of EU migrants was 44.8, whereas the average age for CIS migrants was 38.5. The youngest migrants to settle in the EU were aged 27.

The data on educational level of emigration flows are illustrated in Chart 3. The number of EU migrants with university education is greater than the numbers with primary or secondary education combined (62.1 per cent).

Chart 3: Education level of labour emigrants from Armenia, 2002 to 2005

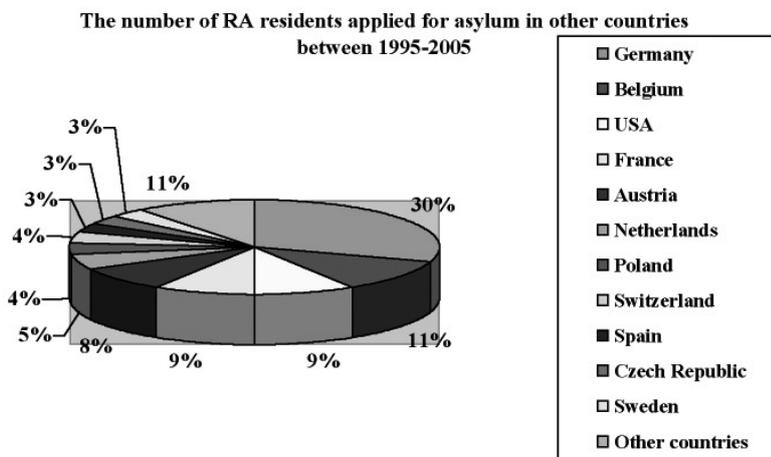


All the researchers share the opinion that a very limited number of Armenians legally resides in other countries. This is essentially conditioned by stricter regulations recently applied by receiving countries towards migration and labour issues. Consequently, in countries where Armenian residents could previously legally enter with no visa requirement, a majority of migrants now find themselves with the status of irregular migrant. This reality is more explicitly shown in the light of drastic migration and labour restrictions introduced in the Russian Federation in 2002, due to which tens of thousands of Armenian residents involved in the Republic of Armenia emigration flows ended up with the status of irregular migrants. The fact that the majority of Armenian residents legally departing from the country are now compelled, shortly afterwards, to accept irregular migration status is reflected in the official statistics.

Hence, in 2003-04 the Republic of Armenia Department for Migration and Refugees officially requested a number of European states (including Finland and the Benelux states) to provide data on the number of Armenian residents legally residing in those countries. The feedback indicated several dozens of people. Based on the periodic data provided to the Republic of Armenia Government by UNHCR between 1995 and 2005, over 73 000 Armenian

residents applied for asylum in 23 European countries or in the USA, Canada and Australia. This figure represents 5-10 per cent of the residents who left the country. Even if we consider asylum applications as a way to legalise their situation, only a few will be awarded rights of legal residency. Chart 4 shows data on Armenian residents applying for asylum in other states.

*Chart 4: Armenian residents applying for asylum, 1995 to 2005*



For comparison purposes, it should be noted that, from 1999 through to the first half of 2006, the total number of foreigners applying for asylum in the Republic of Armenia was 533,<sup>4</sup> thus proving that the Republic of Armenia is an emigration country and not a receiving country, except between 1988 and 1992, when the Nagorno-Karabakh conflict caused a massive wave of 400 000 refugees to be forcibly displaced from Azerbaijan into Armenia. However, that issue goes beyond the scope of this report.

Next are the results obtained from telephone research conducted by two groups: an Armenian branch of the Czech NGO People in Need and our own expert research. According to the data presented by People in Need, a quarter of those people seeking to permanently leave Armenia intends to migrate to the Russian Federation, 15 per cent would like to settle in CIS states, more than 47 per cent in (other) European countries and 13 per cent in the USA.

Table 1 shows the data resulting from expert research on the direction of migration outflows from the Republic of Armenia.

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4. Source: Migration Agency official statistics.

*Table 1– Potential target countries for emigration flows from the Republic of Armenia, according to expert findings*

	Main target countries for Republic of Armenia residents, according to expert findings	Proportion %
1	Russian Federation	90
2	USA	90
3	Germany	55
4	France	40
5	Spain	around 25

Moreover, all state official experts, 60 per cent of NGO representatives and 90 per cent of mass media representatives mentioned the Russian Federation as a potential target country for emigration flows from the Republic of Armenia. In addition, 90 per cent of mass media representatives also specified the USA, 80 per cent of NGO representatives believed that Republic of Armenia residents mostly head for the USA and Germany, 76 per cent of state officials specified the USA and 58 per cent of them mentioned Germany as a target country.

## **1.2. Identification of special targeted policy**

The main features characterising the migration situation in Armenia between 1990 and 2005 were intensive migration flows, poor regulation of migration flows, a considerable proportion of irregular migrants in the total number of emigrants settled in foreign states, an obvious prevalence of emigration in general migration flows, and the obvious prevalence of labour emigrants in these emigration flows.

This migration situation was greatly conditioned by several political, economic (mostly linked to the labour market), demographic, historical, social and moral-psychological circumstances, which originated in the last years of the Soviet Union and the first post-soviet decade, converted into strong factors pushing Armenian residents to leave the country.

### *Political push factors*

During the Armenian-Azerbaijani conflict over Nagorno-Karabakh, the border between Armenia and Turkey was closed. As a result of this, the then newly established Armenian Republic unexpectedly had to address the issue of admitting over 12 per cent of its former population fleeing Azerbaijan and other republics of the Soviet Union. Moreover, the armed conflict between Armenia and Azerbaijan, as a result of similar tensions, was intense until a ceasefire took effect in May 1994. Given the lack of a final peace settlement, the threat of war restarting in the region remains a potential influence on emigration from Armenia.

### *Economic push factors*

Directly conditioned by the political factors mentioned above and the destructive consequences of the 1988 earthquake, a number of strong economic push factors have emerged to influence the formation of intensive emigration flows: in particular, considerable parts of the production and public services infrastructures were damaged by the earthquake; also, following the collapse of the USSR's economic co-operation system and the detrimental effects of the economic blockade, most of Armenia's industrial capacity was paralysed, especially in the energy and science sectors, where Armenia had been a leader among former soviet republics. This generated unprecedented pressure on the national labour market and created a mass of unemployed people, mostly industrial workers and highly qualified technicians. These sectors of the labour market therefore composed the bulk of migration flows from the Republic of Armenia at the beginning of the 1990s.

### *Social-demographic push factors*

The emigration flows of 1988 to 1995 were mainly composed of males of working and reproductive age. That trend has affected demographic proportions since the 1990s. More specifically, the birth rate abruptly decreased: around 80 000 births were recorded in the Republic of Armenia in 1990, whereas in 2001-02 this indicator was about 2.5 times smaller; since 2003, the birth rate has been gradually on the increase. The number of marriages has also diminished. On the other hand, death rates and the number of divorces rose, as did the number of elderly people compared to the rest of the population. As a general result of such trends, in 2004 the indicator of surplus ordinary growth of population decreased fivefold compared to 1990.

These demographic disproportions and the persistent involvement of men of working and reproductive age in emigration flows generated in the Republic of Armenia in the period 1988-95 led to a new social-demographic factor pushing the population to leave Armenia. After 1996, emigration flows from the Republic of Armenia were typically characterised by the principle of family unification. During this period, emigration flows were predominantly composed of the wives and children of those men who had been working abroad for several years and wished to see their families reunited. This phenomenon was relatively dangerous as certain regular Armenian migrants were exposed to new threats and vulnerabilities.

### *Moral-psychological push factors*

Moral-psychological push factors have not played a significant role in the composition of intensive migration flows, especially concerning the following points: as a result of privatisation processes taking place in this newly-independent country, national wealth and benefits were not adequately distributed thus leading to deep social diversification among population;

moreover serious declines in democratic processes were recorded in the country in the mid-1990s, thus creating conditions that were far from being based on principles of equality, economic development and human rights protection. Subsequently and under the burden of spreading injustice, the majority of the population gave up its hopes for success and future well-being.

### **1.3. Enforced regulations of migration and their practical application**

The regulation of foreign migration processes assumes two main directions: regulation of immigration and regulation of emigration. The Republic of Armenia's policy on regulating immigration flows is beyond the scope of this report. Given Armenia's specificities, the policy for combating irregular migration and the framework legislation will be the main topic of discussion.

The Republic of Armenia's constitution proclaims the freedom of movement of citizens of the Republic of Armenia and any person legally residing there, including the right to free entry and exit from the Republic of Armenia.<sup>5</sup> This constitutional provision strictly limits the possibility of influencing emigration from the country. In this matter, there is an important gap in the national legislation regulating emigration processes. There is no law on the entry and exit of Armenian citizens going into and out of the Republic of Armenia. Regulatory measures against a person involved in emigration processes can only be enforced if this person, whose intention was to leave the country, has committed a criminal offence or is suspected and/or is acknowledged of having violated his/her obligations towards the Republic of Armenia or its citizens as prescribed by law.

In the current situation, the emigration of Republic of Armenia citizens is in practice entirely lawful when they exit. However, originally lawful departures may thereafter follow an irregular route: partly irregular at the time of entry into another country and mainly irregular after expiry of the permission for the legal stay of the person concerned, in the given country.

This suggests that the main goal of the Republic of Armenia's special policy for the eradication of irregular migration should be the prevention of irregular emigration of the Republic of Armenia citizens.

### **1.4. Potential causes of irregular migration**

Among the people who took part in our researches, 80 per cent of those Republic of Armenia citizens who had been residing outside Armenia for a long time as irregular migrants or had returned to the Republic of Armenia from residence abroad, shared the opinion that the majority of the Republic

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5. The Republic of Armenia Constitution, Article 25.

of Armenia residents who emigrated entered the territory of other countries legally, whereas only 10 per cent of them thought of this as an illegal act.

The experts who took part in the same research see it very differently: 30 per cent of them think that an overwhelming majority of our citizens enter other countries in a legal manner, about 15 per cent think that half of Armenian emigrants are doing this illegally, and one third of the experts think that irregular emigrants constitute the predominant part of total Armenian emigrants. This latter opinion is shared by a majority of experts representing the news media.

As for the causes of irregular migration, 80 per cent of experts think that this is mainly caused by strict and restrictive legislation applied in receiving countries. This opinion is mostly shared by the representatives of government agencies (more than 91 per cent) and by two thirds of the mass media. Over 55 per cent of experts say that the main causes underlying the irregular entry of migrants are lack of access to immigration services in receiving countries and bureaucratic procedures for the registration of legal admission. A third cause for irregular migration, identified by almost 40 per cent of experts, is the requirement for migrants to pay a large amount of money in order to legalise their entry to the territory. Other causes have also been mentioned, such as the difficulties encountered in acquiring the right for a legal stay in the destination country (about 30 per cent of experts mentioned this point) or employment difficulties (about 20 per cent).

In this writer's opinion, the aforementioned causes should be taken into consideration by European states that have traditionally been considered as immigrant receiving countries.

## **2. Main characteristics of special policy for tackling irregular migration**

### **2.1. Major objectives and components**

In view of the problems created by Armenian since the 1990s, the Republic of Armenia Government adopted for the first time, at the end of 2000, a Concept on State Regulation of the Republic of Armenia Population Migration. Considering the changes in migration trends and the growth in the Armenian economy in 2001-04, as reflected in official statistics, the Republic of Armenia Government on 25 June 2004 adopted a new Concept on State Regulation of the Republic of Armenia Population Migration. This new Concept declared its major objectives to be: monitoring and follow-up of population numbers and demographic situation in accordance with national security requirements and sustainable human development norms; and broader application of provisions prescribed by international documents on protecting the rights and interests of individuals involved in migration flows.

The achievement of these objectives implies the realization of a series of secondary objectives and targets, which are deemed essential for addressing the target matter, specifically:

- control over emigration and immigration processes;
- improving the Republic of Armenia’s border management systems to facilitate legal, and impede irregular, entries and exits;
- adopting a civilised approach to ensuring the integration of Republic of Armenia citizens into foreign labour markets (legislative regulation and targeted control of labour emigration, effective protection of the rights and legal interests of labour emigrants, integrity of legislation governing foreign labour emigration);
- encouraging the return of Republic of Armenia citizens residing abroad;
- preventing irregular migration outflows originating from the Republic of Armenia;
- ensuring the return and reintegration of the Republic of Armenia citizens residing outside Armenia under irregular status;
- raising public awareness of issues relating to legal entry of emigrants from the Republic of Armenia into potential countries of destination, employment terms and conditions in these countries and the possible consequences of irregular migration;
- setting up judicial co-operation on an equal basis with countries having migration exchanges with the Republic of Armenia, with mutually beneficial co-ordination of interests, and readmission agreements with countries concerned at the irregular stay of Republic of Armenia residents therein;
- strengthening co-operation with international organisations and foreign countries to support the reintegration of repatriated Armenian residents;
- preventing the trafficking of migrants from the Republic of Armenia, developing mechanisms to protect the victims, ensuring their moral-psychological rehabilitation, and creating broad public awareness campaigns targeted at prevention of trafficking;
- evaluating potential mass influxes of forced migrants to the Republic of Armenia and undertaking activities to regulate those;
- creating a database and information system supporting the exchange of data necessary for monitoring and assessing the migration situation in the Republic of Armenia;

- facilitating the development of public opinion to promote effective implementation of state policy for the regulation of migration to and from the Republic of Armenia.

Among the objectives above, the priority must be the prevention of irregular emigration of Republic of Armenia residents. Underlining the importance of prevention, the following fundamental issues should be addressed:

- eliminating the causes promoting irregular emigration flows;
- raising the awareness of Republic of Armenia residents of issues relating to foreign migration and labour legislation, and possible consequences of irregular migration;
- arranging the repatriation (readmission) of Republic of Armenia citizens irregularly residing abroad;
- arranging the reintegration of repatriated Armenian citizens having resided outside Armenia for a long time under the status of irregular migrant.

These four target-objectives form the basis for the discussion here of the Republic of Armenia policy for combating irregular migration. To that end and in terms of this report, our choice was based on a strategy aiming to carry out the following tasks:

- studying the migration situation in the Republic of Armenia and issues concerning Republic of Armenia citizens who irregularly reside in other countries or have already been repatriated;
- studying the Republic of Armenia's national legislation governing migration, and identifying factors preventing its efficient utilisation;
- studying the system of state agencies with competency in the regulation of migration processes (hereinafter 'the relevant governmental institutions'), by discussing their roles and examining each and every institution required by law to eradicate irregular migration, their performance in the field (projects and activities implemented under each of the relevant functions) and any failures in such performance;
- identifying a more expedient policy to be applied by the Republic of Armenia in future to prevent irregular migration, based on those studies. Particular attention should be drawn to the objectives of this policy, its priorities, the institutions (governmental and non-governmental) involved in its implementation, their specific roles, the expected outcomes of such policy and its possible impacts on the migration situation in the Republic of Armenia and on Armenian citizens irregularly residing abroad.

We selected the following research methodology to address the abovementioned tasks.

For the first task, we used a small sociological research survey conducted among Armenians who have irregularly resided in a foreign country and have been repatriated (test interview with thirty people), and secondary analysis of some sociological research recently conducted by other organisations in the Republic of Armenia, revealing the problems of persons involved in foreign migration flows.

For the second task, we directly studied the Republic of Armenia's national legal acts covering migration (laws and regulations setting forth the functions of institutions involved in the system for eradicating irregular migration).

For the third task, the expert research method was applied. The selected experts included officials from government agencies directly engaged in the regulation of migration-related issues and competent in developing possible solutions (for the list of experts, see Appendix on page 39), representatives of international and national NGOs dealing with migration issues, and representatives of leading mass media.

For the fourth task, studies were carried out in the political field. These studies showed the following correlations between the relevant government institutions and other partners engaged in or connected to migration processes in our political area of concern.

All NGO representatives who participated in the overall expert inquiry noted their constant co-operation with the relevant government institutions with the aim of obtaining lasting solutions to migration issues. More particularly, NGOs work in close collaboration with the Migration Agency of the Republic of Armenia Ministry of Territorial Administration. Until 2005, the Migration Agency possessed a more independent administrative status, because it acted as a government ministry. Other bodies intensively co-operating with NGOs include the Ministry of Foreign Affairs and to a lesser extent, the Ministry of Labour and Social Issues. As expected, co-operation with law enforcement agencies is less direct.

There is active collaboration between the NGOs and the Migration Agency in both policy development and policy implementation. Almost all the representatives of NGOs indicated their co-operation with the given government institution as part of initiatives for drafting a number of legal acts – for example, the ideas behind the initial version of the Republic of Armenia Law on Refugees and its successive amendments, and the drafting of the Laws on Immigration, Ethnic Minorities, Facilitation of Foreign Employment, and Entry and Exit of Republic of Armenia residents into and from the Republic of Armenia. Adoption of the last four draft laws has been removed from the government agenda for virtually incomprehensible reasons. At present, the Migration Agency is working in close collaboration with UNHCR and the Danish Refugee Council on a draft law of the Republic of Armenia on refugees and asylum, and is continuing to

negotiate the current results with NGOs and international organisations engaged in migration and refugee issues.

According to the research data, co-operation with other government agencies is mainly limited to information exchange. As for information and communication in the field of migration policy, this matter is not considered merely as an obligation or function of the relevant government institution, but viewed as a function of key stakeholders engaged in migration processes at large, including mass media and NGOs.

Given the specificity of the migration situation in the Republic of Armenia, we chose to focus particularly on intensifying public awareness of the migration and labour legislation applied by emigration destination countries, and of potential threats caused by irregular migration. In our efforts to identify the status of the matter, we focused on:

- the statutory roles of the relevant government institutions, their actual practice in performing such roles and their co-operation with other entities;
- the involvement of mass media in the process;
- the involvement of NGOs in the process, and the actual activities in place;
- finally, the level of awareness of Republic of Armenia citizens of migration issues.

To spread light on these issues, we referred to research conducted by other organisations on similar topics and based our conclusions on the outcome of our own research for the purposes of this report. The relevant research is summarised below.

The study looking at repatriated Armenians revealed that most of these people are interested in migration-related issues (90 per cent are very interested or quite interested). Furthermore, it is evident from their replies to our verifying questions that there is sufficient awareness behind their interest, particularly as their estimates of the volume of migration outflows from the Republic of Armenia are close to the experts' estimates.

Of great interest also is their perception of the ratio between legal and irregular emigrants, which are also rather close to the experts' findings, especially those results from the Migration Agency and law-enforcement bodies (the Republic of Armenia National Security Service and the Republic of Armenia Police), which are objectively considered as more informed.

The high level of public awareness is further attested by the research participants' indication of the target countries with the largest flows of Armenian residents. Indications from the respondents completely matched the experts' findings (both groups identified the Russian Federation, USA, Germany, France,

Spain and Greece as the main target countries for Armenian emigrants). This confirms the public's level of awareness and knowledge of migration issues.

In addressing policy awareness issues, the role of the mass media was next examined.

From 2002 to 2006, nine media organisations altogether produced about 1 520 publications on migration topics, 73 per cent of which were operational-informative, about 9.5 per cent had an analytical content, and over 16 per cent related to migration and labour legislation applied by foreign countries, and the potential threats of irregular entry into such countries. The remainder were miscellaneous publications (publicity, fiction, etc.).

There was uneven coverage of migration topics in the selected mass media, in that 45 per cent of the published items appeared in less than 5 per cent of all the publications. The same percentage of mass media gave average coverage to migration-related topics, publishing 23.5 per cent of all articles. Only *Golos Armenii*, a Russian-language daily, covered more than 70 per cent of all items, as a result of its close co-operation with the Migration Agency. This fact highlights once again the importance of co-operation between various stakeholders dealing with migration processes.

The majority of participants in our research, representing the public at large, were rather well informed about the migration situation in the Republic of Armenia. This was mainly due to their active involvement in migration. However, the same cannot be said of those residents who have not been personally involved in migration processes yet.

Research conducted in 2002 showed that about half of the 600 people questioned had no idea that Republic of Armenia citizens could not enter another European country without a visa, and 48 per cent of them thought there was no need for an official permit to work in these European countries. A selection of other answers obtained from the same sample group demonstrate that lack of awareness of migration issues can be directly conducive to irregular migration. In particular, to the question "Do you think that our nationals irregularly migrating abroad will manage to settle themselves in European countries or are they likely to be expelled?", half of the participants gave a positive reply, suggesting that these migrants would be able to stay in their host country. Only one third guessed that such migrants would be deported sooner or later. The idea many have of trying their luck abroad through irregular migration is based on unfounded and unjustified confidence. As a result, it seems that 21 per cent of Armenian nationals would be prepared to migrate to another European country.<sup>6</sup>

According to that same research, to obtain information on migration and labour legislation applied by emigration destination countries and on any

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6. Source: joint research of IOM and ASA on Public Awareness of Migration Issues.

potential threats caused by irregular migration, 55 per cent of the residents prefer the television, nearly the same number of people consider international bodies as another appropriate source, more than 38 per cent rely on the Migration Agency, 30 per cent use the information provided by newspapers, more than 25 per cent prefer the radio, over 10 per cent use topic-based newsletters or other promotion materials, and almost 10 per cent cite NGOs as a source.

For comparison, it should be noted that 80 per cent of experts think it is primarily their own role and responsibility to provide the population with relevant information. Moreover, more than 91 per cent of state employees, all the NGO representatives and nearly half of the mass media share this opinion; in addition, 40 per cent of experts name the Ministry of Foreign Affairs as a second body to deal with the matter, whereas 20 per cent of experts assign this responsibility to the mass media and 16 per cent to NGOs. About 12 per cent think that the task of informing citizens should lie with the police and government agencies dealing with labour and social issues.<sup>7</sup>

Before describing the activities of policy-making authorities, it can be stated that all the issues in the fight against illegal migration, and related policy directions and priorities, are completely and correctly reflected in the new Republic of Armenia state Concept on Migration Regulation. But our studies have shown that the Republic of Armenia authorities are not consistent enough in implementing certain measures aimed at achieving the aims mentioned. This inconsistency refers not only to making complete the legislation regulating this field and creating new institutional structures or strengthening the existing ones required for implementation of the abovementioned activities, but also the allocation of financial means necessary for certain activities and information exchange between the bodies involved in policy implementation.

## **2.2. Policy rooting (implementation)**

To gain a better understanding of the situation of migration policy and its implementation, we have analysed the legislation governing the activities of the relevant government institutions in order to identify their statutory role in preventing irregular migration; furthermore, our experts have carried out further research to identify the means for achieving these statutory objectives.

Generally, the Government of the Republic of Armenia is the state authority charged with the conception and application of the common policy on migration issues in the Republic of Armenia, through some of its agencies. Migration processes are so complex and multi-faceted that these in practice touch upon nearly every field and agency within state governance systems and affect in parallel other public sectors.

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7. Own expert research.

More precisely, if we try to outline how to create adequate conditions for reducing and preventing emigration from the country, in any event we will come across the activities of all government agencies in all the sectors of public life, be they economic, political, repressive, educational or cultural. Moreover, if we attempt to discuss the rationale for the prevention of emigration outflows from Armenia, we will see that such rationale is principally based on radical reforms in the social-economic sphere with the objective of ensuring adequate employment and socio-economic conditions for Republic of Armenia citizens, meeting the demands of modern life.

Given that fundamental reforms for reduction and further prevention of large emigration outflows from Armenia will not be realistic or feasible in the medium term (in the coming ten to twelve years), either as a whole or individually, we have reasonably narrowed the scope of discussion in this report of the Republic of Armenia's migration policy by limiting it to the following aspects of irregular migration:

- raising the level of public awareness (hereinafter 'awareness raising') of migration and labour legislation applied by foreign countries and of the potential threats of irregular entry into such countries;
- arranging the repatriation (readmission) of Republic of Armenia citizens illegally residing abroad (hereinafter 'readmission arrangements');
- organising the reintegration of repatriated Armenian citizens who have resided outside Armenia for a long time under a status of irregular migrant (hereinafter 'reintegration arrangements').

To that end, the Armenian policy for combating irregular migration will be discussed on the basis of the three target objectives stated above. In each case, the discussion in this report will be limited to the activities of government agencies directly engaged in fulfilling those target objectives, specifically the following institutions in Armenia's system of governance:

- the Migration Agency of the Republic of Armenia Ministry of Territorial Administration;
- the Republic of Armenia Ministry of Foreign Affairs, with its consulates and departments for European issues and human rights;
- the National Security Service of the Republic of Armenia with its border control system;
- the Republic of Armenia Police with its main department fighting organised crime, as well as the traffic police and the departments for passports and visas;
- the Republic of Armenia Ministry of Labour and Social Issues, with its labour and employment department and Employment Service Agency.

### *The Migration Agency*

This was established at the end of 1999 as an independent unit of the Republic of Armenia Ministry of Territorial Administration, and possessed a more independent administrative status until 2005 (since it used to be a state department acting under the Republic of Armenia Government). Its present status was decided by a Republic of Armenia Government resolution dated 19 May 2005. As per its charter approved under the same resolution, the Migration Agency has undertaken implementation of the following objectives and targets related to the regulation of irregular migration: review of issues related to granting asylum to foreign citizens and stateless persons in the manner prescribed by the Republic of Armenia laws; development and implementation of projects designed for Armenian citizens who, having emigrated, now wish to return to their home country.

The Migration Agency is meant to perform the following functions with respect to the above objectives: elaboration and implementation of projects for regulating population movement, within the scope of its authority; review of asylum applications submitted by foreign citizens and stateless persons; legal, social or other assistance for such people in compliance with Republic of Armenia legislation; publicising information on legal aspects of migration issues.

The principal laws directly covering the above responsibilities are two: the Republic of Armenia Law on Refugees<sup>8</sup> – although this law does not directly cover irregular emigration from the Republic of Armenia – and the Law on the Legal Status of Foreign Citizens in the Republic of Armenia, which is beyond the reach of this report.

Concerning the priority of awareness raising in the context of the eradication of irregular migration, in the last five years the Migration Agency has engaged in activities in all three areas mentioned: awareness raising, readmission, and reintegration.

The Migrant Service Centre, with its daytime phone service, was established in April 2002 within the framework of the IOM Bunch Initiative Project in conjunction with the Republic of Armenia Government Department for Migration and Refugees. The Centre was used to organise seminars for reporters and agencies rendering intermediary services in the labour market. The Centre offered ongoing consultations for the public on diverse migration-related issues. Several thousand brochures and posters containing information on the threats of irregular migration have been published and widely distributed to the public. Series of radio and TV broadcastings have been organised, as well as the publication within a year of four editions of the quarterly magazine *Foreign Labour Migration*. Thanks to these activities and other mechanisms,

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8. First adopted in 1999, with final amendments introduced on 3 March 2004.

within a year the number of asylum applications submitted by the Republic of Armenia citizens in 28 developed countries of the world decreased by half.

As this project was not financed by the Republic of Armenia Government, it could not be completed, even though its activities were rather effective. In general, its implementation was possible thanks to the initiative and support of the Migration Agency and donor organisations. The fact that the Project on combating trafficking via the dissemination of information (total budget US\$50 000), developed by the Migration Agency in 2005, was not financed demonstrates yet again the Republic of Armenia Government's inconsistency and lack of capacity in recognising the importance of problems raised. And it is impossible to ensure permanent support from donor organisations in implementing such projects.

Due to the active efforts of the Migration Agency, the Republic of Armenia Government has started to sign readmission agreements for the return of citizens of the Republic of Armenia residing as irregular migrants in European countries. Presently, there are readmission agreements with the Kingdom of Denmark (30 April 2003), the Republic of Lithuania (15 September 2003) and the Government of the Swiss Confederation (30 October 2003). Negotiations with a view to adopting bilateral readmission agreements have been completed with the Republic of Poland, the Czech Republic, the Federal Republic of Germany, the Kingdom of Sweden and the Benelux States. There are ongoing negotiations for readmission agreements with the Russian Federation, the Republic of Bulgaria, Romania, Ukraine and the Kingdom of Norway.

The above-mentioned readmission agreements are not effective tools for combating illegal migration, because the government does not fulfil certain of its obligations. In particular, the Republic of Armenia Government does not maintain the terms of information exchange between the Contracting States defined by the agreements; according to the data provided by competent experts, the Armenian party provides information within 2-3 months instead of the agreed 1 month. There are both objective and subjective reasons for such delay. From the point of view of experts, the objective reason is lack of an integrated database that would enable the identification of readmitted persons. In our opinion, the bureaucratic procedures linked to readmission constitute the subjective reasons for delay.

The Migration Agency has also been responsible for a Project for disseminating accurate information on the terms and conditions of entry, residence and employment in foreign states, which was implemented with the support of the Danish Refugee Council (DRC).

To prevent renewed movement of irregular migration (double irregular go-back or "recycling") of Republic of Armenia residents having voluntarily or forcibly returned from European States, the Migration Agency has persistently

engaged since 2004 in the implementation of reintegration projects within the framework of the Bunch Initiative and with the assistance of the Swiss Development and Co-operation Agency (SDC) and DRC. Various activities are implemented under these projects, from credit schemes for small businesses to foreign language training for children and adults.

In terms of reintegration, the situation is similar: projects are carried out thanks to the indispensable support of foreign governments and international donor organisations. The Republic of Armenia Government has not adopted any decisions on this matter and so far no project has been financed by the state's budget. In our opinion, this again is the result of lack of recognition of the importance of existing problems. This same approach is clearly reflected in the institutional amendments carried out by the Republic of Armenia Government. In 2005, the legal status of the State Department for Migration and Refugees of Armenia was downgraded. Consequently, any political initiative aimed at solving migration problems has to proceed via mediatory and bureaucratic means. During this period, the possibilities of making urgent decisions and providing their effective implementation are greatly reduced.

#### *The Republic of Armenia Ministry of Foreign Affairs*

In accordance with the Republic of Armenia Law on the Consulate Service,<sup>9</sup> the Ministry of Foreign Affairs has assumed the two following objectives, which are deemed essential. The Head of the consulate office shall perform the registration of Republic of Armenia citizens permanently or temporarily residing in the territory within reach of its consulate. If necessary, the Head of the consulate office shall inform Republic of Armenia citizens residing in the territory within reach of its consulate on issues relating to the legislation and traditions of their country of residence.

According to the Republic of Armenia Law on State Borders, the Ministry of Foreign Affairs shall process Republic of Armenia entry and exit documents for Armenian and foreign citizens as well as persons without citizenship.

According to the charter,<sup>10</sup> one of the Ministry of Foreign Affairs' objectives is to protect the legal interests and rights of Republic of Armenia individuals and legal entities, protection which is deemed essential for this report. In this respect, the charter sets out the functions assigned to Ministry of Foreign Affairs under the Republic of Armenia Law on International Treaties, particularly activities related to the signing of international treaties and the co-ordination of the activities of executive bodies in the given field.

The Ministry of Foreign Affairs carries out its statutory objectives with respect to the subject matter of this report in the following manner. In terms of

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9. Adopted 29 May 1996.

10. Adopted by Republic of Armenia Government Resolution as of 1 August 2002.

awareness raising, and according to the Republic of Armenia Law on Consulate Service, the Consulate Department of the Ministry of Foreign Affairs should make inquiries among Armenia's diplomatic representative officials about Republic of Armenia citizens residing overseas as irregular emigrants. The department should also provide advice to those citizens through the same diplomatic representative offices.

In terms of readmission arrangements, according to the Republic of Armenia Law on the Consulate Service, the Consulate Department of the Ministry of Foreign Affairs should grant return certificates (*laissez-passer*) to Republic of Armenia citizens residing overseas; to this end, consulate employees should arrange meetings with Republic of Armenia citizens seeking asylum and support them with their return to Armenia. The Department for European Issues participates in signing and publicising international treaties and agreements covering the subject.

In terms of reintegration arrangements, the Ministry of Foreign Affairs, through its Department for European Issues, should obtain an arrangement (or sign an agreement) with the country concerned to ensure a certain level of financial support for the returning Republic of Armenia citizen in order to overcome the difficulties at the initial period of his/her return. At present, there is an agreement signed with Switzerland.

#### *The Republic of Armenia National Security Service*

The National Security Service, with its border control system, is in charge of the protection of state borders and prevention of illegal border trespassing, mainly in accordance with the Republic of Armenia Laws on National Security, Service in National Security Bodies, State Borders, and Frontier Forces, the latest two laws being adopted on 20 November 2001. There are also certain by-laws in place for regulation of procedures, but those are beyond the scope of this report.

As per the Republic of Armenia Law on Frontier Forces, such forces included in the system of the National Security Service carry out the following functions:

- ensuring border checks and the implementation of the state border regime at state border crossing-points into the Republic of Armenia;
- capturing Armenian and foreign citizens and persons without citizenship who have illegally crossed the state border or who have violated the state border crossing regime, as set out in the terms and conditions stipulated by the law;
- registering individuals, recording actual data, maintaining databases and using this information in a targeted manner as determined by Republic of Armenia legislation, while ensuring control of the state border as well as application of state border crossing regimes.

The National Security Service also undertakes: in terms of awareness raising, to periodically provide the mass media with operative information on irregular migration through its press service; and, in terms of readmission arrangements, to participate in implementation of activities, limiting itself to issues related to the identification of people subject to readmission. In terms of reintegration, the National Security Service has no function.

### *The Republic of Armenia Police Service*

Under the Republic of Armenia Law on State Borders, the Police Service – together with its General Department for organised crime control, the traffic police, and its departments for passports and visas – has assumed the following general authority within the scope of irregular migration eradication: within its competence, to support frontier forces in the implementation of border regime activities, to combat illegal acts in the border zone, to search for violators of the state border regime and to investigate legal offences committed by persons under administrative arrest; and, jointly with the frontier forces, to participate in strengthening the public's legal knowledge and to engage in preparatory activities for the prevention of legal offences in the state border zone and at border crossing points.

Pursuant to its charter,<sup>11</sup> the Republic of Armenia Police performs the following functions:

- participation in drafting and implementing state projects against crime;
- organisation and execution of intelligence operations for seeking and capturing criminals hiding from pre- and post-investigation or from the courts, or escaping from criminal process and punishment, as well as searching for missing persons;
- co-ordination and control of the activities of police services and agencies issuing passports and registering Republic of Armenia citizens, along with co-ordination of activities for the enforcement of legal rules in place for the entrance, stay, expulsion and exit of foreign citizens and stateless persons in respect of the Republic of Armenia territory.

In pursuit of its statutory functions, which are deemed essential in terms of this report, the Republic of Armenia Police Service acts as follows.

In terms of awareness raising, the general department for organised crime control carries out preventive activities pursuant to the Republic of Armenia Law on Police. These activities are performed through permanent functions as well as special target programmes. In this context, in 2005-06 the general department implemented activities for strengthening the awareness of Republic of Armenia citizens about Russian Federation migration legislation. These

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11. Adopted by the Republic of Armenia Government Resolution on 29 August 2004.

activities were based on the action plan jointly established by the Republic of Armenia Police, the Russian Federal Service for Migration and the Embassy of the Russian Federation in the Republic of Armenia, and are to be implemented in a progressive manner. The periodical publication *O2 Weekly* and the TV series *O2* are tools to perform such functions.

In terms of readmission arrangements, the Criminal Investigation Service, whose permanent functions are prescribed by the Republic of Armenia Law on Police, should be present at the handover of criminals for prosecution (as per intergovernmental agreements). The Department for passports and visas should engage in re-documentation processes for returned Armenian citizens (issuing, changing, making registration notes in the passport, etc.) in conformity with the Republic of Armenia Government resolution on approving the Republic of Armenia Passport System Charter and Passport of the Republic of Armenia Citizen dated 25 December 1998. This function is performed through its territorial administrations based on the applications of citizens. In terms of reintegration arrangements, the Republic of Armenia Police has no function.

#### *The Ministry of Labour and Social Issues*

The Republic of Armenia Ministry of Labour and Social Issues, together with its Labour and Employment Department and Employment Service Agency, in pursuit of their objectives, deemed essential in terms of this report, is mainly governed by the Republic of Armenia Law on Social Protection in cases of Employment and Unemployment of Population,<sup>12</sup> and in accordance with its provisions the ministry is authorised to do the following:

- upon the Republic of Armenia Government decree, to draft an integrated state policy for the regulation of internal and external movements of the labour force and to co-ordinate the implementation thereof;
- as an authorised agency of the Republic of Armenia Government in the regulation of labour force movements and in pursuit of such regulatory tasks, the Ministry of Labour and Social Issues should: enter into international agreements in conformity with the law for the necessary co-ordination of overseas employment and for the protection of rights of labour migrants; in case of deterioration of international relations or in the event of any other unfavourable conditions, including healthcare and natural disasters, publish an announcement when it is inadvisable to take up overseas jobs in given countries; regulate the internal movement of the labour force in compliance with Republic of Armenia laws; and regulate the external movement of the labour force pursuant to the provisions of international agreements with the Republic of Armenia.

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12. Adopted on 24 October 2005.

Pursuant to its charter,<sup>13</sup> the Ministry of Labour and Social Issues should also pursue the objective of drafting and implementing a population employment policy. In pursuit of this objective, the Ministry of Labour and Social Issues shall perform the following functions: develop an integrated state policy on the regulation of internal and external movements of the labour force; and, in terms of employment regulation and based on actual demand in the labour market, develop state projects for employment and carry out relevant monitoring.

The Employment Service Agency of the Ministry of Labour and Social Issues has assumed the following rights and responsibilities under the Republic of Armenia Law on Social Protection in cases of Employment and Unemployment of Population, which are deemed essential in terms of this report:

- the Agency is entitled to receive information from employers, in conformity with Armenian laws, and relevant agencies overseas on available vacancies as well as upcoming structural reforms and other actions that will potentially lead to dismissals;
- the Agency is responsible for conducting analysis, estimating supply and demand in the labour force, publicising information on the situation in the labour market through the mass media, implementing projects for the regulation of internal and external movements of labour force, and periodically disseminating information through the mass media on available vacancies;
- pursuant to its charter,<sup>14</sup> the Agency should study territorial movements of the labour force and submit recommendations to the Labour and Social Issues Ministry for relevant regulations, implementing projects for the regulation of internal and external movements of the labour force, co-operating with other organisations offering employment services, setting out its activities in the employment sphere through the mass media, and publicising information on this subject.

In pursuit of its statutory objectives, which are deemed essential in terms of this report, the Ministry of Labour and Social Issues has proceeded and should proceed as follows:

- in terms of awareness raising, in the last fifteen years, the Department for Labour and Employment has had no projects in place;
- the Employment Service Agency provides operational advice on the availability of overseas jobs and training opportunities to Republic of Armenia citizens concerned;

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13. Adopted by Republic of Armenia Government Resolution on 14 November 2002.

14. *Ibid.*

- in terms of readmission arrangements, the Ministry of Labour and Social Issues and the Employment Service Agency have no functions to perform;
- in terms of reintegration arrangements, pursuant to the provisions of the Republic of Armenia Law on Social Protection in cases of Employment and Unemployment of Population, the Employment Service Agency should be responsible for enrolling the repatriated residents of the Republic of Armenia onto the annual state projects designed at regulating employment. In this respect, the following projects have been and are being implemented: from 1997 to 2000, financial support for establishing business and creation of vacancies; till 2005, a financial assistance project for the unemployed; at present, profession-based trainings for the unemployed and disabled.

### **2.3. Main obstacles to the effective utilisation of policy against irregular migration**

Generalising the results of our research, we consider expedient to separate these obstacles into two groups: legislative, and structural and functional.

#### *Legislative gaps*

Here it should be stated that our analysis covered only the domestic legislation of Armenia (and not bilateral and multilateral agreements). Analysis of the legal regulatory framework covering migration identified a number of gaps, specifically: so far, no laws of the Republic of Armenia on the entry and exit of Armenian citizens into and out of the Republic of Armenia (including immigration and the arrangement of overseas employment) have been adopted. From 2000, the Republic of Armenia Government Department for Migration and Refugees began drafting such laws, but for unjustified reasons these were removed from the government agenda.

Parallel to the explicit gaps specified above, the experts have also revealed a number of other gaps in the migration-related legislation of the Republic of Armenia, particularly:

- lack of dual citizenship regulation;
- vague control mechanisms for awarding a status to refugees and asylum seekers;
- lack of regulation for the licensing of travel, foreign employment, dating and other agencies;
- lack of provisions in the Criminal Code to regulate issues related to combating irregular migration;
- existence of a gap in the identification of passengers at railway ticket sales points (based on the opinion of representatives of transport police,

it is preferable that the railway tickets for interstate routes be sold upon submission of identification);

- poor regulation of readmission arrangements;
- poor regulation of legal relations on the legal status of foreign citizens (delays in adoption of the new law on legal status of foreigners, etc.).

#### *Structural and functional obstacles*

- No recognition by the Republic of Armenia Government of the real importance of problems related to migration and scarcity of state resources allocated for this purpose;
- incompatibility between the authority and legal status of the Migration Agency, on the one hand, and the importance of the problems it has to solve, on the other;
- vague mechanisms for co-operation between agencies authorised to regulate migration, and ineffective co-ordination of the Republic of Armenia Government in this regard;
- inadequacy of mechanisms designed to register migration flows clearly and separately;
- absence of an adequate system for co-operation with other countries in the context of the eradication of irregular migration;
- weak mechanisms for obtaining information on people who have left the country;
- lack of mechanisms enabling the Republic of Armenia to effectively protect the rights and legal interests of its citizens in foreign countries;
- lack of mechanisms and traditions for the effective co-ordination of policy implementation, etc.
- poor working discipline and bureaucratic procedures of different public administration bodies in implementing activities designed by the migration policy concept, etc.

#### **2.4. Regulation and co-operation in the context of policy implementation**

This discussion is directly linked to the question of whether the Republic of Armenia has an integrated approach to the regulation of issues raised under this report and whether it really applies an integrated policy. The results of our expert research perfectly concur with the above-mentioned conclusions. Despite the adoption of a state/national Concept on Migration Regulation, the

Republic of Armenia Government has not, in fact, implemented an integrated policy in combating illegal migration.

More than 90 per cent of the experts also think that presently Armenia is in drastic need of an integrated policy to manage these issues, whereas only 8 per cent of the experts think that the Armenian authorities have already an integrated migration policy in place. By contrast, 80 per cent of the experts indicate the lack of an integrated migration policy in the Republic of Armenia, noting however that a certain number of isolated projects are being carried out by different agencies.

### **2.5. Achievement of results and internal criteria for evaluation of efficiency**

Our research revealed the lack of integrated criteria for assessing outcomes in the area subject to this report, which is due to the lack of an integrated policy. Given the lack of common objectives and approaches, the best scenario suggesting a series of objective criteria for the evaluation outcomes has been identified through separate projects implemented by different agencies; for example in 2002-03, thanks to the activities implemented by the IOM and supported by the Migrant Service Centre, the number of asylum applications submitted by the Republic of Armenia citizens in 28 developed countries of the world halved within a year.

In other cases, we have noted that internal criteria for outcome assessment are generally applied, but these usually assess the procedures rather than final results.

## **3. New special policy impact on irregular migrants and irregular migration flows**

### **3.1. Evaluation of results against objectives**

Before evaluating the results that are inconsistent with the objectives of Armenian policy against irregular emigration, we must first highlight the common objectives of this policy and the positive expected outcomes. We may then attempt to assess the counter results or negative impacts on the issues raised in this report.

To that end, we initiated research within the scope of this report, to try to explain the following: what are the experts' objectives when raising certain issues with the Armenian authorities, issues that would contribute to the implementation of an integrated policy? Which activities are prioritised to ensure the effective implementation of the policy? To what extent are the questioned residents, victims and/or former participants in migration flows, satisfied with the activities of Armenian authorities in terms of relevant policy?

The experts have suggested the following as the primary objectives of targeted migration policy:

- regulation of migration flows generally, aiming to directly reduce the number of the Republic of Armenia emigrants;
- effective protection of the rights and interests of Republic of Armenia citizens residing abroad;
- creation of an adequate number of jobs with adequate remuneration;
- regulation of foreign labour migration originating from the Republic of Armenia;
- reduction of irregular migration flows through the implementation of reinforced control mechanisms, etc.

A majority of experts believe that the achievement of such objectives underlies the execution of urgent actions to be undertaken by the Republic of Armenia authorities in the elimination of negative consequences linked to the policy for preventing irregular migration, specifically:

- to promote awareness-raising activities (persistent campaigns via mass media facilities) publicising the negative consequences of irregular migration;
- to implement social and economic projects to support repatriation, including covering return costs for the repatriated;
- to sign readmission agreements and set up closer collaboration with foreign countries;
- to trigger more active functioning of diplomatic representatives, and to simplify return procedures;
- to implement social and economic projects of reintegration, targeting returned citizens (tax and loan privileges, employment and housing, other necessary support).

The assessments (of government activities in preventing irregular migration) by members of the public who participated in the research surveys can be viewed as indicators for estimating the real impact on emigration flows and policy effectiveness.

Of those questioned, 20 per cent believe that the Armenian authorities are making maximum efforts on migration issues, whereas 30 per cent of them acknowledge that certain activities have been undertaken but not satisfactorily, and 40 per cent believe that the Armenian authorities make either very little or no effort at all on the said issue. The negative impact of state policy against migration flows is reflected in the sustained motivation to leave Armenia again, illustrated by 60 per cent of the repatriated who had been irregular migrants.

### **3.2. Positive and negative aspects of the policy**

With regard to combating illegal migration, the positive aspects of Republic of Armenia migration policy are identified as the following. The relevance of the migration policy concept in the entire country reflects the problems to be solved in this area and correctly emphasises the guidelines needed to implement this policy. It can be considered that the state has recognised the importance of the issue, by means of targeted and fairly effective projects implemented by different agencies. We have noticed the emergence of behaviours and/or practices leading to effective collaboration between certain government agencies and non-government institutions on issues raised under this report (for example, collaboration between the Migration Agency and certain mass media).

In combating illegal migration, the negative aspects of Republic of Armenia migration policy are:

- evident gaps in legislation;
- inability of both the Republic of Armenia Government and stakeholders involved in policy making to recognise the priority of common objectives;
- lack of integrated criteria for assessing policy outcomes, and absence of monitoring systems to examine the progress of policy implementation;
- inadequate information system of the kind required for policy implementation;
- poor co-ordination of the activities carried out by the stakeholders involved in policy implementation, and lack of productive collaboration between such stakeholders (in some cases, these relations are based on competition);
- absence of an adequate system of guarantees and sustainable socio-economic conditions to promote the return of citizens residing abroad and to facilitate the prevention of emigration flows from the Republic of Armenia;
- absence of an effective system to protect the rights and legal interests of the Republic of Armenia citizens inside and outside the country.

### **3.3. Lessons learned from policy implementation and recommendations for the future**

Implementation of the policy has revealed the following. In no event can the eradication of such a process as irregular migration, which is considered of vast importance nationally and internationally, continue to be delegated to

isolated projects implemented by different agencies on their own initiative and with the support of international donor organisations. To prevent intensive emigration flows from Armenia, an integrated policy ensuring adequate employment and favourable socio-economic conditions for its population would be required. The different activities for the prevention of irregular migration should be implemented in a coherent manner, that is: no propaganda shall be made for promoting the stay of the population in the country if the above-mentioned push factors still exist. Moreover, no person should be brought back to the country of his/her origin and left to the decree of fate, as this would unavoidably generate re-emigration trends.

#### **4. Summary and findings**

Thus, summarising the assessment of the Republic of Armenia's policy against irregular migration, the following realities may be highlighted:

- Despite the validity of the State Regulation Concept for Population Migration in Armenia, the objectives in this document are open to divergent interpretations among government agencies responsible for combating irregular migration and other institutions dealing with this issue.
- The legislation relevant to issues of eradicating irregular migration is not comprehensive or complete.
- In practice, the Republic of Armenia authorities do not sufficiently prioritise important migration problems, particularly combating irregular migration. This is demonstrated by their not providing financial means for implementation of relevant projects and by downgrading the legal status of a body having priority competence in solving migration problems.
- The co-ordination of activities against irregular migration, implemented by the relevant government institutions, has proved to be rather poor. Coherent activities and criteria for evaluating of such activities should be established.
- There is a lack of high-level collaboration between relevant government institutions and public organisations when dealing with irregular migration.
- Activities carried out by relevant institutions mostly rely on personal motivation and directorial initiatives rather than on a common understanding of the pressing need to address such a drastic issue. For this reason and given the priority of the issue, some institutions try to go beyond the scope of their competence, while others undertake no activities and in fact are actively hampering the initiatives of the others.

- There is usually no correlation between different activities meant to prevent irregular migration (neutralisation of push factors for the Armenian population, awareness raising, readmission and reintegration arrangements), nor is there any follow-up of the final outcome.
- The population is insufficiently informed about legislation on migration and employment in foreign countries. Consequently, the population has erroneous perceptions about potential threats linked to irregular migration.
- There is no integrated state structure with the authority to co-ordinate projects seeking to disseminate information on combating illegal migration, on the readmission of Armenian nationals from abroad, their reintegration, and similar issues.

Given the current situation in the Republic of Armenia's policy of eradicating irregular migration, and with the aim of giving practical worth to the conclusions herein set forth, we make the following recommendations:

Re-examination of the weaknesses linked to the policy system for combating irregular migration would enable the development of a new plan/strategy of action for preventing irregular migration in the Republic of Armenia, through practicable recommendations working to achieve the following:

- strategic guidelines for addressing migration issues;
- drafting legal acts for the regulation of such issues;
- creating relevant institutional structures to ensure effective implementation of policy;
- developing effective mechanisms for the implementation of policy;
- establishing effective criteria for evaluation and monitoring;
- productive collaboration between government and non-government institutions in order to address irregular migration issues;
- raising public awareness on issues related to irregular migration, including migration legislation applicable at potential destinations as well as potential threats associated with irregular migration and other issues.

The writer believes that the approach suggested in this report – assessing implementation of the Republic of Armenia's policy on combating irregular migration – could also be applied to an integrated state policy based on national decision-making processes and to the assessment of policy effectiveness in regard to combating illegal migration in other traditionally migrant-exporting countries, particularly in the CIS. According to our approach, the most important directions or preventive measures of a policy aiming to combat illegal migration are:

*Policies on irregular migrants*

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- raising public awareness of issues relating to migration and labour legislation in potential countries of destination and on possible consequences of illegal migration;
- readmission of Republic of Armenia nationals who have been staying illegally abroad;
- reintegration of Republic of Armenia nationals who have returned to their homeland.

## **Appendix – List of expert participants in the research conducted under this report**

### **Representatives of government institutions**

Third Secretary of the Consulate Department, Republic of Armenia Ministry of Foreign Affairs;

First Secretary of EC unit under the European Department, Republic of Armenia Ministry of Foreign Affairs;

Chief of Department for Human Rights in Europe, Republic of Armenia Ministry of Foreign Affairs;

Chief of Department, Republic of Armenia National Security Service;

Chief of 2nd unit (under 1st Department), General Department for Organised Crime Control, Republic of Armenia Police;

Chief of exit unit of the Department for Passports and Visas, Republic of Armenia Police;

Chief of Traffic Department headquarters, Republic of Armenia Police;

Senior specialist in Employment Department, Republic of Armenia Ministry of Labour and Social Issues;

Deputy Chief of Employment Service Agency, Republic of Armenia Ministry of Labour and Social Issues;

Chief of Migration Department under the Migration Agency, Republic of Armenia Ministry of Territorial Administration;

Senior specialist in Migration Department under the Migration Agency, Republic of Armenia Ministry of Territorial Administration;

Senior specialist in Migration Department under the Migration Agency, Republic of Armenia Ministry of Territorial Administration.

### **Representatives of international organisations and NGOs**

Representative legal officer, UNHCR-Armenia;

National representative of projects, OSCE;

Head of IOM office in Armenia;

Head of Armenian office for People in Need (charity NGO), under Czech Cooperation Association;

Head of Araza (charity NGO).

Representatives of mass media

Reporter responsible for economic releases, *Aravot* (daily);

Editor-in-chief, *Kanch* (children's magazine);

Deputy Editor-in-chief, *Golos Armenii* (Russian-language daily);

Reporter responsible for migration releases (AZG daily);

Reporter responsible for migration releases, *Hayastani Hanrapetutyun* (official daily);

Deputy Editor-in-chief, *Hayasta* (weekly);

Reporter responsible for migration releases, *Respublica Armenii* (Russian-language official daily);

Editor-in-chief, *Avangard* (three-day youth newspaper);

Reporter responsible for migration releases, Armenpress official news agency.

**Part II – New elements of Greek policies  
concerning irregular migrants:  
the policy of regularisation  
of unauthorised migrants**

*Jennifer Cavounidis*



## **Executive summary**

As with other countries of southern Europe, Greece was recently transformed from a traditional sender of migrants to a significant receiver of migrants. In the case of Greece, massive inflows began with the collapse of socialist regimes in central and eastern Europe in 1989-90, and most of this migration was unauthorised. According to the "South European model of immigration", migration to Greece and other countries of southern Europe corresponds to a particular type of labour demand, namely demand for flexible labour in small-scale enterprises, which in these countries have long been characterised by informal labour relationships, rendering them prime sites for the use of unauthorised migrant labour.

In its ongoing attempt to confront the problems associated with illegal migration and the presence of unauthorised migrants, Greece recently modified its migration policy framework and implemented its third programme for the regularisation of unauthorised migrants. In this programme, concern with the implications of regularisation criteria for future illegal migration resulted in the adoption of stiffer prerequisites for participation. Given that one of the objectives of all three programmes was to transfer employment from the informal to the formal sector of the economy, one of the main issues under debate with respect to the framing of criteria for participation in regularisation programmes and for renewal of permits has been that concerning employment relations and social security contributions.

One of the main lessons that Greece has learned from its experience with unauthorised migrants and related policies is that the policy of regularisation must be accompanied by other policies if it is to be effective. Major challenges are the reshaping of policies affecting the labour market and other spheres as well as the revision of administrative practices, in order to prevent the lapse of migrants into irregular status, necessitating further regularisation.

## **1. Short analysis of illegal migration**

### **1.1. Basic information on irregular migrants**

Greece has only recently become a country of destination for significant numbers of migrants. A traditional sending country, Greece was transformed into a receiving country from the mid-1970s when migrants began to arrive from countries of Africa and Asia such as Egypt, the Philippines, and Pakistan. It was from 1989, however, that migration to Greece took on massive proportions, with waves of migrants arriving from collapsed socialist regimes

of central and eastern Europe. In the 2001 population census, 762 191 foreigners were enumerated, representing 7.5 per cent of the population of Greece whereas, according to most estimates, their true proportion of the population was about 10 per cent and their proportion of the labour force was even greater.

The foreigners enumerated in the 2001 census originated from a plethora of countries, but more than 75 per cent were from countries in central and eastern Europe that formerly had socialist regimes; one of these, Albania, accounted for a remarkable 58 per cent of the total. Other important source countries were Bulgaria, with 5 per cent of the total, followed by Georgia, Romania, the United States of America, the Russian Federation, Cyprus, the Ukraine, the United Kingdom, Poland, and Germany (see Table 1).

Of the foreigners enumerated, 45 per cent were women, but there was great variation in gender composition by nationality. For example, 93 per cent of the Indians were men, as were 79 per cent of the Syrians and 76 per cent of the Egyptians, whereas women accounted for 76 per cent of the Filipinos, 75 per cent of the Ukrainians and 70 per cent of the Moldovans (see Table 1). As for age composition, the census data show that the migrant population is notably younger than the native population (see Table 2).

A large proportion of the migrants who have entered Greece over the last decades either entered illegally or overstayed their visa or residence permit. In the mid-1990s it was estimated that there were about 470 000 illegal migrants on Greek territory (Lianos et al. 1996). When Greece's first regularisation programme commenced in 1998, the vast majority of the migrant population was unauthorised. In the first, so-called registration stage or "white card stage" of the 1998 programme, more than 370 000 migrants participated, making it the largest of the regularisation programmes that had been carried out in southern Europe (Cavounidis 2002a).

Since then, two more regularisation programmes have been implemented in Greece. The second programme, in 2001, attracted 360 000 applications, though it should be noted that the extent of overlap between applicants in the two programmes is unknown. In the third programme, in 2005-06, about 145 000 applications were submitted. It is widely considered that the decrease in number of applications is due largely to the more restrictive prerequisites applied in this programme as compared to the previous two (the rationale for these prerequisites will be outlined below), and that a substantial unauthorised population remains.

Estimates of the current unauthorised migrant population vary widely. As is well known, estimating the number of unauthorised migrants is extremely difficult. Prior to the third regularisation programme, which began in autumn 2005 and drew 145 000 applications, estimates placed the size of the unauthorised population between 200 000 and 400 000 (Kanellopoulos 2005).

Attempts to form estimates of the characteristics of irregular migrants in Greece encounter similar difficulties. Data that could be considered relevant to such an attempt are, first, the data on characteristics of migrants who participated in Greece's first regularisation programme which commenced in 1998. Corresponding data from the second regularisation programme of 2001 were never made available, though corresponding data from the third programme, which ended on 30 April 2006, will be made available in the future. The second set of relevant data are the micro-data from the Labour Force Survey, which provide information about enrolment in health and social security insurance. Data from these two sources will be presented in turn.

In the first regularisation programme, the Albanian nationality accounted for 65 per cent of the migrants who submitted applications in the first, so-called registration stage or "white card" stage of the programme. The next nationalities in numbers were the Bulgarian (7 per cent of all applicants), Romanian (4 per cent), Pakistani and Ukrainian (each representing 3 per cent of all applicants), followed by the Polish, Georgian, Indian and Egyptian (each representing 2 per cent) (Cavounidis 2002b).

It should be noted that only 57 per cent of the migrants who participated in the first stage of the programme proceeded to the second stage, in which proof of social security contributions was a prerequisite for submitting the application. However, the continuation rate between the two stages of the programme varied greatly according to nationality. Those with high continuation rates were Bangladeshis (92 per cent), Egyptians, Pakistanis, Sri Lankans, Syrians, Ethiopians, Indians and Filipinos. Nationalities with low continuation rates were Iraqis, Romanians, Georgians and Russians. The foremost nationality in numbers, the Albanian, had a continuation rate of 55 per cent.

With respect to gender, women were 26 per cent of those participating in the first stage of the programme, but once again a very skewed gender distribution by nationality was observed: women formed 83 per cent of the Filipinos, 80 per cent of Ukrainians, 75 per cent of Russians and 74 per cent of Moldovans, whereas men formed 99 per cent of the Pakistanis and Bangladeshis, 98 per cent of Indians, 95 per cent of Syrians and 94 per cent of Egyptians.

As for age, the migrants who submitted applications were much younger than the Greek labour force as a whole. Of the migrants, 52 per cent were of age 29 or younger, compared to 26 per cent of the Greek labour force at the time. Similar proportions of the two populations were in the age bracket 30-44 while only 9 per cent of the migrants compared to 35 per cent of the total labour force was of age 45 or older.

In an attempt to provide indications of the profile of irregular migrants (Kanellopoulos 2005), micro-data from the Labour Force Survey were used. It was assumed that lack of enrolment in health and social security insurance indicated irregular status. Of the migrants who were presumed to be

unauthorised on the basis of this criterion, 64 per cent were Albanian. Compared with the migrants who were insured, those without insurance were more likely to be younger and unmarried, and had been in Greece for a shorter period of time.

As for patterns of irregular migration, irregular migrants enter Greece by both land and sea. The geography of Greece is such that illegal migration is particularly difficult to control. Greece's northern border with Albania and Bulgaria is characterised by rugged mountainous terrain, while Greece has almost 16 000 km of coastline and more than 3 000 islands of various sizes. Those migrating irregularly into Greece across the northern border usually do so on an individual basis, without the involvement of smuggling rings. In contrast, migrants often pay a price to organised smugglers to take them to Greece by boat, which can be a dangerous venture (Kanellopoulos 2005). Of course, the irregular migrant population present in Greece is the result not only of irregular migration, but also of lapse into unauthorised status after overstaying visas or permits.

## **1.2. Rationale for adoption of the specific policy**

The presence of irregular migrants poses major policy challenges. One of the most serious consequences of their presence concerns human rights. Because they have no recourse to the protection of the law, unauthorised migrants are particularly vulnerable to exploitation, not only in the labour market but in other spheres as well. Another serious consequence concerns the labour market and the terms of employment enjoyed by natives and legal migrants. Irregular migrants have no option but to take on undeclared work that is not subject to the minimum terms and conditions of employment specified by law. The presence of unauthorised migrants willing to take on substandard jobs results in unfair competition and undermines the labour market position of natives and legal migrants (Cavounidis 2004).

Among the issues confronting the new Greek government after the elections of March 2004 was that of migration policy. Concern that there was a substantial population of unauthorised migrants on Greek territory, who had either entered illegally or had overstayed their visas or permits without renewing, led to the inclusion of a special provision for regularisation of unauthorised migrants in the new migration legislation passed in August 2005 (Law 3386/2005).

## **1.3. Regulations in force and their application**

The 2005 legislation constitutes the third migration policy framework adopted after migration inflows of massive dimensions commenced at the end of the 1980s. In the three successive laws, only minor changes can be observed with respect to provisions for labour migration, with channels for legal labour migration remaining relatively narrow. At the same time, substantial improvement in the successive laws can be noted with respect to the conditions

of stay of migrants already present in Greece, which as will be seen has important implications for the integration prospects of the regularised population.

The new migration legislation specifies the prerequisites for migration to Greece to undertake dependent employment, temporary employment and independent economic activity. A visa to enter Greece to do a specific type of work for a specific employer can be obtained after the following procedure has been completed. A committee is constituted in each Region of Greece and has the task of compiling a report during the last quarter of each year which specifies the labour needs of the region and the vacant jobs by occupation, job duration and prefecture. After joint consultations with various ministries, a decision is made concerning the number of permits to be granted each year in each prefecture according to nationality and type and duration of job. Announcements to this effect are posted in the Greek consulates of the corresponding countries.

Foreign nationals interested in migrating to Greece can submit an application at the consulate. Lists with the names of applicants are forwarded four times a year to the various regional offices in Greece. Employers who are interested in employing migrants can choose a name from the list and submit a relevant application, which must be accompanied by a letter of guarantee from a bank in the amount of three months of the minimum wage. After approval of the application for employment of a specific foreigner at a specific job for a specific employer, the decision is sent to the consulate. A visa is issued to the individual, who must, after arrival in Greece, apply for a residence permit. As can be surmised, the procedure is very complex, involves various agencies and requires a substantial amount of time.

It is still early to assess the impact of the new procedure concerning legal entry to undertake dependent employment, since it came into force only in January 2006. However, given that it is similar to the procedure provided for in the previous migration law of 2910/2001, it is likely that the results will be similar. The corresponding procedure of the previous law was very seldom applied in practice; very few employers made use of the procedure and negligible numbers of foreigners migrated to Greece through this legal channel (Cavounidis 2004). The vast majority of migrants who entered Greece after adoption of the law in 2001 either came on other types of visas or entered illegally.

Special provisions govern migration for temporary employment, defined as lasting no more than six months in a calendar year. Such permits are issued only for employment in seasonal economic activities, by a specific employer. If vacant positions have been foreseen in the report on labour needs in the region, as described above, employers wishing to take on temporary workers can submit an application for migration of a specific worker. The application must be accompanied by a letter of guarantee from a bank in the amount equivalent to one month of the minimum wage, which is returned to the

employer after the expiration of the residence permit and the exit of the migrant from Greek territory.

It should be noted that this procedure for temporary dependent employment is indeed utilised by many employers in the agricultural sector. In the first five months of 2006, applications were submitted by employers for the temporary farm labour of about 16 000 migrants, of whom nearly 14 000 had been requested for the region of central Macedonia, which also accounted for the vast majority of such permits issued in 2005 (34 000 of 44 000).

Prerequisites for migration for independent employment include submission of an application to the Greek consulate in the country of origin, along with a technical study of the feasibility of the proposed economic activity. The major difference in prerequisites specified in the new migration legislation that came into force in January 2006, compared to the preceding law, is that applicants are now required to show that they have adequate resources for their activity, defined as at least 60 000 Euro. This much stiffer economic requirement is expected to result in a decrease in the number of applications for such permits.

The new migration law, like previous laws, contains penalties for employers who engage unauthorised migrants. Such employers are subject to a monetary fine ranging from 3 000 to 15 000 euros for each illegally employed migrant and a jail sentence of at least three months. If the offence is repeated, the minimum jail sentence is six months. It should be noted however, that labour inspections are relatively sparse and, when carried out, rarely result in prosecutions. Because of limited monitoring and control, employers apparently have little fear that they will be discovered or sanctioned, and therefore have little incentive to formalise their employment relationships with migrants (Cavounidis 2006c).

As for legal provisions for social benefits, unauthorised migrants do not have access to such benefits. It should be noted, however, that the children of unauthorised migrants can register and attend public schools of all levels.

#### **1.4. Causes of illegal migration**

The labour demand that has attracted migrants to Greece and other countries of southern Europe over recent decades differs radically from the labour demand that fanned migration from these countries to northern Europe in the decades after the Second World War. According to the "South European model of immigration" put forward by King (2000), migration from southern to northern Europe was driven by industrial labour demand, and peasants in southern Europe were recruited to work at formal jobs in large enterprises. In contrast, present-day migration into southern Europe corresponds to demand for flexible labour, mainly in small-scale enterprises, many of which are

characterised by seasonality of activity. Agriculture, fishing, construction, tourism and personal services (such as domestic and care work) are sectors where demand is strong. Informal employment in these sectors in these countries has a long history, pre-dating the arrival of significant numbers of migrants, rendering them prime sites for the use of the labour of unauthorised migrants.

Indeed, the vast majority of migrants in Greece perform low-skilled or unskilled manual work in sectors that are characterised by seasonality and/or a tradition of informality of labour relationships. Employment in such sectors is typical not only of unauthorised migrants but also of authorised migrants, regardless of their educational and technical qualifications, which are often considerable. Substantial proportions of migrants, particularly those from the former Soviet Union, are university graduates, while noteworthy proportions of migrants from countries of central and eastern Europe are graduates of technical and vocational schools (Cavounidis 2002b). In nearly all such cases, these valuable educational and technical qualifications are under-utilised.

The concentration of migrants in branches of economic activity marked by seasonality and informality is revealed by data from the 2001 population census. Over 60 per cent of male migrants were employed in agriculture, fishing, or construction (Table 3), whereas over 60 per cent of female migrants were engaged in agriculture, hotels and restaurants (mainly as cleaners and washers), and private households (as domestic workers and care workers), with the latter accounting for more than one-third of the employment of female migrants (Table 4). A remarkable 77 per cent of all women employed in private households were migrants, while only 8 per cent of all employed women were migrants.

Apart from labour demand for low-skilled and unskilled work in sectors characterised by seasonality and informality, there are additional factors that create conditions conducive to illegal migration. As mentioned previously, Greece's land borders to the north are characterised by mountainous terrain that is exceptionally difficult to patrol, while its long coastline and myriad islands and islets pose similar patrol difficulties. While multiple channels for legal migration exist, the complex bureaucratic procedures required of potential migrants and employers would appear to increase the "attractiveness" of illegal migration, even though the new migration legislation that came into force in January 2006 represents an important improvement over previous legislation in terms of bureaucracy. The accumulation of an unauthorised migrant population is the result not only of illegal migration, but also of a lapse into unauthorised status by those who were of regular status, as has been observed in other countries of Southern Europe (Reyneri 1998).

## **2. Main characteristics of the specific policy**

### **2.1. Analysis of the main objectives and components**

The policy of regularisation under focus here was included as one of many articles in the new migration law of Greece that was enacted in August 2005 and came into effect in January 2006. Among the main aims of Law 3386/2005 were:

- to provide a rational framework for the management of migration, taking the needs and conditions of Greek economy and society into account;
- to simplify bureaucratic procedures by amalgamating residence and work permits;
- to introduce provisions for long-term residents;
- to facilitate family reunification, and
- to provide for a comprehensive programme to integrate migrants into Greek society.

The regularisation programme that was provided for in Law 3386/2005 aimed to confront the reality that an unauthorised population of migrants had accumulated and to bring many of these migrants into legality on the basis of certain criteria outlined below. It was considered that the regularisation of migrants could contribute towards important objectives where the interests of the state and the migrants coincided. Among these was the acquisition of legal status and legal rights, which would greatly reduce the vulnerability of migrants to exploitation and to violation of human rights. Another important objective was to bring migrants out of irregular employment and the informal economy where their employment is not governed by the terms and conditions provided for by law. The transfer of employment from the informal to the formal sector benefits not only migrants, but also natives because it decreases the extent of unfair competition posed by those working under substandard terms and conditions of employment. Moreover, emergence from the informal economy benefits the public as a whole in that migrants in legal employment make contributions to, and thereby increase the revenue of, state-controlled social security funds, which are in financial crisis and often subsidised by the state. Finally, another important objective was to diminish the extent of social exclusion and facilitate the social integration of migrants. As has been widely noted, marginalisation of segments of the population often gives rise to social tensions and divisions that undermine social cohesion.

The regularisation policy foreseen in Law 3386/2005 concerned two categories of unauthorised migrants on Greek territory. The first, provided for in paragraph 10 of Article 91, is that of unauthorised migrants who had had a residence permit, either one that was extended until 30 June 2004 or one that expired at some later date and had not been renewed. In other words, they were

migrants who had been legal, but became unauthorised by failing to renew. A main requirement for them to become legal once again was that they fulfil obligations to social security funds: they were required to provide evidence that they were covered for at least 150 workdays per year after 1 July 2003. Those who could not provide such evidence were allowed to purchase the corresponding social security stamps. It should be noted that labour law provides for social security contributions to be made jointly by employer and employee in set proportions, with the employer paying the larger proportion.

The second category of migrants provided for, according to paragraph 11 of Article 91, were those who could prove that they had entered Greece before 31 December 2004. Proof of entry could be an entry visa or a stamp of entry in the passport. Other means of proof of presence in Greece before the end of 2004 were the following documents, with dates:

- submission of application for residence permit on basis of humanitarian reasons;
- acquisition of a tax identification number (AFM);
- verification by a social insurance fund of contributions made, or
- rejection of an application for asylum.

Among the requirements for issue of a residence permit to migrants in this category was submission of a statutory declaration stating that the reason for their presence in Greece was performance of a specified occupation, and stating the names of dependent spouse and children residing in Greece. Further requirements were a health certificate issued by a state hospital indicating that the applicant did not have a contagious disease that could pose a threat to public health, proof that the migrant had purchased 150 workdays' worth of social insurance stamps, proof that a health booklet had been applied for and an application fee of 150 euros.

As part of the policy formation process that led to the draft law, which was then amended and enacted as Law 3386/2005, a special committee was created in the Ministry of the Interior and this carried out consultations with various bodies. These included other ministries that shared responsibilities for migration, such as the Ministry of Employment and Social Protection and the Ministry of Public Order, as well as bodies such as the General Confederation of Labour (GSEE), and various migrant associations for main countries of origin of migrants in Greece.

After the new law was adopted by Parliament, an information campaign was organised to inform migrants about the new legislation and especially about the regularisation programme. Previous experience had shown the importance of such measures. Apart from announcements in the mass media, representatives of various migrant communities were called to the ministry to be informed

about the new provisions. The relevant articles of the law were translated into French, English, Albanian, Russian, Bulgarian, Romanian and Arabic. A leaflet was prepared in each of these languages, explaining in simpler, non-legalistic wording the basic prerequisites for participation and giving instructions how to complete the application form. It should be noted that, in the first regularisation programme, lack of such material had the consequence that migrants often waited hours in queues only to ask questions.

## **2.2. Implementation of the policy**

Several levels of government were involved in implementation of the programme. The migrants of the first category who had overstayed their permits were required first to obtain work permits from the Labour Directorates of the prefectures. Subsequently they were required, as were migrants of the second category, to submit applications for residence permits to the municipal or community authorities, which then sent the applications to regional authorities. There are about 1 100 municipalities in Greece, in 52 prefectures, which are grouped into 13 regions. The procedure also involved public hospitals, which were responsible for conducting health examinations and issuing the health certificates.

In preparation for implementation, educational and training programmes were organised for the personnel of local and regional authorities that would be involved. These programmes aimed not only to inform about procedures but to sensitise the personnel vis-à-vis migrants and improve their behaviour towards migrants. Although these programmes were carried out in many areas of Greece, it was not possible for them to cover all 1 100 local authorities.

In order to support the local authorities assigned major responsibilities in the application process, it was decided that they would receive 30 per cent of the revenue from application fees collected from the migrants, to cover their related operating costs. In addition, special software programmes for organisation of the data were distributed to them free of charge.

Among the main obstacles to the smooth implementation of the programme were the long queues that formed at the offices of local authorities, challenging the patience and nerves of both migrants and civil servants. Serious delays were encountered at the public hospitals charged with the health component. There was a large backlog of migrants waiting to be examined; in many cases, it required one or two months or even more to complete the necessary examinations and receive the certificate. Lengthy delays were also frequent in the purchase of social insurance stamps required of the migrants. The deadline for filing applications was extended by four months, until 30 April 2006. It should be noted that major administrative and organisational deficiencies plagued the first regularisation programme (Cavounidis 2003; Cavounidis 2006a) as well as the second (Glytsos 2005) and, though the third

programme certainly had its administrative shortcomings, these were not as serious as in the previous two programmes.

Adjustment of the policies was necessary during the implementation process, as is typical of regularisation programmes, since circumstances and situations of migrants exist that are not foreseen by the policymakers and specialists who hammer out the details of such programmes. In this particular regularisation programme, interpretative regulations were issued in order to clarify such cases. The general spirit of these regulations was to interpret "grey areas" in such a way as to facilitate both the participation of migrants and the task of the public agencies.

As a result of the regularisation policy, about 145 000 migrants submitted applications for regularisation. Of these, about 50 000 were submitted by unauthorised migrants who had overstayed their residence permits without renewing (as foreseen in paragraph 10 of Article 91) and 95 000 by migrants who did not have residence permits that had expired, but could prove by other means that they had entered Greece before the end of December 2004 (as foreseen in paragraph 11 of Article 91). By 15 June 2006, 19 000 residence permits had been issued, 2 000 applications had been rejected, mainly on the grounds of inadequate proof as to length of time in Greece, and the great bulk of applications remained to be adjudicated.

The total number of applications – 145 000 – is small compared to the numbers seen in the first and second regularisation programmes. In the first programme of 1998, 370 000 unauthorised migrants participated in the first or registration phase, of whom 220 000 continued to the second stage, in which proof of social security contributions was required. The second programme of 2001 drew approximately 350 000 applications.

It is of course difficult to assess the proportions of unauthorised migrants who participated in each regularisation effort, given that there are no reliable estimates of the unauthorised population at the points in time when the programmes were implemented. However, it is undoubtedly the case that a major reason for the decrease in number of applications was the stiffness of the prerequisites that were adopted in the third programme, which rendered many unauthorised migrants desiring regularisation ineligible to apply.

The first programme, in which the residence requirement was minimal, began on 1 January 1998 and the unauthorised migrants were required to have been present in Greece at the time of the publication of the regularisation decrees on 28 November 1997. In order to proceed to the second stage of the programme, 40 days' worth of social insurance contributions were required. The second programme began in June 2001 and the unauthorised migrants had to prove they had been living in Greece since at least 2 June 2000. They were allowed to prove this by various means, such as by submission of telephone or utility bills in their name, their children's school report cards or monthly bus passes.

Alternatively, they could purchase social insurance stamps to cover the 12-month period.

It is readily apparent that the criteria of the third programme, as outlined above, are stricter on both social security obligations and means of proof of residence. There were specific reasons that guided the adoption of stricter criteria in the third programme. First, the residence requirements were designed to take into account the objective that new waves of unauthorised migration should not be encouraged by the prospect of regularisation. Also, it had been observed in the 2001 programme that forgery of documents was widespread in the attempt to provide evidence of residence. In order to minimise the occurrence of false documents, residence could be proved in the third programme only by documents whose issuance was secure and could be verified. As for the requirement of 150 days' worth of social security contributions, it was considered that the regularisation effort should focus on migrants who were working, and that migrants who had worked legally and made regular obligatory social security contributions, thereby remaining in legality, should not be penalised for their conformity with the law. In other words, the criteria were crafted with concern about the signals or messages that would be sent to potential migrants abroad and to authorised and unauthorised migrants present in Greece.

Unsurprisingly, the stricter criteria of the third programme were subject to intense criticism on many sides. During the parliamentary discussion of the proposed migration law, of which the provisions for regularisation formed a part, the main opposition party, socialist Pasok, as well as smaller opposition parties of the Left, called for the legalisation of as many undocumented migrants as possible, warning that the strict residence criteria would exclude large numbers of unauthorised migrants. The General Confederation of Labour (GSEE) expressed similar views. Various migrant associations also heavily criticised the eligibility requirements and protested at their excessive strictness.

It appears that the final figure of 145 000 applicants fell short of the number of unauthorised migrants that government officials expected to participate in the programme. Although the criteria for regularisation were deliberately adopted on the basis of a specific rationale as outlined above, it is possible that different criteria might have been selected had it been known that large numbers of migrants would remain unauthorised. However, it is clear that the government would not have gone far in the other direction and would not have considered options such as the unconditional amnesty of all unauthorised migrants.

As for internal evaluation measures during the implementation of the procedure, there were none applied other than the constant monitoring of the numbers of applications that had been submitted in various regions of Greece.

### **3. Evaluation of the impact of the policy on irregular migrants and migration**

When comparing the results of the programme with its objectives, it should be noted first that the important goal of extending legal status to protect their human rights was achieved for the migrants participating; but, as already mentioned, it was known from the outset of the programme that the restrictive criteria, which were chosen for specific reasons, would disqualify many unauthorised migrants from participation, and the number of applications was indeed smaller than in the previous two programmes. It remains unknown what proportion of the unauthorised population at the time were applicants in the third programme.

In October 2006, several months after completion of the programme, the government announced that the regularisation effort would be extended to include those who could provide types of documents to prove length of residence in Greece that were not allowed in the initial programme, indicating recognition by the government that the initial requirements were indeed excessively strict and regret that so many unauthorised migrants were thereby disqualified. If approved by Parliament, as expected, the following documents can be submitted as proof that the migrant resided in Greece before 3 December 2004:

- a certificate that his or her child was enrolled in a primary or secondary school in Greece;
- a birth certificate showing that his or her child was born in Greece;
- a decision that rejected renewal of a residence permit unless the reasons for rejection pertained to public security;
- a residence permit that had not been renewed even though provided for by law 2910 of 2001.

With regard to the objective of transferring employment from the informal to the formal sector, it is difficult to formulate conclusions about the effectiveness of the policy. With regularisation, migrants gained the legal prerequisites to take on legal employment but, as research has shown (Cavounidis 2002b), even legal migrants very often take on undeclared jobs, given that employers remain reluctant to hire them legally, preferring not to pay social security contributions and make aspects of their activities known to the authorities. Of course, this reluctance is conditioned by the lax control of the labour market. It should be noted that the criteria for participation in the third regularisation programme were such that proof of legal employment at the time of application was not required; the requisite 150 workdays' worth of social security stamps could be purchased, contrary to usual practice.

With respect to the goal of facilitating social inclusion, acquisition of legal status is obviously a minimal though not sufficient condition for inclusion. It should be noted that with this third regularisation programme, prospects for social inclusion are greatly improved, given that the regularisation policy came as part of a broader framework that increased access to more permanent status. In the previous programmes, regularisation did not lead to relatively secure status but to what has been described as “legalisation under suspension” (Glytsos 2005), a phase lasting ten years in which migrants were repeatedly required to renew temporary residence permits of short duration until they became entitled to apply for status as long-term residents.

With the new provisions, and in accordance with EU guidelines, this period has been shortened to five years. In addition, access to family reunification has been facilitated, again in accordance with EU guidelines. The fact that the policy of regularisation has been applied in tandem with a broader framework leading to social inclusion is perhaps one of the most positive aspects of the present policy. However, criticism has been levelled at the government with respect to the prerequisites specified for acquisition of this long-term status and especially concerning the level of annual income required to qualify and the level of the application fee (Triandafyllidou 2005).

A consideration of the positive and negative aspects of the policy of regularisation implemented in 2005-06 should also include examination of the eligibility criteria adopted and of implementation. It has already been mentioned that relatively restrictive criteria were chosen, for specific reasons pertaining to concerns about implications for future illegal migration, and these resulted in the exclusion of many migrants. As for implementation, administrative deficiencies and delays were less severe than in previous programmes, but still widespread enough to have the serious consequence of undermining the effectiveness of the policy, given that long queues meant lost work days and income, thereby creating disincentives for participation, as in previous programmes (Cavounidis 2006a).

Another dimension of implementation that must be assessed in terms of its positive and negative aspects is that of the level of government involved. Following a general trend in decentralisation of government, in the third regularisation programme local governments were called on to undertake the administration of submission of applications. But the more than 1100 municipalities and communities all over Greece presented great variation in their ability to carry out this immense task.

Among the lessons Greece has learned from its experience with illegal migration and three regularisation programmes is that implementation of regularisation programmes does not solve the problem of illegal migration. As has been widely noted, implementation of the policy of regularisation is an admission of the failure of migration policy to effectively manage migration flows and it must therefore be accompanied by revision of past policies that have failed.

Among policies frequently cited as offering promise in the attempt to combat illegal migration are the opening of legal channels of migration and the signing of bilateral agreements between sending and receiving countries (e.g. Papademetriou 2005, 2006).

Greece's experience with the policy of regularisation has also shown that one of the biggest policy challenges is not only to bring unauthorised migrants into legality, but to keep them in legality. The data concerning applications submitted in the third programme verify previous assessments that lapse into unauthorised status is a common phenomenon and accounts for a significant proportion of the unauthorised migrant population. The extent of overlap among applicants in the three regularisation programmes carried out to date is unknown but is no doubt considerable. The unauthorised migrant population appears to have a fluid nature, as individuals change their status and often move in and out of irregularity over time.

An important challenge is to understand the reasons for this fluidity and make prevention of reversion to irregular status a policy priority. The factors contributing to the phenomenon must be carefully studied. The first sphere that should come under focus is that of the labour market and particularly the interaction of irregular immigrants with the informal economy; unless this relation is addressed with new policies, it is likely that regularisation may have little impact on employment relationships, leading to the need for more regularisations in the future (Papademetriou et al. 2004). Another sphere that should come under scrutiny is that of the administrative practices surrounding regularisation and permit renewal. These two spheres are crucial in shaping the context of incentives and disincentives in which migrants develop courses of action with respect to legality and illegality. For example, lack of labour market control reinforces the reluctance of employers to formalise their employment relationships with migrants while days of queuing at administrative offices results in lost wages and renders legality a costly affair for migrants (Cavounidis 2006c).

In the Greek experience, one of the thorniest policy issues has been that of the employment or social insurance criteria to be adopted for regularisation and for the renewal of permits. A minimum number of social security stamps has been required as proof of legal employment, or, when open purchase of stamps is allowed, as compensatory payment to the social security funds. This is a sticky issue particularly in light of the fact that in Greece, informal employment is widespread not only among the migrants but also among natives. Policies concerning regularisation and permit renewal by migrants should on the one hand encourage employment in the formal as opposed to the informal sector, but at the same time must not be at such great odds with the realities of the labour market that migrants are prone to lapse into irregular status.

It should be noted that in October 2006, the government announced that it would introduce legislation to amend some of the present requirements concerning renewal of permits, indicating recognition of the realities of the labour market and of the difficulties faced by migrants in their attempts to secure formal labour relationships. More specifically, the number of social security contributions required to achieve regularised status will be calculated not on an annual basis but on a biannual basis, so as to facilitate permit renewal by those who have more than the required number of insured workdays one year and fewer than those required the other year. In addition, it will become possible for migrants to openly purchase up to 20 per cent of the social security stamps required for renewal of the permit, in other words, outside any employment relationship.

#### **4. Summary of conclusions**

Greece continues to wrestle with the challenges posed by illegal migration and the accumulation of an unauthorised population. At the end of April 2006, the third Greek regularisation programme was completed. Stricter criteria were adopted in this programme in order to discourage future illegal migration and the number of applicants was smaller than in previous programmes. The considerations that must be taken into account when criteria for regularisation are selected are very complex and there are important trade-offs that must be weighed carefully. One issue that has particularly perplexed Greek policy-makers, and has been a main focus of the policy debate, is the framing of regularisation and renewal requirements regarding employment relationships and social insurance contributions. On the one hand, an important goal is to frame requirements such as to encourage formal as opposed to informal employment but, on the other hand, frame them in a way that they are not at such great odds with the realities of the labour market that employers and migrants have strong disincentives to enter formal labour relationships and make social security contributions.

Perhaps the biggest lesson Greece has learned from attempts to deal with the unauthorised population through the policy of regularisation is that this policy must be accompanied by many other measures if it is to be effective. The challenge is not only to legalise migrants, but to prevent future illegal migration and to adopt policies and administrative practices that will facilitate the efforts of migrants to remain legal and successfully integrate in the host society.

Migration offers new opportunities that can be taken advantage of by host countries but at the same time migration can be the source of new divisions, tensions, and problems that threaten social cohesion. The effective management of migration flows and the successful integration of migrants constitute major policy challenges for migrant-receiving countries. The consequences of failure in these two key areas will be exceptionally dire both in terms of human rights and in terms of social cohesion. Recognition that outcomes with respect to

migrant flows and migrant integration depend largely on the ability of governments to design and implement effective policies renders the exchange and evaluation of policy experience in different states an utmost necessity.

*Table 1 – Foreign population of Greece, 2001: main nationalities by gender*

All nationalities	Total	As % of all nationalities	Men	Women	Men as % of total
Albania	438 036	57.5	257 149	180 887	58.7
Bulgaria	35 104	4.6	13 888	21 216	39.6
Georgia	22 875	3.0	9 839	13 036	43.0
Romania	21 994	2.9	12 447	9 547	56.6
U.S.A.	18 140	2.4	8 805	9 335	48.5
Russian Federation	17 535	2.3	6 545	10 990	37.3
Cyprus	17 426	2.3	8 284	9 124	47.5
Ukraine	13 616	1.8	3 342	10 274	24.5
United Kingdom	13 196	1.7	5 269	7 927	39.9
Poland	12 831	1.7	5 876	6 055	45.6
Germany	11 806	1.5	4 746	7 060	40.2
Australia	8 767	1.1	4 105	4 662	46.8
Turkey	7 881	1.0	3 998	3 993	50.7
Armenia	7 742	1.0	3 615	4 127	46.7
Egypt	7 448	1.0	5 693	1 755	76.4
India	7 216	1.0	6 722	494	93.1
Iraq	6 936	0.9	4 841	2 095	69.8
Philippines	6 478	0.8	1 529	4 949	23.6
Canada	6 049	0.8	2 923	3 126	48.3
Italy	5 825	0.8	2 757	3 068	47.3
Moldova	5 716	0.7	1 709	4 007	29.9
Syria	5 552	0.7	4 400	1 152	79.2
France	5 267	0.7	2 136	3 131	40.5
Total	762 191	100.0	415 552	346 639	54.5

Source: National Statistical Service of Greece, Population Census of 2001

**Table 2 – Population of Greece, 2001: Greek and foreign nationals by age**

Age	Greek nationals		Foreign nationals	
	Numbers	%	Numbers	%
0-14	1 536 553	15.1	127 090	16.7
15-19	666 080	6.5	59 635	7.8
20-24	739 608	7.3	93 511	12.3
25-29	733 529	7.2	107 443	14.1
30-44	2 189 958	21.5	239 819	31.5
45-64	2 464 067	24.2	108 008	14.2
65+	1 842 111	18.1	26 685	3.5
Total population	10 171 906	100	762 191	100

Source: National Statistical Service of Greece, Population Census of 2001

**Table 3 – Employed population of Greece (foreigners and total) aged 15 and over, by branch of economic activity, 2001: males**

	Employed foreigners		Total employed	
	Numbers	% of all employed foreigners	Numbers	Foreigners as % of total
Agriculture, hunting and forestry	52 127	19.2	345 068	15.1
Fishing	1 591	5.9	12 829	12.4
Mining and quarrying	628	0.2	10 504	6.0
Manufacturing	39 195	14.5	349 385	11.2
Electricity, gas and water supply	525	0.2	30 405	1.7
Construction	94 895	35.0	339 606	27.9
Wholesale and retail trade; vehicle repair	23 959	8.8	373 671	6.4
Hotels and restaurants	13 481	5.0	135 683	9.9
Transport, storage, communications	8 720	3.2	223 915	3.9
Financial intermediation	823	0.3	53 882	1.5
Real estate, renting and business activities	5 598	2.1	122 065	4.6
Public administration and defence	2 515	0.9	216 665	1.2

Education	1 863	0.7	95 056	2.0
Health and social work	1 642	0.6	65 067	2.5
Other service activities	4 029	1.5	74 019	5.4
Private households with employees	1 982	0.7	3 429	57.8
Extra-territorial organisations	177	0.1	548	32.3
Not specified	16 949	6.3	145 087	11.7
Total	270 699	–	2 596 884	10.4

Source: National Statistical Service of Greece, Population Census of 2001

*Table 4 – Employed population of Greece (foreigners and total) aged 15 and over by branch of economic activity, 2001: females*

	Employed foreigners		Total employed	
	Numbers	% of all employed foreigners	Numbers	Foreigners as % of total
Agriculture, hunting, forestry	14 627	12.1	228 648	6.4
Fishing	331	0.2	5 124	6.4
Mining and quarrying	20	0.0	842	2.4
Manufacturing	9 620	8.0	143 463	6.7
Electricity, gas and water supply	44	0.0	6 831	0.6
Construction	1 067	0.9	11 018	9.7
Wholesale and retail trade; vehicle repair	7 134	5.9	231 778	3.1
Hotels and restaurants	16 914	14.0	98 642	17.2
Transport, storage, communications	2 001	1.6	43 929	4.6
Financial intermediation	683	0.6	52 033	1.3
Real estate, renting and business activities	9 009	7.4	116 274	7.7
Public administration and defence	951	7.9	104 211	0.9
Education	3 862	3.2	154 638	2.5
Health and social work	3 670	3.0	119 643	3.1
Other service activities	3 236	2.7	61 849	5.2
Private households with employees	41 776	34.6	54 298	76.9

*Policies on irregular migrants*

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Extra-territorial organisations	169	0.1	533	31.7
Not specified	5 770	4.8	71 311	8.1
Total	120 884	–	1 505 065	8.0

Source: National Statistical Service of Greece, Population Census of 2001

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## **Part III – New answers to irregular migration challenges in the Russian Federation**

*Irina Ivakhnyuk*



## Executive summary

The Russian Federation is a host country for millions of migrants from other former Soviet states.<sup>1</sup> They consist of two major groups: ex-USSR citizens who come for permanent residence (not only ethnic Russians, but other indigenous nations also) and temporary labour migrants who come to the Russian Federation in quest of jobs and for small-scale business. In both groups irregular migrants are a sizeable part, with estimates of the number of irregular workers at 80 to 90 per cent of the total.

This is the result of both objective and subjective reasons. On the one hand, geographical proximity, historical ties, a visa-free regime in the major part of the post-Soviet space and knowledge of the Russian language create 'psychological ease' in moving to the Russian Federation despite the administrative and juridical obstacles. On the other hand, a tough migration policy and over-complicated bureaucratic procedures for getting permits leave little space for regular migration and push migrants out of the legitimate field.

The large numbers of irregular migrants staying in the Russian Federation have made the Russian Government rate this as a national security challenge. The growth of criminal activity in migrant communities (which is stressed by law-enforcement bodies) along with the world-wide trend to associate irregular migration with international terrorism (a correlation aggravated by the mass media) have combined to create a negative general image of a migrant in the Russian Federation and stirred up intolerance in society.

However, tough migration regulations have proved to be ineffective: the numbers of irregular migrants in the Russian Federation are growing. On the other hand, negative demographic trends and the economic interests of the Russian Federation call for a review of migration policy and a general change

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1. The Russian Federation is involved in numerous migration flows to, from and via the country. For the purpose of this report, migrants from former Soviet states are put at the forefront, though Russia is also hosting migrants, both regular and irregular, from outside the post-Soviet space, including hundreds of thousands of transit migrants from Asian and African states who got stuck in Russia even though their initial objective was the EU or other more developed countries; besides, the Russian Federation is the origin country for millions of migrants over the world: permanent and temporary, voluntary and refugee, regular and irregular. Large-scale irregular migration from other ex-USSR republics targets the Russian Federation specifically, but state policy towards this group of migrants has demonstrated drastic shifts, the latest in the mid-2000s. This was the reasoning in shaping the subject of this report.

in attitude towards migrants. Gradually, a pragmatic approach driven by the need for labour resources has prevailed over national security concerns,<sup>2</sup> and a liberal model of migration policy has gained support among policy-makers.

This report demonstrates how a better understanding of the nature of migration processes, the economic and political benefits (including the regional integration resource), along with a migration policy correlated with economic and demographic needs and a perception that current foreign labour employment practices are inadmissible, can bring about a cardinal shift in official migration policy.

In the mid-2000s, the Russian Federation's migration strategy has reached a turning point. Migration policy is shifting from being primarily restrictive to a more flexible approach that widens the legal space for migration and removes bulky bureaucratic barriers for migrants. The key words for the new migration policy are selectivity and regularisation, which in practice mean mechanisms to make it easier for migrants to get regular status if they are coming to the Russian Federation from other former Soviet states for permanent residence or for temporary work. This shift lies in amendments to the 2002 Federal Law on citizenship, adoption of the new Federal Law on registering foreign citizens and persons without citizenship and the Federal Law on Amendments to the Federal Law on legal status of foreign citizens (both coming into force on 15 January 2007), adoption of the 2006-12 State Programme on providing support for voluntary resettlement of compatriots to the Russian Federation, development of the new Concept of State Migration Policy, drafting of the Concept of Regularisation for irregular labour migrants from CIS<sup>3</sup> states with a visa-free entry regime to the Russian Federation, followed by the 2005 pilot project of regularisation in ten regions of the Russian Federation, and more attention being paid to collaboration with NGOs involved in migrant issues.

Methodologically, this report is based on analysis of:

- migration legislation of the Russian Federation, including drafts of new laws and concepts, in development of which the author has personally participated;

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2. To be more exact, the concept of national security was widened from a focus on state security to the complex of economic security, demographic security, societal security and human security (presently, the draft of the new National Security Concept of the Russian Federation is under consideration).

3. The CIS (Commonwealth of Independent States) is a regional structure existing since 1993. The CIS member states are: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan, i.e. all the post-Soviet states except the Baltic countries (Latvia, Lithuania, and Estonia). The Russian Federation has visa-free entry regime with all CIS countries except Georgia and Turkmenistan.

- statistical data from Russian official sources and experts' estimates from countries of origin;
- results of surveys of irregular migrants – for the purpose of this report, the author has interviewed officials from the Federal Migration Service of the Russian Federation and other government bodies engaged in migration management, policy-makers, and representatives of non-government and human rights organisations from the Russian Federation and other CIS states.

## **1. Short analysis of irregular migration to the Russian Federation**

### **1.1. Basic information on irregular migrants**

In its fifteen years of post-Soviet history, the Russian Federation has been facing the phenomenon of international migration in all its diversity. Refugees from other former Soviet republics, migrants coming to the Russian Federation for permanent residence, temporary labour migrants, transit migrants from remote Asian and African countries moving westwards – all these migration flows are pregnant with irregularity when there is no adequate legislation in the receiving country and control over immigration is poor. In the case of the Russian Federation, the situation was complicated by lack of any experience in managing international migration flows during the Soviet period, when cross-border movements of people were strictly limited by USSR legislation and its external borders were effectively guarded. After the disintegration of the Soviet Union in 1992, the administrative and fully transparent frontiers between the former Soviet republics turned into inter-state borders, and movements of people over these new-status borders became international in form.

However, even after disintegration the borders remained half-transparent. Poor border control and visa-free entry regime between the majority of the post-Soviet countries could not stop people who were pushed by economic crisis, military conflicts and ethnic-based pressure. Between 1992 and 2000, about 9 million former Soviet citizens arrived in the Russian Federation from other former Soviet republics to settle there. The major part of them were granted proper legal status and/or Russian citizenship. However, gaps in Russian legislation on migration<sup>4</sup> and a tough Law on citizenship<sup>5</sup> resulted in over

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4. For example, from 2002 the legal status of foreign citizens (including ex-USSR citizens) in the Russian Federation was regularised in accordance with the dramatically outdated "Regulations of stay of foreign citizens in the USSR" of 26 April 1981. There co-existed numerous laws, decrees and rules regulating the entry and stay of foreign citizens, which were hastily drafted in the 1990s and were full of discrepancies and contradictions.

5. Adopted in 1991, revised in 1993 and 1995.

1.5 million permanent migrants living in the Russian Federation without any status by 2002. They were not irregular migrants in a classical understanding of this term: they were not hiding themselves from Russian authorities, they had been living in the Russian Federation with their families for years, owning property and working, their children attended schools and universities, and they organised their life by means of bribes-giving; however, they could not get residence permits or Russian citizenship on a legal basis due to a lack of correspondence between old and new regulations.<sup>6</sup>

The rights of these migrants were restricted and their legal status was uncertain. In fact, they were treated as irregular migrants. Their situation was a negative example for millions of other ex-Soviet citizens<sup>7</sup> who wanted to move to the Russian Federation.

Meanwhile, the gaps in economic development between the Russian Federation and other ex-Soviet states stimulated the flow of labour migrants pushed from their origin countries by the poor economic situation, unemployment and low standards of living there; these people were pulled towards the Russian Federation, which was doing better in its transition to a market economy. Again, visa-free border regulations, a historical understanding of the post-Soviet territory as a common country and knowledge of Russian language created a psychological ease in going to the Russian Federation rather than to any country outside the former USSR. Since the opportunities for legal employment were very narrow (not because of lack of vacancies but due to the inefficient system of recruiting foreign workers) and the potential for migration outflow was growing in the Central Asian states, Ukraine, Moldova and the Caucasus republics, people were coming for irregular employment. They found jobs as seasonal workers in construction, agriculture and the service sectors. In the summer their number is estimated at 5 to 10 million.

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6. For example, migrants could not prove their date of entry to the Russian Federation because border crossing was not stamped in their Soviet passports.

7. The Russian diaspora that remained outside the Russian Federation after the disintegration of the Soviet Union is estimated at 24 million. Even if not all intended to move back to Russia, migration potential among them was high. In the mid-2000s, experts estimated potential permanent migration to the Russian Federation from post-Soviet states as 4 million at most (Population of the Russian Federation, 2003-04, Annual demographic report, ed. A. Vishnevsky, Moscow: Nauka, 2006, p. 320, in Russian). This can be explained by the improved economic situation in countries of residence, reduced ethnic tension, assimilation etc., but over-tough migration legislation in Russia has undoubtedly played a dramatic role.

Table 1 – Differences in standards of living between the CIS countries, 2005/6

CIS country	GDP per capita, \$US	Percentage of population living on less than \$US2 per day
Armenia	1234.0	49
Azerbaijan	2585.9	9
Belarus	3316.2	2
Georgia	1765.8	16
Kazakhstan	4386.1	25
Kyrgyzstan	507.7	25
Moldova	917.4	64
Russian Federation	6330.8	8
Tajikistan	411.5	43
Turkmenistan	3888.6	44
Ukraine	2020.6	46
Uzbekistan	498.6	72

Sources: IMF, World Economic Outlook Database, April 2006; UN, Population Reference Bureau, World Population Data Sheet, 2005

Thus, the question of irregular migrants from post-Soviet states to the Russian Federation and the review of state policy towards irregular migrants may be analysed as two issues:

- ex-Soviet citizens and citizens of CIS states coming to the Russian Federation for permanent residence and intending to obtain Russian citizenship;
- temporary labour migrants who use the privilege of visa-free entry to the Russian Federation and find irregular jobs in Russian economy to earn their living and support their families who are left behind.

The first group is the smaller part of the over 7 million migrants who have naturalised in the Russian Federation during the post-Soviet period. The second group represents the dominant pattern of contemporary labour migration to the Russian Federation, since the proportion of regular to irregular segments is 1:10 at least.

Both groups of migrants are now the focus of the Russian review of migration policy, which seems ready to correct the previous mistakes, reduce the numbers of irregular migrants in the country by a more liberal approach towards regularisation procedures, and widen the legal channels of entry to the Russian

Federation for the citizens of former Soviet states, whether on a permanent or temporary basis.

*Table 2 – Numbers of regular and irregular migrant workers from CIS states in the Russian Federation, early 2000s*

CIS country	Regular migrant workers (thousands)*	Irregular migrant workers (thousands)**
Armenia	22	650
Azerbaijan	18	550-650
Georgia	7	200
Kyrgyzstan	20	350-400
Moldova	48	250
Tajikistan	33	600-700
Ukraine	121	1 000-1 500
Uzbekistan	44	550-600

\* Based on data from the Russian National Committee on Statistics (ROSSTAT)

\*\* Based on national estimates by countries of origin.

Sources: *Overview of the CIS Migration Systems*, ICMPD, Vienna, 2006; "Labour and Employment in Russia" [Statistical Bulletins], ROSSTAT, 2001-05 (in Russian)

Surveys of irregular migrants in the Russian Federation<sup>8</sup> prove that their socio-demographic characteristics generally correspond to those of regular migrants. For instance, temporary labour migrants, both regular and irregular, are primarily labour-age males (average age is 32-33 years, 80 per cent are males), married (over 60 per cent) and having children (40-45 per cent), with their families left behind. However, in terms of skill levels and areas of origin (urban/rural), irregular migrants are characterised by a relatively low level of education and skills (less than half with secondary and higher education; only a quarter have professional skills needed for their work in the Russian Federation) and irregular migrants more typically come from rural areas (Kyrgyz and Uzbek migrants often arrive in groups originating from one village). Irregular male migrants concentrate in the construction sector (low-skilled or casual workers), in trade and services (market trade, car repair shops, street cleaning, etc.) and agriculture, while female migrants find jobs in agriculture and – more commonly

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8. *The Problem of Irregular Migration in Russia: Reality and the Search for Solutions* [results of the sociological survey], IOM Office in Russia, Moscow: Gendalf, 2004 (in Russian); Evgeny Krasinets, "Irregular migration and migration policy in Russia: the economics of crimes and punishments", *Scientific Journal*, Vol. 8: Irregular Migration in Contemporary Russia, ed. Yuri Latov and Olga Vykhovanets, Moscow, 2006, pp. 40-50 (in Russian); I. Kozina, M. Karelina and T. Metalina, "Labour practices of foreign workers in Russia", *Sociological Surveys*, No. 2, 2005 Moscow, pp. 44-5 (in Russian).

– in service sectors (house-cleaners, dish-washers, waiters, call-girls, sex services).

## **1.2. Rationale for a change to regularisation policy**

The fact that millions of migrants live in a country irregularly, outside the legal framework, being deprived of their basic human rights, cannot be a matter of indifference to the state. Initially, numerous migration flows to the Russian Federation were taking place in a legal vacuum, adding complications to a bunch of social and economic problems resulting from the USSR's break-up, the natural reaction of the Russian authorities was to impede the inflow. This explains the restrictive character of Russian laws on migration from the 1990s to the early 2000s.

However, in the course of time, the approach to international migration in the Russian Federation has been changing. Negative demographic trends (an absolute population decline of about 1 million a year due to dramatic differences between the birth and death rates; from 2006, an absolute decline in those of working age, up to 700 000 from 2010 onwards; an ageing population and growth of the dependency ratio) and economic recovery that needs additional labour resources (stabilisation of the economic growth rate and expansion of the private sector, particularly in services and construction, which are labour-intensive) made the Russian authorities take a new look at migration. Unreasonably tough migration regulation in the 1990s resulted in a dramatic decline of immigration to the Russian Federation from other CIS states, from over 900 000 in 1994 to less than 50 000 in the early 2000s. At the same time, the scale of irregular labour migration boomed, demonstrating high migration potential in the post-Soviet space and the need for a new strategy in migration management in the Russian Federation to cope with its pragmatic economic and demographic interests.

While irregular migration remains the priority national security concern in the Russian Federation, understanding of national security has shifted from being focused exclusively on the state to a wider approach, balancing the economic, social, demographic, cultural, ethnic and human security of the nation. Correspondingly, the general aim of tackling irregular migration is meant to be realised by a combination of police instruments (proper border management, exposure of human traffickers, immigration control, secure identification documents etc.) together with humanitarian measures (regularisation of irregular migrants, development of legal channels for permanent and temporary migration as an alternative to irregular migration and human trafficking).

From the political perspective, the Russian Federation's shift in priorities and instruments of migration policy looks promising too. As leader in the post-Soviet space in terms of economic development and political weight, the Russian Federation encourages regular migration and regional co-operation

in the field, giving migrants from smaller CIS states an opportunity to work, earn money and remit earnings home to support their families and national economies. Labour migration in the CIS region, inspired by historical and cultural ties and knowledge of the Russian language, effectively works to stabilise and integrate the countries, for their mutual benefit and development. Major destination countries, namely the Russian Federation and Kazakhstan, and origin countries – Uzbekistan, Tajikistan, Kyrgyzstan, Moldova, Ukraine and Armenia, emphasise their interest in the development of a CIS common labour market.

Visa-free population movement between the majority of former Soviet republics is a natural and humane migration regime in a space where state borders have separated families, relatives, countrymen and compatriots – the result of centuries and generations when people lived in a common country called the USSR. With proper migration management, it could provide an effective instrument of economic development in the region.

### **1.3. Description of immigration regulations in force and how these are applied in practice**

#### *Entry to the Russian Federation*

The general rules for entry of foreign citizens to the Russian Federation are set by the 1996 Federal Law on entry to and exit from the Russian Federation. The Russian Federation also has agreements on visa-free entry with nine post-Soviet states: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Ukraine and Uzbekistan. Visa-free entry gives the right to stay in the Russian Federation for 90 days; for longer stays, a temporary residence permit must be issued. Citizens of Georgia and Turkmenistan arrive with entry visas, like citizens from any other country.<sup>9</sup> The 2002 Federal Law on the legal status of foreign citizens in the Russian Federation lists of identification papers valid for entering the country.

In practice, the visa-free entry regime with CIS states facilitates population movements in the post-Soviet territory. Migrants who come to the Russian Federation in quest of jobs usually become irregular migrants through undocumented employment, not by illegal border crossing, either with false documents or by avoiding border crossing points. However, the 7 500-km border between the Russian Federation and Kazakhstan, poorly equipped and guarded, is also used by migrants for illegal entry to the Russian Federation.

#### *Stay in the Russian Federation*

When crossing the border, any foreigner must fill in a migrant card, which is stamped at the border point and remains his/her principal document for staying

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9. With some countries, the Russian Federation has bilateral agreements specifying the visa regime for certain groups of travellers (e.g. the 1993 Agreement with China on visa-free entry for tourist groups).

in the Russian Federation for 90 days without getting a temporary residence permit. According to the Article 20 of the 2002 Federal Law on the legal status of foreign citizens in the Russian Federation, within three working days after crossing the Russian border a foreign citizen must be registered in a place of his/her stay.<sup>10</sup> Registration is proved by a registration stamp in the migrant card. If they change their place of stay, foreign citizens are to be re-registered in the new place of stay within three working days and get a new registration stamp in the migrant card.

Legislation determines three legal types of stay of foreign citizens on Russian territory:

- temporary stay registration (within the visa regime, according to the visa terms; within the visa-free regime, it is for 90 days);
- temporary residence permit (for 3 years; for living and working in a certain territory of the Russian Federation);
- permanent residence permit (can be issued after 1 year's stay in the Russian Federation on the legal basis for 5 years' stay, with no limitation on place of residence or work; can be prolonged for another 5 years more than once).

In practice, the very short three-day period for registration in a place of stay is a bottleneck. In combination with a relatively complex procedure when, for instance, all persons registered in the living quarters where the migrant is registered are required to come to the local registration desk (attached to the local police department) all at once to confirm their agreement in a written form, it practically makes the procedure unrealisable and pushes migrants outside the legal field (since they cannot claim legal employment without having a registration stamp), engendering corruption. If a migrant has no registration stamp, he/she is a violator of administrative rules,<sup>11</sup> not an irregular migrant.<sup>12</sup> He/she enters irregularity through undocumented employment (without a work permit) or staying for over 90 days without a temporary residence permit. However, having no registration stamp in their migrant card cuts off migrants from a number of legal rights, including the important right to health care (except in emergency). Besides, he/she can be stopped at any time for a check of papers by militiamen, who can impose a penalty for having no registration stamp.

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10. For Ukrainian citizens, the term of compulsory registration in a place of stay is 90 days (since November 2004).

11. In 2004, 713 000 foreign citizens staying in the Russian Federation were charged with administrative offences, mainly terms of stay.

12. There is no formal definition of "irregular migrant" in Russian legislation. It is understood that irregular migrants are foreign citizens and persons without citizenship who have violated the national laws regulating entry, stay and work in the territory of the Russian Federation.

### *Work permits*

The procedure of getting permits to work in the Russian Federation is set down in a 1993 Decree of the President of the Russian Federation, supplemented by a variety of subsequent government, ministerial and departmental regulations, statements and clarifications. As a result, since 2006 the Russian Federation has had a fully employer-driven system of temporary labour migration. The procedure of legally hiring a foreign worker from a CIS country by a Russian employer consists of two stages: (1) getting permission to hire foreign worker(s) of definite professions and skills from the local organ of the Federal Migration Service (FMS), preceded by a positive conclusion of the Federal Employment Service; (2) getting personal job permission for every foreign worker from the FMS local organs and registration of the employee(s) in local taxation bodies.

In practice, the legal procedure of getting work permits is over-bureaucratic; it needs such a lot of time and effort from an employer that this makes it impracticable. In total, an employer must submit about thirty (!) documents, including certified copies of the company registration certificate, state licence, company charter, tax registration certificate, bank certificate of the company's account balance, balance sheet for the last quarter and many others. Sending these to a chain of state institutions, every time waiting for a decision, takes up to half a year, which makes hiring of migrants, for example for seasonal work, absurd. Combined with high taxes (permit tax for every foreign worker; 40 per cent social tax rate on foreign labour force wages fund; 30 per cent income tax rate for foreign workers, in contrast to 13 per cent income tax rate for national workers), it forces both Russian employers and migrant workers to make their choice in favour of shadow employment. Few checks and small penalties for hiring foreign workers illegally, on the one hand, and the opportunity to settle the affair with bribes, on the other hand, have made Russia a breeding ground for a large-scale shadow labour market. According to the FMS estimate, over 93 000 employers in the Russian Federation were practising undocumented employment of foreign workers in 2004.<sup>13</sup>

The over-complicated procedures of getting registration stamps and work permits have provoked the growth of a parallel business specialising in supplying the necessary documents quickly and easily. The "business" was organised in collaboration with corrupted officers from local migration services and police departments. Impudently advertised illegal services of registration and regularisation entirely distorted the aims of having full information on migrants, providing social security and protecting local labour markets.

### *Citizenship*

Generally, foreign citizens can apply for Russian citizenship after five years of uninterrupted legal stay in the Russian Federation. The general requirements

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13. See [www.fmsrf.ru](http://www.fmsrf.ru) (the FMS website).

include: observance of the Russian Constitution and laws; having a permanent residence permit, confirmation of legal source of livelihood; knowledge of the Russian language; renunciation of any other current citizenship. The Federal Law on citizenship adopted in 2002 gave no preference to ex-USSR citizens, and it made the Law an object of sharp criticism from the public. By 2003, the amendments to the Article 14 of the 2002 Law on citizenship had been adopted; they determined the facilitated procedure (reduced requirements) of granting Russian citizenship for certain categories of foreign citizens and persons without citizenship:

- those who were born in the Russian Federation;
- anyone married to a Russian citizen for at least 3 years;
- disabled persons who have capable adult children citizens of the Russian Federation;
- persons who entered the Russian Federation from ex-USSR countries, registered in a place of stay before 1 July 2002 and applied for Russian citizenship before 1 January 2006;<sup>14</sup>
- Second World War veterans living in the Russian Federation;
- citizens of ex-USSR countries graduating from professional and higher schools in the Russian Federation after 1 July 2002;
- citizens of ex-USSR countries contracted to the Russian Army for at least 3 years.

In practice, the 2003 amendments to the 2002 Law on citizenship shaped a change in Russian migration policy to being based on selectivity and giving preference to migrants from ex-USSR states. As a result, over 600 000 migrants from post-Soviet states were granted Russian citizenship in 2004-05 (in comparison to 30 000 in 2003).

#### **1.4. Analysis of possible root causes of irregular migration and reasons why people choose irregular migration over legal migration**

The root causes of international migration are well known: generally, they result from disparities in economic opportunity in people's country of origin and country of destination. However, realisation of migration intentions (permanent/temporary migration; labour/student; regular/irregular) strongly depends on the migration regulations in destination countries. The contemporary history of international migration over the world proves that, when regular ways of immigration are narrowed, migrants still come and stay but irregularly. This is true for the post-Soviet Russian Federation, but the situation here has a specific character.

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14. The deadline was later extended to 1 January 2008.

Visa-free entry and poor border control put only minor obstacles in the way of migrants from CIS states. The Russian economy has a growing demand for labour, which its own human resources cannot meet, due to shrinking population size in many provinces and the growing duality of the labour market as Russian workers avoid “3D jobs” (dirty, dangerous and degrading jobs). However, the state has built up an over-complicated mechanism for labour import instead of developing an official migration infrastructure, with a complex of state and private bodies and services for migrants: recruitment agencies, legal advice, information centres, accessible databases of vacancies and so on. In contrast, the labour trafficking business is flexible and well organised. Pushed by poverty and despair, migrants often deliberately resort to the “help” of traffickers and agree to slavery-like labour relations.

Ethnic social networks of ex-Soviet nationals who live permanently in Russia give another option for incoming migrants. The informal labour market for migrants in the Russian Federation is ethnically determined to a great extent. For example, migrants from Azerbaijan are concentrated in market trading, whereas migrants from Armenia are primarily engaged in road construction and repair. Ukrainian migrants are in construction and transport. Migrants from Uzbekistan and Tajikistan are in the service sector and construction of private houses. The internal labour markets within ethnic communities operate thousands of workplaces, and migrants often prefer to rely on informal ethnic solidarity and undocumented employment in ethnic labour markets rather than on the official Russian labour migration infrastructure.

So, on the one hand, labour migrants to the Russian Federation are prevented from getting regular status and documented work by over-bureaucratic procedures of getting permits; on the other hand, they deliberately resort to labour traffickers or ethnic communities for undocumented jobs in the shadow sector. As a result, the rights and interests of irregular labour migrants are poorly protected, and mainly by informal mechanisms (Table 2).

*Table 3 – Ranking sources of protection of irregular foreign workers in the Russian Federation (results of interviews with irregular labour migrants from Tajikistan in Moscow Province, N=150; 2003)*

Answering the question: <i>In your opinion, who can effectively protect your interests and the interests of other labour migrants from Tajikistan in Russia?</i>	per cent*
Nobody	50
My family, relatives, friends	19
Embassy of my country	18
Ethnic community	15
Russian human rights organisations	5

International human rights organisations	5
Militia or other law enforcement bodies	4

\* Up to three answers could be chosen.

Source: I. Kozina, M. Karelina and T. Metalina, "Labour practices of foreign workers in Russia", *Sociological Surveys*, No. 2, 2005, Moscow, pp. 44-5 (in Russian). Also available at <http://demoscope.ru/weekly/2006/0235>

## 2. Main characteristics of a new migration policy

By 2005, it had become absolutely clear that the existing model of migration management in the Russian Federation was inefficient. It did not correspond to national economic and demographic interests, pushed migrants into the shadow sector, put obstacles to development of the national labour market, left millions of people living in the Russian Federation without legal protection, gave rise to corruption and provoked growth of criminality among migrants. There was an obvious need for revisiting migration management strategy with special focus on the irregular migrants issue.

A shift in priorities was formulated at the ad hoc meeting of the Russian Federation National Security Council on 17 March 2005, when the new Russian strategy on irregular migrants was outlined. President Putin, speaking about the vital need for a more effective migration policy in the Russian Federation, one corresponding to its economic and demographic interests, specially noted large-scale irregular migration and emphasised that:

among irregular migrants there are people who unwittingly and often through our fault find themselves in the shadow sector. The main reason is notorious administrative barriers, which stand up against people who would like to stay and work in Russia legally ... Migrants are excluded from social security system ... By lack of consideration for millions of migrants we ourselves push them to the criminal sphere.<sup>15</sup>

That was a sort of a signal of the state's readiness to perceive a new, more liberal, approach to migration management, which had already been outlined and urged by non-government organisations and the academic community.

### 2.1. Analysis of the main objectives and components

The main objectives of the new migration policy are formulated in the new Concept of the State Migration Policy,<sup>16</sup> a fundamental revision of the 2003 Concept of State Management of Migration Processes. It highlights the positive role of migration for sustainable economic and demographic development of

15. See [www.kremlin.ru/text/appears/2005/03/85300.shtml](http://www.kremlin.ru/text/appears/2005/03/85300.shtml).

16. The new Concept of the State Migration Policy was under consideration at the time of writing. It got its first reading in the *Gosudarstvennaya Duma* (the Russian Parliament) in November 2005 and its second reading in June 2006. It is expected to be adopted by the end of 2006.

the Russian Federation and stresses the human dimension of migration: regularisation of migrants, protection of their human and social rights, integration of migrants into the receiving society, the eradication of discrimination, over-exploitation and xenophobia, and the development of tolerance and mutual respect between migrants and nationals. It is important to note that, though the Concept is not adopted yet, its objectives and principles are already being realised in revised legislation and government practice. The initiatives of the Federal Migration Service in 2005-06 demonstrate a radical shift in understanding of migration strategy.

This new understanding puts the emphasis on regularisation and selectivity as the major principles of the new policy, encouraging regularised migration to the Russian Federation with preference given to the citizens of the CIS countries.

Methodologically, the fight against irregular migration is replaced by the management of migration processes by creating reasonable – from the perspective of the state, society, citizens and migrants – conditions and mechanisms for regularised migration to the Russian Federation, both permanent and temporary.

Most important, the new migration policy in the Russian Federation is more humane than it was before. Driven by a growing understanding of the unreasonableness and irrationality of the existing situation – which forces millions of people to live in the Russian Federation with irregular status, isolated from the social security system and legal protection, and making fertile ground for lawlessness, corruption and criminality – the new migration policy tends to turn its face towards migrants from ex-Soviet countries, encouraging them to come to the Russian Federation in a regulated way, making the process of migration to the Russian Federation easier and more transparent, with a range of legal opportunities of stay and work. Respect for migrants' rights is a significant element of the new approach, from legally guaranteed freedom of movement on the territory of the Russian Federation down to the access of a migrant to (and protection of) his or her personal data in the Migration Databank.<sup>17</sup>

Recent Russian legal documents in the field of migration management, taken together, prove a radical change in migration strategy in the Russian Federation. These are:

- the 2006-12 State Programme on providing support for voluntary resettlement of compatriots to the Russian Federation (adopted by Presidential Decree, 22 June 2006);

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17. Article 6 of the Federal Law on Amendments to the Federal Law on Legal status of foreign citizens in the Russian Federation (to be put in force on 15 January 2007).

- the 2005 Concept of Regularisation of irregular labour migrants from the CIS states that have a visa-free entry regime with the Russian Federation;
- the Federal Law on Registering foreign citizens and persons without citizenship in the Russian Federation (adopted by *Gosudarstvennaya Duma* in June 2006; to be put in force on 15 January 2007);
- the Federal Law on Amendments to the Federal Law on legal status of foreign citizens in the Russian Federation (adopted by *Gosudarstvennaya Duma* in June 2006; to be put in force on 15 January 2007);
- the new Concept of the State Migration Policy (considered at the sessions of *Gosudarstvennaya Duma* in November 2005 and June 2006).

Drafting of these documents was preceded by consultations and round tables with experts, employers' associations, private labour recruitment agencies and other NGOs, as well as active public debates in the media, with the participation of higher officers from the Ministry of Interior, Federal Migration Service and Ministry of Economic Development.

For example, the Concept of Regularisation of irregular labour migrants from the CIS states that have a visa-free entry regime with the Russian Federation was drafted from late 2004 onwards by the working group attached to the Expert Council of the Russian Federation Human Rights Commissioner. As the Russian Federation has no experience in regularisation campaigns, the experience of European countries and the United States in migrants' amnesties was carefully studied. Papers on different approaches to the regularisation of migrants, written by experts from these countries, were published in detailed comparative studies. Realisation that a regularisation campaign is usually a forced measure resulting from over-restrictive immigration policy opposing objective realities, came together with an understanding of the contradictory effects of migrants' amnesties and the need for thorough working-out of the regularisation concept and programme. The draft Concept was discussed at round tables with representatives of interested government bodies, NGOs, international organisations and experts from European countries that have experience in migration amnesties. In May 2005, the Concept was approved by the Tripartite Commission on Regulation of Labour Relations (formed by the government, employers' national associations and trade unions' national associations), and a decision to start the pilot small-scale regularisation programme in ten provinces of the Russian Federation was made.

The idea of regularising the status of some irregular migrants and liberalising the laws on stay and work in the Russian Federation have provoked sharp discussion in society, in the media and among political parties. It has become a source of discord, an uncompromising barrier between conservative and

liberal politicians.<sup>18</sup> Even within the Federal Migration Service and other government bodies engaged in migration management, there is no unanimity on the reasonableness and timeliness of this liberalisation of migration law. The tradition of a closed country persists, while regulation models of the market economy have not settled down yet.

So, the change in official migration strategy towards human-orientated regulations and transparent procedures is an uneasy success.

The shift in migration policy towards encouraging regularised migration, rather than irregular migration, has a number of secondary objectives, which are also very important:

- reducing corruption: in contrast to the new laws regulating migration in the 1990s, the improved laws and regulations are written in detail, leaving no space for bureaucrats to abuse their power;
- cutting down the shadow sector: being regularised, former irregular migrants and their employers come out of the shadows; the shadow sector becomes less attractive to labour migrants from other CIS countries than before, when they had no alternative to undocumented employment;
- attacking the human traffickers, who specialise in supplying Russian employers with cheap labour: in 2004, the Russian Federation ratified the UN Convention against transnational crime and its Protocols on trafficking in human beings and smuggling of migrants. Correspondingly, in December 2004 the Criminal Code of the Russian Federation was supplemented with Article 322, fixing penalties up to imprisonment for persons guilty of organising human trafficking and smuggling. That was a shift in focus of counter-irregular-migration policy from the irregular migrants (who are often victims, in fact) to the organisers of irregular migration and human traffickers. Easier regularisation procedures enable migrant workers to seek jobs via the official migration infrastructure;
- more active interstate co-operation in counteracting irregular migration, bilateral and multilateral – for instance, the programme of co-operation between CIS member-states in counteracting irregular migration, adopted by the Council of the leaders of CIS states in 2005 in Kazan, acknowledges that irregular labour migration to the Russian Federation is primarily caused by over-complicated procedures in getting residence registration and work permits, and the large grey economy. By facilitating procedures for permits, the Russian Federation can inspire the development of regional CIS co-operation in managing migration flows, creation of common databases of job vacancies and labour supply by professions,

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18. Thus, its anti-migrant position has already cost the Rodina (Motherland) political party some representatives in the Moscow City Duma (the City Parliament).

widespread information campaigns for potential migrants and collaboration between private recruitment agencies.

## 2.2. Implementation of the policy

The revised migration policy applies to two major groups of migrants from post-Soviet states: ex-USSR citizens who come to the Russian Federation for permanent residence, and temporary labour migrants who come to the Russian Federation in quest of jobs and to do business. The major aims – to reduce numbers of irregular migrants by their regularisation, and encourage new immigrants for permanent stay or temporary work – are implemented by means of the abovementioned list of new laws and programmes.

So-called old cases – ex-USSR citizens who arrived in the Russian Federation in the 1990s but could not regularise their status due to tangled legislation, difficulties in getting necessary certificates and so on – were already given new opportunities in 2003, with adoption and implementation of the Amendments to the Article 14 of the 2002 Law on citizenship, which established the facilitated procedure of granting Russian citizenship to ex-USSR citizens (see section 3.3). Every year hundreds of thousands of migrants from former Soviet states who have already proved their usefulness to the Russian Federation by the fact of their long-term stay and work, get regularised status as permanent residents or citizens. In 2005, about 300 000 old cases were granted citizenship in accordance with the facilitated procedure.

The new Federal Law on Amendments to the Federal Law on Legal status of foreign citizens in the Russian Federation<sup>19</sup> makes the procedures of regularising temporary stay, temporary residence and permanent residence in the Russian Federation clearer and easier to follow.<sup>20</sup> It removes unreasonable bureaucratic obstacles to the process of regularisation of foreign citizens, particularly from the former Soviet states, and gives hope that the irregular segment of this immigration flow will be minimised.

New initiatives to reach compatriots<sup>21</sup> who live in other countries, but have a desire to return permanently to the Russian Federation, were proposed by the 2006-12 State Programme on providing support for voluntary resettlement of compatriots to the Russian Federation.<sup>22</sup> The Programme is guided by the

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19. Adopted by *Gosudarstvennaya Duma* in June 2006; to be put in force on 15 January 2007.

20. For example, the new Federal Law cancels the procedure of compulsory annual re-registration for temporary and permanent residents. To confirm their status, it is enough to inform the local migration service by a notification letter with attached income certificate and a copy of tax declaration.

21. In Russian legislation, the term 'compatriot' applies to people from the Russian Federation or having Russian ancestors, who left the Russian Empire, Soviet Union or post-1990 the Russian Federation and live in other countries.

22. See [www.fmsrf.ru](http://www.fmsrf.ru) (the FMS website).

pragmatic purpose of the Russian Government to alleviate the demographic crisis Russia is facing at present. At the same time, it has potentially an important humane aspect because it provides such compatriots and their families with state guarantees and social support, including:

- indemnities of travel expenses and transport of their paraphernalia;
- indemnities of the state duty for the paperwork to regularise their status on the territory of the Russian Federation;
- a one-off grant (travelling allowance);
- a monthly allowance for the period until they get Russian citizenship but for no longer than 6 months, in the absence of income from labour or business;
- a compensation package, including services of pre-school institutions, secondary education, vocational training, social welfare, health care and help in job seeking.

The programme aims not only to encourage compatriots to come and settle in the Russian Federation, but to distribute them over the territory of the Russian Federation, giving preference to those migrants who move to areas where the economic and demographic need for people is urgent or where there are large investment projects that need labour resources.

The programme is to be realised in three stages:

The first stage (2006): working out legislation designed to provide a legal basis for realisation of the programme; assessment of demand for human resources by the administrative units (republics, provinces and territories) of the Russian Federation; information campaign.

The second stage (2007-08): resettlement of programme participants; integration of compatriots; evaluation of the results; if necessary, modification of further regional projects of immigration encouragement.

The third stage (2009-12): further realisation of resettlement regional projects; evaluation of the results of the programme; if necessary, shaping of a new programme.

Fulfilment of the programme is managed by a special Inter-Departmental Commission attached to the Government of the Russian Federation. Co-ordinator of the programme is the Federal Migration Service.

Realisation of the programme is preceded by a wide information campaign, with information about the terms of the programme being distributed by the representative offices of the Federal Migration Service in other countries, consular services of the Russian Federation, Russian cultural centres abroad and interested NGOs, as well as via the mass media, both national and foreign.

The programme is financed from the federal budget, budgets of administrative units and local authorities of the Russian Federation and funds obtained from legal and individual sponsors.

The human dimension of the revised migration policy is even more evident in the new regulation of temporary labour migration to the Russian Federation from CIS states. Again, driven by pragmatic considerations – reducing the number of irregular migrants, recording labour migrants in the State Migration Registration System (aiming to summarise information on migrants in the Migration Databank), reducing the shadow sector, normalising the local labour markets, collecting taxes, etc. – the government has given more rights and freedoms to migrants.

The idea of revising state policy in the field of temporary labour migration began with the 2005 Concept of Regularisation of irregular labour migrants from the CIS states, which have a visa-free entry regime with the Russian Federation. The Concept issued from the experience of other countries in migrants' amnesties as well as the experts' estimates and the results of sociological surveys of irregular migrants and employers, that showed that three quarters of migrants and employers would prefer regularised residence and legal work if the appropriate regulations were provided by Russian legislation. Based on this, the Concept offered irregular migrants the chance to regularise their status.

The Concept was implemented in a pilot project of regularisation of labour migrants in ten regions of the Russian Federation<sup>23</sup> in November and December 2006. The regularisation procedure in the pilot project was utterly simplified: the urgent regularisation team, consisting of representatives of the Federal Migration Service, Federal Taxation Service, Federal Employment Service and Ministry of Health went directly to enterprises that had voluntarily manifested a wish to regularise their hired migrant workers and within several days provided every migrant with valid migrant card, temporary residence permit (for the term of the labour contract), and work permit.

To be regularised, a migrant must meet the following requirements:

- to be a citizen of a CIS state that has a visa-free entry regime with the Russian Federation;
- to have been living in the Russian Federation at the time of regularisation for over 90 days, which is the permitted period of stay for citizens from states with a visa-free entry regime;
- to have a paid job with a specific employer;

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23. The city of Moscow, Moscow Province, the city of Saint Petersburg, Leningradskaya Province, the city of Yekaterinburg and Sverdlovskaya Province, Omskaya Province, Irkurskaya Province, Sakhaninskaya Province, Primorsky Krai, Krasnodarski Krai.

- to prove their ability to support themselves and their family within the limits of the official living wage in the Russian Federation, without resorting to help from the state;
- not to have non-cancelled convictions for offences committed in the Russian Federation;
- not to have been expelled or deported from the Russian Federation within the last 3 years before regularisation;
- not to be sick with drug addiction and/or HIV/Aids.

To ensure the collaboration of employers, for the period of the pilot regularisation campaign those employers who had volunteered to participate were released from penalties for undocumented hiring of foreign workers, so it was a sort of amnesty for employers as well. In accordance with simplified procedure, they were granted permission to attract migrant workers officially. For employers participating in the pilot regularisation campaign, the state duty was reduced from 3 000 roubles to a symbolic 200 roubles.

In total, about 460 employers participated in the pilot project, and 7 400 irregular migrants were regularised. After the pilot project ended, the results were summarised and discussed at meetings of representatives of the Federal Migration Service, Federal Employment Service, Ministry of Justice, Ministry of Economic Development and Ministry for Foreign Affairs, with participation of academics, non-government organisations, regional authorities from the provinces where regularisation had been piloted, international organisations and the media.

Analysis of the results of the pilot project proved that, for a nationwide migrant amnesty to work, the Concept of regularisation would need to be strongly backed up with legal, financial, personnel and information support. Besides, the regularisation campaign should be correlated with economic interests in the provinces where irregular migrants concentrate, with local labour market situations and with housing market development. The major issues highlighted by the 2005 pilot mini-regularisation project were the following:

- Lack of legal basis. In the case of a nationwide regularisation campaign, a special President's Decree should legalise temporary regularisation practices (such as simplified granting of work permits without producing proper documentation from employers) that contradict federal legislation, which does not envisage such a procedure. The regularisation experiment took place without any changes in migration legislation. This fact disorientated migrants: half a year earlier they had been detained and deported, and now they were offered legal status within the framework of the same law! The amnesty of employers also caused confusion: they

got an opportunity to escape punishment and penalties<sup>24</sup> by regularising their workers, but later they could violate the rules again as the law did not cover re-penalisation for such a trick.

- A migrants' amnesty campaign needs financial resources. Even though regularisation of irregular migrants is likely to increase budget incomes in a short time, due to taxes now being paid by regularised migrants and employers,<sup>25</sup> the process of regularisation on a nationwide scale over a short period of time needs the mobilisation of large numbers of officers from the Federal Migration Service, registration departments, the medical control system and other bodies. So, a migrants' amnesty campaign requires a corresponding financial plan structuring the expenses of the federal budget and the budgets of administrative units of the Russian Federation.
- Without regularisation of the housing market, any efforts to widen legal channels for labour migrants will fail if registration in living quarters is a compulsory condition of legal employment. The problem of registration of migrants in living quarters was the most obvious omission in the regularisation experiment. It left open the possibility of registering migrants in non-living quarters (at the juridical address of the employer).
- Regularised migrants were strictly tied to their employers. Having got regular status, migrants could not leave their employer and seek another legal job in the Russian labour market. This meant that exploitation was built in. The employer could shift his losses resulting from regularisation of his workers to their very shoulders.
- The pilot project did not cover self-employed migrants. Since 2004 self-employment of foreign citizens (not juridical persons) has been forbidden in the Russian Federation. Yet there is obvious interest among migrants in participation in this sector of the Russian economy, and regular self-employed persons could be proper taxpayers.
- In many cases, the experiment faced reluctance to regularise, both from employers and migrants. Undocumented employment is full of risks but at the same time it is a source of extra profit to employers and often the only chance to get a job for the migrant. When in regular status, a migrant worker brings with him/her additional expenses (taxes, duties) to an employer. Revision of the Tax Code to reduce taxes related to hiring

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24. From 1 January 2005 the penalty for illegal hiring of foreign workers for juridical persons was increased tenfold: from 30 000 roubles to 300 000 roubles.

25. The Working Group engaged in developing the Concept of regularisation estimated possible income to budget within the first year after regularisation at 27 billion roubles.

foreign workers could be an effective additional measure stimulating regularisation and maintaining the status of regularised migrants.

Without taking these lessons into consideration, the nationwide campaign of regularisation of labour migrants in the Russian Federation risks not reaching its main aim – transformation of irregular migrants staying in the Russian Federation into regularised migrants, giving them an opportunity to work and earn legally, ensuring their human rights and reducing the risks of undocumented employment. However, to respond properly to the above lessons needs time and serious reconsideration of adjacent fields. Understanding that, the Federal Migration Service has decided to extend the preparatory period for the nationwide regularisation campaign in the Russian Federation until all the juridical, organisational, financial and information issues are worked through.

Meanwhile, to find a quicker and more efficient way to manage labour migration to the Russian Federation, the Federal Migration Service has initiated cardinal revision of legislation in this field. The outlined trend to liberalisation and humanisation of migration legislation has resulted in a set of new laws related to the registration and employment of labour migrants from CIS states with visa-free entry regime; these were adopted by the *Gosudarstvennaya Duma* in June 2006, signed by the President in July 2006 and put in force from 15 January 2007, namely the Federal Law on Registering foreign citizens and persons without citizenship in the Russian Federation<sup>26</sup> and the Federal Law on Amendments to the Federal Law on Legal status of foreign citizens in the Russian Federation.<sup>27</sup> Both laws are based on the fundamentally new approach in state migration policy. Aiming to encourage regulated migration and make migration to the Russian Federation more attractive, they propose clear and easy-to-follow procedures of entry, registration and getting a job.

The core of these laws is dual. Basically, they are directed towards more effective management of migration processes and reduction of irregular migration. However – what is not less important – the new laws put special emphasis on constitutional and international standards of human rights in freedom of movement and choice of place of residence and work. The human rights approach runs all through the new laws. Innovations in the above laws are related primarily to three issues:

(1) Registration of foreign citizens in a place where they are staying in the Russian Federation is made more clear and simple. The procedure is shifted from permissive to informational: a foreign citizen no longer has to follow the complicated procedure of getting permission to be registered in certain living

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26. See [www.akdi.ru/gd/proekt/098705gd.shtm](http://www.akdi.ru/gd/proekt/098705gd.shtm).

27. See [www.akdi.ru/gd/proekt/098707gd.shtm](http://www.akdi.ru/gd/proekt/098707gd.shtm).

quarters, as before, but simply submits to the receiving party<sup>28</sup> his/her identification paper and migrant card. In turn, the receiving party informs the local migration office by a notification form about the arrival of a foreign citizen, within three days. The detachable part of a notification form stamped by the local migration office replaces the former registration stamp in a migrant card and gives a migrant the legal right of temporary stay for up to 90 days. Temporary labour migrants can be registered in living quarters as well as in other places, for example at their place of work at the juridical address of the employer.

(2) Temporary residence permits for migrants who come to the Russian Federation from the CIS states with visa-free entry regime can be issued in a much easier way than before. The packet of documents includes application form, identification paper, migrant card stamped at border control point and a receipt for the state due paid for a temporary residence permit. Revocation of acceptance of the application is not allowed. After the checking procedures, the local organ of executive power is to issue the requested temporary residence permit not later than 60 days after acceptance of the application.

(3) Migrants who come to the Russian Federation from the CIS states with visa-free entry regime in quest of job can now be employed without the former bureaucratic procedures. Migrants get work permits personally or via their employers within ten days, after they have submitted their identification paper, migrant card stamped at border control point and receipt for state due paid for a work permit. Migrants (temporary stay) with work permits can seek a job with any employer within the administrative region of the Russian Federation where the work permit has been issued. If a migrant has a temporary residence permit he/she can seek a job in any region of the country, regardless of the place of issue of his/her work permit. Employers can hire migrant workers from the CIS states with visa-free entry regime who have work permits, without getting permits to hire foreign workers. If a migrant worker is detained for working without a work permit and deported from the country, the expenses related to his/her deportation are to be recovered in legal form from his/her employer, in addition to a high penalty paid for hiring every irregular foreign worker. The penalties for hiring foreign workers without job permits have been raised.

The above innovations can be considered a breakthrough in turning irregular labour migration flows in the CIS region into regular ones. By removing needless administrative obstacles and giving migrants a wider channel for regularised stay and work on its territory, the Russian Federation has chosen

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28. A 'receiving party' in the Federal Law on Registering foreign citizens... is understood as a citizen of, or permanent resident in, the Russian Federation, or a juridical person, a federal or local organ of state power, diplomatic mission or international organisation, where a foreign citizen or a person without citizenship is staying or working.

the most effective path in counteracting irregular migration. Under the circumstances of rapid demographic decline and growing demand for labour in the developing labour-intensive industries (especially construction and services), the Russian Federation is in need of migrants. The former migration policy, guided by national security concerns, tried to put in place strict filters for migrants. However, these filters were a breeding ground for corruption. Migrants were still coming, but they were often forced to stay outside the legal field. The new policy is expected to take migrants out of irregularity, especially because the new migration policy is co-ordinated with a total attack on the shadow sector.

In its new migration policy, the Russian Federation is supported by the CIS countries of origin, which are concerned at the vulnerable position of their citizens living and working in the Russian Federation with irregular status. There is a common understanding within the CIS structure that rational labour migration policy in the region can be a benefit for both receiving and sending countries, and an instrument to consolidate the countries of the region. President Putin, in the abovementioned speech at the Security Council meeting, concluded that:

people who come to Russia from CIS states can effectively strengthen regional integration. Their legal and safe employment in Russia and social well-being are an important factor in making co-operation with our closest partners stronger.<sup>29</sup>

Co-operation in the sphere of migrant remittances is a new and very promising field of mutual economic interest. Migrant remittances have become an important factor of economic development for the smaller CIS countries. When irregular, migrants prefer to deliver money earned in the Russian Federation to their families at home by unofficial channels – by way of friends or relatives, or carried on their own – rather than by bank transfer and other official money remittance systems. According to the Russian Federal Migration Service, migrants take away \$US7-8 billion out of the Russian Federation annually, and three quarters of this amount is transferred unofficially. Regular migrants are more disposed to rely on formal intermediaries, so migrant remittance flows become more transparent for both sending and receiving states, and safer for migrants if they make appropriate arrangements with their bank. Widening of official channels for migrant remittances and development of incentives for labour migrants to transfer money legally are on agenda of financial institutions of both sending and receiving countries in the CIS region on the threshold of large-scale regularisation of migrant flows to the Russian Federation. Central banks of the countries of the region co-ordinate their activities in providing information to migrant workers on official facilities for remittance. National

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29. See [www.kremlin.ru/text/appears/2005/03/85300.shtml](http://www.kremlin.ru/text/appears/2005/03/85300.shtml).

banks of both sending and receiving countries are expanding their services for migrants in co-operation with Western Union, MoneyGram, TWML, Contact and other money-remittance systems.

Shifting labour migration management closer to economic and labour market policy, the state gives new initiatives to business. Employers' associations and recruitment agencies are consulted in the drafting of new regulations. For example, the International Association of Labour Migration (IALM) – a union of over 25 recruitment agencies in the Russian Federation, Ukraine, Tajikistan and Kyrgyzstan – acts in close collaboration with the Federal Migration Service and the Federal Employment Service to provide migrant workers with a complex of services, from help in job seeking and renting lodgings, to medical services and vocational training. IALM is also involved in clarification work with migrants and employers in promoting the new government initiatives. "Migration bridges" between the Russian Federation and origin countries – initiated by IALM in co-operation with the New Eurasia Foundation, Russian employers and the ministries of Labour of Tajikistan, Kyrgyzstan and Uzbekistan – are a sort of non-government project to supply interested Russian enterprises with labour and guarantee the social and human rights of migrant workers.

The network of NGOs engaged in migration issues is developing across the country. Commercial and non-commercial organisations, such as the Ural Migration Agency (Yekaterinburg), the Centre for Social and Juridical Assistance to Migrants (Kazan, Tatarstan), Saratovsky Spring (Saratov), the Information Centre for Migrants (Penza) and others, are becoming active in putting migration to the Russian Federation in order. They organise legal advice for migrants and telephone hot lines, and issue brochures clarifying migration legislation, the risks of irregular migration, step-by-step regularisation and so on.

Another source of information for migrants, one that is definitely aimed at interpretation of new laws and regulations, explanation of difficulties related to irregular stay and undocumented work, and the dangers of coming into contact with criminal traffickers in human beings, is a recently organised nationwide internet portal with a symbolic domain: [www.nelegalov.net](http://www.nelegalov.net) (Latin transcription of the Russian phrase: "No irregular migrants!").

As we see, the shift in Russian migration policy is already giving an impulse to development of the so-called official migration infrastructure: a complex of state and private services for migrants – juridical, financial, consultation, information and much else. Well-developed and accessible, the official migration infrastructure can be an adequate alternative to the shadow social support system and can effectively oppose human trafficking.

### **3. Evaluation of the impact that the new policies have on the irregular migration influx and irregular migrants**

The shift to liberalisation and humanisation in Russian migration policy took place in 2005-06. The most important laws liberalising rules of stay and work came into force in early 2007. So, it seems too early to evaluate the impact of this new policy on irregular migration influx and irregular migrants. However, it is clear already that such a radical turn in Russian migration strategy will surely result in a shifting migration picture in the Russian Federation.

As shown above, the 2003 Amendments to the 2002 Federal Law on Citizenship, which have started shaping the selectivity principle of Russian migration policy by giving preference to citizens of the CIS states, demonstrated an immediate effect on the numbers and position of irregular long-stay migrants: the number of regularised persons (those granted Russian citizenship) jumped from 30 000 in 2003 to over 300 000 in 2004. In 2005, it was even more. Besides, the 2003 Amendments open new opportunities to get Russian citizenship under the facilitated procedure – through studying in the Russian Federation or contract service in the Russian Army. Lack of statistical data on what legal channel migrants use to get Russian citizenship prevent us from well-grounded analysis, but we can suppose that having a chance to immigrate legally – after graduating from a Russian university or military service, or as a participant in the 2006-12 State Programme on providing support for voluntary resettlement of compatriots to the Russian Federation (since 2007) – means that a CIS citizen is insured against long-term irregular stay in the Russian Federation.

Temporary labour migrants will have a wider channel for their legal stay and work in the Russian Federation after 15 January 2007. Their rights and freedoms are guaranteed by the revised federal laws of the Russian Federation. The procedures for getting permits are simplified as much as possible, leaving no space for corruption or deliberate complication and protraction by bureaucrats. The social protection offered by easy-to-access legal status prevents migrants from resorting to human traffickers and undocumented employment. In fact, the new regulations fully correspond with the wishes and recommendations of human rights organisations and experts, who have been urging the authorities to apply humane instruments in their efforts to reduce irregular migration in the Russian Federation.

Thus, the new migration policy seems to have good potential to improve the position of irregular migrants in the Russian Federation, by giving them a chance to enter the regulated migration field and legal employment. Of course, decent people coming with an honest wish to work in the Russian Federation are to be distinguished from those who come with criminal intentions, which is a matter of concern for the law enforcement bodies. What is most important, the Federal Migration Service with its new migration policy acknowledges its responsibility for migrants coming to the Russian Federation. The Deputy-

Director of the Federal Migration Service, Vyacheslav Postavnin, said in an interview:

By introducing new laws we are saying to migrants from the CIS states: "Come openly, work legally, pay taxes and be lawful and law-abiding residents equal to Russian citizens". We expect to have economic benefits from their presence in Russia. From our part, we guarantee them respect and protection.<sup>30</sup>

The Deputy Minister of the Interior, Alexander Tchekalin, highlights the anti-corruption potential of the new legislation:

Migration bureaucrats were repeatedly blamed for despotism and corruption. The new regulations are aimed at improvement of the situation. Now we separate migrants from contacts with officers who are responsible for making decisions. By introducing the State Migration Registration System based on a generalised Migration Database, we take migrant inflows under our control in a new – more effective – way.<sup>31</sup>

Vladimir Lukin, the Human Rights Commissioner of the Russian Federation, argues that:

The turn in the migration policy of the Russian Federation towards liberalisation and humanisation looks very promising. Though with a delay, the State is trying to introduce order and rationality in the migration situation. It is very important to promote this trend, to make people well-informed about new initiatives, to explain to them the strategic purposes of the State, to win their support. Russian society is shifting in its ethnic structure. This needs rapt attention from the State: programmes of integration of migrants, cultivation of tolerance in society are to be compulsory elements of migration policy... Besides, the result of the new policy strongly depends on how it will be implemented.<sup>32</sup>

Indeed, the nearest future will show how the positive potential of the new legislation is put in practice. To make migration management effective, the authorities need reliable and detailed data on the situation in local labour markets, and it is not an easy task in such a vast country as the Russian Federation. Protecting the interests of national workers against competition from migrants seems an open question. Equal rights of national and foreign workers in placing in a job can seriously impede the growth of wages in certain industries and cause social tension. Besides, there are no estimates of internal migration potential in the Russian Federation; this leads to under-estimation of the need for migrants in under-populated provinces. Lack of well-grounded research in this field can lessen the value of the declared respect for migrants' human rights and freedoms, particularly freedom of choice of a place of stay and work.

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30. From an interview of the author with Vyacheslav Postavnin on 18 July 2006.

31. See [www.vremya.ru/news/1012366.shtml](http://www.vremya.ru/news/1012366.shtml).

32. From an interview of the author with Vladimir Lukin on 22 July 2006.

Despite these issues, which are still awaiting solution, the reaction of migrants from CIS countries who are staying in the Russian Federation to these novelties in legislation is optimistic. Jamilya Begieva, the head of the Ola-Too Association of Kyrgyz people in the Russian Federation, says that:

after many years of accommodating themselves to the uneasy life of irregular migrants in Russia, Kyrgyz people can't believe that they will be able to walk along Moscow streets free, without fear of being fined or detained. They have so many questions and doubts related to their future stay in Russia, but they are all sure that in any case their position will change for the better.<sup>33</sup>

#### **4. Summary of conclusions**

The value of the report on the Russian Federation within the framework of the Council of Europe Project on Evaluation Reports on Policies on Irregular Migrants lies in demonstrating why and how the migration policy of the country is turning its vector – from primarily restrictive, preventive and repressive – to a flexible policy guided by regularisation and selectivity as its major principles. The case of the Russian Federation gives a good example of how unreasoned decisions in migration policy in the 1990s and early 2000s, and lack of its co-ordination with the economic and demographic interests of the country, resulted in an incredible growth of irregular migration.

Convinced by the arguments of NGOs and experts, on the one hand, and by the obvious ineffectiveness of tangled migration laws and police attack against irregular migrants, on the other hand, the Federal Migration Service of the Russian Federation has chosen the most reasonable complex strategy: to welcome migrants from ex-USSR states who are not only economically but also historically, emotionally and psychologically attracted to the Russian Federation; to widen legal channels for permanent and temporary stay of these migrants; to facilitate their regulated movement into the Russian labour market, guaranteeing their social and human rights; to promote an official migration infrastructure; and at the same time to improve border control, develop a migrant database as an immigration control instrument, introduce secure identification documents, strictly punish violators of migration regulations, displace and suppress human traffickers, and force out the shadow sector of the economy. The expected response to this welcome and human policy is that migrants will choose regulated paths of migration and employment rather than irregular ones.

Decisions in such an important sphere as international migration management should not be emotionally based; they are to rest on an understanding of the nature of migration trends, the economic and social effects of migration, and the potentialities of migration management instruments, as well as on a good

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33. From an interview of the author with Jamilya Begieva on 1 August 2006.

knowledge of the specific demographic and economic situation in a wider context of the social sensibility of society and its attitude to the inflow of migrants. That is why the radical shift in the Russian Federation's migration policy was preceded by intensive research on comparative study of the experience of other countries in migration management, national and international legislation on migration, and regularisation campaigns.

In liberalising and humanising its migration policy, Russia is strongly supported by CIS states, which are concerned to foster good relations between the countries and develop a common labour market to make intra-regional migration an effective instrument for mutual economic development. Co-ordination between government and non-government migration bodies – in sending and receiving countries, within the framework of CIS co-operation in tackling irregular migration<sup>34</sup> – is focused on developing and encouraging regulated labour migration as an alternative to irregular migration, over-exploitation and human trafficking. By its new migration regulations the Russian Federation has made a step to meet the wishes of its partners. The success of the new policy strongly depends on how the origin countries appreciate the Russian initiatives and encourage their citizens to follow the rules and choose regular channels to go to the Russian Federation, live there, work and transfer their earnings.

By emphasising the human dimension of the new migration policy – in accordance with the concerns of human rights organisations – the state has enlisted the support of NGOs, diasporas, migrants' associations and other civil institutions in implementing its new strategy and re-orientating irregular migration flows into regulated ones. By constructive co-operation with civil institutions, the Russian authorities can most effectively popularise the new migration policy, cultivate tolerance and good treatment of migrants, and reanimate the half-forgotten internationalism that has been ever inherent in Russia's multinational society.

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34. Adopted at the CIS summit on 16 September 2004.

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