

**CENTRAL EASTERN EUROPE:
PRESENT CHALLENGES, FUTURE SOLUTIONS**

by

K. LIGETI (Hungary)

Tutor: Dr. LUISE DRÜKE

CENTRAL EASTERN EUROPE: PRESENT CHALLENGES, FUTURE SOLUTIONS

1. INTRODUCTION

"Everyone has the right to freedom of movement and residence within the borders of each country. Everyone has the right to leave any country included his own and to return to his country."

(Art. 13 of the Universal Declaration on Human Rights)

The problems raised today by the movement of persons across European borders almost needs no introduction. The on-going exodus of refugees and displaced persons from the former Yugoslavia accompanied by a lot of similar cases is of top priority on political agendas, and discussed within the overall framework of peace and security in Europe. These movements pose a challenge not only to the security and stability of the countries involved, but also to international solidarity and cooperation.

The present paper will provide an overview of the current migratory movements in Central Eastern Europe¹ with a special view to the results of becoming a safe country and a target for refugees. The issue of asylum will be discussed with regard to the security and labour demands of the region. Section three will focus on the restrictive policy introduced by Western Governments and on the role of prevention. These are followed by a critical survey and comparison of the policies and plans existing in the individual countries of the region to cope with the increasing burden of refugees. Finally this paper focuses on the need and reality of a separate cooperation system for Central Eastern Europe, which will enable the states to handle the refugee problem in an effective and comprehensive manner.

1

For the purposes of this paper - under Central Eastern Europe - I have been concentrating mainly on Poland, Hungary the Czech Republic and Slovakia

I. A BRIEF HISTORICAL REVIEW OF THE ACTUAL SITUATION IN CENTRAL EASTERN EUROPE

I.A: Emigration from the region

Central Eastern Europe is a traditional refugee sending region. Looking into the statistics it can be seen that more than million people left these countries only in the past seven decades.²

Refugee movements from Europe were mainly due to the emergence of Communism, however, after the Second World War also a significant number of persons left for Western Europe and especially overseas in the hope of founding a new home.

Up till the late 1980s when receiving countries started to consider both Hungary, Poland and CSFR "*safe countries*"³ where political persecution no longer could be assumed, the practice of the Cold War and Post Cold War years of recognising practically everybody who managed to escape from Eastern Europe as a refugee, was abandoned.

Examining only the period since World War II, two large waves of influx can be established followed by a steady increase with a final major wave and a reasonable decline in number at the end.⁴ The two first waves resulted from the violent oppression of the Hungarian and Polish revolutions, while the sharp increase from the 1970s can be attributed to the introduction of greater freedom of movement in Eastern Europe. At the end of the 1980s a sudden increase can be noticed which resulted from the collapse of the Communist system in Eastern Europe.

After the Iron Curtain fell down in Europe the former socialist countries entered the road of democracy by starting to develop their market economies. From that time on Central Eastern Europe was not a refugee sending region any more, but

² RÉDEI MÁRIA, *A nemzetközi népeségmozgás negyven éve Magyarországon (Furry Years of International Migration)*, in *új exodus* (ed. by Pal Tamas and Andras Inotai), MTA Tarsadalmi Konfliktusok Kutató Központja, 1993, pp. 188-191.

³ See for example the Swiss Practice. The Federal Council declared Hungary together with Poland and the CSFR safe country on 31 October 1990. (Report of ECRE Biannual Meeting, Budapest 1991, pp. 85-85).

⁴ Yearly data of immigration requests for the period 1963-91 are published in: *Trends in International Migration*, SOPEMI (Continues Reporting System on Migration) OECD, 1992 p.154.

much more the frontline of Europe to where asylum seekers arrive with the hope to cross into the industrialised West.

I.B: Migration to Central Eastern Europe

The number of refugees, migrants and asylum seekers to and within Eastern Europe ever since the imposition of Communism can be hardly estimated, since there are no exact figures or official records available.⁵ It is nevertheless generally recognised that apart from the mass movements of populations within the region directly after the War, there hasn't occurred any intensive movement except in rather selective cases such as e.g. the outflow of Romanian Jews in the 1960's.⁶

Population influxes were limited to groups of foreign workers, whose permission to work and reside was provided by bilateral agreements of the governments concerned. In 1989, an estimated 200.000 foreign workers were residing in Eastern Europe, most of whom came from Vietnam and North Korea.⁷ The period between 1945-89 is uniform in Central Eastern Europe in the sense that there were practically no refugee affairs,⁸ with the exception, e.g. in the case of Hungary a few thousand Greek and a few hundreds of Chilean communists.⁹ The historic autumn of 1989 has brought along the major change for Central Eastern Europe: states which used to be countries of origin became countries of transit or asylum.

Now, the number of migrants, asylum seekers and refugees is still sharply increasing. Between 1 June and 31 December 1991 Hungary alone received 52.064 persons from the former Yugoslavia.¹⁰

⁵ Emigration was a politically sensitive issue, each country followed anti-emigration policies.

⁶ M. OKOLSKI, *Migratory Movements from Countries of Central and Eastern Europe*, in Second Meeting of Senior Officials..., November 8-9, Strassbourg.

⁷ W. R. BOHNINO, *Migration Pressure: What is it? What can be done about it?*, Geneva: International Labour Office, October 1991, pp. 35-62

⁸ The last four decades knew only an ideologically based and exercised refugee receiving : practice only extended to communists or - in rather selective cases - to African or Asian Freedom fighters who participated in leftist movements. The decisions were purely political, based on the expressed will of the Central Committee of the Communist Party.

⁹ The number of Greeks was less than four thousand. That of the Chileans approximately twelve hundred. See: B. NAGY, *The Hungarian Refugee Law in: Refugees in Hungary*, H. Adelman, E. Sik, G. Tessenyi; York Lane Publishers Ltd. Toronto, 1993.

¹⁰ Data is based on the information given by the Refugee Department of the Ministry of Interior.

As it is described above the overwhelming majority of asylum seekers enter Central Eastern Europe with the intent to continue their move and find permanent shelter in another receiving country. The burden on these "transit countries" who are responsible first for examining a request to stay on a temporary basis - and in case the country of final destination refuses to admit the person in question - they are responsible again for the maintenance and care of the person until other initiative is taken, is magnified in the examples of Hungary, Poland and the Czech and Slovak Republics. The authorities of the above countries are obliged under the 1951 Geneva Convention Relating to the Status of Refugees¹¹ not to return asylum seekers to any place where they are likely to face persecution.¹² Nevertheless the financial, institutional and technical resources available in Central Eastern Europe appear to be inadequate to manage properly all the responsibilities following from international treaties, consequently it is highly questionable if those states are prepared to handle massive influxes of people.

Furthermore since 1989 the countries involved are considered to be "*safe countries*" thus anyone seeking asylum possessing the nationality of these countries will be returned since neither the political, nor the economic situation justify his claim. The unilateral decision of the Swedish authorities taken in March 1990 provides a good example for the above, when 300 asylum seekers (mostly of Romanian origin) were sent back to Poland, the first country of asylum.

1. C: Casual factors for East-West migration

A brief assessment of actual causes for migration and displacement confirms nothing fundamentally new. People migrate voluntarily or with greater or less degrees of coercion, for any of the five reasons:

- (a) *for employment*, where there is a need or a place in receiving countries, or because of political, social and economic restructuring in their communities of origin,
- (b) *to escape civil war* resulting from violent political, ethnic or religious conflicts,
- (c) *to flee international armed conflicts*,
- (d) *human rights violations*, such as persecution or discrimination,

¹¹ Hereafter cited as Geneva Convention.

¹² Hungary was the first to adhere to the Geneva Convention in 1989, followed by Poland and Czech and Slovak Republics.

(e) natural *disaster*¹³

The redrawing of the political map of Central Eastern Europe has highlighted the multi-ethnic dimension of the region and its states.¹⁴ Whenever an ethnic group moves to claim nationhood conflict frequently follows. The disintegration of former Yugoslavia shows what extent can an ethnic conflict reach. The UNHCR recorded that 600.000 persons fled until spring 1993 the territories outside former Yugoslavia to escape the cruelty they face in Croatia and Bosnia.¹⁵ Besides them there were at least 1.2 million internally displaced persons in Serbia, Croatia, Slovenia and within Bosnia-Herzegovina.¹⁶ Since the 1951 Geneva Convention was not intended to cover war refugees it cannot provide any efficient solution.

The case of former Yugoslavia is only one example, the creation of the newly independent states in the USSR is likely to have a similar effect. Central Eastern Europe because of its geographical setting and multi-ethnic composition seems to face further mass influxes which can only be resolved by tight cooperation among the states.

II. SBCURITY AND LABOUR CONSIDERATIONS

II.A: Security reasons

The Geneva Convention in Art. sets out that asylum seekers can be returned for overriding reasons of security. Today great emphasis is placed on the problematic aspects of involuntary movements: migrants, asylum seekers and refugees face increased xenophobia and violence, they are perceived as taking jobs

¹³ GUY S. GOODWIN-GILL, *Towards a Comprehensive Regional Policy Approach: The Case of Closer Inter-Agency Cooperation*, prepared for the Human Dimension Seminar on Migration, 20-23 April 1993.

¹⁴ It is remarkable that forty ethnic groups are registered in some twenty one states, and that such groups cross so many territorial limits. (LIEBLICH ANDR6, *Minorities in Eastern Europe: Obstacles to a Reliable Count*, RFL/RL Research Report, Vol. I No. 20, pp. 32-37).

¹⁵ Survey of the Implementation of the Temporary Protection, 30 April 1993.

¹⁶ Numbers on internally displaced persons vary widely. A publication of the UNHCR aggregating the figures for internally displaced, for asylum seekers who had crossed international borders and other protected groups estimated to a total at 3.445.000. See: UNHCR Information Note on Former Yugoslavia, No. 5/1993, p. 8. However according to the Office of Displaced Persons and Refugees of the Government of Croatia as of 22 September 1993 numbers are smaller. According to them the total number of registered refugees and displaced persons in Croatia is 486.191 to which 36.808 unregistered asylum seekers has to be added.

from citizens, undermining minimum wage and competing for scarce housing. They are generally seen as a threat to the social and economic well being towards a country's own citizens, the public learns more of the costs involved than of the benefits of orderly migration.

The effects of migration on the security of a state varies in each individual case. E.g. ethnic Hungarians from Rumania seeking refuge in the motherland were welcomed, even though it resulted in a considerable tension in the Rumanian-Hungarian foreign relations. Of course, several less positive examples can be cited. However, any kind of so called security provision embodies the possibility of refusing to give protection to those who really deserve it. Looking into the restrictive policy adopted by West European governments, the gap between migrants, asylum seekers and refugees and the countries willing to accept them continues to widen. The predicted influx of Soviet migrants fleeing from economic hardship or ethnic strife put significant pressure on western governments to place the burden elsewhere, possibly on Eastern Europe which will be more than likely the first countries of reception.

II.B: Employment reasons

Countries once uniquely perceived as sources of refugees must now be taken as sources of labour, regular or irregular, and as countries of destination both for refugees and for those in search of employment.

Considering the demographic statistics prepared by ILO parallel with the industrial and technical factors of the examined country, the prospective movement of persons in the CSCE region can be predicted. According to the preindications of the UN Population Division by the year of 2.000 India will have gone from 853 to 1466 million, Nigeria from 113 to 301 million, the newly independent states from 288 to 351 million. According to predictions Europe's population will begin to shrink as it enters the 21st century, while substantial demographic growth will continue in the developing world. By the year of 2025 the number of those of working age will be 6 times greater in Africa than in Europe.¹⁷ The developed world seems to be reluctant to employ further numbers of foreign workers, and if it would

¹⁷

A. GQLINI and C. BONIFAZI, "Demographic Trends and International Migration" in OECD, *The Future of Migration*, 1987.

not be so, the estimated intake capacity of Europe would hardly balance out the employment needs of the Third World.¹⁸

By the rapid technical development communication becomes easier, information about other parts of the world is available and transport is comparatively inexpensive. Central Eastern Europe, with its relative welfare and development is still very attractive for a high percentage of asylum seekers coming from inhuman environments. Thus Central Eastern Europe as a part of the CSCE region should expect more migrants than ever before, although the countries involved can hardly manage their own rates of unemployment.¹⁹

III. NEW STRATEGIES

It is clear that West European states attempt to move towards greater economic and political union, including to facilitate the mobility of people within the European Community. The keyword for this process is harmonization.

H1.A: Western Europe: towards a common practice

The main motive behind harmonization was to gain control over the movement of persons in Europe, however, the UNHCR has been strongly recommended for several years the coordination of refugee admission policies among European states. The original intent of UNHCR completed with the present interests of the states to maintain control resulted in the tightening of the admission grounds. In 1990 the twelve EC member states have adopted the Dublin Convention outside the legislative mechanism of the EC to identify one single state responsible for the investigation of an application for asylum status, with the effect of a binding decision on the other eleven.²⁰ The same purpose motivated relevant parts of the Schengen agreements of 1985 and 1990.²¹ Although at present none of these

¹⁸ In the coming twenty years 730 million new job seekers will appear on the labour market and upon failure to find employment - consider moving to the developed world, where at present there are 586 million jobs altogether. (Speech of James N. Parcel), Director General of IOM at the April Meeting of the human dimension of the CSCE).

¹⁹ The depth of the problem is easy to be appraised on the example of Hungary, where those who came from the territories of the former Yugoslavia and are granted a temporary protection, are nevertheless prevented to seek employment. (Legally they cannot obtain a work permit).

²⁰ INTERNATIONAL JOURNAL OF REFUGEE LAW, Vol. 2 (1990) No. 3, p. 469.

²¹ The Schengen Agreement and the Schengen Implementation Agreement were concluded by France, Germany and the Benelux states. (ILM, Vol. 30; 1991, p. 68) Greece, Spain and.

agreements is formally in force, they deeply influence the practice of Western European states. In order to avoid the substantive evaluation of the asylum seekers' application they endorse several concepts not to be found in the Geneva Convention.²² Resolutions of the Ministers of the Member States of the European Communities responsible for immigration, adopted in their meeting in London on 30 November to 1 December and confirmed by the European Council in Edinburgh 12 December 1992, legitimized the use of categories such as "*manifestly unfounded claim*", "*deliberate deception or abuse of asylum procedures*", "*host third country*". For manifestly unfounded claims accelerated procedure is foreseen which need not include full examination at every level of the procedure those applications which fall within the terms of paragraph 1. That paragraph identifies three kinds of manifestly unfounded claims: where there is no substance to the claim, where the claim is based on deliberate deception or is an abuse of asylum procedure, finally when the application falls with the provision of the other resolution of the ministers of host third countries. If an asylum seeker comes from a country which appears on a list of countries in which "there is in general terms no serious risk of persecution", that may be enough to limit his chances by presuming that there is no substance to the claim, therefore it is manifestly unfounded, and should only be examined in the accelerated procedure. Other circumstances making a claim manifestly unfounded include the frequent situation that the applicant destroyed his passport, or produced an application, which was inconsistent or contradictory or even if protection was available for the individual in "another part of his own country to which it would be reasonable to expect him to go".

The risk arising from these restrictive policies is the increased tension due to the saturation of Central Eastern European countries and the repercussion it may have on future economic and social difficulties in the region.

III.B: Focusing on prevention

Today's policies in Western Europe reflect the awareness of the need to imply preventive means for deterring refugee and migrant flows before they reach western borders. Mrs. Sadoko Ogata, the present UN High Commissioner for

Portugal adhered later. They include provisions on control at outer frontier, a common visa policy, carrier's sanctions, responsibility for dealing with requests for asylum and establish the Schengen Information System

²²

KAY HAILBRONNER, *The Concept of "Safe Country" and Expeditious Asylum Procedures -A Western European Perspective*; and EDUARDO ARBOLEDA - IAN HOY, *The Convention Refugee Definition in the West: A Legal Fiction* (INTERNATIONAL JOURNAL OF REFUGEE LAW, Vol. 5 No. 1, pp. 66-90, 1993).

Refugees has emphasized the need for preventive action.²³ In her speeches in Graz on 23 May and the Hague 24 November 1992, she underlined the relevance of protection of human rights to future displacements:

"Respect for human rights in general and the protection of minority rights in particular are fundamental to the establishment and continued development of democratic states. Without that respect and protection, minorities and other groups will feel increasingly marginalized and exploited, and could be provoked into seeking escape in virulent forms of nationalism and sectarianism. In this sense UNHCR and CSCE have complementary interests in promoting the protection of minorities and thus preventing disruptive movements ... Development assistance with an emphasis of priority human needs including job creation, poverty alleviation, education and health could help to reduce some migratory pressure. I would urge development cooperation policy makers to include migration considerations as part of a larger international cooperative effort encompassing aid, trade and investment".²⁴

Not surprisingly, similar views are current in the way of thinking of ILO. As Roger Bohining expressed in his preliminary working paper prepared for a joint ILO /UNHCR meeting in 1992:

"In a nutshell, there are three alternatives to international migration: (i) trade, i.e. increased trade between migrant sending and migrant receiving countries, especially in labour intensive goods, (ii) foreign direct investment by private and public enterprises in migrant producing countries and (iii) official development assistance in its various forms of grants, technological cooperation, direct investment, and the financing of and contributions to international organizations".²⁵

The increased importance of preventive action was also recognized by the G.A. in the issuing of Resolution A/AC.96/815.²⁶ As it follows from the outlines of

²³ In her address to the U.N. Commission on Human Rights, on 20 February 1992, she stated: "...a new multilateral order for cooperation of refugee, migration, and humanitarian affairs is emerging with prevention likely to take on a prime focus in a global, solution-oriented approach." See: Statement by Mrs. SADOKO OGATA U.N. High Commissioner for Refugees to the Forty-Eight Session of Commission on Human Rights, 20 February 1992, pp. 2-3.

²⁴ Statement of Mrs. S. OGATA U.N. High Commissioner for Refugees, Peace Palace, The Hague, 24 November 1992.

²⁵ *Supra* note 6.

²⁶ Note on Intentional Protection adopted by the G.A. on 31 August 1993.

the above cited officers, the present preventive efforts can be divided into two patterns:

1. The decrease of the number of migrants through economic aid
2. To address the problems of those politically persecuted through ensuring the protection of minorities and respect for human rights.

The strategy followed by Western Europe to make economic aid offered for restructuring the economy dependent on the implementation of treaty obligations is a good example of the second pattern. The adherence of Poland, Hungary and the Czech and Slovak Republics to the Geneva Convention viabilized a substantial amount of economic aid to these countries, however, e.g. the German Federal Cabinet decided in 1991 to make the economic aid approved in the previous year, dependent upon the adherence to the human rights principles.²⁷

In case of the first pattern the economic interest of the western investors coincides with the need of the East European labour market. The fall down of the iron curtain opened up an untouched market for the developed world where previously it was inconceivable to have influence. The possibility which is implicit in the market itself is highly attractive to the West. Although the political instability of the region still has a repellent effect. Nevertheless statistics show that 27 million US\$ were invested into this region only in the year of 1993 of which 67% came to Hungary alone.²⁸

Both the pressure exercised by Western Europe towards the protection of human rights and the growing investment can be good methods to prevent the formation of "hot spots" in the region. The importance to prevent illegal migratory movements was recognized on governmental level as well. The aim of the so called Berlin process was to reduce the number of illegal migrants.²⁹

²⁷

JUHASZ JUDIT, *International Migration in Hungary*, Country Report presented to the ECE Workshop on Causes and Consequences of Emigration from Central and Eastern Europe (Geneva, 13-14 September 1993).

²⁸

Statistical Yearbook 1993, preliminary data.

²⁹

Participating states agreed on 31 October 1991 in the followings inter alia: (i) cooperation against the human smuggling gangs; (ii) exchange of information; (iii) uniform admission policies at the borders; (iv) strengthening of the border guards; (v) to impose penalties on carriers; (vi) readmission of those crossed the border illegally.

IV. THE CRITICAL SURVEY OF THE CENTRAL EASTERN EUROPEAN SYSTEM FOR HANDLING MIGRATION AND REFUGEE ISSUES

The countries of Central Eastern Europe seemed to be rather enthusiastic to adhere to humanitarian principles after deciding to take the road of democracy. Poland, Hungary and the Czech and Slovak Republics have all joined the Council of Europe and signed the 1951 Geneva Convention. Since the above countries lack both the financial and technical framework which are inadmissible to provide effective protection to those in need of it they may find themselves - as a result of treaties - locked in procedural approaches, readmission agreements and unwanted but unmovable populations which they can hardly afford.

IV.A: The evaluation of the institutional framework

Besides the national authorities of the countries international organizations are also represented in the region with the task to address the issue of migration and refugees:

The IMO and UNHCR are the two largest organizations having an international mandate and political function. IMO was founded outside the UN as an Intergovernmental Committee for European Migration in 1951, the IMO now brings together some 53 states. The constitution of the organization sets out the main objectives and functions performed by IMO today:

- the orderly and planned migration of nationals wishing to leave for countries where they may achieve self-dependence through employment
- the transfer of qualified human resources
- organized transfer of refugees, displaced persons and others compelled to leave their countries of origin
- advisory services in regard to migration legislation.

From the above cited list of duties the last three are of major importance to Central Eastern Europe. Since the possibility of orderly migration is reasonably smaller than before people try to get admission through the asylum door. Therefore the number of illegal migrants is approximately 752.000 in the region.³⁰ The second largest organization is UNHCR which was established by the G.A. under Art. 22 of the UN Charter. It has the unique role to provide international protection to refugees under the auspices of the UN. At present UNHCR has an office in each country. The functions performed by the particular offices largely differ by countries. The

example of Hungary cast light on the importance of UNHCR: since Hungary maintained the geographical limitation upon her adherence to the Geneva Convention, those who arrive at Hungary fleeing non-European events are, by definition, excluded from the procedure. Nevertheless, there exists a "gentleman agreement" between the Hungarian government and the Hungarian representative of UNHCR providing: "The Hungarian Government shall at all times grant to UNHCR personal unimpeded access to refugees and other persons of concern to UNHCR..."³¹ What is the status in Hungarian law of that person, who fleeing a non-European event is barred from starting the procedure in front of the Hungarian authorities but who is recognised as a refugee by the representative of UNHCR? Is he a refugee under Hungarian law? Although the agreement itself is silent on these questions, the present practice of the authorities indicates that Hungary is willing to provide the same protection to those in question as to the ones qualifying as a refugee under Hungarian law.³²

As to the national level there is a Department for Refugee Affairs in the Ministry of Interior, whose duty and responsibility is to manage the refugee problem. Taking the example only of Hungary it is easy to realise that there is a strong need to establish a comprehensive Refugee and Immigration Office. Further problems arise out of the fact that there is no Refugee Act passed by the Parliament.

IV.B: Comparison of the procedures

Before one starts to examine the procedures of the individual countries he should bear in mind that "living law" differs from the books. This is certainly desirable in Central Eastern Europe, where the bureaucracy of the system must be replaced by flexibility.

Making comments only to the Hungarian must be considered "living" practice, the following:

- what happens to those who appear at the input side of the statistics but disappear before the formal procedures starts?

³¹ It was promulgated as 23/1990 (11.7.) MT. Rend. (Cabinet Decree) in Magyar Kozlony (the Official Gazette) No. 11 in 1990, p. 172.

³² The existence of this gentleman agreement was confirmed by the former deputy head of the Office for Refugees. (TóTH JUDIT, *Ungarn, National Report in Asyl- und Einwanderungsrecht in Eurupischen Vergleich*; Schriftenreihe der Europäischen Rechtsakademie, Trier, Band I).

Two possible answers can be given: (i) there is a group of people, who simply don't know how to achieve their aim; (ii) there are applications, which according to decision of the authorities are either manifestly unfounded or late in time.

- officials of the Refugee Department and of local offices repeatedly complain about the lack of firm information on which to base their decision.

There is a project prepared to establish a Central European Information System, which is still under discussion.

- there is no legal aid available in Hungary.

On the detailed comparison of procedures see Annex 1!

V. CONCLUSION

The cooperation network among the former socialist countries has broken down. Nevertheless four of them has common borders with the states of the former USSR and three of them with Yugoslavia.

So far Central Eastern Europe has achieved international respect with its generous, humane policy towards asylum seekers, including times of large scale influxes. However it seems to face a hard political and moral choice:

Either it will harmonise its legislation and administrative practice with the restrictive European powers, or remembering the specific features of Central Eastern European fate, it will try to establish a cooperation system among themselves based on the similar challenges.

The countries have to count both with pros and contras by choosing any of the above options. Poland provides an example for the first type of solution. She signed a bilateral agreement with the Schengen Group saying that in case Poland does not want to take back the illegal immigrants crossing her borders and transfer them home at her own expenses, she is responsible to enforce the immigration rules of the Schengen Group.

The price of any uniformization whatsoever is that it marginizes the chance of even partly following a separate policy. Each country has its own interests and in order to satisfy them, she leads her own policy. As far as refugees are concerned, the countries have preferential groups, groups of people to whom the country is likely to offer a special procedure. In Hungary's case the ethnic Hungarians in Transylvania

constitute such a group. Should Hungary adhere to the Schengen Agreement, it would stop her to examine any application for asylum which was lodged in and rejected by one of the member states, even if the request was handed in by someone belonging to Hungary's preferential group. At the same time it protects the country from reexamining requests which have already been denied and makes the country less attractive for asylum seekers.

Of course, a separate system also has its disadvantages: first of all it requires the tight cooperation of the states concerned to determine the rules according to which they would like to examine the requests submitted to any of them. Furthermore these countries are still obliged to adjudicate applications which were deemed unfounded in the EC states. On the other hand if due to lack of cooperation significant differences in the treatment of asylum seekers occur, the flows will unevenly reach the neighbours. This may force the relatively liberal to resort to drastic unilateral action, which as a consequence would make other states to receive greater numbers of refugees.³³

Central East European countries must decide upon the question: what stays really in their national interest. However it has to be emphasized, that the right of asylum is under very great pressure throughout the world. Alarming reports are on the news almost every day covering attacks against foreigners, the increasing popularity of extreme rightist politics and politicians. It is a call for our conscience to provide active solidarity to our fellow people in their gravest human distress.

³³

Interior Ministers of Austria, the Czech Republic, Hungary, Poland, Slovakia and Slovenia have adopted a *Final Communiqué* at their negotiations in Prague, 16 April 1993, reflecting their agreement to propose their governments cooperation concerning five issues: denial responsibility for "old cases" of foreigners whom the FRO intends to return as a consequence of the new asylum law; allowing transit for returned persons; making efforts "towards completing mutual standardised readmission agreements in their countries and will initiate the conclusion of such agreements with countries producing illegal migration"; harmonisation of asylum procedures and finally use of possibilities provided by the CSCE to tackle the "serious security problem" of the issue of European migration.

ANNEX

	Poland	Hungary	Czech Republic	Slovakia
access to procedure	there is no temporal restriction; practically one submit at the border or to the Refugee Office	one must submit his application in 72 hours to the police or border guard	one must make a statement of his claim on time of arrival in written form; then he is issued a certificate, on the basis of which he has to submit his application in 24 hours	the practice totally coincides with the one of the Czech Republic
interview	- there is no full translation provided - there is a legal aid system	- full translation is provided - there is no legal aid	- translation is provided, but there is no effective counselling - there is no legal aid	- officer of the local aliens police carries out the interview (there is no information on translation or legal aid)

	Poland	Hungary	Czech Republic	Slovakia
accelerated procedure	there is no prescreening	although this procedure formally does not exist; the same authority as the 1st instance carries out a prescreening	it is the duty of the local passport officer to take a decision after a brief interview	there is no prescreening
appeal	there are 2 steps available: - in 14 days to the Ministry of Interior - in another 30 days to the Supreme Administrative Court	there are 2 possible steps: - in 5 days to the Department of Refugee Affairs - in another 5 days the reexamination of the case by the 1st instance	there are 2 steps available: - in 15 days to the Ministry of Interior - possible revision by the High Court	the practice completely the same as the Czech one
consequences of decision	permanent residence card for 10 years (after 5 years of permanent residence citizenship)	one year renewable residence permit	permanent residence card for 5 years	the same consequences as in the Czech Republic
length of first instance procedure	1 month (exceptionally 2 months)	1 month	in 50 days	data is not available

BIBLIOGRAPHY

- W.R. BOHNING, *Migration Pressure: What is it? What can be done about it?*, Geneva, International Labour Office, October 1991, pp. 35-62.
- EDUARDO ARBOLEDA - IAN HOY, *The Convention Refugee Definition in the West: A Legal Fiction* (INTERNATIONAL JOURNAL OF REFUGEE LAW, Vol. 5 No. 1, pp. 66-90,1993).
- GOLINI and C. BONIFAZI, *"Demographic Trends and International Migration"* in OECD, *The Future of Migration*, 1987.
- GUY S. GOODWIN-GILL, *Towards a Comprehensive Regional Policy Approach: The Case of Closer Inter-Agency Cooperation*, prepared for the Human Dimension Seminar on Migration, 20-23 April 1993.
- KAY HAILBRONNER, *The Concept of "Safe Country" and Expeditious Asylum Procedures - A Western European Perspective*; INTERNATIONAL JOURNAL OF REFUGEE LAW, Vol. 5 (1993) No. 1. pp. 66-99.
- JUHASZ JUDIT, *International Migration in Hungary*, Report presented to the ECRE Workshop on Causes and Consequences of Emigration from Central and Eastern Europe, Geneva, 13-14 September 1993.
- LIEBLICH ANDRE, *Minorities in Eastern Europe: Obstacles to a Reliable Count*, RPL/RL Research Report, Vol. 1 No. 2, pp. 32-37.
- MAGYAR KOZLONY (the Official Gazette) No. 11 in 1990, p. 172 23/1990 /H.7/ Mt. Rend.(Cabinet Decree).
- B. NAGY, *The Hungarian Refugee Law in Refugees in Hungary*, H. Adelman, E. Sik, G. Tessenyi; York Lane Publishers Ltd.
- M. OKOLSKI, *Migratory Movements from Countries of Central and Eastern Europe*, in Second Meeting of Senior Officials..., November 8-9 Strassbourg.
- Report of ECRE Biannual Meeting, Budapest 1991, pp. 85-85.
- REDEI MARIA, *A nemzetközi népességmozgás negyven éve Magyarországon* (Forty Years of International Migration) in Uj exodus (ed. by Pal Tamas and Andras Inotai), MTA Tarsadalmi Konfliktusok Kutató Központja, 1993, pp. 188-191.

K. Ligeti

- Mrs. SADOKO OGATA, U.N. High Commissioner for Refugees to the Forty Eight Session of Commission on Human Rights, 20 February 1992, pp. 2-3 (Statement).
- Mrs. SADOKO OGATA, U.N. High Commissioner for Refugees, Peace Palace, The Hague, 24 November 1992 (Statement).
- Statistical Yearbook 1993, preliminary data.
- Survey of the Implementation of the Temporary Protection, 30 April 1993.
- TOTH JUDIT, Ungarn, National Report in Asyl- und Einwanderungsrecht in Europäischen Vergleich; Schriftenreihe der Europäischen Rechtsakademie, Trier, Band 1.
- Trends in International Migration, SOPEMI (Continuous Reporting System on Migration) OECD, 1992 p. 154.
- UNHCR Information Note on Former Yugoslavia, No. 5/1993, p. 8.