

CRIMINAL ASPECTS OF ILLEGAL MIGRATION

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ABSTRACT

Illegal migration in Europe means that an ever-increasing number of people are leaving their homes to live in better countries. Migration carries risks that affect individuals and groups of people, sometimes society as a whole, and therefore states decide to intervene in migration processes. The causes of current irregular migration are quite diverse, but the common feature is that migrants had to leave their countries of origin because they could not live a normal life there. Illegal migrants are increasingly nationals of economically underdeveloped countries, who do not have financial resources, are socially deprived, and because of all these facts are involved in committing

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criminal anti-social activities. In countries where the number of migrants has risen sharply, the racial, ethnic and religious structure of the population composition may change. The escalating tensions between the indigenous peoples and immigrants accelerate racism (bilaterally), radicalism in politics, socio-economic problems, crime, and other risk factors. It is in the European Community's interest to take all possible legal and effective measures to eliminate the risks of irregular migration and to ensure a safe environment for the population. The paper characterizes migration and analyzes its causes and consequences, including crime associated with illegal migration.

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INTRODUCTION

Migration is a defining feature of the current globalized world, which, on the one hand, brings together societies in and between regions, and on the other hand, accelerates the continued need for international awareness-raising and migration analysis in order to improve policy in this area in order to ensure sustainable development for all. Illegal migration poses a huge risk to European countries and it is in the European Community's interest to take all possible, legal and effective, measures that eliminate the risks of irregular migration and ensure a safe environment for the Union's citizens. Despite efforts to regulate mass migration, problems persist and so do security threats. In 2017, 68 people died as a result of terrorist attacks in the European Union. There were 205 attacks or attempted terrorist attacks in nine federations of states. According to European statistics on terrorism and trends therein in recent times, there has been a continuing increase in the number of terrorist attacks, but their sophistication is decreasing. Most of the 205 attacks or attempted attacks, i.e. 137 cases, were of ethno-nationalist or separatist character. Jihadist-motivated attacks have claimed

the most human lives, up to 62 out of all 68 victims of terrorism in the European Union in 2017.² According to statistics from the Spanish Home Office, more than 53,000 illegal migrants arrived in the country in the first ten months of 2018, by sea and by land. The arrival of another 27,000 people took place in the year 2018 in Greece, while in Italy, after the restrictive measures of the new government, there were 22,000 new migrants.

These figures are alarming and point to the fact that illegal migration is a serious problem that has an impact on security as such.

1. METHODOLOGY

The study made use of the methods of analysis of the legislative basis, research of professional documents, contributions, articles and regulations; and the subsequent summary and deduction of the current state of the migration area.

2. CAUSES AND CONSEQUENCES OF MIGRATION

Migration has always been part of the development of human civilizations, and in modern history it has intensified since the 17th century, which has been linked to technological advances and maritime discoveries. European countries were gaining new colonies in order to support the settling of their populations in new territories. It is estimated that around 65 million people moved from Europe to North and South Americas in international migration waves from around the 17th century to the Second World War. Another 17 million people went to Africa and Australia.⁴

European states are characterized by a high proportion of ethnic and national minorities, but also by a high number of immigrants who, in most cases, came to individual countries after World War II. This has made Europe a mosaic of countless cultures that live together within a wider whole. This is a consequence of two worldwide war conflicts during the 20th century that have made Europe a region of both emigration and immigration. These factors of international migration have influenced Europe's current character.

At present, the topic of migrants resonates mostly in Europe, and is addressed by the media, politicians and the Churches. It is important to realize that the composition, volume, dynamics and direction of illegal

⁴ J. Schroth, *Mýty o novodobých nomádech*, Praha 2003.

migrants' flows is almost impossible to predict and very complicated to regulate.⁵

The causes of the current illegal migration are quite diverse and complex, but the common feature is that illegal migrants had to leave their countries of origin as they could not live a normal life there because of the attacks of the Islamic State or because of their countries's critical situation. Another possible reason could be that the situation in Lebanese, Jordanian and Turkish camps was so bad that they decided to leave. This is true for approximately 20–25% of refugees. Others set out on economic grounds in the hope of a better life.

In Slovakia, the impact of the development of migration across Europe has not been very significant. Since the establishment of the Slovak Republic, immigration of foreigners has gradually increased, along with the development and tightening of immigration legislation and the professionalization of state administration occupied with implementing this legislation. Between 1993 and Slovakia's accession to the European Union in May 2004, the topic of migration (or foreign migration) was practically not the subject of expert debate or interest of the media or the public. However, the interest of both the public and experts in the topic of migration has gradually increased since then, influenced by factors such as the transposition of EU legislation, the development of civil society representing the rights and interests of foreigners, the communities of foreigners etc. However, the actual boom regarding these topics has begun as late as in recent years.

In the media, on social networks and in the attitudes of politicians in Slovakia, the concepts of migration, migrants, and refugees resonate in the light of the ongoing refugee crisis at the borders and inside the European Union. The significant impact of the "migration crisis" on the formation of opinions in Slovak society can be observed mainly in the years 2014–2018, while the negative perception of migration has changed into a fission line that has shaped not only the political map of Slovakia, but also the mood of society.⁶

⁵ L. Kováčová, M. Vacková, S. Križovský, *Nelegálna migrácia v kontexte preventívnych aktivít*, 1st edition, Košice 2017.

⁶ *Ibidem*; V. Žúborová, I. Borárosová, *Migrácia v médiách: utečenci verzus migranti. Chápanie migrantov a utečencov v mediálnom priestore v kontexte pozitívnej a negatívnej mediatizácie*, "Central European Journal of Politics", 2016, vol. 2, issue 1, pp. 1–15.

A *migrant*, according to the United Nations' definition, is a person who, for whatever reason, has changed the country of his or her permanent residence, and moved from his or her home country to another country for at least three months. Slovak law does not use this term, but uses the term *utečenec*.

The term *refugee* was defined in international law by the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, when the situation of millions of displaced people in different countries of the world was to be dealt with as a result of World War II. The 1951 Convention defines who is a refugee and outlines the fundamental rights that states should grant to refugees. One of the basic principles laid down in international law is that refugees should not be expelled or returned to a situation in which their life or freedom would be at risk again.

Refugees may, under the Convention, be “any person outside their State who has legitimate fear of being persecuted for racial, religious or national reasons, or because of belonging to a particular social group or holding certain political views; rejects the protection of its state; or a stateless person, who is outside the State of his or her previous residence and who is unable or unwilling to return there because of such concerns”.

The UN advocates that if one wants to name a large group of people, one should refer to them as “refugees and migrants” because they are both at the same time. According to the UN, the category of *refugees* is to be used correctly when one is thinking of people fleeing war or persecution across international borders. In practice, one should therefore use the term *migrants* mainly while referring to people moving for reasons that are not in the legal definition of a *refugee*, although, technically, a refugee may also be a migrant. Migration is becoming one of the most significant phenomena worldwide, affecting developments in Europe. The composition, volume and dynamics of illegal migrant flows is almost impossible to predict.

More than two thirds (68%) of all refugees in the world come from only five countries: Syria (6.3 million), Afghanistan (2.6 million), South Sudan (2.4 million), Myanmar (1.2 million), and Somalia (0.98 million). Turkey, in turn, has been receiving most refugees of all the countries in the world for several consecutive years (3.5 million, including 3,424,200 refugees from Syria); it is followed by Pakistan (1.4 million), Uganda (1.4 million), Lebanon (0.99 million), Iran (0.98 million), Germany (0.97 million), Bangladesh

(0,93 million), and Sudan (0.9 million). Up to 85% (16.9 million) of refugees have been admitted by developing countries. The largest number of refugees in relation to the domestic population is in Lebanon – one in six people in the country is a refugee. In the European Union, 650,000 people asked for asylum in 2017. The largest group of applicants (15.8%) were refugees from Syria (102,000), followed by citizens of Iraq and Afghanistan (7% each), Nigeria (6%), and Pakistan (5%). Nearly a third of refugees applying for asylum in Europe filed their application in Germany (in 2017, it was 198,000, i.e. 31% of all applications). Italy (127,000), France (91,000), Greece (57,000), Great Britain (33,000), and Spain (30,000) followed.⁷

3. CRIME ASSOCIATED WITH ILLEGAL MIGRATION

Illegal migration consists of two components, namely the unauthorized crossing of the state border and the unauthorized residence of persons. The EU is aware that Islamic terrorists can also get to Europe among the huge mass of migrants. However, the risk of terrorist attacks is increasing, especially after the events of the years 2015–2017.

Increased radicalization of populations in countries of origin affected by internal conflicts, the emergence of armed groups, and the involvement of EU citizens in the conflicts directly affect the development of the security situation in Europe. In countries where the number of migrants has risen sharply, the racial, ethnic, and religious structure of the population composition may change. The escalating tensions between the indigenous peoples and immigrants accelerate the manifestations of bilateral racism, radicalism in politics, socio-economic problems, crime, and other risk factors.

In practice, there is an attempt to avoid the term *illegal* in connection with migration, whether in international organizations or in the literature. Rather, the name *irregular* is used. It is especially the case in reference to unauthorized residence, work, or entry in the receiving country. The term *illegal migration* refers to trafficking in human beings or is applied in connection to the smuggling of migrants across borders. Such practices are called *organized smuggling*.

On the mainland, one of the human smuggling routes led through Turkey, Greece, Macedonia, Serbia, and Hungary. Migrants used mostly a one-kilometer-wide strip of the Serbian-Hungarian less protected land

⁷ “Medzinárodná organizácia pre migráciu (IOM)”, www.iom.sk

border although there were more possibilities to cross the border. The smugglers mainly used highways when organizing the transfer across Hungary. Later, they tried to get migrants through smaller, second-class routes to the Austrian and Slovenian borders, but they always passed the border across the same border line. Probably, they managed to build bases in this area that fit their needs. On both sides of the border, people quickly emerged to buy land near the border in order to get migrant rest areas. There are cases when criminal groups involved in smuggling people have been trying to bribe the staff of the state authorities in Hungary at different levels, thus penetrating institutions dealing with foreigners and issuing visas. Thus, some employees of these authorities cooperated with the reconnaissance network of these criminal groups, so when a group was detected or when a trap was set to capture it, the authorities guarding a particular section of the border moved groups of migrants to another route. Units of the smuggling organizations, as cells, were deployed in transit and destination countries and passed on the relays of migrants to one another. In addition to the aforementioned ways of transporting migrants, there were also so-called VIP routes, through which migrants passed different borders more comfortably and faster for higher fees, for example, using fake documents, they were travelling by air.⁸

The opposite of voluntary smuggling is trafficking in human beings, because it is violent and introduced against a person's own will. The profit for the criminal organization in this case is for the transport of these persons and, consequently, the abuse of these persons. This practice is called modern slavery. There is a fight against modern slavery in the world, as well as against the criminal activities perpetrated by people involved in it. This activity violates the fundamental rights of freedom of persons who are abused. This problem has existed for the last centuries, especially in connection with African-American people and their slavery. The struggle is also directed against the abuse of women in connection with their illegal prostitution, bearing the name "white meat trade". This term also includes child trafficking and abuse. Everything is done in the illegal sphere, espe-

⁸ L. Taba, *Hrozba terorizmu ako dôsledok neregulovanej migrácie do Európy*, "MepoForum.sk", 3 February 2016, <http://mepoforum.sk/bezpecnost/spravodajske-služby/hrozba-terorizmu-ako-dosledok-neregulovanej-migracie-do-euro-py-lajos-taba/>

cially in the sphere of illegal transport of people across countries around the world.⁹

In fact, trafficking in human beings is an act of deception, kidnapping, violence, restriction of personal freedom, threat of violence, various forms of coercion, and/or serious harm to health. It is also about providing or receiving a monetary benefit, or other benefits, to reach a person who is dependent on another person. It is also abuse of helplessness or misuse of one's position, or of the vulnerable position of another person, where a fraudster keeps, tempts, transports, takes over, or transfers another person for the purpose of sexual exploitation, including prostitution and pornography. Other options include slavery; serfdom; forced marriages; forced labour or forms of begging; as well as trafficking in organs, cells and tissues.¹⁰

There is also information about other crimes in the media, especially about sexual harassment, battles, or thefts committed by migrants, especially in Germany, Sweden and Italy.

4. MIGRATION POLICY

Migration carries risks that affect individuals and groups of people, sometimes even society as a whole, and therefore states decide to intervene in migratory flows and migration processes. For this reason, they create and formulate their own migration policies and related tools. Migration policy is defined as a policy with the resulting effect to regulate, directly or indirectly, the movement of migrants across borders, and to regulate their residence in the territory. Migration policy prevents illegal migration and regulates legal migration. Migration policy should not only address immigration, but also the area of emigration as well as migration prevention. It should endeavour to influence emigration and its flows through the country's own borders. This is why migration policy is made up of smaller sub-policies, namely asylum policy, integration policy, immigration policy, visa policy, return policy, naturalization policy, and others. Immigration policy regulates the entry, exit and residence of migrants in the country. Asylum policy deals with the conditions for obtaining asylum, and integration policy deals with

⁹ M. Bolečková, *Migračná politika*, Banská Bystrica 2010.

¹⁰ M. Mesáros, *Globalizácia, kriminalita, bezpečnosť (dimenzia, bezpečnostné vedy, bezpečnostné vzdelávanie)*, [in:] *Manažérstvo bezpečnosti: Zborník vedeckých prác*, 2008, Košice, pp. 7–20.

the integration of a migrant into a society in a particular country. Migration management, which consists of a system of state competences as well as humane, effective and organized procedures of adaptation of migration in the country, is responsible for the implementation of migration policy. The greatest risks in the area of migration policy are: crime, economic impact, cultural impact, serious and infectious diseases, unemployment, racism, territorial fragmentation, xenophobia, and demographic change. The protective measures of the migration policy against these risks are: education, monitoring, business conditions, communication, job opportunities, education, social activities etc.¹¹

CONCLUSION

European countries are currently facing the challenges of shared responsibility for addressing mutual needs and concerns regarding migration, with security issues being a common factor. The fact is that illegal migrants are increasingly nationals of economically underdeveloped countries, they do not have enough financial means, they are socially deprived, and because of all these facts they may become involved in committing anti-social activities. The security of the European Union has gained a new dimension of urgency, especially after repeated terrorist attacks in European capitals.

REFERENCES

1. Bolečeková M., *Migračná politika*, Banská Bystrica 2010.
2. “Euractiv”, <https://euractiv.sk>
3. Kováčová L., Vacková M., Križovský S., *Nelegálna migrácia v kontexte preventívnych aktivít*, 1st edition, Košice 2017.
4. “Medzinárodná organizácia pre migráciu (IOM)”, www.iom.sk
5. Mesároš M., *Globalizácia, kriminalita, bezpečnosť (dimenzia, bezpečnostné vedy, bezpečnostné vzdelávanie)*, [in:] *Manažérstvo bezpečnosti: Zborník vedeckých prác*, 2008, Košice, pp. 7–20.
6. Schroth J., *Mýty o novodobých nomádech*, Praha 2003.
7. Taba L., *Hrozba terorizmu ako dôsledok neregulovanej migrácie do Európy*, “MepoForum.sk”, 3 February 2016, <http://mepoforum.sk/bezpecnost/spravodajske-sluzby/hrozba-terorizmu-ako-dosledok-neregulovanej-migracie-do-europy-lajos-taba/>

¹¹ M. Bolečeková, *Migračná...*, op. cit.

8. Žúborová V., Borárosová I., *Migrácia v médiách: utečenci verzus migranti. Chápanie migrantov a utečencov v mediálnom priestore v kontexte pozitívnej a negatívnej mediatizácie*, “Central European Journal of Politics”, 2016, vol. 2, issue 1, pp. 1–15.

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