

Schengen's New Eastern Border and Irregular Immigration In and Out of Poland

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Theme: In December 2007 the Schengen space was extended to include Poland, Slovakia and Hungary, weakening these countries' links with their Eastern neighbours and allowing the entry into the rest of the EU of Chechens, Vietnamese and other non-EU residents in them.

Summary: Since the beginning of the 1990s, the transformation of the economic and political structure of the Central and Eastern European (CEE) region gave rise to new migration trends, especially in Poland. Over the past 17 years Poland has become the host and crossing country for thousand of immigrants –both legal and illegal– and refugees. The biggest national groups of non-EU immigrants in the Central European countries come from their eastern neighbourhood –Russia, Moldova, Ukraine and Belarus– and from Asia –Vietnam and Armenia–.

Poland has been forced to design a stricter migratory regime, first for its accession to the EU and, secondly, for entering the Schengen area. Since December 2007 Poland's eastern frontier (stretching across 1,200 kilometres from the Baltic to the Carpathians) has become one of the few points in Europe at which it is possible to control human spatial mobility on the east-west axis.

The immediate victims of the enlarged Schengen space were its closest eastern neighbours, whose international mobility has been stopped by the implementation of a visa regime. On the other hand, there has been a sharp increase in the number of crossings of Poland's western borders by illegal migrants from other regions –previously living in CEE countries–. The question is how to make the EU's external borders as friendly as possible for legal migration and as tight as possible for illegal migrants.

Analysis: In the 1990s, the strictly-guarded border between the USSR and Moscow's satellite countries ceased to exist, thereby allowing the spread of petty cross-border trade that was highly profitable for all those involved. In the Polish case, the value of this border trade was estimated at an annual US\$3 billion, and thousands of Lithuanians, Ukrainians and Belorussians made a living from it, buying and selling any kind of goods and extracting a profit from the price differences on each side of the frontier. However, 14 years later, the accession to the EU of Central European countries such as Poland, Hungary and Slovakia brought about the disappearance of this short-lived area free flow of people. EU candidate countries were required to adopt the Schengen *acquis* and,

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forced by EU pressure, they all introduced visa requirements for non-EU nationals in neighbouring countries, amidst great popular discontent and governmental reluctance.

Finally, in 2003 visa requirements were introduced for the citizens of Russia, Belarus, Ukraine, Moldova, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan. As external border protection mechanisms had been given priority in the accession negotiations, Poland, Slovakia and Hungary obtained substantial economic and technical aid from the EU to control their Eastern borders. However, despite this help, Poland –with its long borders with the Ukraine, Belarus and Russia– had a difficult task to ensure that the future external border of the EU was tight and secure. Furthermore, since 1 May 2004, the region has been subject to the asylum law in force in the EU Member States, which provides the rules for determining the country responsible for asylum procedures (the so called Dublin II convention).

The unexpected migration outflow from Poland after 1 May 2004 to the countries that had opened their labour markets, primarily the UK, caused a serious labour shortage in Poland which forced it to partially open its own labour market to foreigners from neighbouring countries. On 31 August 2006 the right to employ workers from the Ukraine, Belarus and Russia without work permits for three months in any given period of six months was granted. This privilege was originally only applicable to the agricultural sector but in June 2007 the right to employ workers without work permits from Poland's neighbouring countries was extended to other sectors, including the construction sector. However, the pressure in the labour market for both skilled and unskilled workers led to further developments and in February 2008 the duration of legal work without a work permit was extended from three to six months in any given period of 12 months.

Since Schengen rules conflicted with Poland's policies regarding ethnic Poles, in September 2007 an 'Act of the Polish Chart' was approved in an attempt to facilitate the entry into Poland of ethnic Poles living in the East. According to this act those who meet the relevant ethnicity requirements will be able to take up employment or conduct economic activities on the same basis as Polish nationals. They will be given Polish residence visa (free of charge) and after a given period of time will be able to apply for residence permits and Polish citizenship. A similar attempt to protect co-ethnics from the results of Schengen enlargement had previously been made by Hungary through the 'Status Law'.

Cross-border Mobility

The collapse of communism resulted in an enormous increase in international cross-border mobility in Eastern Europe. In Poland the peak in the number of arrivals of foreigners was registered in 1999, when the number of incoming foreigners rose to almost 90 million. From the mid-1990s to the year 2002 the number of arrivals from the former Soviet Union fluctuated between 11 million and 13 million. The introduction of visas in 2003 led to a temporary decline in arrivals through Poland's eastern border but the trend was rapidly reversed and by the end of 2005 levels had returned to those registered before the introduction of visas.

There were 65.1 million legal arrivals of foreigners in 2006, of which 3.9 million were Belorussians (6%), 5.3 million Ukrainians (8.7%) and 1.7 million Russians (2.6%). The stricter control of mobility as a result of the conflict in Chechnya led to a 12% decline in 12% Russian arrivals during 2007.

As regards irregular entries, the data on foreigners captured by Poland's Border Guard (BG) while attempting to illegally cross the country's borders (either into Poland or from Poland to Germany) show quite a stable trend between 2000 and 2006, fluctuating between 3,100 and 3,600 per year. The only exception is the year 2004, when it reached a peak of almost 4,500, explained by the increase in the mobility of Chechen immigrants who started moving west after the EU's eastern enlargement. Chechens constitute one of the main groups of foreigners who attempt to enter Poland illegally and they usually apply for refugee status, although at best their presence is merely tolerated. Those awaiting refugee status remain at reception centers, which were overcrowded prior to 2004 since Poland was one of the main destinations of Chechens. However, from 2004 the centres have been abandoned and Chechens have generally moved elsewhere.

Figure 1. Foreigners held by Poland's Border Guards while attempting to illegally cross the Polish frontier

Year	2000	2001	2002	2003	2004	2005	2006
Number	3,652	3,651	3,330	3,592	4,472	3,598	3,131

Source: <http://www.sg.gov.pl/>.

After the enlargement of the Schengen space, and despite the security measures involved, irregular migration has continued to occur. Assistance in smuggling illegal immigrants remains a highly important source of income for many families in the Ukraine and, due to widespread corruption, organised smuggling still involves only a small risk and a substantial profit. In any case, the most recent data show that the number of Chechens caught crossing Poland's borders illegally grew considerably after Poland joined the Schengen agreement. From 20 December 2007 to 17 January 2008 Poland's Border Guard has arrested 600 individuals, 95% of which are Chechens. The increase is evident when it is considered that the total for 2007 was 423 (of which, again, 95% were Chechens).

Irregular Migration within Poland

There are no studies in Poland on the size of irregular immigration within the country itself but observers agree that an important national group is made up of Vietnamese. There are different estimates concerning this group –varying from 5,000 to even 40,000–. The Vietnamese community is relatively well established in Poland and, contrary to other non-EU citizens from the East, the majority of Vietnamese consider Poland their country of destination.

Another significant ethnic/national group to have made a home in Poland is that of the Armenians. There are no trustworthy estimates concerning this group and the number considered varies from 6,000 to 12,000. Approximately half of them are in Poland illegally. The flow from Armenia that occurred after 1989 is related with the presence of a small but well established and assimilated old Armenian diaspora which has been in Poland for centuries.

The most recent estimate on Poland's immigrant stock was presented by the Central Statistical Office in 2008 and referred to data as of December 2006. According to this source, the number of immigrants residing in Poland is around 200,000, of which Ukrainians constitute the predominant category. Ukrainians also comprise the biggest national group working in Poland illegally. The massive shuttle migration into Poland from the Ukraine, beginning in the 1990s, was the result of the strong historical and cultural ties between the two countries, their geographical and linguistic proximity, Poland's pro-Ukrainian foreign policy after 1989 (exemplified by Polish help during the Ukrainian

Orange Revolution and Poland's Eastern Neighbourhood Strategy) and its benevolent visa practices. Before joining Schengen, Poland's visa regime was highly liberal and visas were issued to Ukrainians free of charge, while Russians and Belarussians were also allowed a number of cases for which they did not need to pay. Ukrainians were often given multiple entry visas.

According to recent estimates there are 300,000 –perhaps even up to 500,000– Ukrainians employed in Poland annually as short-time/temporary immigrants. Most of them entered Poland with a tourist visa (before 21 December 2007) but work in a shadow economy in irregular conditions. Poland's admittance to the Schengen space has had as its immediate consequence a dramatic decline in the number of border crossings by Ukrainians, a decrease that could have negative consequences for the Polish economy.

Regularisation Programmes

The first attempt to regularise illegal immigrants in Poland was undertaken in 2003. Its main aim was to regularise those immigrants who, mainly due to humanitarian reasons, could not be expelled but, at the same time, did not match the existing legalisation criteria. This Amnesty Programme consisted of two so-called 'small' and 'big' amnesties. The first was applicable to illegal immigrants who wanted to leave Poland. Immigrants who complied with the Amnesty rules were promised not to be put on the list of unwanted foreigners. The results were, however, not impressive; only 282 foreigners took the opportunity to regularise their situation: 139 Ukrainians, 26 Armenians, 25 Bulgarians and 25 Vietnamese.

The results of the 'big amnesty' were not too impressive either: 3,512 immigrants applied and 2,747 fulfilled the requirements (1,245 Armenians, 1,078 Vietnamese, 68 Ukrainians and 51 Mongolians). Immigrants had to prove that they had resided in Poland continuously since at least 1 January 1997. This requirement was, however, too strict for the majority of cases. Its critics pointed out that information about the opportunity for legalisation had not been advertised sufficiently and that the four-month announcement period (from 1 September to 31 December 2003) did not allow sufficient time to arrange for employment offers and the other documents required. The most serious disadvantage was faced by illegal immigrants who did not have identity documents as without them it was impossible to confirm not only their identity but also the date of their arrival in Poland. Simultaneously with the Amnesty, Poland introduced the practice of the 'tolerated stay', whose purpose was to legalise the stay of foreigners whose expulsion was deemed to be unfeasible.

A new regularisation programme was launched in July 2007 for those who had not submitted an application to the previous Amnesty Programme. Immigrants were obliged to comply with a number of rigorous conditions: to have resided in Poland continuously since at least 1 January 1997 (with absences of no more than six months at a time and not exceeding a total of 10 months); to present a legal title to occupy a housing; to have a promise or a written declaration of employment, or receive an income or possess property sufficient to cover their cost of living and that of their dependants, including the cost of medical treatment, for a period of one year. Up to January 2008 1,541 foreigners have applied for this programme, most of whom are Vietnamese, followed by Armenians. The final data are still being processed.

Conclusions: It has only been a few weeks since the extension of the Schengen space to Central Eastern Europe. Hence, a comprehensive evaluation of the security measures implemented to protect the EU's Eastern frontier is not yet possible. But some immediate consequences have already been observed, namely a dramatic decline in the number of border-crossings by the Central Europeans' closest neighbours: Ukrainians, Belorussians and Russians.

The external border of the EU should be as friendly and as open as possible for legal migrants but non-porous for illegal migration. Due to the dramatic outflow from Poland of around two million people after 1 May 2004 there is a strong demand for foreign labour – both skilled and unskilled– and it is a very difficult task to combine this demand with the security measures implemented in December 2007.

A serious threat to Poland's internal security –and to that of the EU as a whole– in relation to East-West migration is the destabilisation caused by ethnic armed conflicts in the East that might increase the volume of migration from third countries through Russia. Therefore a readmission agreement between the EU and Russia is strongly recommended. Cooperation in border management with neighbouring countries –including training on border protection standards and rules– should also be considered.

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