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Policy Brief - HUNGARY

CLANDESTINO PROJECT OVERVIEW

The project aims

The CLANDESTINO research project was designed to support policy makers in developing and implementing appropriate policies regarding undocumented migration. **The project aims** were to (a) provide an inventory of data and estimates on undocumented migration (stocks and flows) in selected EU countries, (b) analyse these data comparatively, (c) discuss the ethical and methodological issues involved in the collection of data, the elaboration of estimates and their use, (d) propose a new method for evaluating and classifying data/ estimates on undocumented migration in the EU.

The countries studied

The project covered twelve EU countries (Greece, Italy, France and Spain in southern Europe; Netherlands, UK, Germany and Austria in Western and Central Europe; Poland, Hungary, Slovakia and the Czech Republic in Central Eastern Europe) **and three non EU transit migration countries** (Turkey, Ukraine and Morocco) have been under study in this project.

Methods, Data and Period of Reference

Country reports. Individual country reports review all relevant data sources on irregular migration, assess the validity of the different estimates given and where appropriate produce a new estimate for the country studied. The country reports cover the period between 2000 and 2007. This quantitative analysis is complemented by a critical review of qualitative studies and by interviews with key informants with a view to exploring the pathways into and out of undocumented status in each country. It is noted that the non-registered nature of irregular migration makes any quantification difficult and always produces estimates rather than hard data.

Classification of data & estimates

The main output of the project is a **database** (<http://irregular-migration.hwvi.net/>) which presents and classifies (as low, medium or high quality) estimates and data on irregular migration in the European Union and in selected member states. The presentation is innovative in its consistent structuring and its carefully developed quality classification, which indicates whether estimates are more or less trustworthy. Quantitative information is accompanied by substantial background materials, both on issues of general concern and on the situation in individual countries. In addition, the database provides aggregate EU level estimates for the years 2002, 2005 and 2008.

Terminology

The terms irregular (with no regular/legal status), undocumented (without the appropriate papers) and unauthorized (without legal permission for entry, stay or work) migration denote different facets of the wider phenomenon of irregular migration. These terms are accepted and used by the Clandestino consortium as synonyms. The term illegal is accepted by the consortium when referring to a condition (e.g. illegal work or illegal entry) but not in relation to a person (illegal migrant).

Definitions

For this project, **irregular or undocumented residents** are defined as residents without any legal resident status in the country they are residing in, and those whose presence in the territory – if detected – may be subject to termination through an order to leave and/or an expulsion order because of their status. **Irregular entrants** are persons who cross an international border without the required valid documents, either un-inspected over land or sea, or over ports of entry. For more information see: <http://clandestino.eliamep.gr/category/irregular-migration-ethics-in-research/>

Trafficking & Asylum Seeking

The Clandestino project is not concerned with Trafficking in Human Beings because it considers this as a separate even if related phenomenon. But in some countries it touches upon asylum seeking and asylum processing issues as they are related to irregular migration issues.

IRREGULAR MIGRATION IN HUNGARY

Background of migration situation in Hungary

Hungary has been open to international migration since the political changes of 1989. Immigration to Hungary from countries of Central and Eastern Europe, from China and Vietnam is primarily labour migration, often based on seasonal or temporary employment or for business activities. Immigration to Hungary from poverty stricken or war torn developing countries is mainly transit migration.

Hungarian immigration policy has been largely shaped by European integration, i.e. the harmonisation process and the transposition of EU Directives, the Schengen Acquis, the Hague Programme and other EU policies and legal provisions. Irregular and illegal migration basically involves either transiting through the country without proper documents, or illegal residence in the country, or engagement of non-EU citizens in unlawful employment, typically of the seasonal or temporary kind. On 21st December 2007 Hungary joined the Schengen Area and Hungarian legal rules now include the Schengen legal provisions.

The proportion of legal immigrants living in Hungary is relatively low by comparison to other European countries. In Hungary at the end of 2007 there were 166,693 foreign citizens in possession of residence or immigration permits for a period exceeding three months, i.e. 1.6% of the total population. Two thirds of foreign citizens living legally in Hungary are from neighbouring countries, mostly ethnic Hungarians; approx. 12% arrived from Asian countries (of which 8% from China and Vietnam); and a similar ratio, 12% of legally residing foreigners, are from the EU-15 countries. Since 2000 the annual number of people obtaining Hungarian citizenship varied between 3,000 and 10,000. Most naturalised citizens are ethnic Hungarians.

Number of expulsions ordered by Hungarian Aliens-Policing Authorities breakdown by main nationalities

Citizenship	2003	2004	2005	2006	2007
Romania	2,489	2,310	2,398	1,750	0
Ukraine	625	410	623	165	43
Serbia-Montenegro (With Kosovo Albanians)	150	42	54	123	349
Moldova	64	62	34	32	32
Turkey	70	66	40	10	9
Other	396	364	193	249	94
Total	3,794	3,254	3,342	2,329	527

Irregular migrant stocks. The proportion of irregular immigrants living in Hungary is small compared to other European countries. The total stock of resident foreign irregular migrants in Hungary in 2007 is estimated to be between 30,000 and 50,000 people. Lacking relevant survey evidence, and scientifically founded estimations, this number is based on administrative data of Aliens Police and Border Guard, on published estimations and on expert opinions.

Data sources used for estimating size & features of irregular migration

The "Alien policing database" of the Office of Immigration and Naturalization contains statistical information about the following categories:

- People residing legally in Hungary, including EEA nationals and third country nationals subject to visa regulations.
- People being removed from Hungary.
- People submitting a request for entry.
- People subject to a restriction of entry, restriction of movement or removal.
- Lost document
- Refugees and administrative actions on behalf of refugees.
- Persons to whom residence was refused
- The results of the 2004 regularization measure

The data collection maintained by the Border Guard and its legal successor, the Border Guard Department of the Police contains flow data about apprehended irregular migrants. Out of these data the following items are published yearly:

- Number of apprehended aliens who cross the border unlawfully, by gender, country of origin, and border
- Number of apprehended human smugglers
- Number of people being trafficked into the country
- Number of apprehended human traffickers
- Persons rejected at the border

This study relies on a small scale expert survey, i.e. the estimations of migration researchers and members of law enforcement agencies were collected and critically assessed in 2008. Estimates older than 1 year are now outdated due to (a) Hungary's entry into the Schengen Zone and (b) Romania's joining the EU. According to new legislation on entry and stay, undocumented residence of Romanian citizens is not counted as irregular migration.

Social and demographic features of irregular migration

In 2008, the groups of Chinese and Vietnamese immigrants constituted the largest national groups of resident irregular migrants. There were between 15,000 and 25,000 irregular Chinese and Vietnamese migrants in Hungary in 2008. Other irregular migrant populations include (in descending order) Ukrainians, Serbs (including Kosovo Albanians), sub-Saharan Africans and other Asian immigrants. Men account for up to 80% of irregular migrants and people of the 20-59 age group represent as much as 90-95% of the total.

By international comparison, the number of refugees in Hungary is low. Between 2000 and 2006 altogether 31,450 asylum-seekers submitted applications. Less than 3% of all applicants was granted refugee status. The overwhelming majority of asylum applicants in Hungary has arrived illegally.

Main Pathways into and out of Irregular Status

- *Overstayers.* The largest flow of irregular migrants to Hungary is constituted by the group of overstayers, i.e. by persons arriving legally, but extending their stay beyond the permitted time limits. No reliable estimation exists for the number of overstayers.
- *Border violations.* The number of border violations peaked in the mid 1990s, with 27,000-30,000 border apprehensions. After this period a significant and constant decreasing tendency was observed, resulting in an annual figure of around 8,000-10,000 people detected crossing the border illegally. Compared to other EU neighbouring countries, the pressure of irregular border crossings in Hungary today is low.

In 2007 migrants entering Hungary illegally and being apprehended at the borders arrived from the following countries (in decreasing order of the number of apprehensions): Ukraine, Serbia (Kosovo region), Moldova, Romania, Turkey, China, Georgia, Bosnia-Herzegovina and Vietnam. In the same year, the overwhelming majority of migrants entering Hungary illegally and being apprehended at the borders were caught at official border crossing points located on roads. Somewhat less frequent was the arrival through the green (land) borders. Only a tiny minority of apprehended irregular migrants have arrived by air routes.

Irregular migrants attempt to legalize their residence with the help of various strategies:

- *Asylum.* For most irregular migrants apprehended by the authorities, entering the asylum process is the major form of legalizing their stay in Hungary. In 1999, there were 11,500 asylum applications, with 5,100 submitted by citizens of countries of former Yugoslavia and 6,000 by non-European citizens. Since then, there have been hardly any European applicants. In 2002 European asylum applicants have amounted to only 7% of all applicants. In recent years, the majority of asylum seekers arrive from Asian countries such as Iraq and Afghanistan.
- *Marriage and parenthood.* Marriage with a Hungarian citizen or with a citizen of another EEA country may lead to the legalization of the status of an irregular migrant. Alternatively, since 2007, the migrant obtains a residence permit if a child is born of whom the migrant is the parent and the child is a Hungarian citizen or the citizen of another EEA country.
- *The 2004 regularization measure.* Hungarian authorities have initiated only one regularization campaign. A total of 1,406 people applied in the context of this regularisation programme, 60% of them were Chinese and Vietnamese citizens.
- *Among refugees,* there is a continuous flow between the status of illegality and legality. In 2007, altogether 3,419 people arrived in Hungary and subsequently applied for asylum. Out of these people 82% arrived illegally, i.e. by crossing the border without documents. During the administrative process of determining their eligibility for refugee status, these people count as legal migrants. On the other hand, most irregular migrants stay in Hungary on a transitional basis and it is expected that most of these people will migrate further in an irregular way to other developed countries.

Key Messages for Policy Makers

Hungary's policies against irregular migration have been shaped by, and strictly follow, European patterns. Policy makers repeatedly refer to the fact that, in Hungary, the fight against irregular migration and the enforcement of the human rights of irregular migrants (including those of illegally arrived refugees) is determined by European legislation: i.e. by the provisions of the Schengen Acquis regarding the movement of third country nationals, by EU policies on asylum and other human rights legislation (e.g. family reunification directive).

The major Government agencies that are implementing these policies – the Ministry for Justice and Law Enforcement, the Police (which also performs border management functions) and the Office of Immigration and Nationality (i.e. the Aliens Police) - harmonise their day-to-day activities with the respective agencies of EU Member States, and co-operate with the central agencies of the EU. For the

above reasons, in Hungary there is only limited scope for policy innovation in these fields, but, on the other hand, there is a wide scope for improving how these policies are implemented.

Enforcing regulations on entry, exit and stay and border management. Interviews conducted at law enforcement organisations in the framework of the Clandestino Project have revealed that these organisations possess a deep knowledge about the administrative procedures regarding irregular migration (e.g. apprehensions, expulsions, etc.), but their knowledge about the real flows and stocks of irregular migrants is rather limited. In particular, police estimates of flows and stocks have a very high error margin. No responsible person is able or willing to estimate the number of border violations for instance that were not registered by the authorities. Similarly, the opinions of experts vary widely about the number of those third country foreigners residing illegally who were successful in hiding from the authorities. Hungarian authorities should attach more resources and efforts to control and measure the stocks and flows of irregular migrants.

In particular, the following measures should be taken:

- Police and labour controls both on the borders and in Hungarian territory should be improved, in order to reveal the irregular component of migration activity of foreigners in Hungary;
- Co-operation between the Police, the Aliens Police and the Labour Inspectorate should be improved;
- Investigation activities and covert actions towards those individuals and companies that are suspected to facilitate irregular migration, human smuggling and trafficking should be improved;
- The transparency of administrative procedures implemented by diplomatic and consular services, the police, local governments, labour authorities and higher educational organizations should be improved in order to enforce regulations on entry, exit, residence and border management effectively;
- International legal co-operation regarding repatriation should be improved;
- The statistical services of the relevant Government agencies should be improved and harmonised. In particular, as regards enabling these services to separate multiple irregular entries and multiple expulsions of the same person, and track the individual history of an irregular migrant in terms of registrations of multiple offences against entry, exit, residence, border management and labour legislation;
- The efficiency and effectiveness of policies and measures taken against irregular migration should be evaluated regularly, and the results of these evaluations used to improve risk assessments on irregular migration.

Enforcing human rights. In the framework of the Clandestino Project interviews were made with experts of the relevant Hungarian NGOs that offer legal and social help to immigrants arriving both from the neighbouring countries and from remote continents. These interviews have reinforced the statements of law enforcement organisations that the basic rights of irregular migrants as declared in international conventions about refugees and asylum seekers are respected in the country. Hungarian authorities should continue doing everything in their power to enforce the human rights of migrants regardless of their irregular status. Law enforcement authorities should clearly demonstrate both in their actions and in their communication policy that irregular migration in itself is not a criminal action.

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All Project Reports and Policy Briefs as well as the Database are available through the project's web site <http://clandestino.eliamep.gr> For more information on the case of Hungary, please contact, the author of this Policy Brief, Dr. Peter Futo, Corvinus University of Budapest, Institute for Sociology and Social Policy, at futo@mixolid.hu , tel: +361 482-7328.

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You may also visit the Social Sciences and Humanities Research Programme of the European Commission: http://ec.europa.eu/research/social-sciences/index_en.html



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