

COUNTRY REPORT
POLAND



Undocumented Migration

Counting the Uncountable. Data and Trends across Europe

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November 2008



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Undocumented Migration: Counting the Uncountable

Data and Trends across Europe

This interdisciplinary project is a response to the need for supporting policy makers in designing and implementing appropriate policies regarding undocumented migration. The project aims (a) to provide an inventory of data and estimates on undocumented migration (stocks and flows) in selected EU countries, (b) to analyse these data comparatively, (c) to discuss the ethical and methodological issues involved in the collection of data, the elaboration of estimates and their use, (d) to propose a new method for evaluating and classifying data/estimates on undocumented migration in the EU. Twelve selected 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) are under study in this project. Three non EU transit migration countries used as key 'stepping stones' by undocumented migrants en route to the EU, notably Turkey, Ukraine and one Maghreb country, are also analysed. Where relevant, the project considers the factors affecting the shift between legal and undocumented status among migrant populations. The project work programme is complemented by two regional workshops with policy makers and academics, 12 fieldvisits each resulting in a series of meetings with key policy actors, NGOs and journalists working on migration in each of the EU countries studied. The CLANDESTINO database on irregular migration in Europe, the Project reports and Policy Briefs are available at: <http://clandestino.eliamep.gr>

Each country report reviews all relevant data sources on irregular migration (e.g. apprehended aliens at the border or in the inland, expulsion orders, people registered through health or other welfare schemes for undocumented immigrants, municipal registers, statistical estimates from national and European statistical services), assesses the validity of the different estimates given and where appropriate produces a new estimate for the year 2008 for the country studied. The country reports cover the period between 2000 and 2007 and the last year for which data or estimates were available when the study was finalised in 2009, notably in some countries 2007 and in other countries 2008. 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.

The Hellenic Foundation for European and Foreign Policy (ELIAMEP) is the coordinating institution of the CLANDESTINO consortium. CLANDESTINO Partners include the International Centre for Migration Policy Development (ICMPD) in Vienna, the Hamburg Institute of Economics (HWWI), the Centre for International Relations (CIR) in Warsaw, the COMPAS research centre at the University of Oxford, and the Platform of International Cooperation on Undocumented Migrants (PICUM) in Brussels.

The Center for International Relations (CIR) is an independent, non-governmental establishment dedicated to the study of Polish foreign policy and those issues of international politics, which are of crucial importance to Poland. The Center's primary objective is to offer political counseling, to describe Poland's current international situation, and to continuously monitor the government's foreign policy moves. The CIR prepares reports and analyses, holds conferences and seminars, publishes books and articles, carries out research projects and organizes working groups. It has built up a forum for foreign policy debate involving politicians, MPs, civil servants, local government officials, journalists, academics, students and representatives of other NGOs. The CIR is strongly convinced that, given the foreign policy challenges Poland is facing today, its mission should be to foster a public discourse on international issues in Poland.

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I. SETTING THE FRAMEWORK

MIGRATION POLICY

Generally, Poland, is not considered an attractive destination country for either legal or irregular immigrants. Poland's poor economic situation, as compared to other EU member states, is not conducive to immigration. Furthermore, its migration regime is fairly strict, in a large part as a result of the requirements for EU accession and for entering the Schengen zone. The discourse on migration issues related to Poland is therefore primarily focused on the emigration of Poles.

Poland has a relatively short history of immigration compared to other EU countries. For years Polish migration policy focused on outflows rather than on managing inflows. Poland's migration policy in the period of 1945 - 1989 was typical for all Soviet Bloc countries, driven by isolationist principles such as restrictive passport and exit-visa policies, restrictive entry-visa policies (no immigration), and asylum granted for a limited set of reasons, mainly for communists escaping junta regimes (Iglicka, 2005).

In last decade of the 20th century, Poland accommodated a mass movement of petty traders and circular migrants from neighbouring countries, mainly from Ukraine, Byelorussia and Russia. This non-visa movement was regulated by an agreement dated December 13, 1979¹, however, such large scale movement occurred only after the collapse of the communism.

Between 1989 and 2004, Poland's migration policy was reactive in its merits. All action, be it legislative or institutional, was driven by: observations of migratory inflows and legal obligations deriving from preparations for EU accession. In other words, economic need for immigrant labour, large, socially destabilising inflows of asylum seekers, and political and public debates on immigration had little impact on this policy.

By implementing the Regulation of the Government of January 1, 2000, which required the readjustment of the state visa policy to match EU standards, Poland introduced visa requirements for non-EU nationals from countries such as: Azerbaijan, Georgia, Tajikistan, Kyrgyzstan, Turkmenistan, Kazakhstan, Moldova (Autumn 2000), Belarus, Ukraine and Russia (Autumn 2003).

¹ Agreement between the government of the Polish People Republic and the government of the USSR on mutual non-visa trips of citizens of both states, prepared in Warsaw, December 13, 1979 (Journal of Law 1980 No 13, item 41). The Polish-Ukrainian border was crossed by Ukrainians 15,235,609 times in 1997 and 8,923,847 times in 1998. The Polish-Russian border was crossed by Russians 1,972,893 times in 1997 and 1,371,183 times in 1998. The Polish-Byelorussian border was crossed by non-Polish citizens 8,597,624 times in 1997 and 6,305,251 times in 1998.

Nevertheless, Poland's visa regime remained relatively liberal until its full incorporation into the Schengen space. Polish entry-visas were free of charge for Ukrainians, while Russians and Belarusians were presented with a catalogue of cases in which they did not need to pay. Ukrainians often received multiple entry visas.

A public discourse on the presence of immigrants in Poland has been developing since the late 1980s. Until today, however, this discourse has been more about foreigners than about immigrants, partly due to the small number of migrant groups settled in Poland. The image of foreigners portrayed by the mass media generated images of foreigners evolved from negative to even idealistic. In the beginning of the 1990s, foreigners represented a completely new element of the Polish landscape. They quickly became the subject of negative reports and journalists concentrated on criminal activities undertaken by foreigners or different aspects of their cultures and religions not welcomed by Poles. Elements of fear and suspicion pertained particularly to Russian, Bulgarian, and Romanian groups. Anxiety related to immigration focused predominantly on poverty and crime – therefore topics related to *Russians and Romanian beggars*. However, since the second half of the 1990s, mass media's depiction of immigrants has been altered. This change in the media's style was in part due to the fact that the feared mass inflow of foreigners had not occurred and was a result of the realization that the majority of foreigners in Poland were decent, cheap workers, that chose to live in Poland in peace. In what was a dramatic shift, the media then began describing the presence of foreigners in an idealistic fashion; rather than considered a threat, they were presented as an element that would enrich Polish culture (Mrozowski, 2003). Since EU enlargement, foreigners arriving into Poland from either eastern neighbours (Ukraine, Belarus and Russia) or from East Asia (Vietnam, China, and Korea) have also started to be perceived as potential saviours in the face of Polish economic problems such as labour shortages and stagnation.

The majority of immigrants in Poland, however, worked illegally in the grey economic sphere. They were given jobs in the agriculture and construction sectors or performing household services. The geography of migration flows into Poland during the transition period was related to the global division of labour. It is not surprising that at the beginning of the economic transformation, highly skilled labour from the West and Asia and only a small part of the Eastern flow could find employment in the primary labour market. The majority of migrants from the East were unskilled workers and found illegal employment in the secondary labour market (Iglicka, 2000). Since they were considered cheap and decent workers, their presence was tolerated by Polish society. A significant factor supporting their presence was a high acceptance of a shadow economy among Poles.² In addition, their Slavic ethnicity meant that they resembled Poles and were subsequently not highly visible to police and other authorities responsible for labour market regulations. It is important to stress at this point that the majority of eastern neighbours arrived into Poland on valid tourist visas and obeyed the rules concerning the time limit for a stay on Polish territory.

During last few years, competencies related to controlling the legality of foreigners' employment shifted to different institutions. Since 2007, the National Labour Inspectorate has been in charge. It should be stressed, however, that private households and farms belonging to individual farmers (who are not register as entrepreneurs) are not covered by this kind of inquiry, despite the fact that many of those working illegally are engaged in the domestic

² The research conducted in 1999 and 2000 among private entrepreneurs involved in industry and construction shows that small and medium business representatives tend to undermine state credibility. Regulations are perceived as impracticable and extremely demanding while institutions responsible for their compliance and execution are perceived as inefficient. (Gardawski, 2003) A sense of alienation from the state based on the perception that it does not fulfill its obligations yet imposes excessive commitments on its citizens, was also observed among those who employ immigrants on an irregular basis in domestic services and nursing elderly/ill people/children. In general, this sense of alienation justifies the irregular employment of both Poles and foreigners. (Gmaj, 2005)

services and agricultural sectors. Controls are undertaken in cooperation with the Police and Border Guards, however, which will be explored in the second part of the report, are not very effective.

Immigrants came spontaneously from the closest geographical and cultural neighbourhood, i.e. Ukraine, Belarus and Russia. Until the fall of 2003, these groups benefited from the visa-free regime and, as was previously mentioned, until the end of 2007 visas for Ukrainians were free of charge. The facilitation of movement from Ukraine should be explained in terms of Poland's foreign policy, which aimed to establish friendly relations with Ukraine after 1989 (e.g. Poland's assistance in Ukraine's Orange Revolution, Poland's Eastern Neighbourhood Strategy) rather than a migration policy strategy.

Many new arrivals from former Soviet Union countries were often linked with the presence of co-ethnic groups and diasporas in Poland. This logic is especially relevant to arrivals from Armenia and, to some extent, from Ukraine.

The only new, and reasonably established, ethnic group on Polish soil is the Vietnamese. Their mobility was also spontaneous and related to Polish-Vietnamese political and economic cooperation and student and personnel exchanges in the 1970s.

Migration balances in Poland have been negative i.e. there has been more emigration than immigration and, since the beginning of the 1990s, Poland has been waiting for an immigration to happen. The largest non-EU national groups present in Poland (both legal and illegal) stem from the eastern neighbourhood and Asia: Ukraine, Belarus, Vietnam and Armenia. Russian and Moldovan nationals belong to the stable core as well.

It is imaginable that the Polish Chart (the 'Act of the Polish Chart' effective since April 1, 2008³) will be perceived by some irregular migrants from neighbouring countries as an incentive to fully legalise their work and stay in Poland. Those who meet the requirements of the Polish Chart⁴ will be able to take up employment without work permits and conduct economic activities on the same basis as Poles do, which would make their life much simpler. They will be also given access to Polish state universities. There will not be any financial aid provided by the state at any stage of migration based on the Polish Chart to Poland⁵. However, those who will fulfil the criteria will be given long-term Polish residence visas free of charge. After a period of 3 years, they will be able to apply for residence permits and after 3-5 years, Polish citizenship.

Political debate⁶

The political debate on immigration has focused on the following issues (Iglicka, Mazur-Rafal, Kazmierkiewicz, 2003):

- *the protection of national interests* — protecting borders, society, and the country against the negative consequences of immigration;
- *the protection of human rights* — a category raised mainly with regard to refugees;

³ The idea of the Polish Chart relates to the old repatriation programmes of the 1990s, which because of financial difficulties of the Polish state and local governments in the settlement areas, were narrowed to deal exclusively with the 'return' migration of ethnic Poles from Kazakhstan (Iglicka, 1998). The programme was later interrupted due to high levels of unemployment (over 20%) which did not allow for secure jobs for returnees.

⁴ These are as follows: at least one of their parents, or grandparents or at least two great grandparents were Polish. There will be some test of Polish language ability and a list of 100 questions verifying familiarity with Polish culture and history. It has not yet been decided whether this kind of migration should be 'economy' or 'human' driven.

⁵ However, the beneficiaries of this programme will gain access to free medical care in case of an emergency, reduced fees for public transportation and free entrance to museums.

⁶ Fragments of this section are based on Iglicka K. (2007) *Poland*, in: Triandafyllidou A. & Gropas R. (eds.), "European Immigration: A Sourcebook"

- *refugee protection* — treated as a group of foreigners deserving special protection under the Geneva Convention and the New York Protocol, both ratified by Poland. In Polish legislation, the concept of refugee is distinct from that of asylum. The status of a refugee is subject to international protection, whereas asylum is understood as an exclusive right of the state to protect a foreigner and — apart from humanitarian considerations;
- *repatriation* — formulated by both the government and members of Parliament as a long-awaited return of compatriots to their mother country. However, the debate has not treated immigrants of Polish origin as aliens

Since 2004, massive outflows of Poles and labour shortages have increased discussions on immigration in terms of social and economic policy. The former Minister of Labour and Social Policy developed a plan to attract low skilled migrants from poor regions of India, Bangladesh and Pakistan. However, the Ministry of the Interior and Administration did not agree to execute the program since it was highly probable that those arriving in Poland would treat it as an opportunity to go further west. In fact, it has proven very difficult to satisfy the demand for workers while respecting the security measures implemented by the Schengen treaty in such country as Poland i.e. a country whose low level of salaries does not successfully attract immigrants. Furthermore, the reluctance to attract workers from “distant” cultural backgrounds stems from the Western European difficult experience with multiculturalism observed by some Polish politicians.

Current solutions and orientations of the migration policy debate in the case of Poland pertain to:

- Managing the outflow from Poland and stimulating return migration
- Facilitating labour migration from Eastern neighbours
- Attracting the inflow of *co-ethnics*
- Discouraging immigration from countries with distant cultural backgrounds
- Discouraging irregular migration by implementing extremely harsh requirements of abolition programmes.

DATA ON FOREIGNERS AND IMMIGRANTS

Poland has one of the lowest shares of immigrants in its population – approximately 0.1%.⁷

Detailed data concerning migratory flows into Poland was collected in Poland for the first time in post-war history with the Population Census (PC) of 2002.

According to PC 2002, in the period between 1989 and 2002, 85.5 thousand people moved (or returned) to Poland from abroad, of which 51% were women. ‘Actual foreigners’ (people without Polish citizenship), who became permanent residents of Poland during the transition period comprised 17% of the total (14.5 thousand). The remaining included Polish citizens moving back to Poland (return migration) or the second generation of Polish emigrants, who decided to settle in their parents’ homeland. In most cases, these so-called “reemigrants” hold multiple citizenship. Their former countries of residence were: Germany (27%), the USA (14%), Ukraine (6%), Italy, Canada, the United Kingdom and France.

In 2006, the population register (PESEL register) was used for the first time to calculate the stock of foreign nationals in Poland. According to PESEL, on December 31, 2006, the population of Poland amounted to 38,125,479. Foreigners, people who did not hold Polish citizenship, constituted 54,883 persons, or 0.145% of the total population. The structure of foreign nationals by country of origin and sex is shown in table 1.

⁷ OECD, Migration Outlook 2007, p. 330.

Table 1 Foreign nationals in Poland by country of origin and sex, PESEL register, 2006.

Men		Women	
country of origin	%	country of origin	%
Germany	21.3	Germany	20.2
Ukraine	6.5	Ukraine	12.0
Vietnam	4.6	Russian Federation	7.9
Austria	4.3	Sweden	5.3
Sweden	4.1	Austria	5.0
Russian Federation	3.9	Belarus	3.7
Greece	3.1	Soviet Union	3.2
Bulgaria	2.7	Vietnam	2.5
USA	2.3	USA	1.5
Armenia	1.8	Greece	1.5
Belarus	1.7	Czech Republic	1.2

Source: Source: Central Statistical Office data, CSO, Warsaw, 2007

According to the current legal definition in Poland, the stock of foreign citizens includes foreigners who, after being granted permanent residence permits, were registered at any specific address as permanent residents of Poland, and until a given moment did not leave for any other country nor acquire Polish citizenship. During the communist period, annual inflows ranged from 1,500 to 3,000. The sudden increase occurred after the collapse of the communist system. During the 1990s, annual data oscillated between 3,000 and 9,000 new entrants. Table 2 displays the data for 2004-2006.

Table 2. Immigrants* by region of previous residence, Poland 2004 - 2006.

Region/Year	2004	2005	2006
Total	9,495	9,364	10,802
Europe	6,536	6,906	8,270
Former USSR	2,283	2,083	1,338
Africa	114	114	125
America	1,759	1,649	1,867
Asia	893	572	388

* Polish return migrants are included in the CSO definition of an immigrant..
 Source: Central Statistical Office data, CSO, Warsaw, 2007

Temporary residence permits and settlement permits—applications

Temporary residence permits and settlement permits reflect two stages of the regularization of a foreigner’s stay in Poland. Temporary residence permits are granted to foreigners that are able to demonstrate a well-grounded reason to stay in Poland for longer than 6 months, e.g. migrant workers, family members, foreign spouses of Polish citizens or permanent residents, students and refugees.

Settlement permits are granted to foreigners who wish to settle in Poland, i.e. stay on Polish territory for a longer period of time. Currently, applications for the settlement permit can be filed only after having resided in Poland as a temporary resident for 5 years. The settlement permit is also the only category that allows for registering a foreigner as an immigrant.

In May 2002, at the time of PC, 34,100 permanent residents of other countries were residing in Poland on a temporary basis for at least two months. They originated mainly from Ukraine (22%), Germany (13%), Russia (6%), Belarus (6%), the USA (5%), Armenia (4%), the United Kingdom (3%), France (3%) and Vietnam (3%). Two out of every three temporary immigrants had already resided in Poland for more than twelve months, i.e. they could be considered as long-term immigrants (not having a status of permanent residents). One out of four temporary immigrants held Polish citizenship (7,700). Of these 3,400 were multiple citizenship holders. The remaining 70% (24,100) were ‘actual foreigners’ – without Polish citizenship.

During the last four years, the number of applicants for temporary residence permits fluctuated around 25,000, although it exceeded 28,000 in 2004 and 2007. Applicants that succeeded in receiving temporary residence permits were predominately citizens of former USSR countries (Ukraine, Belarus, Russia and Armenia) and Vietnam. The abovementioned nationalities also predominated in cases of foreigners granted settlement permits (see tables below). One must note that the number of applicants for settlement permits in Poland is not very elevated. Between 2004 and 2005, there was a significant drop from 5,094 to 4,064 applications. This decreasing trend continued in 2006, with 3,792 applicants. In 2007, however, the number of applicants grew slightly, reaching 3,987, almost the same level as 2005.

Table 3. Temporary residence permits in 2004-2007 (persons)

Year	Applications lodged	Applications granted
2004	28324	25649
2005	25486	22625
2006	25660	22376
2007	28557	23240

Source: Office for Foreigners data, 2007

Table 4. Temporary residence permits granted, 2004-2007. The most numerous citizenships (persons)

	2004	2005	2006	2007
TOTAL CITIZENSHIPS	25425	22 625	22 376	23 240
UKRAINE	8 518	8 304	7 733	7 381
BELARUŚ	2 008	1829	1 647	1 992
VIETNAM	1 875	1704	1 496	1 496
ARMENIA	1 793	1 418	1 199	1 273
RUSSIA	1 605	1 495	1 393	1 265
the most numerous total	15 799	14 750	13 486	13 407

Source: Office for Foreigners data, 2007

Table 5. Settlement permits, 2004-2007 (persons)

Year	Applications lodged	Applications granted
2004	5094	4365
2005	4064	3589
2006	3792	3255
2007	3987	3124

Source: Office for Foreigners data, 2007

Table 6. Settlement permits granted, 2004-2007. The most numerous citizenships (persons)

	2004	2005	2006	2007
TOTAL CITIZENSHIPS	5094	4064	3255	3124
UKRAINE	1905	1654	1438	1609
BELARUS	472	645	602	567
RUSSIA	527	376	286	224
VIETNAM	486	216	138	125
ARMENIA	226	148	110	91
the most numerous total	3616	3039	2574	2616

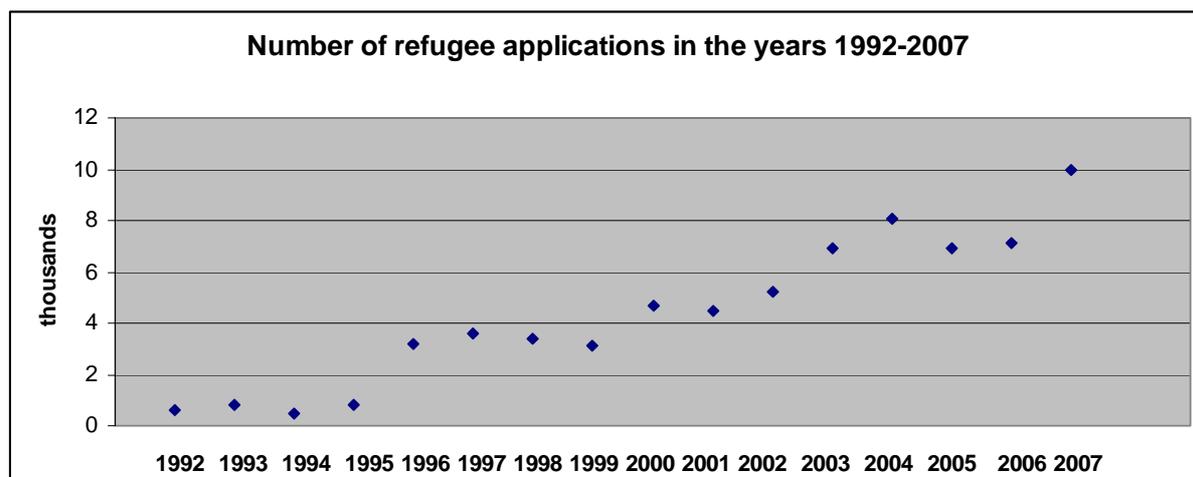
Source: Office for Foreigners data, 2007

Refugees

Refugee status is granted on the basis of the Act on Providing Protection to Foreigners on the Territory of the Republic of Poland of June 13, 2003. The Act does not contain a definition of the term refugee, however, it complies with the 1951 Geneva Convention and the 1967 New York Protocol. Refugee status can be granted in Poland if the applicant has not yet been granted refugee status in any other safe country. The asylum seeker has to apply for refugee status at the Polish border in person.

The data presented in fig. 1 concerns applicants and their family members, included in the applications.

Figure 1. Number of refugee applications in the years 1992-2007



Source: Office for Foreigners data, 2008

The number of applications grew steadily during the last 16 years, with the exception of a small drop in 1999, which was immediately replaced by a significant increase in 2000 (following the outbreak of war in Chechnya). The number of applications increased by almost 50% in 2003, which could have been caused by the Poland's anticipated accession to the EU or the entry into force of the regulation Dublin II. After a decline in 2005 and stabilisation in 2006, preliminary data for 2007 reveal that more than 10,000 refugee applications were submitted as compared with 7,093 applications in 2006. This substantial increase has been explained by Poland's accession to the Schengen zone on December 21, 2007.

The peculiarity of the Polish situation is constituted by the nationality of asylum seekers. Since 2000, Russian citizens of Chechen origin have dominated, constituting approximately 90% of applicants for refugee status. The majority used to be granted a tolerated stay, a form of international protection. Many Chechens with tolerated status decided to reopen the refugee status procedure in order to prolong their stays in reception facilities and (to gain) basic assistance. It should be stressed that most Chechens granted with tolerated stay or refugee status did not treat Poland as a destination country. Instead, they find themselves trapped by EU-level regulations which force them to stay in Poland (the first safe country) for a certain period before they illegally cross the border.

Since May 29, 2008 a revised Act on Providing Protection to Foreigners on the Territory of the Republic of Poland came into force. The revised act introduced an institution of supplementary protection for asylum seekers. Subsequently, three types of protection will be considered during the refugee status application procedure, in the following order:

1. refugee status
2. supplementary protection⁸
3. tolerated stay

The first two forms will be accompanied by the Individual Integration Programme (IIP). This is a new regulation since only refugees were granted with IIP prior to the revision.

⁸ Supplementary protection refers to foreigners who are not granted refugee status but who are endangered or at risk of serious harm if they return to their country of origin (death penalty or execution; torture, inhuman or humiliating treatment; serious individualized threat of life or health due to general use of violence towards civilians in case of internal or international military conflict). When the revision came into effect, all decision granting tolerated stay issued before on the basis of art.97 point 1 or 97, paragraph 1 point 1 of the Act on Providing Protection to Foreigners on the Territory of the Republic of Poland of June 13, 2003, became decisions on granting supplementary protection.

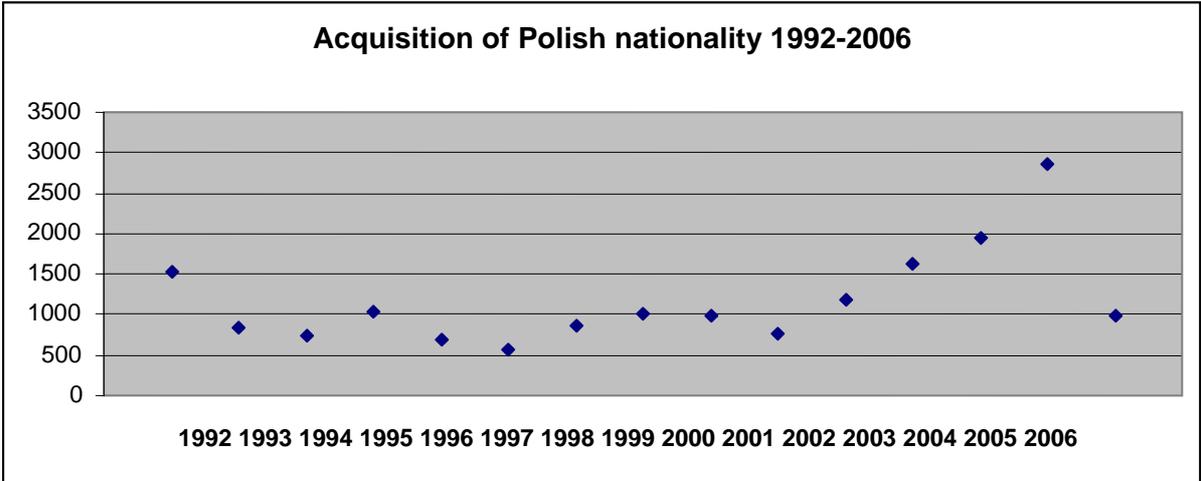
The possibility of reopening the refugee status application procedure to gain access to reception facilities and basic assistance is now closed.

Citizenship Applications

According to art. 8.1 of the 1962 Act on Citizenship, a foreigner can be granted Polish citizenship if s/he has resided on the Polish territory for at least 5 years on the basis of a settlement permit. However, art. 8.2 of the Act sets forth an exception from the 5-year-residence requirement by stating that in exceptionally justified cases, not included in the Act, a foreigner can be granted Polish citizenship even if the above requirements are not met. This exception pertains not only to a foreigner residing in Poland for less than 5 years on the basis of the permit to settle, but also to a foreigner resides abroad. In such cases, all applications are considered individually by the President of the Republic of Poland. A supplementary opinion regarding the given case is provided by the President of the Office for Repatriation and Foreigners. If Polish citizenship is granted, it is also extended to the children of the applicant; if the child is over 16, s/he must decide in favour of or against becoming a Polish citizen. In 2004, the number of applications for citizenship almost reached 4000.

Over the past 15 years, the number of the citizenships granted by Article 8 fluctuated significantly (see fig.2).

Figure 2. Acquisition of Polish nationality 1992-2006



Source: Office for Foreigners, 2007.

Nationals of the three eastern neighbour countries constituted a stable core among those who applied and received Polish citizenship (see table 7). Other numerous nationalities included Germans, Israelis and Kazakhs.

Table 7. Acquisition of Polish nationality by country of former nationality

	2002	2003	2004	2005	2006
Total	1,186	1,634	1,937	2,866	989
Former USSR	470	801	957	1,500	721
Ukraine	214	431	538	759	417
Russian Federation	22	52	145	257	129
Belarus	54	108	129	316	101

Source: Office for Foreigners, 2007.

Types of irregular migration

Certain types of irregular migration in Poland can currently be observed.

1. Irregular stays may commence from the beginning as a result of crossing the border illegally with fake or remade documents or crossing the green border in cases of human trafficking and smuggling. Such immigrants do not have any valid documents and are therefore trapped since they cannot leave Poland or legalize their stay. If a person illegally enters Poland, he/she has to leave Poland to apply for a visa in his/her country of origin. Thus, an foreigner that has illegally entered Poland is obligated to commit another crime: he/she must cross the border illegally to leave Poland since there are no permissible crossing points for a person with such a status. Amnesty Programmes which came into effect in 2003 and 2007 produced minor effects. The first consisted of so called “small”(pertaining to illegal immigrants who wish to leave Poland without registration on the list of unwanted foreigners) and “big” amnesties. Results of the “small” amnesties were not impressive – 282 foreigners took this opportunity, of which 139 were from Ukraine, 26 from Armenia, 25 from Bulgaria, and 25 from Vietnam. The “big amnesty” initiative did not achieve high numbers either: 2,747 illegal immigrants took advantage of the opportunity to change their status from irregular to regular, including 1,245 Armenians, 1,078 Vietnamese, 68 Ukrainians and 51 Mongolians. The number of immigrant applicants was greater at 3,512, however not all of them fulfilled the strict requirements (described in part II of this report). In the second Amnesty Program even fewer immigrants submitted applications: 2,028. Like the first one, this second initiative was aimed at illegal immigrants who came to Poland before 1997 and therefore drastically limited those who were eligible.⁹

The Vietnamese population is an example of this type of irregular migrants. Polish Consulates in Vietnam have been issuing about 700 visas per year¹⁰ for the past few years. The total number of people of Vietnamese origin legally living in Poland is estimated around

⁹ *Foreigners had to prove that they have spent 10 years in Poland rather than 5 years. What's more, overzealous clerks asked about the currency in 1996 during an inquiry in order to verify whether the foreigner had really been in Poland for 10 years. I do not remember, do you know what currency we had in 1996?* (denomination took place in Poland in 1995) *Clerks' ill will and anxiety, which are not shared by the average citizen, are obvious. Clerks fear that Poland will be flooded by Chinese, Vietnamese and Armenians...* (Clandestino face to face interview with NGO representative on April 5, 2008)

¹⁰ *Spolecznosc Wietnamska w Polsce...*,p.39

13,000, however both Vietnamese and Polish sources indicate very different numbers between 25,000 and 60,000. Even if the lower estimate were considered more probable, the massive inflow cannot be accounted for on the basis of visas. According to the Border Guard, the majority of Vietnamese citizens residing in Poland illegally left Vietnam legally by air, mainly on the basis of Russian, Belarusian or Ukrainian visas. Once abroad they contact human traffickers who assist them in entering Poland, typically by omitting checkpoints. Since Vietnamese communities are well established both in Poland and Western Europe, there is a constant risk of illegal entrance by members of this ethnic group. Since Poland entered the Schengen space, a sharp increase of illegal crossings by Vietnamese immigrants has been observed, although it must be stressed that the majority of them treat Poland as a destination country. Irregular immigrants of Vietnamese origin find employment within their ethnic community, typically in the economic sectors in which Vietnamese enterprises operate officially. Data on work permits granted to Vietnamese citizens as well as research conducted by the Central Statistical Office on economic units with foreign capital, indicate that the most prominent sectors for the Vietnamese community are hotels and gastronomy.

Due to their numerical force and territorial concentration, the Vietnamese population in Poland has created a sort of ethnic enclave consisting of legal and illegal immigrants. They can be described as a group with a high level of cooperation and self-organization. The majority of conflicts are resolved within the ethnic group.

Representatives from NGOs engaged in activities related to immigrant assistance, often feel that in case of this ethnic category, state authorities “close their eyes and pretend that they do not realise how many immigrants stay in Poland illegally”. Therefore they ignore large numbers of people living on the margin of society, who do not have the chance to regulate their status. An institution of tolerated stay (applied to those whose deportation cannot be executed) since its introduction in September 2003 has only been used in several hundred cases.¹¹ Therefore it is obvious that this status is not used as an instrument to improve the situation of large numbers of illegal immigrants.

2. Irregular stays can also be caused by overstaying. In other words, a person may enter Poland legally, however does not leave when the legal basis of his/her stay terminates. There are no estimates on the numbers of people who remain in Poland despite the expiration of their visa or status, however, it is easy to understand how this situation may occur. One likely reason is carelessness, if immigrants, for example, do not obey the 45 day application period. Another way this can happen is in the case of a change in the foreigner’s situation: if an immigrant no longer fulfils the requirements for a permit, the voivode is prevented from granting him/her a new residence permit, leading the immigrant to remain in Poland illegally.

3. Finally, there is a category of foreigners who enter Poland as tourists although their real intention is to work. Their stay in Poland is therefore legal. Although they have a legal basis as a tourist, their status becomes irregular when they undertake an employment in the shadow economy. This phenomenon of illegal work on the basis of legal stay documents/visas was unquestionably the most common situation for Ukrainian citizens in Poland, prior to December 2007 and the enlargement of Schengen. The Polish labour policy’s protection of local labour forces in conjunction with a liberal visa policy for eastern neighbours led to the circular mobility and temporariness of the migration process in the case of the eastern neighbours. Minimal geographical, cultural and linguistic distance in addition to demand for cheap labour, encouraged Ukrainians to chose Poland as a destination. Another significant

¹¹ E.g. in the year 2007 155 foreigners received tolerated stay status after applying for that specific status. Among them were 112 Vietnamese citizens.

factor was a high acceptance of the shadow economy amongst Poles. The temporary character of migration often discouraged these workers from applying for labour permits.

These immigrants do not perceive Poland as a place suitable for settlement or for a longer stay since their earnings are not sufficient to start a regular family household in Poland but remain advantageous in comparison with salaries and the cost of living in Ukraine. They work mainly in agriculture, constructions and household services. Today, Ukrainian migrants in Poland often constitute a link in a migration chain, which allows them to take advantage of pioneers' experience and their network. A kind of circular employee exchange can even be observed, which thanks to the well organised network of Ukrainians (circle of employees and his friends and relatives) and Poles (circle of employers and his friends and relatives). Periods of unemployment in the case of Ukrainian immigrants are very short or do not exist at all.

Subsequent to joining the Schengen space, immediate consequences have been observed in the cross-border mobility of both legal and illegal populations. Namely, there has been a rapid decline in border crossings by Poland's closest neighbours (i.e. Ukrainians, Belarusians and Russians) and a sharp increase of illegal crossings by immigrants from other regions (i.e. Vietnam or Chechnya).

II. ESTIMATES, DATA AND ASSESSMENT OF TOTAL SIZE AND STRUCTURE OF IRREGULAR MIGRANT POPULATION

Most relevant studies

There are no studies whose primary aim is to estimate the size of the irregular migrant community. Thus, we must rely on studies based on other topics, our own analysis of the public discourse and expert interviews.

Studies on specific topics relating to irregular migration

Previous studies on migratory flows to Poland provide us with some helpful information. At this point, it is useful to recall statistics regarding the demand for domestic services in Polish households¹² (Golinowska, 2004: 184-188).

The ethnic group most detailed (this is referring to demands for domestic services?) amongst immigrants to Poland are the Vietnamese (Halik & Nowicka 2002, Grzymała-Kazłowska 2004; Jelonek 2004, Iglicka, 2005, Halik, Nowicka & Połec, 2006).

The long-term migration, or settlement, of Ukrainians, not including Polish-Ukrainian marriages (Gorny & Kempinska 2004), has not been systematically analysed as yet. Existing studies on new immigrant groups focus on circular migration and petty-traders that visited Poland in large numbers in the early 1990s. (Iglicka & Sword, 1999, Hamilton and Iglicka, 2000, Iglicka, 2001, Wallace & Stola 2001). Both Ukrainian and Polish researchers stress the role of social capital in supporting movement, which includes relatives and friends on both sides of the Ukrainian-Polish border, the old Ukrainian diaspora, which is a nationally recognised minority in Poland, and Poles, who were forced to resettle from former Polish territory into regions currently belonging to the Polish state. It has also been noted that circular migrants typically originate from the border regions. (e.g. Malynovska O, 2006; Pribytkova, 2006; Houmenyuk 2004; Bojar & Kurczewska 2004). These migrants come from Central and Eastern Ukraine and are Russian-oriented. Additionally, westward orientation to the EU-15 countries has become a popular option for Ukrainian labour migrants (Konieczna J, 2004).

Expert interviews

Parts of this section are based on twelve interviews conducted within the scheme of the Clandestino Project, between September 2007 and April 2008. Of these interviews, three were held with representatives of the Ministry of Interior and Administration¹³, two at the Ministry of Labour and Social Policy¹⁴, one at the Border Guard¹⁵, one at the Office for Foreigners¹⁶,

¹² Household is defined as one person or more residing together and sharing common living expenses.

¹³ Telephone interview on September 21, 2007, Migration Analyses Department, notes taken during the interview; face to face interview on January 11, 2008, Migration Policy Department (with two officials simultaneously), transcript; informal interview on October 5, 2007 with Deputy Minister (at the time of the interview Senior Researcher of CIR) notes written afterwards.

¹⁴ Telephone interviews with two officials on September 19, 2007 and February 5, 2008, Department of Migration, notes taken during the interviews.

¹⁵ Face to face interview on January 14, 2008, Department of Analyses, the Border Guard Headquarters, notes taken during the interview since officer did not allow a recording of the interview.

¹⁶ Informal interview, notes written afterwards.

one at the Central Labour Inspectorate¹⁷ and one at the Refugee Board¹⁸. The remaining three were conducted with experts on immigration issues¹⁹.

Estimates, data and expert assessments on stocks

Total stocks

The most recent estimate of the number of legal immigrants in Poland was presented by the Central Statistical Office (CSO).²⁰ According to the Office, the number of immigrants residing in Poland temporarily (three months or longer) on December 31, 2006 was approximately 200,000, of which Ukrainian citizens constitute the dominant category. According to the same source, approximately 60,000 of these immigrants had been residing in Poland for more than 12 months.²¹ We were unable to obtain information specifying how this estimate was calculated since it is “*extremely provisional*.”²² The Central Statistical Office informed us that in-depth statistical research on migration to Poland would be conducted in the second and third quarter of 2008 and only then will reliable estimates be presented. The figures detailed above were created on the basis of data provided by the Office for Repatriates and Aliens (based on residence cards and terminated permits to stay), Polish Consulates (issued visas), and Polish local authorities (forms for residency registration sent to CSO) in combination with estimates. It is expected that forthcoming statistical research will revise the aforementioned estimates and provide more information on the stock of immigrants in Poland, as well their national composition.

Officials are traditionally reluctant to discuss presumptions, however in early 2005, one journalist quoted the estimates given by the Office for Repatriation and Aliens (replaced by the Office for Foreigners in July 2007). According to the article, approximately 450,000 foreigners worked illegally in Poland in 2004, of which 250,000 were Ukrainian citizens, 150,000 Belarusian and Russian citizens, 40,000 Vietnamese and 8,000 Armenian citizens.²³ But these figures could not be verified by the Migration Policy Unit, the Ministry of Interior and Administration or the Office for Foreigners, and we were unable to establish the basis of such data. Besides these estimations and the provisional estimate by CSO there is no data concerning the stock of illegal migrants in Poland. One can find various quotations, such as in a report on the Polish demand for a foreign workforce, in which the authors estimated that 50,000–300,000 immigrants were working illegally in Poland in 2004 (Korczyńska, Duszczyk, 2005, p.10). The source of this estimate was noted as Instytut Pracy i Spraw Socjalnych (the Institute of Labour and Social Studies), however, the methodology is not explained.

In the following sections, we will focus mainly on information pertaining to immigrants from Ukrainians, Vietnam and Armenia, as they constitute the most significant groups of illegal immigrants established in Poland.

Gender Composition

¹⁷ Face to face interview on April 3, 2008, transcript

¹⁸ Telephone interview on September 19, 2007, notes taken during the interview.

¹⁹ Face to face interview with NGO representative on April 5, 2008, transcript; informal interviews with academics from Warsaw University in January 2008, notes written afterwards.

²⁰ *Podstawowe informacje o rozwoju demograficznym Polski do 2007 roku*, p.3. – released on January 30, 2008

²¹ Meeting organized by the CSO on February 1, 2008.

²² Telephone call to a person from the CSO responsible for methodology – March 7, 2008.

²³ *Jak uchylić drzwi do raj* (Bielecki J.), in: „Rzeczpospolita” (daily), January 12, 2005 .

In Poland, information on the characteristics of undocumented migrants originates from rare and small-scale inquiries. In an interview conducted at the Ministry of Interior and Administration (Migration Policy Unit)²⁴, questions referring to the demographic makeup of irregular immigrants could not be answered since *there are no estimates in the Central Statistical Office concerning total stocks, let alone their gender composition. There are only suppositions.* Officials were not eager to talk about suppositions.²⁵

Estimated statistics in Poland do not include information concerning the demographic characteristics of illegal migrants. However, studies on domestic work indicate a high level of female migration to Poland (see below under economic sector composition).

Age composition

The majority of foreigners residing legally in Poland are in the economically active age group: in September 2004, for example, 75% were aged 20-55.²⁶ There are no estimates regarding the age composition of irregular immigrants. Nevertheless, considering the circular character of labour migration to Poland, it can be assumed that the irregular migrant population is almost exclusively in the economically active age. This circular character of labour migration is caused by differences in wages between Poland and the former USSR countries. Their incomes do not allow them to bring relatives to Poland or to start family life.

National composition

Ukrainian citizens constitute the predominant group of irregular migrants. This statement is supported by official data and non-official estimates, as well as some research findings and media information.

Only unsubstantiated cumulative estimates for total stocks of irregular migrants in Poland regarding the nationality are available. The overall number of irregular immigrants is divided by nationality in the following manner. Detailed information about the numbers is mentioned on p.13. We quoted them from Bielecki (*Jak uchylić drzwi do raju*, „Rzeczpospolita”(daily), January 12, 2005):

- 250,000 Ukrainian citizens,
- 150,000 Belorussian and Russian citizens,
- 40,000 Vietnamese citizens,
- 8,000 Armenian citizens²⁷

Ukrainians

Some expert estimates of the population of Ukrainians working illegally in Poland are as high as 500,000.²⁸ However, this category of immigrants is characterised by a circular mobility so they are short-term or temporary immigrants. They reside in Poland legally, however they work in a shadow economy violating the law. The majority of them entered Poland on the basis of a tourist visa and obey its time limits.

²⁴ Due to the last amendment of the Foreigners Act 16.0 (accepted by Parliament on May 24, 2007 and published in: Journal of Laws 5/07/2007, no 120, position 8116.08) the Head of the Ministry referred to the Interior as responsible for the coordination of state migration policy.

²⁵ Clandestino face to face interview on January 11, 2008, Migration Policy Department .

²⁶ Agata Górny, Aleksandra Grzymała-Kazłowska, Ewa Kępińska, Agnieszka Fihel, Aneta Piekut, *Od zbiorowości do społeczności: rola migrantów osiedleńczych w tworzeniu się społeczności imigranckich w Polsce*, p.11. http://www.migracje.uw.edu.pl/obm/pix/027_85.pdf, p.

²⁷ *Jak uchylić drzwi do raju* (Bielecki J.), in: „Rzeczpospolita”, January 12, 2005

²⁸ This is an educated guess by Prof. Antonii Rajkiewicz.

The Ukrainian Ministry of Foreign Affairs estimates that approximately 300,000 Ukrainian citizens work in Poland.²⁹ When compared with the number of Ukrainians officially working in Poland on the basis of work permits (2000 – 3,414; 2001 – 3,158; 2002 – 3,160; 2003 - 2,750; 2004 - 3,133; 2005 – 2,697; 2006-3275³⁰; the first six months of 2007-1739³¹) it becomes clear that the vast majority undertake employment in a shadow economy. Unpublished data that we were given access to indicates that the new ordinances on temporary employment were used by many immigrants, but the numbers are still much lower (from July 20-December 31, 2007 around 21,000 employer declarations were registered) than the estimated total number of Ukrainians. However, the last ordinance, from the three issued in the years 2007-2008 (January), seemed to result in higher numbers of declarations.³² In the first four months of 2008 alone, more than 39,000 employer declarations were registered. The number of registrations significantly increased in April, exceeding 19,000.³³

In the Polish case, seasonal workers and circular/shuttle migrants constitute the majority of irregular immigrants. They are mainly Ukrainian citizens. Short geographical and cultural distances and easy access to tourist visas (until October 2003 Ukrainians benefited from non-visa entrance and until 2008 the visas were free of charge) encouraged such migration. These immigrants do not perceive Poland as suitable for longer stays or settlement since their low incomes do not allow them to start a regular family household. However, conditions in Poland are still attractive when compared to salaries and the cost of living in Ukraine. Their presence in certain economic sectors is confirmed by observation and a limited number of small-scale inquiries. They are much less visible than other immigrant communities, such as the Vietnamese, since they do not differ physically from the Poles. Research conducted on the demand for domestic services (Golinowska, 2004: 184-188) exemplified labour market segmentation by sex and ethnicity. Female immigrants originating mainly from Ukraine (but also from Belorussia and the Russian Federation) find employment in this sector, usually as part of a shadow economy.

Belorussians and Russians

As the largest category of irregular migrants, Ukrainian citizens have been the focus of most research. It should be noted, however, that there are other Eastern Slavs³⁴ which constitute irregular immigrants in Poland. Their numbers are lower and they are unfortunately not studied as closely as Ukrainians. For this reason, we are unable to provide any reliable data or

²⁹ Za: Jaroszewicz M., Szerepka L., *Wyzwania migracyjne w państwach wschodniego sąsiedztwa Unii Europejskiej*, OSW, Warsaw 2007, p.90

³⁰ <http://www.polacy.gov.pl/?1,9,46,200710,>

³¹ <http://www.mpips.gov.pl/userfiles/File/Migracje/CUDZOZIEMY%20W%20POLSCE%20I%20polrocze%2006%20i%202007.pdf>

³² The terms of these Ordinances of the Minister of Labour and Social Policy are described in Conclusions, p. 32.

³³ Data source: the Ministry of Labour and Social Policy. One should, however, realise that these numbers do not denote the number of seasonal workers actually undertaking regular employment. According to certain sources, cases of foreigners that obtained visas on the basis of their prospective employers' declaration but did not reach them or resigned from the job were observed. In these cases, workers searched for better jobs or higher paid illegal employment (without the burdens of tax and social insurance) (see Mikulska A., *Ksenofobia i dyskryminacja na tle etnicznym w Polsce – zarys sytuacji*, Helsińska Fundacja Praw Człowieka, Warszawa 2008). One should also consider that during his/her stay in Poland, a seasonal worker might work for more than one employer (which requires additional registration). Regarding the nationalities of seasonal workers, 93% are Ukrainians. With regards to economic sectors, 43% of registered declarations refer to agriculture and 20% to construction.

³⁴ Slavs - a branch of Indo-European peoples living mainly in Europe. Slavic peoples are traditionally divided along linguistic lines into West Slavic (including Czechs, Poles, Sorbs and Slovaks), East Slavic (including Belarusians, Russians, and Ukrainians), and South Slavic; (Bulgarians, Croats, Macedonians, Montenegrins, Serbs, Slovenians and Bosnians). Besides linguistic divisions, strong cultural, religious and historic divisions are also observed.

assessments concerning irregular migrants from Belarus or the Russian Federation. The unofficial estimate quoted above indicates that there may be as many as 150,000 Russians and Belorussians living irregularly in Poland.

At this point it is worth explaining that irregular immigrants from the Russian Federation and Belarus work in the same sectors as irregular immigrants originating from Ukraine. Public perception groups the two into one category, colloquially called *Ruscy* (*Russians*).

Vietnamese

As of now, the Vietnamese represent the only national group that has been the subject of in-depth analysis permitting the present credible estimations. They are economic immigrants that are easily noticed amongst Polish homogenous society. They form a new immigrant group, and are the only one that creates some kind of ethnic enclave.

Their inflow to Poland in the 1990s was related to social networks between Poles and the Vietnamese that were developed in the 1970s and 1980s. After graduating, Vietnamese students decided to establish their small enterprises in Poland, and were quickly joined by others. Gradually, the circle of Vietnamese coming to Poland grew larger.

The Vietnamese in Poland can be described as a group with a high level of cooperation and self-organisation. The majority of conflicts are resolved within the community. They tend to live in Vietnamese neighbourhoods, have ethnic clubs, sports competitions, a Taxi Corporation and even their own beauty contest.

Irregular immigrants of Vietnamese origin find employment inside their ethnic community. Their presence is therefore observed in the economic sectors in which Vietnamese enterprises operate officially: hotels and gastronomy. Data on work permits granted to Vietnamese citizens as well as research conducted by the Central Statistical Office on economic units with foreign capital, confirm the importance of these two sectors. There is also the Catholic Pastorate of the Vietnamese. Both Vietnamese and Polish sources indicate significantly divergent numbers related to the size of the diaspora in Poland – 25,000 and 60,000, respectively.³⁵

The Migration Policy Unit at the Ministry of Interior and Administration was the first institution that counted immigrants of Vietnamese origin residing legally in Poland. According to their calculations, 6,671 Vietnamese possessed a residence card as of December 31, 2006. They also calculated the number of Vietnamese living in Poland who were family members of EU citizens and persons staying in penal institutions and detention centres. Furthermore, immigrants of Vietnamese origin that were granted Polish citizenship by the Polish President in the years 1992-2006 and those that submitted applications for Polish citizenship to voivodes³⁶ following marriage to a Polish citizen were also included. Finally, children of mixed and Vietnamese couples were added. In sum, the figure reached was approximately 12,000. In addition, immigrants that arrived in Poland prior to 1992 were estimated around 1,000 (excluding those that possessed residence cards on December 31, 2006). Thus the total number of people of Vietnamese origin legally living in Poland was estimated at approximately 13,000.

The next step, the estimation of the number of illegal immigrants of Vietnamese origin by the Polish Ministry of Interior and Administration, was based on estimates by the Ministry of Public Security in Hanoi and experts' educated guesses.

According to the estimate made by the Ministry of Public Security in Hanoi, there are approximately 5,000 Vietnamese citizens who are illegal immigrants in Poland. Polish

³⁵ *Spoleczność Wietnamska w Polsce. Polityka Migracyjna Wietnamu. Raport*, Wydział Analiz Migracyjnych, Departament Polityki Migracyjnej, Ministry of Interior and Administration, Warsaw 2007, p. 35

³⁶ Voivode is the name of the governor of a province (voivodeship) in Poland.

newspapers estimated their numbers to be at 40,000³⁷ or 30,000³⁸. However, these estimates are hardly accurate. Teresa Halik (a researcher that has dealt with the Vietnamese community in Poland for many years) claims that only 20% of Vietnamese citizens residing in Poland do not possess any legal basis for their stay. However, Ton Van Anh (resistance journalist living in Poland) believes that the rate is much higher.³⁹ According to leaders of Vietnamese associations and Polish researchers (Halik T, Nowicka E, 2002) the total Vietnamese community in Poland, including regular and irregular migrants, fluctuates between 25,000-35,000.

The Ministry of Interior and Administration claims, therefore, that considering the number of legal residents in relation to the above-mentioned estimates, it is possible that one in two Vietnamese living in Poland is an illegal immigrant. Thus we can assume that there is 12,000 – 22,000 of them.

Armenians

The second ethnic/national group that started to create an enclave in Poland are Armenian citizens. In contrast with the Vietnamese community, there are no credible estimates regarding this group, except the unsubstantiated figure mentioned in paragraph 2⁴⁰ (8,000 working illegally in 2004). Nevertheless, researchers studying both the old Armenian diaspora and contemporary immigrants to Poland, including illegals (e.g. Marciniak T, 2000), observed that newcomers from Armenia helped revive the old ethnic Armenian diaspora which has been present in Poland for centuries. Representatives of the Armenian community, who wished to remain anonymous, gave us their own estimation of the new arrivals, between 6,000-12,000. New Armenians settle in areas close to local trade centres or market places. They are engaged in trade and gastronomy. According to public perception, largely influenced by mass media information, they were also engaged in criminal activities, selling fake or smuggled products (Marciniak T, 2000).

Economic sector composition

Several sources can be used to indicate the importance of specific economic sectors:

- For Ukrainians, we have used an opinion poll conducted in Ukraine
- Data by control authorities
- For the domestic sector, we make some plausible calculations on the basis of a survey of Polish households

An opinion poll conducted in 2003 by the Ukrainian National Institute for International Security provides information on the sectors in which Ukrainian emigrants are illegally employed in Europe. Of those emigrants, 38.4% work in construction, 15.1% in trade and 14% as housekeepers or as workers in private households.⁴¹ Assuming that these proportions are also relevant to Poland, of the 250,000 irregular Ukrainian migrants working in Poland approximately 96,000 work in construction, more than 37,000 in trade, 35,000 in private households and about 81,000 in other occupations (e.g. agriculture, industry).

Figures from workplace controls give a very limited insight into the composition of economic sectors and demonstrate the priorities of understaffed agencies. Between 1995,

³⁷ *Imigranci dzielą Europę*, in: "Rzeczpospolita", February 8, 2005

³⁸ *Fancuska choroba a sprawa polska*, in "Gazeta Wyborcza", November 14, 2005

³⁹ *Wietnamczycy, kolejno odlicz*, in: "Gazeta Wyborcza" (Stołeczna) November 14, 2007

⁴⁰ *Jak uchylić drzwi do raj* (Bielecki J.), in: „Rzeczpospolita” (daily), January 12, 2005

⁴¹ Za: Jaroszewicz M., Szerepka L., *Wyzwania migracyjne w państwach wschodniego sąsiedztwa Unii Europejskiej*, OSW, Warszawa 2007, p. 91 in: Pirozhkov S., Malynowska J., Chomra, A., *Zewnętrzni imigranci zarobkowi na Ukrainie. Aspekt socjalno-ekonomiczny*, Kiev 2003, p.45.

when services for the legalization of employment were instituted, and July 1, 2007, 16,329 cases of foreigners' illegal employment have been detected.⁴² Controls are undertaken in cooperation with the Police and Border Guards. In 2006, a majority of such cases (1399 of 1718) referred to wholesale and retail trade. The detected foreigners were constituted by Ukrainian (691), Belarusian (509), Bulgarian (115) and Armenian (84) citizens (see fig. 6). Territorial concentration was also observed (see picture 1). Almost 80% of cases were detected in Eastern voivodeships (Lubelskie 45%, Podlaskie 18% and Mazovian voivodeships 16%). The concentration of detected cases may mirror destination preferences since Eastern voivodeships are in proximity to Poland's Eastern border. In addition, the Mazovian voivodeship includes Warsaw, which as the capital city, is a desirable target for irregular workers. However, these cases do not mirror the scale of the phenomenon, as these figures are related to the effectiveness of officers in certain administration units.

During the interview conducted in the Ministry of Interior and Administration, the inefficiency of those in charge of controls was mentioned.⁴³ It should be stressed, however, that private households and farms belonging to individual farmers (who are not register as entrepreneurs) are not covered by this kind of inquiry despite the fact that many illegal workers are engaged in the domestic services and agricultural sectors.⁴⁴ Another factor contributing to the inefficiency of controls is the fact that competences related to the control of the employment of foreigners were shifted to different institutions during last few years. In an attempt to improve the efficiencies of services responsible for control, the National Labour Inspectorate has been in charge since July 1, 2007.⁴⁵ In the Department of Migration and the Ministry of Labour and Social Policy, we found that no estimates regarding the number of illegal labour immigrants in Poland had been reached since there were no tools for such an assessment and the task did not fall within the Ministry's capabilities.⁴⁶

⁴² Source: Ministry of Labour and Social Policy, Labour Market Department.

⁴³ Clandestino face to face interview on January 11, 2008, Migration Policy Department (with two officials simultaneously), Ministry of Interior and Administration.

⁴⁴ *We were told that the Border Guard is reluctant to engaged in private household controls in search of domestic workers. (...) Domestic workers are practically beyond control. Our office (the National Labour Inspectorate) is not entitled, the Border Guard theoretically is but with regards to illegal stay and not illegal employment. They informed us that they would not enter private flats. When they find someone in public, they will act (...) But who is going to confess to cleaning or to painting someone's flat illegally?* (Clandestino face to face interview in Central Labour Inspectorate on April 3, 2008)

⁴⁵ Between 1995-1999, controls were implemented by the Voivodeship Labour Offices, in the years 2000-2001 by local governments (on the level of *powiat* - district). From January 1, 2002 until July 1, 2007 it was the task of Voivodes (Governors).

⁴⁶ Clandestino telephone interview on September 19, 2007, Department of Migration, Ministry of Labour and Social Policy.

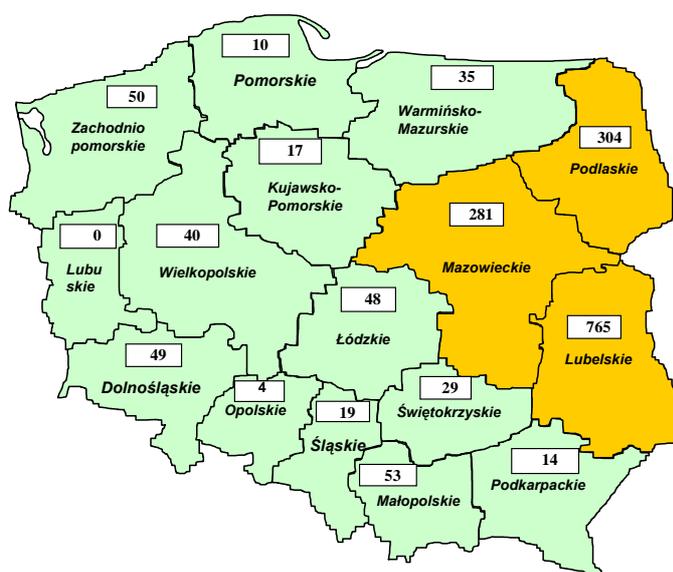
Table 8. Detected cases of foreigners and Polish citizens working illegally in Poland

year	Number of detected cases -foreigners	Number of detected cases - Poles	% of foreigners among total detected cases
2003	2,711	7, 992	25
2004	1,795	7, 441	19
2005	1,680	6, 420	21
2006	1,718	7, 339	19
Six months of 2007 ⁴⁷	613	2,153	22

Source: Ministry of Labour and Social Policy, Labour Market Department, Kontrola Legalności Zatrudnienia 2006 r.

The reduction in detected cases between 2003 and 2006 appears to be a symptom of the lack of effective inspection rather than a real drop in cases.⁴⁸ We must stress that the numbers mentioned above do not reflect the true scale of immigrants' illegal employment. In general, for the period presented in the above table, for every four cases of Polish citizens illegally employed detected, there was one detected case of a foreigner illegally employed.

Picture 1. Detected cases of foreigners working illegally in Poland in 2006



Source: Ministry of Labour and Social Policy, Labour Market Department, Kontrola Legalności Zatrudnienia 2006 r.

⁴⁷ Ukrainian citizens constituted 322 cases, Belarusian 221. Vietnamese 20, Russian 16, Armenian 6. Other nationalities was represented by isolated cases. Source: Ministry of Labour and Social Policy, Labour Market Department.

⁴⁸ In total, a decreasing number of inspections were observed during the described period. In 2003, 25,766 inspections were conducted; in 2004, 24, 074; in 2005, 20,792; and in 2006, 20, 047. Of these numbers, recognized cases of illegal employment constituted 7, 922 in 2003 (of which 2,711 were foreigners); 7,441 in 2004 (of which 1,795 were foreigners); 4,972 in 2005 (foreigners – 1,680); and 5,009 in 2006 (foreigners – 1, 718). See: E. Kępińska, Recent Trends in International Migration - The 2007 SOPEMI Report for Poland.

Opinion poll findings in 2001 were one source of information for *foreign domestic service workers*. In total, 925,000 Polish households employed domestic service workers. Of those, 92,500 employed foreigners (Golinowska, 2004). The research team assessed 101 households that employed foreign domestic service workers (target sampling).

Table 9. Types of jobs undertaken by foreign workers in households – more than one job could be appointed to an individual worker

Type of work	%	Rank (without “other”)
Everyday cleaning	9,9	5
General cleaning	40,6	1
Cooking	8,9	6
Work in fruit orchard/field	25,7	2
Nursing child	11,9	3
Nursing elderly or ill people	10,9	4
Other	23,8	X

Source: Golinowska S (ed.), Popyt na... p.190

Table 10. Types of jobs undertaken by foreign workers exclusively working in households.

Type of work	%
Cleaning	34
Nursing child	6
Nursing elderly or ill people	10
Work in fruit orchard/field	19
Renovation	11
Total	80

Source: Golinowska S (ed.), Popyt na... p.191

Table 11. Frequency of employment of foreign workers in households

Answers	%	Rank
Every day	8.0	5
A few times per week	14.0	4
Once a week	16.0	2
Once or twice a month	16.0	2
Occasionally	30.0	1
Ready to work flexible hours, lives with us	15.0	3
Rarely	0.0	0

Source: Golinowska S (ed.), Popyt na... p.191

The next table indicates the type of work undertaken in private households, and includes cleaning and cooking, as well as care, gardening and agricultural work.

Table 12. Types of job undertaken by foreign workers in households - more than one job could be appointed to an individual worker.

Type of work	Frequency of employment					
	Every day	A few times per week	Once a week	Once or twice a month	Occasionally	Ready to work flexible hours, lives with us
Everyday cleaning	25.0	7.1	37.5	0.0	0.0	6.3
General cleaning	0.0	42.9	56.3	76.5	40.0	6.3
Cooking	25.0	1.4	12.5	0.0	0.0	12.5
Work in fruit orchard/field	12.5	28.6	18.8	11.8	40.00	25.0
Nursing child	25.0	28.6	18.0	5.9	0.0	12.5
Nursing elderly or ill people	37.5	7.1	0.0	5.9	3.3	31.3

Source: Golinowska S (ed.), Popyt na... p.192

The research findings refer to the agricultural sector since some foreign workers were appointed by rural households and part of their duties referred to assisting with agricultural work undertaken by household members.

Golinowska remarks that it is not possible to present credible estimates of the number of foreign workers in domestic services since many of them work part-time and interchangeably (due to the circular type of migration). Moreover, domestic services in Poland are part of the shadow economy (Golinowska, 2004: 184-188). Nevertheless, if one puts aside Golinowska's objections, we might attempt to make some calculations via the results of this survey regarding the number of irregular migrants working in private households. It is also safe to assume that the demand for domestic services in a short time period is rather stable, and that the findings of an opinion poll and target research conducted in 2001 were relevant to the subsequent years as well.

In the year 2001, 92,500 Polish households employed foreign workers in domestic services. Assuming that all such immigrants worked in the shadow economy and that each household employed just one immigrant at any one time led us to the following estimates.

If we concentrate only on those households that employ foreign nationals every day or as live-ins, we come to a conservative estimate. According to Golinowska's findings, 23% of households used foreign domestic workers on a daily basis. Of this 23%, 8% used foreign domestic workers every day; 14% a few times per week; and in 15% of households, foreigners lived with their employers (see table 4). We can apply these shares as multipliers to the total number of households. The calculation is likely to represent a minimum estimate between 2001, when the survey was conducted, and 2003, when the new visa regime was introduced. Since then, it is likely that numbers have changed as a result of new visa obligations.

Minimum variant: irregular foreign workers in Polish households (domestic work and agriculture)

$$0,23 * 92, 500 = 21, 275$$

We estimated that for the years from 2001 to 2003, at least 21,000 irregular foreign workers were employed exclusively by one Polish household or lived with their employers at any point in time.

However, the number of people involved is likely to be much higher, due to the circular character of migration between neighbouring countries. If each migrant stayed for only three months⁴⁹, the stock estimate implies that the number of individuals active during one year would be four times higher (about 85,000).

In addition, there are workers who lead a form of self-employed existence, serving several households; 30% of the households in the survey either employed foreign workers weekly or several times a week. We have no indications as to how many households are served by one foreign worker, but we can make a conceivable estimate, as Jandl did for Austria (see Austrian report). If we assume that a self-employed, irregular domestic worker is serving between 5 and 10 households at any point in time, we come to the following calculation:

$925,000 * 0,3 / 5 = 55,500$ self-employed in private households (upper variant)

$925,000 * 0,3 / 10 = 27,750$ self-employed in private households (lower variant)

Again, it must be noted that the number of persons involved may be up to four times higher if each foreign national obeys visa obligations and works for only three months. It is likely that the introduction of the visa regime in 2003 led to an increase in circularity, especially in light of the Border Guard's confirmation that the majority of Ukrainians obeyed tourist visa time limits. While the stock of immigrants in this sector is similar if we assume that the demand for household services remained unchanged, this implies increased flows and a higher number of people who are involved in irregular work in Poland over the year. Assuming that the lower variant of self-employed maybe 111, 000 and the upper 222, 000. Therefore for the years from 2001 to 2003 the total stock of workers employed in private households (domestic work and agriculture) may be about 307, 000.

Former asylum seekers and refugee related groups

The only big category that fits into the Polish case is those applying for refugee status but whose applications have been rejected. There is no supervision of persons who have been refused refugee status and who must leave Poland. Some experts assume that this category of illegal immigrants in Poland constitutes a few hundred foreigners.⁵⁰ They are invisible to the state authorities and institutions unless they commit a crime and are apprehended by the police, in which case they are assisted to the border.

⁴⁹ Until October 1, 2003, an immigrant could stay in Poland for three months uninterrupted. Then he/she would have to leave Polish territory, even if just for a short time –such as one day and return. This process was repeated by many immigrants four times a year. However, with the observed phenomenon of chain migration, some workers were replaced by family members or acquaintances. Therefore, only the intermediate and maximum variants are discussed here.

⁵⁰ Clandestino telephone interview with the Refugee Board member on September 19, 2007.

Table 13. Number of persons subject to proceedings conducted by the Refugee Board

2002			2003			2004			
positive	negative	Discontinuance/ remained without consideration	status according to Geneva Convention	negative	Discontinuance/ remained without consideration	status according to Geneva Convention	tolerated stay	negative	Discontinuance/ remained without consideration
26	1837	81	26	851	40	10	14	640	80

2005				2006				2007			
status accordi ng to Geneva Convent ion	tolera ted stay	negati ve	Discontinu ance/ remained without considerati on	status accordi ng to Geneva Conventi on	tolerated stay	neg ativ e	Disconti nuance/ remained without consider ation	status accordi ng to Geneva Conventi on	tolera ted stay	neg ativ e	Discontinuanc e/ remained without consideration
23	24	2135	180	62	62	290	59	64	44	513	149

Source: Office for Foreigners, <http://www.udsc.gov.pl>

Other groups raising specific concerns

Victims of human trafficking, including street-beggars and sex-workers, may also be considered, however, at that time of writing the majority of them were from EU countries such as Bulgaria and Romania and therefore do not need to be included. The largest non-EU group belonging to this category is composed of Vietnamese (see p. 10 and p.25), however, we were unable to find any relevant estimates.

Estimates, data and expert assessments on flows

Demographic flows (birth and death in illegality)

Children born to irregular migrants in Poland do not get residency status. Therefore, it is possible that children are born into illegality. We were unable to find any data or estimates regarding this phenomenon nor did the experts interviewed make any related assessments. However, considering indications that it is difficult to survive as an irregular migrant with a child in Poland, we expect numbers to be low.

Experts and researchers working with the Vietnamese community in Poland (Halik & Nowicka, 2002) state that, as evidence of their thesis on the “invisible” character of the Vietnamese community in Poland, there was no information regarding deaths within the community, such as funerals or obituaries. However, we are not aware of information regarding deaths of irregular migrants from other immigrant groups either.

Data on children born to foreign females in Poland started to be collected in 1999. It must be stressed that until 2006, females with permanent stay permits were not specified in statistics. Therefore collected data refers to those who, in general, do not possess permanent pay status, such as those with temporary stay permits or tourists. In any case, the numbers presented remain small. They decreased from 2001 until 2006, when the number of births picked up slightly. Ukrainians constituted the most significant group while Vietnamese were also noteworthy among non-European citizens. Interestingly, since 2001 the number of children born to Ukrainian females has decreased whereas the number of children born to Vietnamese females has increased (a slight drop occurred in 2004).

Table 14. Children born to foreign females:1999-2006

	1999		2000		2001		2002		2003		2004		2005		2006	
	total	alive														
All nationalities	757	752	757	748	774	772	701	694	665	652	575	571	482	479	558	554
Ukrainians	267	264	308	305	337	337	323	318	299	298	250	250	171	170	173	170
Vietnamese	24	24	22	22	29	29	31	31	37	37	33	33	39	39	68	68

Source: Demographical Yearbooks, respectively: 2000, 2001, 2002, 2003, 2004, 2005, 2006, and 2007 issued by the Central Statistical Office.

Since 2007, children who were not Polish citizens and were born to mothers possessing a residency permit were specified in the CSO data. It might be assumed that these mothers are foreigners with permanent stay status. It seems reasonable to assume that Polish citizens would want their children to have Polish citizenship. Nevertheless, the number is not significant, at 73. The most recent data obtained from the CSO identify 604 children born to foreign females who do not possess permanent stay status in 2007.

Border related flows

At the Headquarters of the Border Guard, we discovered that estimates of the illegal inflows and outflows of migrants to and from Poland do not exist, since from the Guard’s point of view they do not bring accurate results. In practical terms, such information does not help in identifying the means of transportation used by illegal immigrants. Resistance towards estimation is also justified by the political context. Thus the dominant means for analysing migratory risks focuses on case studies. Varying estimates result depending on the methods employed.. In turn, these become the basis for the evaluation of the effectiveness of certain

institutions or even the overall strategies of a particular country. It was also stressed that from a pragmatic perspective, it should be considered that illegal immigrants often attempt to cross borderlines in a formal way even if their final aim is illegal migration. We were presented with several cases such as the case of a Chinese citizen with a French visa issued in Moscow who attempted to cross the Polish border, or of Nigerian citizens with Polish visas. However, it was stressed that in the majority of cases, Poland is not a destination for persons from countries other than those mentioned above as important sources of irregular migration. The main destination remains Western Europe. Thanks to international cooperation and to information from Polish consulates issuing visas, certain predictions can be made regarding the routes foreigners with illegal migration as the final aim choose.⁵¹

Statistics and analyses of border related flows and deportations are available on the Border Guard and the Office for Foreigners web sites and in annual SOPEMI reports.⁵²

Illegal entrance

Border Guard data on foreigners attempting to cross or crossing Polish borders illegally (in both directions) show a fairly stable trend between 2000 and 2006, with numbers fluctuating between 3,100 and 3,600. The only exception occurred in 2004 when the number reached almost 4,500. This peak can be explained by the increase in Chechen mobility during that period due to the impending EU enlargement.

Table 15. Foreigners apprehended by Border Guard (BG)

	2000	2001	2002	2003	2004	2005	2006
Independently by BG while attempting to cross or crossing Polish borders illegally - in both directions)	3,652	3,651	3,330	3,592	4,472	3,598	3,131
Thanks to information provided by Police and BG services of neighbouring countries	235	167	138	212	210	107	43
Apprehended by Police and handed over to BG	45	32	27	38	50	24	-
apprehended by Border Guard crossing to Poland over ports of entry	318	369	275	294	310	488	574
apprehended by Border Guard – crossing to, outside ports of entry	1 454	1 561	1 237	1 574	1 298	1 169	915

Source: on the basis of the Border Guard data and CMR Working Papers Nr 15/(73). E. Kępińska, Recent Trends in International Migration. The 2006 SOPEMI Report for Poland, http://www.migracje.uw.edu.pl/obm/pix/015_73.pdf

Chechens constitute one of the important groups of foreigners who try to enter Poland illegally. Their aim is to apply for refugee status⁵³. The most recent data available show that the number of Chechens crossing the Polish border illegally grew visibly after Poland became part of the Schengen zone. Between this change on December 20, 2007 and January 17, 2008,

⁵¹ Clandestino face to face interview on January 14, 2008, Department of Analyses, the Border Guard Headquarters.

⁵² Available data also compile the nationality of foreigners.

⁵³ Nevertheless, Chechens that entered Poland legally as Russian citizens and those detained while trying to cross the border illegally, were generally granted tolerated stay.

the Border Guard stopped 600 persons, 95% of which were Chechen. This is a significant increase; the total number stopped in 2007 was 423 (95% Chechens)⁵⁴.

According to the Border Guard, the majority of Vietnamese citizens who are residing illegally in Poland left Vietnam legally by air, mainly on the basis of Russian, Belarusian or Ukrainian visas. Once abroad they contact human traffickers who assist them in entering Poland, usually by omitting checkpoints. The risk of illegal entrance by this ethnic group is constant, especially since Vietnamese communities are well established both in Poland and Western Europe. However, it should be stressed that the majority of them treat Poland as a destination country. Only some accumulate money in Poland with the aim of moving further westward.⁵⁵

⁵⁴ Border Guard briefing for media on January 17, 2008

⁵⁵ *Spolecznosc Wietnamska w Polsce...*,p.72-73

Outflows of irregular migrants over the country's borders

Table 16. Number of Decisions on Expulsion, and Number of Executed Decisions, 2001-2005 (the Most Numerous Nationalities)

	Ukraine	Vietnam	Bulgaria	Armenia	Russia
Immigrants who were Rendered the Decision on Expulsion	13,445	3,021	2,905	2,398	2,484
Executed Decisions	12,232	849	2,508	1,548	1,093

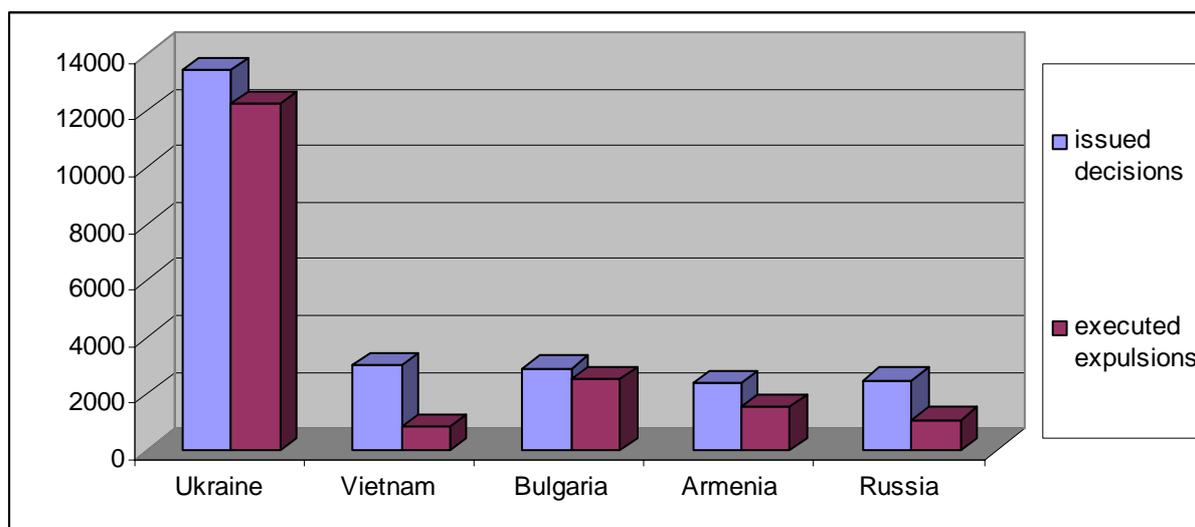
Source: *Spolecznosc Wietnamska w Polsce. Polityka Migracyjna Wietnamu. Raport*, Wydzial Analiz Migracyjnych, Departament Polityki Migracyjnej, MSWiA, Warszawa 2007 prepared on the basis of data from the Office of Repatriation and Aliens and the Headquarter of the Border Guard.

The lack of agreements on readmission⁵⁶ resulted in a lower percentage of executed decisions in the analysed period. The geographical distance and costs of transportation to be covered by Poland explain why decisions were not executed. Discrepancies between the number of decisions made and their execution is also caused by problems related to identifying the identity of foreigners.⁵⁷ One might presume that those who were not expelled remained in Poland. In this way, such information can help further complete data on nationalities residing illegally in Poland.

⁵⁶ In the research period (2001-2005), Poland established such agreements with Ukraine and Bulgaria, hence the high number of executed decisions in these cases. Vietnam signed a readmission agreement with Poland in 2005, which came into force in mid-2005. There were no such agreements with the other countries indicated in the table.

⁵⁷ In 1999, for example, 895 applications for issuing documents were submitted by Polish authorities. However, Embassies issued only 280. The Embassy of Vietnam in Poland issued documents for 2 persons (compared to 145 requests), the Embassy of Armenia in Poland for 16 (64 requested), the Embassy of Pakistan in Poland – none (67 requested), the Embassy of Mongolia in Poland for 5 (48 requested), the Embassy of Yugoslavia in Poland -none (10 requested). Source: *Zatrzymani za przekroczenie granicy państwowej RP wbrew przepisom w okresie styczeń-maj 2000r. Ocena zagrożenia nielegalną migracją tranzytową i docelową do RP*, opracowano w GKG dn. 21 czerwca 2000 (June 21, 2000)

Fig 2. Number of Decisions on Expulsion, and Number of Executed Decisions, 2001-2005 (the Most Numerous Nationalities)



Source: *Spolecznosc Wietnamska w Polsce. Polityka Migracyjna Wietnamu. Raport*, Wydzial Analiz Migracyjnych, Departament Polityki Migracyjnej, MSWiA, Warszawa 2007 prepared on the basis of data from the Office of Repatriation and Aliens and the Headquarter of the Border Guard.

Table 17. Deportations of foreigners and Foreigners readmitted to Poland

Deportations of foreigners		Foreigners readmitted to Poland	
first 9 months 2007	first 9 months 2006	first 9 months 2007	first 9 months 2006
2,265	2,853	636	1,004

Source: on the basis of the Border Guard data

Table 18. Deportations of foreigners and Foreigners readmitted to Poland

2000		2001		2002	
Deportations of foreigners	Foreigners readmitted to Poland	Deportations of foreigners	Foreigners readmitted to Poland	Deportations of foreigners	Foreigners readmitted to Poland
6,847	2,414	5,954	2,224	4,836	1,856

2003		2004		2005		2006	
Deportations of foreigners	Foreigners readmitted to Poland	Deportations of foreigners	Foreigners readmitted to Poland	Deportations of foreigners	Foreigners readmitted to Poland	Deportations of foreigners	Foreigners readmitted to Poland
5,942	2,086	6,199	2,091	5,462	2,125	3,786	1,349

Source: on the basis of the Border Guard data

Between 2003 and 2005, data on the deportation of foreigners and on foreigners readmitted to Poland show a fairly stable trend. The number of deportations fluctuated between 5,500 and 6,200 while the number of readmissions was even more stable at around 2,000. In 2006, both figures for deportation and readmission declined reaching 3,786 and 1,349, respectively. These numbers could indicate that Polish borders were fairly tight and efficiently guarded during the analysed period, especially since external border protection mechanisms were given priority in the accession negotiations and remains one of the most important elements of the Schengen Convention.

Vietnamese illegal migrants trying to reach Germany usually crossed the check points in organised groups (5-15 persons) hidden in vans. According to the Border Guard Headquarters organised groups consist of Polish, Ukrainian, Vietnamese, German and Czech criminals. They are not directly involved in human smuggling but they supervise and coordinate it.⁵⁸

Table 19. Foreigners apprehended by Border Guard (BG)

	2000	2001	2002	2003	2004	2005	2006
Independently by BG while attempting to cross or crossing Polish borders illegally - in both directions)	3 787	3,651	3,330	3,592	4,472	3,598	3,131
Thanks to information provided by Police and BG services of neighbouring countries	235	167	138	212	210	107	43
Apprehended by Police and handed over to BG	45	32	27	38	50	24	-
Apprehended by Border Guard crossing from Poland, over ports of entry	836	566	587	902	1 962	1 549	1224
Apprehended by Border Guard crossing to Poland, outside ports of entry	1 459	1 355	1 152	1 072	1 162	523	315

Source: on the basis of the Border Guard data and CMR Working Papers Nr 15/(73). E. Kępińska, Recent Trends in International Migration. The 2006 SOPEMI Report for Poland, http://www.migracje.uw.edu.pl/obm/pix/015_73.pdf

Status related flows

Inflows from regular status into illegality:

There are no estimates regarding the numbers of people that remain in the country despite the expiration of their visa or status. Nevertheless, as we discovered in the Ministry of the Interior and Administration, it is easy to understand how one's status becomes illegal.⁵⁹ One likely reason is carelessness. The application for a new residence permit should be submitted 45 days before the current permit expires. Except in extraordinary cases such as illness, the 45 day period should be respected by an immigrant, . otherwise their stay might become illegal. The regulations are constructed so that the voivode is obliged to issue a decision within this time limit. If that term is not kept by the state administration, the foreigner is granted a new permission automatically. Of course, this privilege refers only to those immigrants who abide by the 45 day application period.

Another reason the voivode may be restrained from granting the new residence permit is in the case of a change in an individual foreigner's situation, especially if they no longer fulfil the requirements necessary for the permit. This situation leads the immigrant to remain in Poland illegally.

As has already been mentioned, until 2008, Ukrainian citizens working illegally in Poland used to arrive on the basis of a free travel visa. These circular migrants tended to obey tourist visa time limits. Although state authorities declare that it is too early to judge, we can expect some changes in the migratory behaviours of Ukrainians following Poland's introduction of fees for Schengen visas.

⁵⁸ *Spoleczność Wietnamska w Polsce...*,p.72

⁵⁹ Clandestino face to face interview on January 11, 2008, Migration Policy Department (with two officials simultaneously).

Outflows to a regular status:

The first attempt to regulate an immigrant's illegal status within the framework of regularisation programmes was undertaken in 2003. The programme came in response to the need to regulate the status of illegal immigrants who, for mainly humanitarian reasons, could not be expelled, but who also did not fit the existing legalisation criteria. Amnesty was in force from September 1 to 31 December 31, 2003 (Article 154 of the Act of June 13, 2003). The institution of tolerated stay was simultaneously introduced into Polish law, with the aim of legalising the stay of foreigners whose expulsion was not possible.

This Amnesty Programme consisted of so called "small" and "big" amnesties. The former pertained to illegal immigrants who wanted to leave Poland. The names of these immigrants were not registered on the list of unwanted foreigners. Results were not impressive: only 282 foreigners took advantage of this opportunity: 139 from Ukraine, 26 from Armenia, 25 from Bulgaria and 25 from Vietnam.

The "big amnesty" initiative did not achieve high numbers either: 2,747 illegal immigrants took advantage of the opportunity to regulate their status, including 1,245 Armenians, 1,078 Vietnamese, 68 Ukrainians and 51 Mongolians. The number of applicants was greater at 3,512, however not all of them fulfilled the strict requirements. The immigrant had to have resided in Poland continuously since at least January 1, 1997, a requirement which proved too strict to follow in the majority of cases. Critics of the programme claimed that information about this opportunity for legalisation was not sufficiently advertised and that four months was an inadequate period to arrange an employment guarantee and other documents. However, the most serious disadvantage was faced by illegal immigrants who did not have identity documents. Without these it was impossible to confirm not only the immigrant's identity but also the date of their arrival in Poland.

To reiterate, immigrants residing illegally in Poland have had the possibility of legalising their status since July 20, 2007, although this applies only to those who did not submit an application for a residence permit for a fixed period of time within the framework of the previous Amnesty Programme (Journal of Laws of 2006, No 234, item 1694 and of 2007, No. 120, item 818). Moreover, an immigrant was obliged to fulfil the following conditions: 1. They must have resided in Poland continuously since at least January 1, 1997 (if there have been any periods in which he/she was absent, they cannot have exceeded 6 months and the total length of all absences must not have exceeded 10 months); 2. Their residence was illegal on July 20, 2007; 3. They applied for the residence permit for a fixed period of time by January 20, 2008; 4. They indicate their place of accommodation and present legal entitlement to occupy it; 5. They have been promised a work permit or have a written declaration of employment, or they receive an income or possess property which is sufficient to cover their own and their dependants' cost of living, including costs of medical treatment, without the benefits from social assistance centres, for the period of one year.

During the second Amnesty Program, spanning July 20, 2007–January 20, 2008, only 2,028 immigrants submitted applications, of which the majority were Vietnamese– 1125, followed by Armenians – 577, Ukrainians – 115, Russians – 43, Chinese – 42 and Mongolians – 35. On July 14, 2008, only 554 foreigners succeeded in regulating their status and 172 received negative decisions. Additionally, data received from the Office for Foreigners indicate 9 cases of "other" decisions and one discontinuance. Interestingly, these data generated some information on the territorial distribution of illegal immigrants. For example, 86% of Vietnamese applicants (972 persons) submitted their documents in the Mazovian voivodeship. They were also the main group in the Malopolskie voivodship with 52 applicants. Therefore, observations that the Vietnamese community is relatively concentrated can be confirmed. This can be contrasted with Armenians who are scattered - only 55% of their applications were submitted in Mazovian voivodship, whereas the

remaining 45% came from the remaining voivodeships (Lubuskie is exceptional without any Armenian applications).

Overall, 1,466 applications were submitted in the Mazovian voivodeship, or 72% of the total, 144 in Lodzkie (7%), 119 in Silesian (6%), and 90 in Malopolskie (4%).

Table 20. Amnesty Programmes

	Number of person who submitted relevant application	Number of person who were granted positive decision	Number of person who left Poland and their names were not registered on the list of unwanted foreigners
Amnesty Programme 2003	3 512	2 747	282
Amnesty Programme 2007	2 028	554*	No option

Source: Office for Foreigners

The tolerated stay status allows for the legalisation of foreigners whose expulsion is unfeasible due to humanitarian reasons. In practice, this referred to Russian citizens of Chechen origin⁶⁰ and to illegal immigrants who do not fit into the existing system⁶¹ e.g. citizens of India, Pakistan and Vietnam who arrived in Poland without travel documents or foreigners who are obliged to leave the Polish territory but were involved in the refugee procedure⁶².

Table 21. Decisions on tolerated status – by type of decision: 1. instead of expulsion and 2. other .

	2004	2005	2006
Decisions on tolerated status instead of expulsion	210	168	10
Other (it includes decisions undertaken in the cases of application for tolerated status and application for temporary stay)	75	49	13

Source: CMR Working Papers Nr 29/(87). E. Kępińska, Recent Trends in International Migration. The 2007 SOPEMI Report for Poland, http://www.migracje.uw.edu.pl/obm/pix/029_87.pdf

The Department of Migration Policy at the Ministry of Interior and Administration compiled information on confirmed abuses of the regularisation procedure which resulted in negative decisions for Vietnamese citizens,⁶³ including marriage with a Polish citizen to legalise the foreigner's stay in Poland; legal recognition of a Vietnamese female's child by a

⁶⁰ This was true until May 29, 2008, when the revision to the Act on Providing Protection to Foreigners on the territory of the Republic of Poland came into force. In 2007, 2,824 Russian citizens (among them Chechens and Ingush) received this status. The total number of foreigners granted tolerated stay in 2007 as a consequence of applying for refugee status was 2,866. The remainder are made up of: 2 displaced persons, 1 Armenian, 1 Belarusian, 1 Eritrean, 1 Georgian, 1 Iraqi, 1 Congo, 1 Moldavian, 1 Somali, 9 Sri Lanka, 4 Turkish, 1 Vietnamese, 1 West Bank and Gaza. Source: <http://www.udsc.gov.pl/Zestawienia,roczne,233.html>

⁶¹ In 2007, 155 foreigners received tolerated stay status as a result of applying for this particular status - 7 Armenians, 12 Chinese, 2 Georgians, 1 Indian, 1 Iranian, 1 Kazakh, 1 Liberian, 1 Pakistani, 4 Russians, 1 American, 1 Ukrainian, 1 Uzbek, 112 Vietnam, 4 indefinable nationalities, 2 displaced persons. <http://www.udsc.gov.pl/Zestawienia,roczne,233.html>

⁶² In 2007, their total number was 9 – 2 Armenians, 3 Vietnamese, 2 Ukrainians, 1 Russian, 1 indefinable nationality. <http://www.udsc.gov.pl/Zestawienia,roczne,233.html>

⁶³ This list was prepared on the basis of materials provided by the Office for Repatriation and Aliens and the Headquarters of the Border Guard. In: *Spoleczność Wietnamska w Polsce...*, pp. 73-75

Polish citizen expecting financial advantages; submitting an application for a residence permit in a voivodeship that is not the actual place of stay; and abusing the refugee procedure.

Data on mixed marriages may lead to the conclusion that some foreigners, e.g. Vietnamese, might have used marriage as a tool to legalise their stay in Poland. This strategy is typically planned in advance, and does not result in a change from illegal residency to regularisation. In 2004, there were 4,080 mixed marriages involving Poles, which constitutes a small growth (less than 3%) in comparison to 2003. The majority of these (59%) were marriages of Polish women to foreign men. Although, as in 2003, Polish women married primarily citizens of EU-15 (47%), the number of foreign husbands from 'old Europe' dropped by five points in 2004. More interestingly, drops in mixed marriages between Polish women and Ukrainian and Russian men were also recorded in 2004. In the first case, there were 250 marriages in 2003 and 197 in 2004; in the latter there were 53 cases in 2003 and 37 in 2004. Meanwhile, the number of marriages between Polish women and Vietnamese men grew by 234%, from 73 cases in 2003 to 171 in 2004.

As far as mixed marriages between Polish men and foreign women are concerned, the total number of these marriages dropped by 2% in 2004 (from 1709 in 2003 to 1687 in 2004) (see fig. 3). Although, as in previous years, Polish men married mostly Ukrainian women (almost 50 per cent), the numbers were declining (from 1,327 in 2003 to 990 in 2004). The declining tendency of mixed marriages was also observed between Polish men and Belarusian and Russian women. As already observed in the case of Polish women, the number of marriages between Polish men and Vietnamese women also grew in 2004, by almost 65%. It is impossible to say what percentage of these marriages are false (if any), but such a rapid increase in trends may suggest that some fraction of these marriages are fake.

Recognition of children with Vietnamese mothers by Polish citizens was also noted as a strategy for legalising the stay of Vietnamese females in Poland. Recognition entails acquisition of Polish citizenship by a minor, which is a basis for legalising a mother's stay. The Mazovian and the Wielkopolskie voivodeship registry offices noted certain extreme cases, such as one Polish citizen who, over a period of a few months, recognised children from numerous mothers. Nevertheless, such dishonest dealings are difficult to detect since proceedings usually take place in different registry offices.⁶⁴

⁶⁴ Clandestino face to face interview on January 11, 2008, Migration Policy Department ; and *Spoleczność Wietnamska w Polsce. Polityka Migracyjna Wietnamu. Raport*, Wydział Analiz Migracyjnych, Departament Polityki Migracyjnej, Ministry of Interior and Administration, Warsaw 2007, p.78

III. CONCLUSIONS

The transformation of the economic and political structure of the Central and Eastern European (CEE) region since the beginning of the 1990s has disturbed stable migration trends observed in all countries of the region, and in Poland in particular. During the last 17 years, Poland has become host to thousand of foreigners, including legal and illegal immigrants and refugees. Nevertheless, inflow estimates remain very low in comparison to other EU countries.

Migration balances have been negative in all new EU member states, i.e. there have been more emigration than immigration. Since the beginning of the 1990s, Poland been a country waiting for large-scale immigration. The largest non-EU national groups of immigrants in Poland (both legal and illegal) are related to movement from the country's eastern neighbours and from Asia: namely, Ukraine, Belarus, Vietnam and Armenia. Citizens of countries such as Russia and Moldova are part of the stable core as well.

Ukrainians represent the most significant nationality in terms of legal immigrants and irregular foreign workers in Poland. It is evident that the trend of illegal work on the basis of legal stay visas and documents was the most characteristic feature of the Ukrainian immigrant group until December 2007 and the enlargement of the Schengen space. Poland's labour policy, which protects local labour forces, and a liberal visa policy for eastern neighbours were the principal factors which led to the circular type of mobility and temporariness of the migration process in the case of the eastern neighbours.

In Poland, there are no studies whose primary aim is to estimate the size of the irregular migrant community. Thus, in our report we relied on studies based on other topics, our own analysis of the public discourse and expert interviews. As of now, the Vietnamese represent the only national group that has been the subject of in-depth analysis permitting the present credible estimations. They are economic immigrants that are easily noticed amongst Polish homogenous society. They form a new immigrant group, and are the only one that creates some kind of ethnic enclave.

The economic situation of Poland is not a factor conducive to immigration and, furthermore, its migration regime is relatively strict, mainly due to Polish preparations, first, for EU accession, and secondly, for entering the Schengen zone. It is noteworthy that external border protection mechanisms were given priority in the accession negotiations and remain one of the most important elements of the Schengen Convention.

Regularisation programme requirements, described in the second part of the report, serve as a good example of the harsh regime. During the course of the first Amnesty Programme in 2003 2,747 illegal immigrants (out of 3,512 applications) were able to regulate their status, including 1,245 Armenians, 1,078 Vietnamese, 68 Ukrainians and 51 Mongolians. In the same year, 282 foreigners took advantage of the opportunity to leave Poland without registration on the list of unwanted foreigners, including 139 from Ukraine, 26 from Armenia, 25 from Bulgaria and 25 from Vietnam. During the second Amnesty Program spanning July 20, 2007–January 20, 2008, only 2,028 immigrants submitted applications. Vietnamese composed the majority of these applicants – 1125, followed by Armenians – 577, Ukrainians – 115, Russians – 43, Chinese – 42 and Mongolians – 35. On July 14, 2008 only 554 foreigners succeeded in regulating their status, while 172 received negative decisions.

The scale of both regularisation programmes and their strict requirements made it clear that they were not tools to legalise the mass of illegal immigrants. Nevertheless, both programmes did demonstrate a recognition of the need to improve the situation of illegal immigrants. Moreover, they provided the Ministry of Interior and Administration with further information about the phenomenon of illegal migration in Poland. Polish migration policy

should be considered in relation with the experiences of other European countries which conducted mass scale programmes, namely Spain and Italy. In these cases, abolitions for hundreds of thousands of immigrants did not bring a desirable effect, but conducted new waves of illegal migration.

Poland has been facing a very difficult task for some time: how to reconcile the need for workers which has developed since 2004 and the outflow of Poles to the EU-15 countries, with the strict security measures implemented by the Schengen treaty. The particularity of the situation is that Poland, a country low salary levels, is not especially attractive to immigrants. It is highly probable that immigrants arriving in Poland through programmes attracting low-skilled migrants from poor regions of India, Bangladesh or Pakistan—the concept proposed by the former Minister of Labour and Social Policy and opposed by the Ministry of the Interior and Administration—would only treat it as an opportunity to go further west. Furthermore, the reluctance to attract immigrants from “distant” cultural backgrounds stems from Western Europe’s difficult experiences with multiculturalism observed by some Polish politicians. The Polish Chart may therefore be considered a labour market policy tool since it may seem to be an incentive to fully legalise the stay and work of some irregular migrants from neighbouring countries in Poland. On the other hand, it institutionalises the inflow of immigrants who are not culturally distant.

We witnessed three attempts in Poland to respond to the growing demand for labour following its outflow to the EU-15 and to regulate the presence of irregular immigrants from neighbouring countries. The first two initiatives did not bring impressive results⁶⁵. From July 20-December 31, 2007, Regional Labour Offices registered 21,513 declarations from employers (individually for every foreigner) that wished to employ seasonal workers. The third ordinance seemed to result in higher numbers of declarations.⁶⁶ In the first four months of 2008 alone, more than 39,000 employer declarations were registered. The number of registrations significantly increased in April, exceeding 19,000.⁶⁷

In sum, Poland’s migration policy and relatively poor economy did not allow for the creation of massive groups of clandestine migrants. As of yet, the only significant irregular

⁶⁵ 1. Ordinance of the Minister of Labour and Social Policy on the employment of foreigners without a work permit from August 30, 2006. On its basis, foreigners originating from neighbouring countries do not need a work permit to undertake three months employment (in the course of 6 months) in agriculture and. The period of employment cannot exceed six months in the course of 12 months.

2. Ordinance of the Minister of Labour and Social Policy from June 27, 2007 changed the ordinance on the employment of foreigners without a work permit. On its basis, foreigners originating from neighbouring countries (Ukraine, Byelorussia, Russian Federation) do not need a work permit do undertake three months employment (in the course of 6 months) in all sectors but the period of employment cannot exceed six months in the course of 12 months.

⁶⁶ 3. Ordinance of the Minister of Labour and Social Policy signed on January 29, 2008, came into force on February 1, 2008. On its basis, foreigners originating from neighbouring countries (Ukraine, Byelorussia, Russian Federation) do not need a work permit to undertake six months employment (in the course of 12 months), starting with the first day of their first entrance to Poland.

⁶⁷ Data source: the Ministry of Labour and Social Policy. One should, however, realise that these numbers do not denote the number of seasonal workers actually undertaking regular employment. According to certain sources, cases of foreigners that obtained visas on the basis of their prospective employers’ declaration but did not reach them or resigned from the job were observed. In these cases, workers searched for better jobs or higher paid illegal employment (without the burdens of tax and social insurance) (see Mikulska A., *Ksenofobia i dyskryminacja na tle etnicznym w Polsce – zarys sytuacji*, Helsińska Fundacja Praw Człowieka, Warszawa 2008). One should also consider that during his/her stay in Poland, a seasonal worker might work for more than on employer (which requires additional registration). Regarding the nationalities of seasonal workers, 93% are Ukrainians. With regards to economic sectors, 43% of registered declarations refer to agriculture and 20% to construction.

migrant groups in quantitative terms from the Eastern neighbouring countries, however, their irregularity meant they pursued illegal work on the basis of valid tourist visas. The other fairly visible group of foreigners on Polish landscape is the Vietnamese community, in which irregularity refers to both stay and work of some of its members.

The EU's external border should be both as open as possible for legal migrants and non-porous for illegal migration. Due to the dramatic outflow from Poland of approximately two million people since May 1, 2004, there is a strong demand for both skilled and unskilled foreign labour. It has proven a very difficult task to combine this demand with the security measures implemented in December 2007. The special treatment of Eastern Europeans in gaining access to the EU labour market, particularly the Polish one, should be seriously considered

A grave threat to the internal security of Poland and, in fact, to the EU as a whole in relation to East-West migration, is destabilisation caused by the war or terrorism that could increase the volume of migration from third countries through the borders of Belarus-Russia and Ukraine-Russia. These borders should comply with higher security standards. Improved cooperation between Eastern European countries in the area of readmission is urgently needed, and a readmission agreement between the EU and Russia is strongly recommended. The EU should assist its Eastern European neighbours in developing cooperation in the Justice and Home Affairs area. A cooperation of border management with neighbouring countries should be established, to include training on border protection standards and rules and the appointment of permanent liaison officers at the respective border control units.

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ANNEX

POLISH PILOT REPORT

	Data	estimates	methodology										
Irregular stay	<p>1. Two Amnesty Programs 2003 – 3,512 applicants within the framework of „big amnesty” - 2,747 changed their status from irregular to regular: 1,245 Armenians, 1,078 Vietnamese, 68 Ukrainians and 51 Mongolians. and, 282 of “small amnesty”: 139 citizens of Ukraine, 26 citizens of Armenia, 25 citizens of Bulgaria and 25 citizens of Vietnam 2007 – <u>provisional data 1,541 applicants – 866 Vietnamese, 431 Armenians, 72 Ukrainians, 40 Chinese, 30 Mongolians and, 29 Russians</u></p>	<p>1. extremely provisional by the Central Statistical Office (CSO). It refers to the state on 31 of December 2006 the number of immigrants residing in Poland temporarily (three months and longer) is about 200,000. As for nationality, Ukrainian citizens constitute predominating category. According to the same source, about 60,000 of mentioned 200,000 immigrants reside in Poland for more than 12 months.</p>	<p>1. on the basis of data provided by the Office for Repatriates and Aliens (residence cards and stay permits which have been terminated) by Polish Consulates (issued visas) and Polish local authorities (forms on residence registration sent to CSO) and, finally, educational guesses.</p>										
Irregular work	<p>2. Detected cases of foreigners illegally working in Poland</p> <table border="1"> <thead> <tr> <th>year</th> <th>Number of detected cases</th> </tr> </thead> <tbody> <tr> <td>2003</td> <td>2,711</td> </tr> <tr> <td>2004</td> <td>1,795</td> </tr> <tr> <td>2005</td> <td>1,680</td> </tr> <tr> <td>2006</td> <td>1,718</td> </tr> </tbody> </table> <p>Source: Ministry of Labour and Social Policy, Labour Market Department, Kontrola Legalności Zatrudnienia 2006 r</p>	year	Number of detected cases	2003	2,711	2004	1,795	2005	1,680	2006	1,718	<p>1. 1.450,000 foreigners worked illegally in the year 2004 in Poland. 250,000 constituted Ukrainian citizens, 150,000 Belarussian and Russian citizens, 40,000 Vietnamese and 8,000 Armenian citizens (at the beginning of 2005, one of journalist quoted the estimates by the Office’s for Repatriation and Aliens - <i>Jak uchylić drzwi do raju</i> (Bielecki J.), in: „Rzeczpospolita, 12.01.2005)</p> <p>2. some quotations e.g. in the report on the Polish labour market demand for foreign working force, authors quoted estimates of 50,000 – 300,000 immigrants illegally working in Poland</p>	<p>1. We could not find out on what basis they were implicated, but obviously calculations were made separately for the most important nationalities.</p> <p>2. The source of this estimate is recalled: Instytut Pracy i Spraw Socjalnych (the Institute of Labour and Social Studies), 2004. However, the methodology is not explained.</p> <p>3. opinion conducted on the representative sample, 2001.</p>
year	Number of detected cases												
2003	2,711												
2004	1,795												
2005	1,680												
2006	1,718												

		<p>(Korczyńska, Duszczyk, 2005, p.10).</p> <p>3. In total, 925,000 Polish households employed domestic services workers. 92,500 of them employed foreigners (Golinowska, 2004). Clandestino estimate</p> <p>For the years 2001 to 2003, we estimate that at least 21,000 irregular foreign workers were employed exclusively by one Polish household or lived with their employers at each point in time. However, it is likely that a much higher number of persons is involved, due to the circular character of migration between the neighbouring countries. If each migrant stayed only for three months in a year, the stock estimate would imply that the number of individuals active during one year would be four times higher (85,100). 55,500 self-employed in private households (upper variant) 27,750 self-employed in private households (lower variant</p>	<p>See the method of calculation - pp.10-11 of Polish pilot report</p> <p>Estimates based on intuitional knowledge concerning immigrants' employment in Poland.</p>														
Irregular border crossings	<p>1. Foreigners held by BG while attempting to cross or crossing Polish borders illegally (in both directions)</p> <table border="1" data-bbox="320 1563 887 1630"> <tr> <td>2000</td> <td>2001</td> <td>2002</td> <td>2003</td> <td>2004</td> <td>2005</td> <td>2006</td> </tr> <tr> <td>3,652</td> <td>3,651</td> <td>3,330</td> <td>3,592</td> <td>4,472</td> <td>3,598</td> <td>3,131</td> </tr> </table> <p>Source: on the basis of the Border Guard data, http://www.sg.gov.pl/</p>	2000	2001	2002	2003	2004	2005	2006	3,652	3,651	3,330	3,592	4,472	3,598	3,131		
2000	2001	2002	2003	2004	2005	2006											
3,652	3,651	3,330	3,592	4,472	3,598	3,131											