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## CONTEMPORARY IMMIGRATION AND ASYLUM POLICIES IN SLOVENIA: RETHINKING QUESTIONS OF ENTRANCE AND INTEGRATION

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### ABSTRACT

*The main images that locate Slovenia on the "social map" of contemporary immigration movements (after WW2) include the historical link with traditional immigration from republics of former Yugoslavia as well as contemporary diversified forms of immigration from different cultural environments. Two milestones are important, the emergence of forced migrations and "temporary refugees" from areas of conflicts in the Balkans (Croatia, Bosnia and Herzegovina, Kosovo), followed by irregular immigration from non-European countries and negative public responses towards these "new" immigrants. The key feature of the formation of national migration policy is the country's involvement in the framework of the European integration processes. The EU's eastwards enlargement is leading to the emergence of a new type of external border, since iron and concrete, once the main construction materials, have been replaced by more refined fabrics: electronic and paper borders; in short, new borders are above all bureaucratic "e-borders".*

**Key words:** migration policy, forced migration, asylum, European Union, Slovenia, border control

### L'IMMIGRAZIONE CONTEMPORANEA E LE POLITICHE D'ASILO IN SLOVENIA: RIPENSARE LE QUESTIONI DELL'INGRESSO E DELL'INTEGRAZIONE

#### SINTESI

*Le immagini principali che posizionano la Slovenia sulla "mappa sociale" dei movimenti migrativi contemporanei (dopo la Seconda guerra mondiale), presentano dei collegamenti storici con la tradizionale immigrazione dalle repubbliche dell'ex Jugoslavia assieme alle diverse forme di immigrazione contemporanea provenienti da diversi ambienti culturali. Le due pietre miliari più importanti sono l'emergenza legata alle migrazioni forzate e i "rifugiati temporanei" provenienti dalle zone di guerra dei Balcani (la Croazia, la Bosnia ed Erzegovina e il Kosovo) seguiti dall'immigrazione irregolare da paesi extra-europei e le negative reazioni pubbliche nei confronti di questi "nuovi" immigrati. L'elemento chiave per la creazione delle politiche nazionali sull'immigrazione è il coinvolgimento del paese nel quadro dei processi di integrazione europei. L'allargamento della UE verso l'est comporta la nascita di un nuovo tipo di confini esterni in quanto il ferro e il cemento, che hanno rappresentato in passato i due materiali principali, sono stati sostituiti da elementi più raffinati: i confini elettronici e cartacei; i nuovi confini sono in sintesi soprattutto "e-confini" burocratici.*

**Parole chiave:** politiche di migrazione, migrazione forzata, asilo, Unione europea, Slovenia, controllo dei confini

## INTRODUCTION: GLOBAL MIGRATIONS, CLOSED BORDERS

Castles and Miller (1998) have described the modern age as that of migration, which is becoming global in scope, diversified in structure and highly politicised in profile. Nation states have responded to new dynamics of this form of human mobility mainly by hardening the national borders; i.e., by preventing immigrants from entering state territories. Hard borders as mechanisms of immigration control (Brochman, Hammar, 1999) have been becoming the central figure of the European migration policies of the last decade, with the dominant image that of "fortress Europe," because of restrictive entrance measures. The countries along the Schengen border, ranging from the Adriatic to the North Sea, have created a kind of protective link between the fortress and the outer territories, the social-political space we call the "Schengen periphery". Analysing migration policies in these new "Schengen periphery states," it is important to consider their 'in-between' position. They claimed their southern and eastern borders and introduced restrictive measures towards immigration. It seems that the model of fortress Europe has been expanded in respect to the next round of accession countries. At the same time (and this seems to apply to the policies of supervision), the issue of integration of immigrants and concomitantly that of multicultural communication and learning as a multi-directional process between immigrants and majority societies is becoming increasingly prominent.

The first part of this article presents an overview of the contemporary migration trends in the Slovenian context,<sup>1</sup> including a link with traditional migratory routes within the former common state. Migration currents are illustrated as four main images that illustrate both historical dynamics and current challenges to migration management with respect to European integration processes. The main focus is two central events that influenced Slovenian migration policy in the last decade: firstly, the issues related to forced migration in the Balkans and temporary refugees for the most part from Bosnia and Herzegovina, and, secondly, the so called "illegal immigrants crisis", a question of diversity of migrations and its impact on society.

The discussion on the future of migration policies, "the architecture of the EU migration debate", with emphasis on the creation of a common EU migration policy, composes the second part of the article. It seems that models, national as well as European, are part of an enormous creation process. Without doubt, the key factors in defining national migration policies are current

European processes of integration. On the other hand, the response of the European Union is almost always one of restrictive policies, based on different strategies of immigration control, as argued by Brochmann (1999, 2): "...immigration policies in the Western European countries have been heavily focused on *control*. State borders are reinforced, refuge categories redefined, internal surveillance is increased and more deportations are effectuated. Having been a marginal political topic, immigration has developed into one of the most central and complicated issues within Western Europe". It appears there has been a fundamental misunderstanding, migration policies somehow replaced by border policies, the latter are a kind of "substitute" for more effective migration policies. In our opinion, this leads to a narrow and misguided approach. There must be ways to identify the areas where the migration policies can be modelled outside traditional (and proven ineffective) border control categories. From the perspective of EU enlargement and the desired building of bridges between old and new members, the emphasis within migration policy should be devoted to the inclusion of immigrants in the new societies, rather than focused on mechanisms of immigration control. The European Union is the key actor; however, concepts such as "the fortress Europe" and "the Schengen periphery", as well as experiences of being on the other side of the border, before the fortress, are worth consideration. Therefore, the conceptions of migration policies in central and eastern Europe are linked to the notions of accession countries, situated on the outer border of the EU – the Schengen periphery. It seems to us that contemporary migration policies are in the jaws of the European and national *realpolitik* notion of controlling the migration on one hand, and demand to respect the human rights and the implementation of humanitarian principles and law on the other; the latter being a position represented as "the public policy of non-governmental organisations".

## IMMIGRATION TO SLOVENIA: FROM INTERNAL TO INTERNATIONAL MOVEMENTS

The key event in Slovenia's contemporary history is the milestone year of 1991, when the country gained independence. After this period, the entire process of creating migration policy began, although it cannot be said that Slovenia had no previous experience with migration flows. On the contrary, Slovenia was a prominent territory of immigration from other republics of former Yugoslavia and at the same time many Slovenes migrated to western countries as "guest workers". Considering the

1 Analysis of contemporary migration trends with a focus on the period 1997–2002 was carried out in the frame of the European Commission Project "Sharing Experience: Migration Trends in Selected Applicant Countries and Lessons Learned from the 'New Countries of Immigration' in the EU and Austria", published by IOM Vienna (Volume I – Bulgaria, Volume II – The Czech Republic, Volume III – Poland, Volume IV – Romania, Volume V – Slovakia and Volume VI – Slovenia).

Slovenian case, it is a questionable viewpoint that the accession countries to the EU (or, generally, the transitional countries of eastern Europe) are by definition countries that are only recently facing immigration issues. It seems that a more diversified analysis is necessary in order to include different forms of immigration – not always international, but nevertheless important for particular regions. The fact remains that immigration from Croatia, Serbia, and Bosnia and Herzegovina in the past have influenced today's policing, especially in the field of integration of immigrants into the "new society".<sup>2</sup>

To be able to locate Slovenia on the "social map" of today's migration events, it is necessary first to recall not very distant history. The time-space map on migration movements can be described through four main images, starting with migration within the federal state of Yugoslavia and going back to the period when Slovenia became a destination for many immigrants from other republics, most of whom originated from Bosnia and Herzegovina, Croatia and Serbia. In 1986, sociologist Silva Mežnarič wrote a book describing immigration to Slovenia and everyday immigrant reality with the very suggestive title "Bosnians. Where do Slovenes go on Sundays?" that points to the crucial dimension of social reality connected to the experience of being an immigrant in the Slovenian "host society", the existence of different worlds, lack of contacts and communication between the immigrants and the host society, etc.

The next image that must be mentioned in an overview of migration currents in Slovenia has reference in events from the beginning of the 1990s and the phenomenon of forced migrations caused by war on the territory of former Yugoslavia. Refugees left war zones first in Croatia (1991, 1992) and soon after in Bosnia and Herzegovina (1992 and later). During this period Slovenia was for the first time faced with questions of forced migrations, refugee policy and asylum. The main issue concerns the social impact of migration in Slovene society and therefore the question as to how the Slovenian state and society, the governmental institutions, civil society, NGOs and intergovernmental organisations, reacted to mass migrations. A short answer would be that reactions were similar to those of other European countries, namely the pragmatic solution of group protection for refugees, introduced on a temporary basis. The outcome in the Slovenian case was the existence of 'temporary' refugees remaining so for ten years. As will be discussed in more detail later, the two main open questions relating to temporary protection are time criteria and degree of integration into the new society.

One decade later Slovenia was faced with a quite different type of immigration; this time immigrants came from more distant non-European countries and they were more diversified than ever before. The first reactions in public were anything but positive. Especially in media discourses, immigrants were described as "the

<p><i>First picture</i>  <b>History - immigration from Bosnia, Croatia and Serbia)</b></p>	<p><i>Second picture</i>  <b>Forced migration Croatia (1991/92→) BIH (1992 →) Kosovo (1999 →)</b></p>
<p><i>Third picture</i>  <b>2000-2001 "irregular immigrants crisis" immigration from non-European countries</b></p>	<p><i>Fourth Picture</i>  <b>EU enlargement "Schengen periphery" Bridging EU 15 to EU 25</b></p>

**Fig. 1: Slovenia in migration processes.  
 Sl. 1: Slovenija v migracijskih procesih.**

2 The term "new society" is used instead of "host society"; the latter implies hosting and a limited stay in the country rather than integration and active involvement of immigrants in different spheres of societal life. We believe that the term "new society" also implies the immigrant's choice whether to live in a certain social and cultural environment that represents frames for possible integration of immigrants.

others", "the foreigners", those with "different identity" or "different cultural, ethnical, religious background" who could be a potential "threat to national identity" because of "high numbers". Threats, produced on the basis of populist use of identity difference, yet in reality on the basis of ignorance, have resulted in manifestations of open xenophobia toward immigrants. On the other hand, at this point it has become clear that immigration to Slovenia represents a continuous phenomenon, a process rather than a single event. The latter is very much connected with the image of migration and European integration processes. The process of bridging EU-15 to EU-25 could also be observed from the perspective of defining common frames for migration management, although it could not be claimed that the European Union in fact has a common migration and asylum policy. The whole concept of Slovene migration policy, including its fundamental legislation, is closely linked to the integration processes. The latter is included in the question of perspectives and possibilities of post-socialist countries, many of which are EU accession countries and for which the EU criteria in dealing with migration are the starting point and objective.

#### Temporary refugees: excluded from the "host society"

The wars in former Yugoslavia have created the largest concentration of refugees and internally displaced persons since World War II. Slovenia first met with a mass influx of refugees at the end of 1991, when refugees from Croatia arrived. By the spring of 1992, a significantly greater number began to arrive, many of them in transit, some remaining. According to the data supplied by the Slovenian Red Cross and Governmental Office for Immigration and Refugees, there were around 70,000 refugees from Croatia and BIH in Slovenia in 1992. At the first registration in October, 1993, their number was around 31,200. In the two following years the number of temporary refugees had decreased by one third, although in this period more than 3,600 new refugees were registered, mostly following the family reunification and refugees *sur place* rule.<sup>3</sup>

In terms of institutional response from the governmental side a special agency – the Governmental Office for Immigration and Refugees – was established in 1992 in order to implement the entire policy in relation with temporary refugees in Slovenia. With regards to facili-

ties, Slovenia began by using all available structures to accommodate refugees, especially at the beginning, when the largest collection centres were former military premises and tent camps. Centres for refugees were soon established in most Slovenian municipalities. At the end of 1995, approximately two-thirds of Bosnian refugees in Slovenia lived with families and one-third in the centres.

The legal definition of a refugee<sup>4</sup> describes an individual who, on the grounds of a well-founded fear of persecution (because of race, religion, national identity, membership of a certain social group or political beliefs), has fled his country. The Geneva Convention insures that countries protect the lives of people fleeing a non-democratic political system and that they consistently respect the principle of *non-refoulement*. As mentioned before, the refugee issue in Slovenia is inseparably linked to the mass forced migrations that resulted from the military conflicts in the former Yugoslavia (Mikuž-Kos, Pagon, 1998; Vrečer, 1999; Zavrtnik, 2000). Numerous individuals fled the region, having to abruptly abandon an environment that had up to then been safe, with the obvious result of having a secure family and various other micro-social networks of everyday life that had determined their social and cultural space sundered. Not only individuals fled, but entire ethnic groups. The Balkan crisis caused a massive exodus, with severe effects on western Europe. The response of the UNHCR was an institute of temporary protection, which is a partial – and this *is* the right term – solution that determines the basic rules for the provisional status of refugees to fleeing groups. While Convention-defined refugees are handled on an individual basis, the institute of temporary refuge is a legal instrument for the protection of groups, which results in the real effect of the individual taken into insufficient account, as is the case here – the political crisis becomes a sociological problem. The sociological argument favors expression of the heterogeneity of groups, which is why the shift from group focus to the individual is an urgent long-term necessity. Temporary refugees, even when they have fled as part of a group, are, humanely speaking, especially vulnerable, displaced individuals. The sociological definition of temporary refugees must emphatically focus on the individual first, and only then the uprooted groups that have involuntarily fled into the uncertainty of exile and encounters with the bureaucratic devices of new structures of social cohesion with their various integration models.

3 According to the data of the Red Cross of Slovenia (15, 11, 1995), at the end of 1995, approximately 20,000 refugees, mostly from BIH, had a temporary "home" in Slovenia. At this time temporary refugees included some 8,000 children under 18 years of age, of which around 2,800 were less than 7 years old. Some 3,100 persons were over 60 years of age. In terms of nationality structure, Muslims dominated with 75 percent, 14 percent were Croats, 3 percent Serbs and 8 percent belonged to other nationalities (for more see: Zavrtnik, 1996).

4 Geneva Convention on the Status of Refugees, 1951 and the New York Protocol of 1967.

The status of temporary refugees was regulated in 1997 by the Law on Temporary Refuge (LTR, 1997), which was adopted in Slovenia after temporary refugees had been living in the country for more than five years. The act was amended in July, 2002. This act provides the basis for the granting of temporary asylum, taking into account basic humanitarian standards (e.g., the integrity of the family), and determines issues relating to rights, obligations and repatriation. The main problem of this type of legislation is the fact that, from the outset, it is oriented towards the return of refugees to their home country. The repatriation issue is of course an integral part of refugee policies; however, it must not be its foundation, or especially the only alternative. In Slovenia the question "Why don't refugees go home?" has been posed often in a variety of different public contexts. Unfortunately, the response of state policy has not been the unequivocal reflection of the humane approach that considers the fact that repatriation is too often impossible and, more important, that repatriation programs can and must not be the main focus of refugee policy. The complexity of this aspect of the refugee issue may obscure some very simple humanitarian givens regarding the rights of people to decide their own destinies, and especially those who have had this right once so violently denied. The matter is not confined to objective circumstances—whether a home is actually still 'there', whether a formerly viable economic life is still available, whether the political society at 'home' has been rendered objectionable, etc. The refugee who has been living in indeterminate circumstances for any period of time deserves the right to choose whether new, or *the new*, circumstances are more desirable than an unrecognizable old; where a new life has been forged it must not be suspected to be tenuous, and this time around he must be provided a *choice*.

We should also draw attention to rarely mentioned views on refugee identity; that is, its expression and concealment. Above all it is necessary to focus on the strategy of "invisibility". Exposure of one's identity can give rise to prejudice, antagonism, scorn, intolerance, et al. – in short, discrimination. There is a personal risk that someone will find himself in an unpleasant situation, or even conflict, if they expose their identity. There is no need to ask why an individual would choose such a strategy; a society's intolerance to difference makes concealment a rational strategy. Here, integration is exchanged for anonymity. As an illustration, we note the described strategy among the generation of young people (who had been) included in Slovenian education. A young refugee learned the language to the extent that his

Slovene was no different from speakers of his generation for whom Slovenian is their mother tongue. Difference in such a case is concealed, and provides a level of safety for the individual. Only minor differences here and there shed light on this aspect of temporary refugee status; for example, when someone is unable to accompany their peers to a concert over the state border because, as a temporary refugee, they do not have a passport. These sporadically exposed "minor differences" draw our attention to the fact that this is not a process of integration but assimilation, and, further, that assimilation can sometimes be the "easiest way", less strenuous for a society that has otherwise to face the acceptance of difference, and sometimes even less painful for a refugee who, so concealed, is not constantly exposed to quotidian pressures. However, this kind of concealed identity can be shown to be both an unavailable or untenable strategy for some and in the long run a great deal riskier, not to say unhealthy, for the society in general.

NGOs and individuals from a variety of civil initiatives have supported throughout the shift from repatriation to integration. The amendments to the Law on Temporary Refugees (2002) suggest a move towards emphasis on integration policies, since the article on integration therein has now been elaborated. At this point, the state is bound to guarantee help towards the integration in cultural, economic and social life, where it is obliged to provide information on rights and obligations, as well as assistance in exercising them.<sup>5</sup> It is important to stress the fact that the very intention of integration is given support in law since in the opposite case, vagueness in articulation, cannot be beneficial to integration policies. Since it is a special law, it could be expected that it would even deal in detail with the political, social, cultural and economic extent of "temporary refugee" status. At any rate, it contains an optimistic provision that state institutions may partly or entirely cede the implementation of integration measures to humanitarian organisations. The amendments primarily bring about the following key change: persons with temporary protection can acquire the status of a foreigner with a permanent residence permit. The institute of permanent residence puts former temporary refugees into a completely different category of migrants; they are equated with foreigners who are staying in the country for eight years. According to this provision, integration is crucial and very much needed for this category of migrants, because it represents the link between the two legal statuses. Further necessary activities have to be focused on building this link and at the same time overcoming the risk of exclusion and non-integration.

5 To illustrate, the integration article lays down the organization of Slovene language courses, knowledge of Slovenian history, culture and Constitution.

### "Illegal Immigration Crisis" and Diversity of Migrations

The most illustrative current dilemmas in migration movements that have also influenced migration policies came at the end of the year 2000 and at the beginning of the year 2001. That is the period of an upsurge in the number of irregular immigrants and the so-called "illegal immigrants crisis".<sup>6</sup> Large numbers of irregular immigrants arriving to Slovenia should be observed in connection with the same trend in Europe, but also in connection with increasingly restrictive immigration policies in western European countries. Most immigrants came from non-European countries, especially from Iran, Iraq, Pakistan, China, Bangladesh, Algeria and Sierra Leone (MIRS).<sup>7</sup>

Public responses to this new type of immigration were quite different – in general not positive. In the spring of 2001, an atmosphere of expressed intolerance towards immigrants became part of a wider public response to the question of immigration. Media presentations were full of stereotypes and fears in connection to immigrants. The first characteristic was reporting on immigrants by stressing numbers; this was supposed to be a reflection of objectivity. The second characteristic, besides reporting on numbers, is the reference (directly or indirectly) to the threat to the national identity. Jalušič (2002) identified main elements of the public media discourse on immigrants; above all two should be stressed. First the denial of xenophobia and the victimisation argument ('We Slovenians are the victims – They, the newcomers, are a threat to us') and second, normalisation and socialisation of xenophobia and racism as 'understandable deviations' or a biologically motivated reaction.

On the other hand the support of NGOs, individuals, various initiatives, professional associations and experts, etc., advocating human rights and solidarity with the irregular immigrants became a practice of civil society. These organisations and individuals were actively involved at different levels of advocacy for irregular immigrants; they provided the immigrants a public voice and representation. One case of good practice that can be illustrated from the local Slovenian environment of this period refers to the "advocacy model". A pattern of advocacy activities developed, offering a combination of three kinds of activities, research, policy initiatives and activism that are at times operative simultaneously, ranging from academic discussions to street-level campaigns.

Since the so-called "illegal immigrants crisis", the most important laws have been changed – the Aliens Act and the Asylum Act, which are the two most important legal instruments for regulating migration. The basic documents that demonstrate the state's immigration policy are the 1999 Resolution on the Immigration Policy of the Republic of Slovenia (RIP, 1999) and Resolution on the Migration Policy of the Republic of Slovenia from the year 2002 (RIM, 2002), which roughly define migration policy according to three areas: 1. the regulation of immigration policy; 2. asylum policy as an integral part of refugee policy; 3. integration policy, which relates to measures by state and society to provide favourable conditions for a high quality of life for immigrants and to enable their integration. The resolution lays down the basic values of integration policy: equal rights (social, economic and civil rights), freedom (to express cultural identity on the basis of the integrity and dignity of the individual) and mutual co-operation (as the right to participation and the responsibility of everyone).

The so-called "illegal immigrants crisis" pointed to the fact that migration is becoming part of everyday politics for countries adjacent to the European Union. It is evident that states of necessity must develop a comprehensive migration policy, providing a frame for different migrations. This means that different forms of migration movements have to be included, for example economic and forced political migrations, temporary and permanent, forced and voluntary, regular and irregular, vulnerable groups, etc. Driven by the forces of globalisation, more and more countries are included in migrations and the migrants are originating from increasingly diverse economic, cultural and social environments. A continuous rise in global migration can be expected, which is already becoming a reality of central and eastern European countries, including Slovenia. These are important reasons for encouraging integration of immigrants into new societies, but at the same time it is important to encourage intercultural communication in the form of a two-sided process of learning and exchange of information between immigrants and the "majority" society.

Integration policies concern a wide range of intercultural communication and learning, where participants and audiences include the immigrant population. From this perspective, we are facing the shift from "policies for immigrants" to new politics of care, which according to Švab (2003) do not just include 'traditional'

6 The so called "illegal immigration crisis" or "illegal immigrants crisis" is analysed in detail in texts by the following authors: V. Jalušič, T. Kuzmanič and R. Kuhar (2001). A concrete answer in the form of field research is presented in the work of M. Pajnik, P. Lesjak-Tušek and M. Gregorčič (2001). Also see: Lipovec Čebren (2002).

7 Statistical data of the MNZ, 2003.

fields of care, but expand on new, politically relevant fields, such as migration, ethnic and social minorities, multiculturalism and intercultural communication. The creation of multicultural policy as an alternative to the policy of assimilation is the practice in some of the western European societies, which have been countries of immigration for a long period of time. The tendency towards change into the 'new societies of immigration' is present in the Mediterranean area, and can partly be noticed in the countries of once closed central and eastern Europe. Restricted by the 'iron curtain' behind an ideological wall the countries of eastern Europe were primarily countries of political emigration in the period of the cold war European east-west division. Today, their status in migration studies is one of "transition countries". Slovenia also belongs here; it is one of the countries on the way west and north, especially to Italy, Austria and Germany. However, more and more data indicate that Slovenia and other central European countries are becoming destination countries as well.

#### **EU EASTWARDS ENLARGEMENT AND "EUROPEANIZATION" OF MIGRATION POLICIES**

The key feature of the formation of Slovenian migration policy is the country's involvement in European integration processes; we make a link here between these processes and the prospects and possibilities of those post-socialist countries that have found themselves on the external borders of the European Union – that physical and socio-political space we call the "Schengen periphery."<sup>8</sup> Both models, the European and the national, are currently under construction and/or reconstruction. However, even though still at the formation stage and open to initiatives, neither of the two models offers a clear answer to the question of how a common migration policy should be regulated in an enlarged EU. This future policy will be binding on old consolidated democracies as well as new member states and the first-round candidates forming the new "Schengen periphery." Moreover, it will already place responsibility at the door of the second-round candidates, comprising the Balkan states and stretching to the Russian neighbours Belarus and Ukraine. When we speak of the architecture of the migration debate, we are referring in particular to the challenges of common migration management defined at the level of the EU. From this perspective it is entirely clear that there will be major implications for a large number of countries and that the present architectural sketch is laying the foundations of migration poli-

cies that extend far beyond their territorial boundaries.

The primarily institutional approach to migration management in the EU generally overlooks the fact that Brussels directives on migration will determine the manifold destinies of individuals outside the EU, and the opportunity for them to become members of one or another European society, as well as the destinies and opportunities of those that are already members of the EU. So let us not overlook the other side of the story: these same EU rules reveal concern over the demographic ageing of western societies and the deficient workforces in certain economies. Despite the wishes of those who argue for a fortress Europe closed to immigration, zero immigration is not a realistic possibility since attraction between the east and the south, the suppliers of the work force, and the EU and the west on the other hand, rests on factors that work both ways. Looking at it in the long term, these societies will probably be dependent on immigration from outside territories.

At the ethical level, beyond actual or constructed boundaries and exclusions, the migration of today constitutes one of the crucial challenges to social solidarity, and to an understanding of justice and the needs of specific groups and individuals. There has been a substantial shift on this point: migration is no longer merely a matter of the market, the economy; rather, it is primarily a question of human rights and politics. The real work will only begin after individual countries have worked out among themselves quotas of people to be allowed in. What we have in mind here is an unsparing effort to achieve social cohesion, the inclusion and participation of immigrants in new societies, and intercultural communication between the numerous groups generally referred to as "immigrants" and the majority society. Strategies of multiculturalism – forget momentarily the abuses of this term – seem to be the only political answer able to offer an acceptable model for a variety of areas, ranging from anti-discrimination to educational programs. It is precisely the issue of immigration to Europe that most puts to trial strategies of multiculturalism endangered by the xenophobia of the Right as much as by the dithering of the Left, not to mention the (neo)liberal approach that has actually created today's world of poverty, division and inequality. Inequality is maintained or exacerbated by restrictions on mobility in areas where the movement of people is not desired, while the barriers to the establishment of the global market have long since fallen. In such a world of divisions, hostility towards immigrants, foreign cultures, non-Europeans and non-Christians is still highly remu-

8 Issues surrounding policies relating to migration management were discussed at an international seminar "Migration and Asylum Policies in the Countries on the 'Schengen Periphery' and in the Balkans," Ljubljana, 30 November – 1 December 2001, organised by the Peace Institute, in partnership with the Gea2000 Foundation, Ljubljana, and ECRE, London.

nerative in the market of political rhetoric. Yet after all, the European migration project has a chance to shake "fortress Europe" and opt instead for an open Europe that will not sponsor xenophobia and racism against immigrants.

### **Walls – Borders – Migration: New "e-border"**

Whenever one discusses the issue of borders and mobility within the context of European integration processes, with an emphasis on expansion of the EU 15 to the EU 25, one immediately notices that migration policies are taking shape above all as border policies that represent the EU as "fortress Europe" (Geddens, 2000), from the perspective of the EU as well as that of the countries on the Schengen periphery. Pinning immigrants back to the external protected lines of nation states or the European Union is simply a partial and inadequate response to migration processes – processes that are becoming more and more dynamic and diversified. The expansion of the EU to the east imposes on us the task of forming a new type of external border, the sharp edges of Europe (Grabbe, 2000), since iron and concrete, once the main construction materials, have been replaced by more refined 'fabrics' such as electronic communications and paper; new borders are above all bureaucratic. It seems that the only thing that has not changed much is their permeability.

Arguing for a softening of hard national and EU borders in order to make them easier to cross is expected from the point of view of migration as well. The problem is one of the structural criminalisation of migration, which is a consequence of the fact that the borders are hard or impenetrable – this is a situation in which a considerable degree of migration is "forced into illegality." It is from this point that the debate on preventing so-called illegal migration proceeds, but the real reasons for this situation are not being addressed. Simply designating migration as illegal points to the linking of migration with crime and criminality, which is a starting point that can hardly deliver any productive solutions regarding migration policy.

Historically, borders have sprung up as protective mechanisms, particularly in the form of physical walls. With the establishment of borders in the period of globalisation, such protective walls have acquired further significance; above all, they indicate exclusion and create inequality, and thus a difference in identity (Andreas, Snyder, 2000; Anderson, 1996; Eskelinen, Liikanen, Oksa, 1999). Andreas (2000) has shown that the construction of walls (as borders) has a prominent role in human history. One is reminded of the Great Wall of China, which protected civilisation from nomadic peoples and whose construction took several centuries; and of Emperor Hadrian's ventures, on a smaller scale, in northern England. In the Middle Ages all social life was

"protected" by means of city and monastery walls. These walls protected the community against military invasion and, at the same time, prevented the people from moving out. The 20th century saw its share of thick walls, such as the Berlin Wall.

But walls are not a fact of the past; on the contrary, their persistence is obvious. Walls have not disappeared, but their nature has radically changed. "The new walls are designed not to keep people in or to keep militaries out, but to deter a perceived invasion of 'undesirables' – with unwanted immigrants leading the list of state concerns. Nowhere is this more evident than along the geographic fault lines dividing rich and poor regions: most notably the southern border of the United States and the eastern and southern borders of the European Union." (Andreas, 2000, 1). These are the latest walls surrounding the west. This is the modern era, which in terms of the construction of borders we can define as the shift from concrete to electronic walls. These show that borders, as protective mechanisms, are now based on advanced information technologies that have the primary role of controlling the movement of people. Old materials, heavy iron and concrete, have been replaced by more refined materials, above all paper permits (visas) and electronic databases – in short, bureaucratic "e-borders".

### **Border Policies vs. Police Borders: Ambivalence of Borders Management**

The central statement regarding the nature of today's borders – namely, that they are almost impenetrable or at least extremely selective walls around the most developed "wests of the world," and that they are above all police borders – should not be of concern only to social scientists but to political strategists as well. Strongly isolationist borders are not part of the past crushed under pressure of globalization and its processes of the de-territorialisation of nation states. Indeed, it is in the context of globalization that we are best able to point out the ambivalent nature of today's borders: on the one hand we have the expansion of spaces, the wiping-away of hard borderlines between local/national spaces; on the other, the introduction of a new type of hard border that excludes on the basis of difference in identity. A basic contradiction with regard to today's borders is evident in the relation "electronic walls around the west vs. the concepts of globalization and European integration". If globalization means that ideas and goods may travel freely across borders, it does not mean that people may cross those borders with the same freedom. The mobility of people is strongly curtailed, which represents a rare exception to the expressed principle of free movement supported by liberal ideology.

Border policies are becoming more and more important as key instruments of the security policies of na-



tion states or associations of states. In the case of Europe, the former military dividing line between east and west has been replaced by a police border, which is increasingly becoming an enclosure. The most eloquent examples of this are the EU and the Schengen borders, based on two main elements: the common European market and the protection of external borders. It seems that the removal of internal borders in western societies has simultaneously given rise to the formation of a strong external border and a "sophisticated" system for crossing the external border (one is thinking here of the SIS – the Schengen Information System). As Snyder (2000) points out, the social realities of the free movement of goods, services and ideas on the one hand and the movement of people on the other are very different. He gives two reasons for this. "First, although Schengen (like European integration in general) began as an elite project, it is one of the few EU initiatives that harmonises with public opinion. Once in place, both internal freedom of movement and the hard external frontier became untouchable at the level of the domestic politics of participating states. Second, more than other projects of European integration, the creation of an external frontier directly requires the EU to take on state-like functions, assume state-like roles, and acquire state-like capacities". (Snyder, 2000, 222). It is therefore important not to overlook the fact that the establishment of the EU as a state entity is a process that was born on its Schengen borders.

Criticism of Schengen is directed towards exclusion from Europe or the EU, where physical exclusion – being on the other side of Schengen – is actually exclusion on the basis of identity. Other important components of the conception of a future Europe, its borders and ultimate territorial image are the inclusion of and relations with the neighbouring countries of south-eastern Europe and the Balkans, with due attention paid to questions such as a united Cyprus and the actual accession of Turkey. Moreover, this conception should not leave out the attitude towards and the relations to countries outside Europe, for example Russia and north African Mediterranean countries, as noted by some authors (Emerson, 2002; Hill, 2002; Maier, 2002; Mungiu-Pippidi, 2002). The project of the inclusion of the countries on the "Schengen periphery" is linked to the argument that these countries belong in the EU or the "common European space," and at the same time to a demonstration of difference from the countries of the east or the Balkans, which according to the logic of this argument do not belong in the EU.

It seems that the most important influence on European integration processes and expansion of the EU towards the east and the south will be the developments on today's Schengen periphery. If countries predominantly attempt to demonstrate difference along the future Schengen border, we will get new rigid police borders

and many of them could very soon begin to demand visas from citizens on the outer edges of the EU. This gives rise to the question of the future borders of the EU and the issue of *finalité*: What kind of border it will be and where it will be. This is particularly apposite in view of the expansion of the EU further to the south and of the formation of a second round of "Schengen periphery" countries, likely after 2007. Generally, political scientists are arguing for two contrasting models: a centralised state – i.e., a Westphalian-style superstate – and looser ties between states, resembling an adjustment of the model of the neo-medieval empire. The future of the EU is often seen as a new form of Westphalian federal state, with one center of power, a clear hierarchy of administration, a European army and police force, etc., and a sharp (even inviolable) distinction between members and non-members. (Caporaso, 1996; Zielonka, 2001). A particular feature of this type of Westphalian State is its hard and impermeable borders that fit into the image of fortress Europe that has been created along a Westphalian paradigm. Zielonka (2001) argues that the enlarged European Union will more closely resemble a neo-medieval empire than a Westphalian type of state. What, then, is wrong with the Westphalian borders and why will the external borders have to be softened in the process of the eastward enlargement? The author gives valuable points of reference. The first "is a fundamental conflict of spirit and purpose between the two EU projects, one being enlargement and the other the installation of the Schengen regime. Enlargement is basically about inclusion, while the hard border regime is basically about exclusion. Enlargement is about overcoming the division of Europe, while the hard border regime is about creating or re-creating dividing lines in Europe." (Zielonka, 2001). We can say that at this point only the EU will be able to define the European project with any clarity and, in line with this, the border policies as well. The other issue arising from hard borders is, according to Zielonka, linked to minorities: open borders are important because of the great number of minorities that live "on the wrong side of the border," which can even affect political stability. The third problem is the fact that hard borders would bring to a halt processes of cross-border co-operation and regional links between both current and future EU members. The latter is known to be one of the EU's top priorities. From this perspective the rigidly determined external border of Schengen primarily comes across as a barrier to the establishment of cross-border contacts, particularly for people who live on the Schengen border itself. Undoubtedly, we are in favour of a neo-medieval model of the EU based on difference, plurality and the general principle of *Europe unbound* (Zielonka, 2002), and therefore in favour of the surmounting of classic territorial links, including open borders and flexible border areas.

## CONCLUSIONS

For at least the last decade and a half, the question of migration has been one of the major topics in Slovenia, both in research and at the level of public policies and civil initiatives. Such development is not surprising; in fact, it follows the prevailing trends in the countries of the European Union, where the questions of immigration and asylum have become two priorities, entering even the area of so-called "high politics." This is a suggestive shift, indicating that migrations have to do with safety, and this latter point is precisely where immigration policies have become stricter: entrance into new countries and unobstructed movement across national borders have become rare goods enjoyed by few. Unavoidably failing to fulfil the regulatory criteria of the new restrictive policies one way or another, the majority of immigrants have found themselves to be 'undesirables.'

The challenges and prospects of migration today, whether observed from the local Slovenian or broader European perspective, are numerous and diverse. Regarding the most important ones in political terms, institutional solutions should be mentioned, those dealing with migration above all from the point of view of managing borders: therefore the construction of bureaucratic walls, like the electronic Schengen wall around the EU,

as well as those surrounding nation states. However, fortress Europe is an inadequate, deficient and non-substantial response to global migration movements. In other words, it is clear that "zero immigration" is not desirable either for the "fortress", which needs immigrants, or for immigrants, who are placed by migration and border policies close to, or even on, the line between legality and illegality. Policies of rigid control and the closing of borders in many cases cause the structural criminalisation of migration, which has an effect on the negative public image that the term "migration" has been attracting for some time. From this aspect, the challenges of today – integration, the establishment of social cohesion and intercultural communication based on politics of care and active participation – must be understood above all as the surmounting of such a negative connotation.

But borders as outer, permeable lines of nation states are not the only boundaries to be dealt with in the context of managing modern migration trends. Inner boundaries implying the exclusion of immigrants on the basis of cultural differences, racist or nationalistic motives are no easier to pass through. In fact, due to their complex and long-term nature, we believe they represent one of the greatest challenges of European migration policies.

## SODOBNA POLITIKA AZILA IN PRISELJEVANJA V SLOVENIJI: PREMISLEK O VPRAŠANJU VSTOPA IN INTEGRACIJE

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## POVZETEK

*Temeljni značilnosti, ki opredeljujeta današnji položaj Slovenije v sodobnih migracijskih gibanjih, sta zgodovinska vpetost v tradicionalne trende priseljevanja iz republik bivše Jugoslavije in soočenje s sodobnimi diverzificiranimi oblikami globalnih imigracijskih poti iz različnih kulturnih okolij, zlasti neevropskih. O upravljanju z migracijami v smislu specifičnih javnih politik je mogoče govoriti po letu 1991, ko je prišlo do definiranja prvih transparentnih politik na področju migracij in azila.*

*V splošnem so slovenske migracijske politike vezane na obdobje po prelomu, ki ga predstavlja akt suverenosti države. Prvi odzivi migracijskih politik so bili vidni pri pojavu prisilnih migracij kot posledici vojnih konfliktov na območju bivše skupne države (Hrvaška, Bosna in Hercegovina, Kosovo) v devetdesetih. Pri upravljanju s prisilnimi migracijami je država uvedla politiko začasne zaščite beguncev, kar je bil v tem času dokaj razširjen ukrep evropskih vlad. "Začasni begunci" so v Sloveniji ostali začasno tudi za desetletje in več, saj se je kompleksnejše reševanje begunske problematike začelo pozno. Desetletje kasneje (predvsem 2001) je bila Slovenija soočena z novim tipom mi-*

gracij, ki so posledica globalnih migracijskih trendov in so pokazale, da bodo migracije stalnica v državah na robu evropske schengenske meje. Politike in družba so bile soočene z izrazito negativnimi odzivi do "novih" migrantov; za ta tip migracij se je v populističnem diskurzu nekritično prijelo ime "kriza ilegalnih migracij". Ksenofobija in nestrpnost do migrantov, ki so predstavljali kulturno, rasno ali versko diferenco, je pokazala na pomen civilne družbe, zagovorništva in nujnost oblikovanja koherentnih migracijskih politik, ki bodo sposobne upravljanja z različnimi migracijskimi pojavi.

Ključnega pomena pri nacionalnih migracijskih politikah je vstop Slovenije v evropske integracijske procese, kar je vplivalo na regulacijo vseh azilnih, migracijskih in mejnih politik. V evropskem kontekstu se migracijske politike pojavljajo predvsem kot mejne politike, osredotočene na nadzor meja in preprečevanje vstopov nezaželenim migrantom. Tako je nastala "trdnjava Evropa" z izrazito neprehodnimi mejami, to je schengensko mejo, ki po železni zavesi predstavlja novo ločnico Evrope, ki temelji predvsem na visokih tehnologijah in birokratskih dovoljenjih, zato sem jo poimenovala "schengenska e-meja".

**Ključne besede:** migracijska politika, prisilne migracije, azil, Evropska unija, Slovenija, mejne kontrole

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