

## MARGINALIZED MIGRATION, TRENDS AND POLICIES

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### ÖZET

Göç olgusu zaman içinde değişen karakteristik yapısına karşın tarihin tüm zamanlarında görülen ve gelecekte de sürmesinin kaçınılmaz görüldüğü sosyal bir olaydır. Bu sosyal olayın zaman derinliği ve sürekliliği göz önüne alındığında ise onun adeta insanın varolması ile bütünleşmiş bir niteliğe sahip olduğu görülmektedir. İnsanın hep daha iyiyi elde etme beklentisinin yarattığı bencillik ile toplumsal yaşamdaki siyasal ve sosyal çatışmaların önlenmesindeki başarısızlık karşısında bireyin bu ortamdan uzaklaşma isteği, göç hareketlerinin sürmesindeki ve beslenmesindeki unsurları oluşturmaktadır. Göçün tarihsel sürekliliğine rağmen, günümüzde daha önce olmadığı kadar bu sosyal sorunun çözümüne yönelik politika ve gündem oluşturma özelliğine de sahip olduğu görülmektedir. Göçün sorun olarak gündem oluşturmadaki öncüllüğü, daha çok ulusal devletlerin veya uluslararası organizasyonların egemenlik ve politika belirlemeye yönelik hassasiyetleri kapsamında göçe yönelik getirdikleri engellemeler ve kısıtlamalar karşısında, göç kararını gerçekleştirme arzusunda olan göçmenin bunu informal yollardan oluşturma yolundaki karşılıklı, hem göçün giderek marjinalleşmesine ve hem de hükümetlerin bu olay karşısında etkin olabileme isteğinin çatışmasından kaynaklanmaktadır. Bu çalışmada da daha kompleks bir hal alan göçün formal yapıdan informal yapıya dönüşümü, gelişimi ve oluşturulan politikalar genel bir çerçeve içinde ele alınarak, bu dönüşüme yol açan gelişmelere cevap verilmeye çalışılmaktadır.

*Anahtar Kelimeler: Göç, Yasa Dışı Göç, Düzenleme, Küreselleşme, Marjinal Göç.*

### ABSTRACT

*Migration is a social phenomenon which was observed throughout history with changing characteristics over time, and which will continue to exist in*

*the future. When the history and sustainability of this social fact are taken into consideration, it is obvious that migration is inherent in human nature. The continuous quests of human beings for better living conditions together with the desire to escape from political and social conflicts constitute the elements that trigger migration. Even though migration was constant throughout history, today it is one of the most important items on the international agenda. Therefore, the attempts to solve this social issue have never been so intense before. National states or international organizations try to solve the migration problem through regulations and restrictions that are put into effect within the framework of their sovereignty and policies. On the other hand, the person who intends to migrate opts to achieve his goal through informal channels, which will lead migration to marginalize. As a response to this, governments try to be more effective in the face of this problem. For these reasons, migration phenomenon continues to take the priority on the agendas. In this study, the transformation of migration—which has become more complicated—from formal to informal structure, its development, and migration policies will be examined within a general framework; and the reasons of this transformation will be investigated.*

*Key Words: Migration, Illegal Migration, Regulation, Globalization, Marginal Migration*

### I. International Migration

Migration is a chronic global phenomenon having its roots deep into the history of mankind. The number of international migrants reached 175 million in 2000, which means that one in every thirty-five persons is migrant. Thus, approximately 3 % of the world populations reside temporarily or permanently outside their country of origin. While 60 % of the world's migrants are in more developed countries, 40 % of them live in developing countries.

Even though international migration is a global fact, it is difficult to observe its incentives and motives because there are as many reasons for migration as there are migrants. However, among the main factors that lead individuals to migrate, political, economic, commercial, professional or human concerns, violence, religious oppression etc. or unsatisfied expectations in the country of origin might be named. Even though these factors differ from one migrant to another, economic motivations prevail among migrants who try to smuggle into the country of destination. In order to eliminate legal restrictions related to immigration, a number of migrants make false declarations for the purposes of obtaining the refugee or asylum seeker status.

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## II. Migration and Poverty

As J.K. Galbraith states, "migration is the oldest human action taken against poverty" (cited in Skeldon, 2002: 80). As a matter of fact, between 1846 and 1924 when immigration was relatively free to the North America and Australia where real wage levels were higher than in Europe, 50 million people left Europe for the New World (Stalker, 2000: 12). In accordance with the classic migration theory, the negative push factors of the source country and the positive pull factors of the receiving country play a role in determining the direction of migration.

Just like other forms of investment, migration involves costs and benefits. Costs include travel costs and the income loss while seeking house and employment in the country of destination. There are psychic costs as well as monetary costs such as the separation from relatives, friends and close family members or the necessity to adapt to a new language and new traditions. Non-economic psychic costs may be minimized to a great extent such as the risks in finding a job because migration generally takes place under the form of waves and chains. The economic benefit of migration is measured on the basis of the earnings gap between home and abroad. Better education and job opportunities might be named among other benefits. Like in other forms of investment, it is possible to compare potential expected future returns in potential destinations with the expected returns in the present situation. If the return ratio meets even only the non-economic psychic costs, the worker decides to emigrate. It is indeed almost impossible for the potential migrant to gather all necessary information to make a clear-cut benefit and cost analysis (Salvator, 1998: 383). Business relations between the source and receiving countries are one of the requirements of migratory flows. A strong relation between the countries generally reduces the immigration costs. It is rather difficult to reach a consensus on the optimal migrant recruitment mechanism (Martin and Straubhaar, 2002: 7). However, governments pretend to act as if there is a consensus (Salvator, 1998: 383). This situation is even more complicated in case of foreign illegal migrant workers because their expectations concerning the level of income in the receiving country are vague and they should take into account the risks of deportation from the receiving country and penalty (Entorf and Moebert, 2004: 8).

While the decision to migrate with the aim to maximize utility is made on the basis of an individual assessment, the Universal Declaration of Human Rights establishes that everyone has the right to leave or return to any country including his own (Article13-2). Restrictions on the implementation of this right constitute the legal obstacles to migration (Pecoud and Guchteneire, 2005: 1). Moreover, the development level of the source country and the income level of the migrant constitute the economic obstacles to migration. Likewise, in spite of the general belief that the poor people move in order to improve their life situation, this goal cannot be usually reached in real life situations.

Even though the push factor for international migration is to seek resources, poor people can only migrate when they have access to some financial and social resources. It has been observed that the poorer do not tend to migrate or move farther. In spite of the new economic approach according to which the fees for train or airplane are rather cheaper for most of the world population in comparison to any period of time throughout history, the poorest people tend to migrate internally. As for the long-distance migration, people who can afford to go and who have the necessary social connections with the receiving country tend to move internationally. For this reason, "Migration Hump" is significant in defining the relation between international migration and economic development (Migration and Development, 2004: 20; Stalker, 2000: 103).

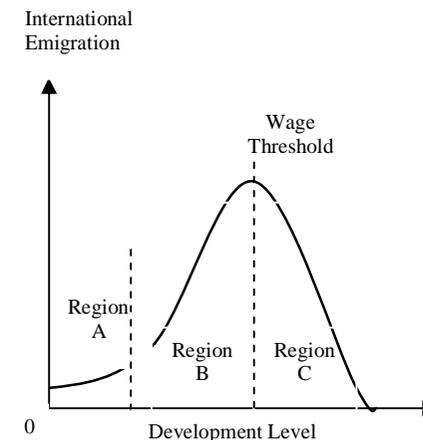


Figure 1: Migration Hump

According to the migration hump, there is little emigration from the societies with lowest development level (A Region). However, countries that have developed somewhat further economically (B Region) are characterized by a high level of migration. While higher income per capita improves consumption demand, domestic production and employment opportunities, it also creates incentives for migration. Migration keeps increasing till the real wage threshold. From this point onwards, domestic economies (C Region) offer opportunities to their population in their own countries and the emigration rate declines. While Spanish and Portuguese emigrations peaked in the 1960s and 70s, emigration rates started to decline in the 1980s and 90s as the wage threshold was reached. Italy and South Korea had similar experiences (Migration and Development, 2004: 21). Due to the lack of financial possibilities, internal migration is a more feasible option for the poorest people. During the Great Irish Famine, from 1845 to 1850, a small number of emigrants went to North America. The vast majority began life in United Kingdom and a great number of those who did not leave their country died from starvation (Skeldon, 2002: 71). Likewise, Hispanics emigrating from somewhat more developed Latin American countries are the biggest migrant group in the United States. Furthermore, most of them came from the more developed areas of their countries. In a similar way, people living in the areas with better socio-economic possibilities in Turkey have a higher tendency to migrate to abroad (İçduygu et al., 2001: 42, 47-50).

The 1950s witnessed a high level of emigration from the poorer Southern European countries such as Spain, Portugal and Italy to more prosperous countries such as France and Germany. However, increasing economic development reduced migration within Europe. In the 1960s there was a high rate of emigration from Italy to more prosperous countries. Between 1966 and 1970, more than 250,000 Italians emigrated from their home country. However, this flow changed direction between 1976 and 1980. Consequently, Italy and Spain changed their positions to labor-importing countries (Stalker, 2000: 15-16). As the differences in development between Europe and North America decrease, emigration from Europe comes to a halt. This may also be observed in the changing origin profile of the migrants in the United States. While the European migrants had a share of 40 % among the legal migrants in the 1960s in

the US, their share declined to 13 % in the 1990s. On the other hand, the share of Latin American migrants increased to 51 % and that of Asian migrants to 30 % (Martin and Midgley, 2003: 7). As seen in the example of the US and Europe, economic development and globalization play an important role in shaping the migration pattern.

Between 1870 and 1960, the income per capita in the highest-income country (the US) increased to US\$ 16,779 from US\$ 2,181. Within the same period, in the poorer countries such as Ethiopia the income per capita increased to US\$ 325 from US\$ 250. The difference between two countries increased to 50:1 from 9:1 from 1870 to 1960. Furthermore, the differences between them have been increasing gradually from 1960 on. Between 1960 and 1990, the average income per capita increased by 2.6 % in the OECD member countries, whereas this ratio remained 1.8 % in other countries. It is reported that in 1993, US\$ 18 trillion of the global production amounting to US\$ 23 trillion was taken by the developed countries and the remaining amount of US\$ 5 trillion was shared among the developing countries (Stalker, 2000: 17). The gap between the development levels of the countries leads developing countries' governments to remove the surplus labor via emigration with the aim to tolerate insufficient resources, as remittances are a prominent source of external funding for developing countries. Likewise, it was also emphasized in the First Five-Year Development Plan of Turkey for the term between 1962 and 1967 that the export of the surplus labor force and thus workers' remittances would play an important role in the development of the country (İçduygu et al., 2001: 44).

Remittances —the funds migrants send home— have positive effects at the macro and micro levels. At the macro level, they have a positive effect on the balance of payments, they can be used to purchase needed foreign components and supplies, they can be spent locally to generate jobs, and they can be taxed by the sending country government. At the micro level, remittances provide families in the countries of origin with extra money for daily living (studies found that remittances sent by Chinese migrants to their families constitute 14-30 % of the family's income at home (Skeldon, 2002: 77), the purchase of consumer durables (it is also argued that the increase in the purchasing power leads to an inflation increase ("imported inflation"), and

investments in better housing, farm land, machinery, or a small business. Some researchers argue that the spending of remittances have just a trivial effect on generating local jobs and improving the economic welfare. However, "Taylor (1992), using detailed data from Mexican households, found that each dollar of remittances was associated with US\$ 1.85 more economic activity in the local economy" (Martin and Straubhaar, 2002: 7-10). Thus, apart from human and cultural elements of migration, the financial resource through remittances is a significant factor for the developing countries.

In some empirical studies of the causes of migration, it has been observed that economic crises in particular trigger irregular migration and that these migrants are largely characterized by unskilled workers (Boutang and Garson, 1984: 588). The majority of international migrants originate from developing countries due to the fact that developing countries receive a lower share from the global production although they constitute 85 % of the world population, and that they fail to create new employment opportunities for their increasing population. Limitations imposed by developed countries on legal migration and on low-skilled workers marginalize the international labor movement and turn legal migration to an illegal one.

### III. Illegal Migration Phenomenon

Illegal immigration takes place in the case of the existence of border controls and some other specific transactions. According to ILO Convention, 1975 (No. 143), illegal migratory movements are defined as "any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations" (Tapinos, 2000: 14). If there were not any restrictions in entering or departing a country, it would not be possible to speak about illegal immigration. If there were not restrictions and tolerances at the same time, illegal migration would not take place. This situation is the proof of the inequilibrium between the effective unlimited resource of the people who intend to migrate and the restrictions of the receiving countries which accept new entries. For this

reason, the illegal immigrant can be defined as "the one who does not have a residence, work or accommodation permit according to the local legal regulations while not having a citizenship in the receiving country" (Gençler, 2002: 31).

Basically three main elements are taken into consideration in order to define the illegal migration. These are (Entorf, 2002: 32);

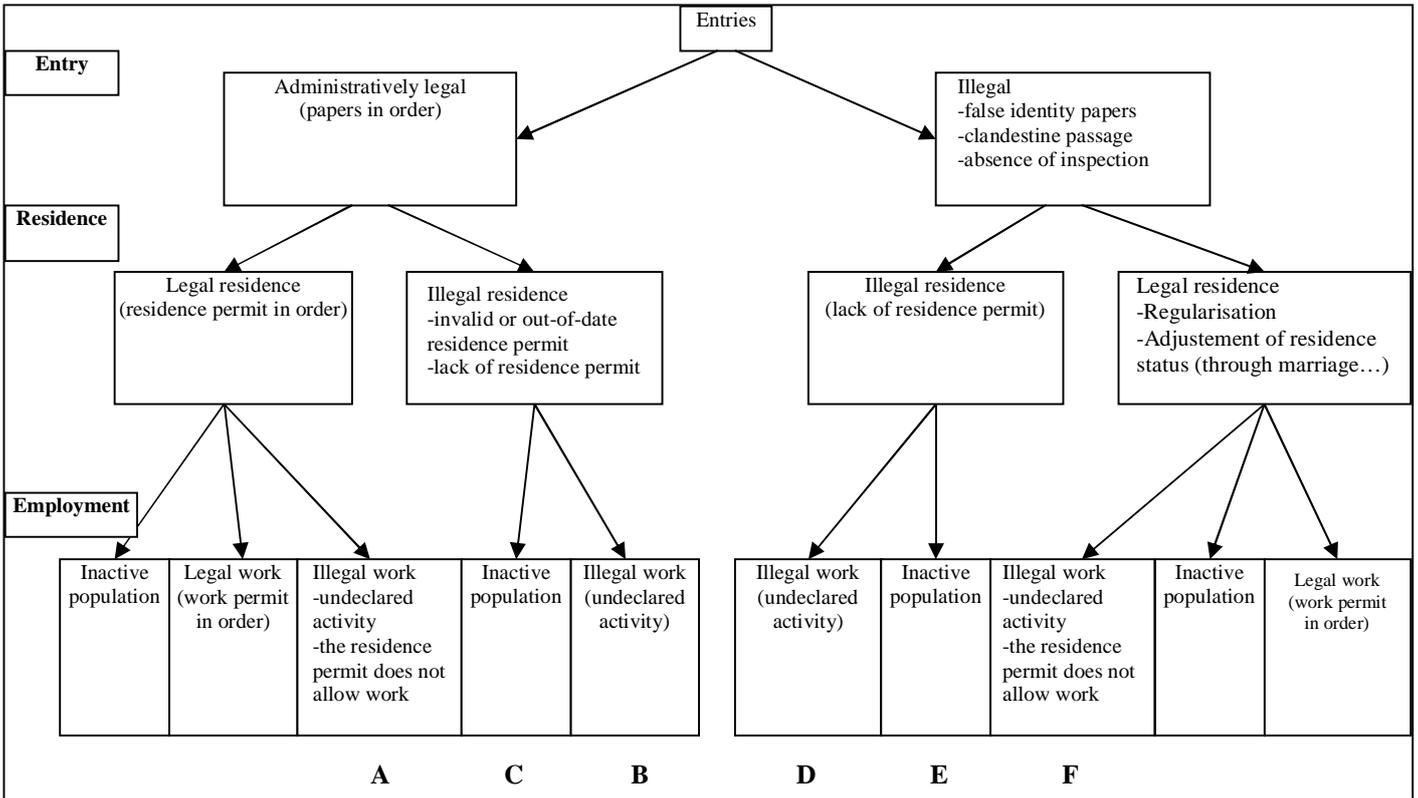
- Differences in income in the source and receiving countries,
- Degree of sanctions,
- Probability of the determined elements.

These situations form the basis for the general behavior in the illegal migration decision-making process. Obviously, the more economic opportunities a destination offers to individuals, the more it becomes a pole of attraction for migrant workers.

Table 1 shows various entry, residence and recruitment conditions under which foreigners may be. Thus, the lack of control can be categorized into six groups (Tapinos, 2000: 16-17);

- Migrants who have entered a receiving country with a legal residence permit do not declare their occupation, and they work illegally since their residence permit does not cover work.
- Although they entered the country legally, their stay and working are illegal.
- Current laws assume that a migrant without a residence permit can not work legally.
- Although they are within the scope of the previous category, there are migrants who are not active.
- Migrants who smuggled into the receiving country and who work illegally without residence and work permits.
- Although they are within the scope of the previous group, there are migrants who are not active.
- Migrants who smuggled, but who have residence permit (for instance, those who have benefited from changes in the regulations or whose status has changed because of marriage etc.) and who work illegally.

Table 1.: Demonstration of Various Circumstances Under Which Migrants Might Find Themselves



Source: Tapinos, 2000: 18.

It can be seen that the illegal migration takes place in various ways. Illegal migrants are subject to a number of risks regarding their exit from the source country, their entry to the receiving country and their residence in the receiving country. These are mainly (de Tapia, 2003: 21-22);

- Without the required documents or with the forged ones, migrants may have to cross police and military check points, mine fields, barbwire, geographical obstacles, etc.
- They travel under difficult conditions (hiding in the trucks, containers, etc.).
- Migrants who intend to enter a receiving country through unofficial channels usually face the same difficulties while leaving their home country.
- They usually receive insufficient social aids.
- The residential conditions are usually not appropriate (cheap hotels, ruins, etc.)
- They cannot benefit from health and social services.
- They face obstacles to be accepted by educational institutions (their acceptance to the vocational or language schools, their children's acceptance to the schools may be prohibited.)
- They face extreme difficulties to fulfill administrative formalities.

The necessity to bypass the laws and regulations has laid the groundwork for some smuggling organizations to participate into the illegal migration process. Especially high amounts of money these organizations charge for their services further encourage the formation of such organizations. These groups/organizations that organize illegal migration throughout the world earn between 7 and 10 billion dollars every year (Gençler, 2004: 179; IOM, 2003: 60). 15 to 30 % of all the worldwide illegal migration is realized by such organizations. It is stated that approximately 75 % of the illegal entries to the United Kingdom were realized by the assistance of human smugglers (IOM, 2003: 60). For instance, while the cost of a trip from Morocco to Spain (by boat) is around 500 dollars, the cost of a journey from China to the United States

can be up to 30,000 dollars by means of these smugglers. These journeys usually take place under tragically awful, dangerous and risky conditions (Stalker, 2000: 124). Everyday many lives are lost in these trips. It is reported that minimum 920 migrants had died while trying to enter the European countries between 1993 and 1997. According to the UN General Secretary estimates, more than 3,000 migrants might have died between 1997 and 2000 (Pecoud and Guchteneire, 2005: 3-4).

Factors triggering illegal migration do not only stem from the demand of the person who intends to migrate, but also from the demand of the employers in the country of destination for migrant labor. Employers, who cannot openly express their requests to avoid the legal rights of national workers, opt to recruit illegal workers. The labor insertion of irregular migrant workers who are legally unprotected provides the employer with the initiative to determine the working conditions, methods, periods and wages (Gençler, 2004: 180; Boswell and Straubhaar, 2004: 7).

There are numerous examples for the poor working conditions of the illegal migrants. For instance, it was found out that a company operating in clothing sector in the U.S. had made 74 Thai women work 17 hours a day 7 days a week in an apartment in Los Angeles and paid only 1.60 dollars per hour (Stalker, 2000: 46). In Southern California in the U.S in 1982, the workers who went on strike for a salary increase were laid off and replaced by legal and illegal immigrant workers (Martin and Midgley, 2003: 28).

The structure of the market, employment conditions and increasing competition are the critical factors in the decision of an employer to recruit migrant workers. At the same time, the existence of an off-the-record economy and illegal foreign workers cause both parties to exploit mutually the weaknesses of the other. The emergence of an off-the-record economy establishes a motive to deliberately neglect the legal procedures in return for a flexibility in production and payment terms in the hierarchical and complicated process of the domestic market (Tapinos, 2000: 25). The size of the off-the-record economy in the European countries varies between 9.5 % (Switzerland) and 28.3 % (Greece). These rates are 16.8 % in Germany, 14.8 % in France, and 12.3 % in England. In 2003, the number of national workers who were

working off-the-record in Germany was 9.42 million whereas the number of illegal migrants was about 1.225 thousand (Entorf and Moebert, 2004: 10). The existence of an off-the-record sector, imposition of tighter border controls to labor migration and high employment costs in the destination country encourage the recruitment of illegal migrants (Bosswell and Straubhaar, 2004: 4). As a result of inspections (in France), it is observed that illegal recruitment is especially common in small size companies where labor unionization efforts are weak (Miller, 1995: 4). The size of the off-the-record economy, the existence of sweatshops, fierce competition, the heavy load brought by the regulations, restrictions and obstacles imposed on legal migration, increasing wage differences between countries increase the magnitude of illegal migration and labor. Actually, the existence of a pioneer group of migrants plays an important role in the illegal migration. These migrants, who usually own small size companies, help their relatives and citizens, provide networks, and are important employment sources.

Great economical differences between countries also encourage illegal migration. Mexican migrants earn nine times more in the U.S., the Polish construction workers earn three times more in Germany and Indonesians eight times more in Malaysia than in their own country (IOM, 2003: 66).

Demand for illegal labor is especially high in agriculture, production, construction, textile and service sectors. Since the agricultural activities are seasonal and involve higher job rotation, employers in this sector prefer illegal migrant workers. It is claimed that the number of illegal migrant workers is quite high in small size industrial companies, tourism and hotel management, food, housework and some service areas in countries like Italy, Spain and Portugal. The illegal workers usually take jobs that the locals refuse (OECD, 2000: 59).

Within the European Union, there is illegal migrant worker flows from the lesser developed countries to the more developed ones. Especially the large off-the-record sector in Italy provides seasonal work opportunities. Without the need to take a visa, significant amount of workers go from Poland, Check Republic and Slovakia to the Schengen countries (OECD SOPEMI, 2003: 83). There are also migratory flows

from countries such as Bulgaria and Romania of which the membership status is granted at a certain date.

#### IV. Illegal Migrants in Various Countries

It is estimated that there might be 7 to 9 million illegal migrants in the U.S. by the year 2000 (Martin and Midgley, 2003: 7). As for the EU countries, yearly 400,000 to 500,000 people smuggle into the EU countries and there are approximately 3 million illegal migrants in total in those countries. The prostitutes from Eastern Europe, Asia and Africa constitute almost half a million of them, and they form an important source in the illegal migration phenomenon (de Tapia, 2003: 29). This kind of migration does not only take place to the developed countries, but also to the countries which have relatively better conditions than the migrant's home country and which are geographically close to travel. Likewise, Cote d'Ivoire and Nigeria in West Africa, and the South Africa are important poles of attraction for the illegal migrants. According to the estimations, there are three to eight million such migrants worldwide. It is stated that after the collapse of the Soviet Union, approximately 2.7 million people might have gone to Russia between 1993 and 1996, and there might be 400,000 illegal migrant workers in Moscow. A similar case can also be observed in Latin America. Although there is a significant amount of migration to the U.S from this area, it is known that there are migratory flows to Argentina, Brazil, and Mexico from the neighboring countries. It is mentioned that only in Argentina there are 200,000 migrants who have come from Peru, Bolivia, and Paraguay for this purpose. Guatemalans migrate to southern Mexico to work in coffee production (Stalker, 2000: 31-32). There are some data regarding the number of the illegal migrant workers in Japan. In 1993 there were 300,000 people, who had entered through legal channels, but who continued to stay after their visas had expired; this figure is 287,000 in 1995 and 277,000 in 1997 (these do not include those who entered illegally). The number of the illegal migrant workers arrested by the police decreased from 64,341 in 1993 to 40,604 in 1997 (by 1997, 25 % of them were Korean, 18.8 % Chinese, 12.2 % Philipppines, 10.8 % Thai, and 5.35 % Iranian) (Iguchi, 2000: 158,161).

In Australia, since mid-1999 9,500 boats trying to reach the coasts without legal permissions were arrested, and by June 2002 the number

of visitors who continued to stay after the expiry of their legal permits were about 60,000 (Dauvergne, 2003: 14).

The results of the population census of 2001 in Spain show that there are 1,572,017 migrants in the country, only 1,109,060 of whom have valid residence and work permits. Between 1997 and 2000, apart from the migrants from Eastern European countries, there are 65,000 to 91,000 people migrating to Holland each year from the Third World countries. In addition to these, every year 47,000 to 72,000 people emigrate illegally from Eastern European countries. The figures regarding the illegal migrant workers remain as only estimations, and various statistical calculations come up with quite different results. For instance, in the studies on Austria, Biffl (2001) indicates that there are 47,000 people recruited in the off-the-record sector, whereas according to Schneider (2002) 85,000 foreigners work in the off-the-record sector on full-time basis; Pichelman (1994) mentions that there are 80,000-100,000 illegal workers in the 1990s (Jandl, 2004: 150). The Association of German Police Unions claims that every year 100,000 people smuggle into Germany. According to the Migrant Services Centre there are approximately 1 million illegal migrants in the U.K. According to the police estimates there are 10,000 illegal migrants in Ireland, 500,000 in France, 60,000 in Portugal, and 90,000 in Belgium. It is indicated that every year 95,000 Albanian, Romanian and Iraqi enter Greece through illegal channels (IOM, 2003: 253). It is claimed that the number of illegal migrants throughout the world is approximately 20 million (Dauvergne, 2003: 14), and according to the calculations of ILO, illegal migration has a share of 10-15 % in the volume of legal migration (Schatzer, 2005).

The OECD reports state that the majority of illegal migratory flows originates from a small number of countries and takes place to the countries that are geographically close. According to this (OECD, 2000: 62), Africans generally go to France, Mexicans and Central Americans to the U.S., North Africans and Filipinos to Italy and Spain; Portugal has migratory flows usually from its former colonies. Geographical locations and traditional ties also determine migratory flows. With the addition of new migrant nations, we can see Senegalese, Chinese, Albanians and Romanians in Italy; Chinese and Polish in Spain; Haitians, Zairians, and Chinese in France forming new migrant structures.

## V. Regulations for the Illegal Worker Migration

Countries facing the illegal migration problem act in different ways according to the circumstances that they are in. Economic and political concerns usually affect the necessary interferences against migration. France started to control migration only after 1974, along with its economical recession. The United States, on the other hand, started to impose legal regulations only in 1986 in order not to interrupt the inflow of the labor force necessary for the economic prosperity. In the case of Italy and Greece, geopolitical concerns prevail; hence illegal migrations to these countries are mostly from the neighboring countries. For this reason, imposing controls against illegal migration is an unresolved issue with "who may enter" and "when" questions (OECD, 2000: 55 -57). The receiving countries eventually prefer to accept the presence of these people along with their marginal conditions, or try to get them out of these conditions by granting amnesty.

In the U.S. 2.7 million migrants were granted legal status by a law passed in 1986. Similarly in Europe, starting from the 1970s, 26 regulations were enacted (in spite of being a country which shelters a large number of migrants, Germany has not enacted any regulation of amnesty for illegal migrants). Only in five EU countries 1.5 million migrants have been granted legal status since the 1990s. Italy granted legal status to a total of 716,000 migrants in three times; Greece accepted the presence of 370,000 migrants especially coming from the Eastern Europe and Balkan countries through legalization programmes between 1997 and 1998; in Spain the status of 260,000 migrants from Africa and Latin America, and in Portugal the status of 61,000 migrants have been legalized. Furthermore, in the last five years approximately one million migrants have applied for amnesty or legalization programmes in EU countries (IOM, 2003: 254-60). It is important to note that amnesty applications erase the past but do not affect the future (Tapinos, 2000: 34). The statement of the Spanish government in 2005 granting work permit to those who have been staying for more than six months in the country is the latest example of such legalization attempts. Likewise, these regulations did not cause any decrease in the number of illegal migrants, but eliminated their marginal status in the receiving country. In other words, it did not prove to be successful in preventing illegal

migration because the possibility of amnesty or legalization programmes further encourages such kind of migration.

In spite of the public pressure in the developed countries to restrict migration, none of the receiving countries could apply any plan to return the migrants to their home countries. Even though the public opinion is in favor of imposing restrictions on the entry of migrants, it is reluctant to send them back to their countries of origin (Tapinos, 2000: 33). Policies and regulations to control migration phenomenon are totally the discoveries of the 20<sup>th</sup> century. Even though there were passports and border checks formerly, most national borders are now well defined and there is the need for passports and visas. These developments paved the way for the national and international law. With increasing globalization, national migration law and policies remained insufficient, which would inevitably lead to international collaboration and application of mutual policies between countries (Dauvergne, 2003: 3-5). Yet national political approaches are effective in determining migration policies as countries differ in economic structures. Therefore, even though there are similarities in the policies of the receiving countries, they differ in legal regulations and political approaches.

The regulations about migration in the OECD member countries can be categorized into four groups. Namely these are (OECD SOPEMI, 2003: 85), first to control the national and international migratory flows (including refugees), second to combat irregular migration and labor insertion of illegal migrant workers, third to improve the recruitment conditions of the foreigners and ensure their integration into the receiving country, and finally to develop international collaboration on the migration issue.

Especially, starting from the 1980s, the regulations determining migration policies of the countries focused more on the local, regional, and supra-national levels. European and North American countries which are subject to large migratory flows prefer to reach bilateral or multi-lateral agreements with the source or transit countries. EU member countries chase to harmonize visa application, entry, residence, and asylum policies within the regional integration process (Guiraudon, 2001: 34).

Table 2. Typology and examples of the de-nationalization of migration policy

Upwards Delegating competence to the supranational level	Downwards Delegating competence to the local level	Outwards Delegating competence to the private sector
<ul style="list-style-type: none"> <li>• Setting up intergovernmental or EU negotiating forums on issues on migration and asylum (Trevi, Schengen, Dublin, Third pillars)</li> <li>• Reforms/treaties that reinforce transnational police cooperation, information exchange, multinational border units</li> <li>• Establishing common criteria, procedures (for visas, asylum...)</li> <li>• Readmission agreements</li> </ul>	<ul style="list-style-type: none"> <li>• Reforms that give local or regional elected officials competence with respect to the visit of foreigners, family reunion, marriage with foreigners</li> <li>• Reforms that give local or regional elected officials discretionary powers with respect to the delivery of social services or that require that they verify the status of claimants</li> <li>• Cooperation with "borderland" municipalities</li> </ul>	<p><i>Through regulation:</i></p> <ul style="list-style-type: none"> <li>• Carrier sanctions</li> <li>• Employers' sanctions</li> <li>• Laws that criminalize the harboring of illegal aliens or the failure to report known illegal aliens</li> <li>• Laws on the financial liability of sponsors for immigrant newcomers (in the US and Canada) By "contracting out":</li> <li>• Contracting out of security companies in airports or private prison providers for detention centers</li> </ul>

Source: Guiraudon, 2001: 34.

EU and NAFTA member countries which usually apply common practices (regarding asylum seekers, refugees and illegal migrants) also enter into agreements with source countries, such as bilateral agreements with North African countries which constitute the main passageway for illegal migrant to enter EU (between Spain and Morocco in 1992, between Holland and Morocco in 1993, between France and Algiers in 1994, between Italy and Tunisia in 1998). According to these agreements, if the migrant who smuggled into the receiving country is

found to be a citizen of the so-called countries, he or she will be returned to the home country (Guiraudon, 2001: 36). Thus, the receiving countries become able to share with the source countries some of the responsibilities for the control of illegal migration.

On the other hand, while EU provides new opportunities to its member states with its unique institutional structure, it also involves problems in creating analytical institutions to regulate migration. This situation stems from, to a great extent, the large number of parties involved and the differences in approaches and benefits. So far EU has not been able to determine a common policy on the migration issue, but has made some limited progress.

While the common institutions of EU develop institutional strength, they weaken the power of national governments. However, in some instances, governments are reluctant to leave the privilege to determine their national policies to these institutions. One of these national policies is the migration issue. For thirty years, the struggle continues on this subject. In 1985, the core countries of the EU (Germany, Belgium, Holland, France, Italy and Luxemburg) accelerated the integration process on migration policies. In 1990, with the Dublin Convention they took a step forward, and in 1992, with Maastricht Treaty common interest areas were determined; however, a common policy could not be created. Amsterdam Treaty was another step forward for the development of common migration policies. The main points, on which a consensus was reached, were related to illegal migrants and asylum seekers. So far EU could not formulate a supra-national policy on the migration issue. Until the end of 1999, the immigration issue remained marginal within EU. It is with the Amsterdam Treaty that studies were initiated to determine the fundamentals of a common policy about migration. However, these studies are rather slow because of the reluctance on the part of the member states to further collaboration and their inability to determine a consistent policy about migration phenomenon (Shafagatov and Mirzayeva, 2005: 80-81; Dauvergne, 2003: 16-18). On the other hand, important moves were added to the developments of the Amsterdam Treaty later on with Tampere and Seville Summits. By mid-2000, during France's presidency period, in order to combat illegal migration the

Commission put forth proposals within the framework of the Article 67.1 EC, and prepared a Council Action Plan. The process of developing common policies regarding migration and their implementation is expected to accelerate after the acceptance and enforcement of the Constitution by all the member states.

In spite of the reluctance of the member countries to form common policies, their national policies include quite similar applications in reality. The difference is only in their understandings and approaches. The problem lies in the compromise of the national economic priorities with the institutional structure and understanding.

On the other hand, the "snowball effect" in the Continent Europe contributes to the development of common policies. A political decision on migration of a country is followed or imitated by another neighbor country; consequently, common applications propagate throughout the continent. There are numerous examples of this phenomenon, especially in the North European countries. Holland imitated the migration and asylum policies of Germany. Thus, a decision may propagate to other countries by snowball effect, and be put into effect; later on, when these decisions and applications turn out to be institutional, they become common policies of the EU (Guiraudon, 2001: 50). The existence of social, cultural, economic and legal differences between the member countries constitutes the main obstacle to the development of common policies. However, EU can declare this fact only after the determination of such a policy which provides solutions for common interests of the member countries (Apap, 2002: 326-327).

When the measures to prevent migration abroad fail or prove to be insufficient then internal controls are tightened. Restrictions on or prohibitions against the utilization of the social services by the migrants and the sanctions on the employers are the foremost examples of such measures (Pecoud and Guchteneire, 2005: 2). Receiving countries, after reforming their migration control policies in the 1980s, started to share their authorities with the local and regional administrations. For instance, the duties to detect fake marriages were delegated to the Municipality in Holland. In the U.S., the authority to recognize citizenship and some other legal rights of migrants were given to the Federal institutions. The responsibilities of the private institutions are

determined according to the tasks that are to be performed in the country or outside of the country. Airline companies are not supposed to provide transportation services to the passengers lacking visas, otherwise they are to be fined; or companies that recruit workers without residence and work permits are to be fined (Guiraudon, 2001: 37-42). In England, employers are fined 2,000 pounds per each illegal worker they have recruited. However, there are practical difficulties in putting sanctions into effect or applying them to the employers; although employers are supposed to recruit legal workers with all necessary documentation, it is not a common practice to interrogate them. Local administrations are the ones to control the documents that are to be submitted by the employers; however, they are usually subject to the pressures of possible economic outcomes (Tapinos, 2000: 35).

It is observed that in Italy only half (114,554) of the foreigners who had been given legal work permits by the National Social Protection (228,229) were declared in 1991. Similarly, in Germany, France and Holland, it was detected that workers of certain companies were declared as free-lance employees (Marie, 2004: 59-60). The attraction of the off-the-record employment by means of which employers can eliminate their economical and social burdens, causes the illegal recruitment of even the legal migrants. Besides the difficulty to control the employers, audits are reluctant to fine small and marginal companies (France) since the fines are too heavy for them to bear and survive (Miller, 1995: 15-20). Similar failures in giving sanctions to employers have been observed in the U.S., Germany and Switzerland (Bhagwati, 2003: 3-4), because a possible punishment can hinder the operations of the companies, and consequently has negative impacts on the local economies. As illegal recruitment is a common practice among small-sized companies which do not have sufficient competition powers, the success in giving sanctions to employers has been relative so far.

Furthermore, the expectation to arouse ethical concerns within the society about the employers who have been fined because of the illegal recruitment of migrants is not realized so far. Even though the business organizations who are involved in illegal activities such as smuggling or fraud are perceived with concerns in the business environment, recruitment of illegal migrant workers is not evaluated within the same

context. Rather, it is considered as a need within the scope of the market conditions and fierce competition and, to some extent, necessary for the organization to continue its operations and survive. Therefore, it seems it is not possible to form ethical judgments for this issue within the society.

On the other hand, it is not realistic to claim that developed countries receiving migration have been successful in preventing migration, in spite of all the measures taken to increase border security by installing more officials, utilizing high technology, outsourcing these services to private institutions, which account for yearly 25-30 billion dollars cost (in 25 prosperous countries in total) (Pecoud and Guchteneire, 2005: 2-4). In the U.S. of which migration policy is concentrated on the entry (visa system), only 30 % of the people who had smuggled in can be caught (Tapinos, 2000: 32), and more than 50 % of the illegal migrants are constituted by those who had entered through legal channels (Bhagwati, 2003: 3-4). Despite all the visa regulations and tighter controls on recruitment processes, employment opportunities of the country continue to attract illegal migration. All the laws and regulations so far did not prove to be successful at controlling illegal recruitment. Similar cases are also observed in other developed countries where the number of illegal migrant workers is gradually increasing.

#### The Turkish Case

Being a neighbor to the EU member countries (may be a member in a while!) and with the opportunities she offers as a result of her economic and political development level, Turkey is in the dilemma of being both a receiving and a source country. The incoming and outgoing migratory flows also cause migration diversity. For this reason, Turkey is not only a source country but also a destination and a transit country.

Having over four million citizens living abroad, Turkey strongly experiences the dilemma of being both a receiving and source country with 100,000–120,000 migrants coming from the EU member countries apart from those coming from the neighboring and other countries (Kirişçi, 2004: 6). The number of migrants who try to smuggle in the country boomed in recent years. Between 1995 and 2004, the number of

migrants who were caught while smuggling in or out, or illegally staying in the country, is 512,000. According to the records of the Internal Affairs Ministry, between 1995 and 2002, the number of the foreigners who entered the country through legal channels is 73,025,351 whereas the number of the exiting foreigners is 68,783,644. Thus, according to this data 4,241,707 foreigners must be still in the country. There is no information on how many of these people stay in Turkey and how many of them left for other countries (Gençler, 2004: 177). The official data demonstrates that Turkey is both a significant transit and receiving country regarding illegal migration.

Turkey has been criticized by the leaders of the EU member countries for her liberal visa policy and her attitude towards illegal migration. In order to get through these criticisms, Turkey passed the Code no. 403 on 03/06/2003 which made it difficult for the foreigner to get the citizenship right. Furthermore, on 27/02/2003 "The Law Concerning the Work Permits of the Foreigners" was passed (the regulations went into effect on 06/09/2003), thus making it possible to fine illegal recruitments. In August 2002, Turkey also approved the Convention which was accepted by the United Nations in 2000.

Turkey whose membership negotiations have started in October 2005, have been trying to integrate her policies on migration with those of the EU. For this purpose "National Action Plan Concerning the Harmonization with the EU Acquis Communautaire on Asylum and Migration Regimes" was prepared and approved on March 25, 2005 by the Prime Ministry. Turkey accepted to align her existing twelve laws and two regulations related to asylum and migration, with the EU Acquis Communautaire (until the year 2014, the expected membership date).

In the process of harmonization with the Acquis Communautaire on visa policy, migrant regime and fight against illegal migration, Turkey will probably face new problems. Adoption of a new visa regime which will be in alignment with the EU Acquis Communautaire will reduce, to some extent, the number of legal entries from the source countries. However, it is quite difficult at present to prevent illegal entries, despite these tighter regulations. Turkey's south and east neighbors are economically less developed and struggling in the middle

of political uncertainties. Therefore, in order to increase the border security in this region and install new, modern technical systems, an investment of minimum 1 billion Euros is necessary. These are the burdens and tighter measures brought by the process of harmonization, while there are some other problems which will stem from the EU Acquis Communautaire. For example, by accepting the Genoa Convention dated 1951, Turkey secured, to some extent, her eastern borders against possible refugee rushes with "geographical border restriction". Yet, with the Constitution, Turkey is supposed to remove this restriction which may result in a substantial amount of refugee flows into the country.

In order to combat illegal migration, Turkey chooses to enter into bilateral agreements. For this purpose, agreements with Greece in January 2000 (which went into effect in April 2002), with Syria in September 2001 (which went into effect in June 2003), with Kyrgyzstan in May 2003 (which went into effect in February 2004), with Romania in January 2004 and with Ukraine in June 2005 were signed. While the negotiations concerning migration policies with Russian Federation, Uzbekistan, Belarus, Hungary, Macedonia, Lebanon, Egypt, Libya, and Iran are still continuing, Turkey proposed readmission agreements to Pakistan, Bangladesh, India, Peoples Republic of China, Tunisia, Mongolia, Israel, Georgia, Ethiopia, Sudan, Algiers, Morocco, Nigeria, and Kazakhstan.

## VI. Concluding Remarks

Even though the ratio of international migration in the world population has not altered significantly for a couple of centuries, the migration phenomenon occupies the priority on the agenda of the receiving countries in particular. The main reason lying behind this is the aggressive attitude of the migrant demanding countries as a result of their failure to restrict migrant labor surplus, against all policies and obstacles that they developed.

Each country has the freedom to take determinant and controlling decisions and to apply policies regarding its internal issues. However, countries are usually exposed to external effects in the implementation of such policies, and they often fail to overcome these effects. Thus,

countries try to meet their demand for labor from other countries that have labor surplus, with the aim to accomplish their macroeconomic targets. If the demand for labor changes or disappears according to the economic conditions, then the country policies will be adjusted to prevent the migrant labor inflows. Nevertheless, the difference in the development level of the countries, tremendous technological improvements in the communication means, easier travel possibilities and increasing global information transfer cause the labor flows formally forbidden by the developed receiving countries to be realized through informal means. Apart from the individual decisions to accomplish this action, encouraging policies of the source countries either in an explicit or implicit way contribute to the failure of the policies to restrict migration.

The increasing volume of migration taking place through informal channels, against all the hindrances, today appears to us as an illegal social phenomenon.

Even in the case of legal migrants, both the receiving and source countries expect that these people will return their home countries (Martin and Straubhaar, 2002: 11). On the other hand, in the case of illegal migrants, the receiving country has a single objective which is to send them back, except for some extreme cases (such as amnesty). However, it is also suggested that instead of sending them back to their home countries, receiving countries may try to integrate them and utilize their economical benefits, as dramatic differences in the development levels encourage immigration (Bhagwati, 2003). As a matter of fact, the liberation movements excluding labor contribute to the gap in the economic welfare between countries. However, according to some economics circles, the abolishment of the restrictions on migratory flows will support the development of the world economy (Pecoud and Guchteneire, 2005: 10). Migration in general, illegal migration in particular, helps to construct equilibrium in the labor markets of the host countries, to some extent, since they can meet the implicit demand of such markets. Thus, increasing the economic added value of the receiving country, they contribute to the economical development though in a limited way. On the other hand, their remittances help to meet the demand for liquidity which is needed for

consumption, imports, and investments in the country of origin which will, as a result, contribute to the development of the global economy.

The transferred amount per illegal migrant is certainly more than the transferred amount per legal migrants, because the illegal migrant with the fear of being caught at any moment, immediately tries to transfer the money he or she has saved, whereas the legal migrant does not have such a concern and can have various investment habits.

In spite of the benefits provided by the illegal migration phenomenon, receiving countries try to impose various regulations in order to prevent it, due to its illegal status and to domestic pressures. However, the experience shows that legal restrictions, tighter measures at the borders, and fines to employers prove to be unsuccessful in preventing such migratory flows (Salvator, 1998: 387). For this reason, we can conclude that legal regulations cannot be sufficient to prevent the illegal migrant labor. The main reason of migration lies behind the global injustice in development. In order to prevent this, policies that consider the competition and production powers of both receiving and source countries must be put into effect; the source countries must be supported by technology transfer and expertise through the Foreign Direct Investment, leading to new employment opportunities in emigration countries; new investment policies must be applied to sustain economic development in these countries; and seasonal employment opportunities must be created (Martin and Straubhaar, 2002: 12; Schatzer 2005). Only if these policies can be effectively applied, migrants will stay in their source countries and this can be accomplished through increasing the global welfare.

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