

**LABOR MIGRATION IN EUROPE WITHIN THE CONTEXT OF
DEMOGRAPHIC CHALLENGES**

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Approval of the Graduate School of Social Sciences

Prof. Dr. Sencer Ayata
Director

I certify that this thesis satisfies all the requirements as a thesis for the degree of Master of Science.

Prof. Dr. Ali Gitmez
Head of European Studies Graduate Programme

This is to certify that we have read this thesis and that in our opinion it is fully adequate, in scope and quality, as a thesis for the degree of Master of Science.

Prof. Dr. Ali Gitmez
Supervisor

Examining Committee Members

Prof.Dr. Ali Gitmez

Prof. Dr. Ziya Öniş

Assoc.Prof.Mehmet Okyayuz

I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

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ABSTRACT

LABOR MIGRATION IN EUROPE WITHIN THE CONTEXT OF DEMOGRAPHIC CHALLENGES

İlkserim, Yıldız Ayselin

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Supervisor: Prof. Dr. Ali Gitmez

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Today, it is a very crucial problem that many European countries are encountering demographic challenges stemming from the population decline and aging and according to many studies and future projections, this demographic trend will reach more critical levels for the next 50 years. The most prominent impact of this demographic situation will be on social security systems that the functioning and sustainability of pension and health care systems will be severely damaged with regard to the rapidly increasing number of elderly and the decline in number of young labor force resulting from the low births rates all over Europe. In this context, labor migration that received significant attention, has risen up to the agenda of Europe to serve as a policy option to mitigate the adverse consequences of demographic challenges. Taking its impetus from the mentioned demographic problem, this thesis aims to analyze the discussions over labor migration as a foreseen policy option to compensate the shortage of labor force in Europe. It also intends to bring relevant data and current debates together to generate a ground in order to open this critical issue to discussion and to elaborate the feasibility of labor

migration need for Europe. In this regard, the thesis scrutinizes the reactions of European states regarding their reluctance to open their borders again for “mass influx” and examines briefly the other preferred and enforced policies that exclude migration option, such as aiming to increase fertility rates, ameliorate social security systems or encourage the native labor force participation. By taking all these into account, this thesis aspires to attract attention to this urgent problem and evaluates the labor migration need in Europe by presenting the relevant reactions and appraisals shaping the migration policies both at the nation state and EU level. Finally, this thesis attempts to contribute to the literature in terms of generating a base for further intensified discussions and studies which constitutes a significant need in the context of interaction between demography and migration in Europe.

Keywords: Labor migration, demography, EU migration policy, population aging and decline, replacement migration, illegal migration

ÖZ

AVRUPA'DA DEMOGRAFİK TEHDİTLER BAĞLAMINDA İŞÇİ GÖÇÜ

İlkerim, Yıldız Ayselin

Yüksek Lisans, Avrupa Çalışmaları Anabilim Dalı

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Bu tez, Avrupa'da süregelen nüfus azalması ve yaşlanması sonucu oluşan iş gücü açığını karşılamak amacıyla bir politika seçeneği olarak öne sürülen işçi göçü tartışmalarını incelemektedir. Bu bağlamda, yapılan birçok araştırma ve projeksiyona göre, önümüzdeki 50 yıl içerisinde, Avrupa'daki birçok ülkede, bugün de karşı karşıya olduğu nüfus azalması ve nüfus yaşlanmasından kaynaklanan demografik değişiklikler daha kritik düzeylere ulaşacak ve bu durum yüksek oranda işgücü açığı sorunu beraberinde getirecektir. Artan yaşlı nüfusa karşılık sosyal güvenlik sistemlerinin mali kaynağını sağlayan genç ve çalışan nüfusun azalmasını içeren bu demografik durumun özellikle emeklilik ve sağlık sistemlerinin işleyişine büyük zarar vereceği ve dolayısı ile Avrupa'daki sosyal güvenlik sistemlerine olumsuz bir etkisi olacağı öngörülmektedir. Bu kapsamda, demografik tehditlerden kaynaklanan olumsuz etkileri azaltmak ve önlemeye yönelik bir alternatif olarak önerilen yabancı işçi göçü tartışmaları, Avrupa'daki birçok ülke açısından büyük önem taşımakta ve durumun hassasiyeti göz önünde bulundurulduğunda ivedi olarak irdelenmesi gereken bir konudur. Ancak, ihtiyaç duyulan kaçınılmaz işçi gücü gerçeğine rağmen, birçok Avrupa ülkesi sınırlarını işçi göçmenlere açma konusunda çekimser tavırlar

sergilemektedir. Bu nedenle de, göç seçeneđi dışında, doğurganlık oranlarını arttırmaya, sosyal güvenlik sistemlerini iyileştirmeye ve yerli iş gücü katılımını özendirmeye yönelik farklı politikaları uygulamayı tercih etmektedirler. Ancak, tüm bu politikalar süregelen ve olumsuz yönde gelişme göstermeye devam eden demografik soruna somut ve etkili bir çözüm olmaktan uzaktır. Avrupa'nın gelecekte refahının devamı için, çok yüksek miktarda ihtiyaç duyulan iş gücü, göç olgusunu kaçınılmaz bir gereklilik olarak gündeme getirmektedir. Bu tez, Avrupa'nın yakın bir tarihte karşı karşıya kalacağı bu ciddi soruna dikkat çekmeyi ve göç politikalarını şekillendiren gerek ulus-devlet gerekse Avrupa Birliđi düzeyindeki bu konuya yönelik tepkileri, değerlendirme ve tartışmaları sunmayı hedeflemektedir. Son olarak, bu tez Avrupa'da demografi ve göç arasındaki etkileşim kapsamında, ileride yapılacak olan farklı uzmanlık alanlarından daha yoğun ve derin çalışmalara bir temel oluşturarak literatüre katkıda bulunmaya çalışmaktadır.

Anahtar Kelimeler: İşçi göçü, demografi, AB göç politikası, nüfus yaşlanması, nüfus azalması, yasadışı göç

To my all, Selim Haldun İlkserim,

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CHAPTER 1

INTRODUCTION

The history of Europe had been shaped by migration and at the eve of European Union's (EU) gradual formation it seems to be the same again that migration will certainly play a significant role in shaping the future of Europe. At the beginning of the twenty-first century migration once more stands as an inevitable reality and immediate need for the future welfare of many European countries under the course of critical and persisting demographic challenges.

Migration has always been a very important but controversial issue in Europe. It is very often perceived as a burden on the society, but on the other hand many times it proved to be a benefit. Several times in the European history it acted as a decent solution to severe problems, first by sending out migrants while expanding international, transitional economy in the 19th century and then by accepting migrants to overcome labor force shortages while rebuilding the European economies after the Second World War. The beginning of 21st century has brought Europe new challenges which induced to open new discussions on migration in a new context of environment. It is the case that two demographic phenomena, aging and population decline will shape European populations in the 21st century and will have profound implications on all sectors of European economies. In this regard, migration comes onto the agenda as an effective strategy and in fact a reality.

Many studies and projections devote attention to a very vital reality that Europe is severely facing demographic challenges stemming from population decline and aging. Higher life expectancy due to higher welfare standards, and lower fertility rates are the driving forces behind a secular trend towards this demographic trend. Among many other projections, the United Nations (UN) clearly supports this claim in its much debated report of March 2000 titled “*Replacement Migration: Is it a*

*Solution to Declining and Aging Populations?*¹. According to this report, it is a major concern that all countries of Europe are expected to decrease in population size with a relatively rapid aging process over the next 46 years. Most significantly, population decline and aging will be on such a scale that, it risks undermining the European social model as well as economic growth and stability in the European Union. Since, the critical decline in the potential support ratio² (PSR) of working age people to the non-working age population, will negatively affect the labor markets in Europe. A smaller proportion of population in the age group of 0-14 years in West Europe (around 19 per cent of total population, compared with world average of 33.5 per cent), alongside a relatively large group of people, aged 65 years or more, implies that the growth of European labor force is nearly at an end. Over the coming decades the number of older people will persist to rise sharply in relation to people of working age. Ghosh emphasizes that by the turn of the century especially West Europe would be unable to meet the manpower requirements of its economic growth. (Ghosh, 1994: 232). As the most significant result of this process, with the increasing labor force shortages originating from the demographic dynamics, there is no doubt that the financing and the sustainability of the present systems of social security especially highlighting the pensions and health care for the elderly would be extremely damaged even under the risk of collapse. The change in population structure exacerbates already serious financing problems for old-age retirement programs. This will either impose an intolerable tax burden on future workers or force more of those over age 65 to remain in the labor force.

Under these conditions, like many other scholars, the UN report concludes and exerts special emphasis on the fact that Europe will need massive amount of labor migration which is specifically studied as “replacement migration” in order to compensate and plug the required labor force shortage which will contribute to the economy and to the financing pool of the social security systems for the increasing number of elderly. The report analyzes the international migration that the European countries would need to offset population decline, offset declines in the working-age population, and maintain current ratios of workers to the over-65 population. It is

¹ All the necessary information concerning the terminology and methodology of the report will be presented in the following chapters more in detail.

² Potential support ratio is the ratio between the population in working age group 15-64 years and the population 65 years or older (UN,2000)

suggested that in order to maintain a constant “support ratio”, the number of working people for each person older than 65, the EU would need to achieve net annual migration of 13 million new migrants per year between 2000 and 2050 to cope with these potential problems. This is a very huge number of mass migration that Europe has never experienced in its history before. Thus, particularly with the UN report that has captured much attention and raised the eyebrows of international spheres, migration is proposed as this time in the history as a policy option to balance the demographic situation and mitigate its negative impacts on the labor markets in Europe. Consequently, demography drove migration policy to the top of the EU agenda again. However, the role of migration in European population change has come under increasing scrutiny concerning growing concerns of many European countries. The critical point which stimulates Europe is the foreseen high numbers of immigrants needed to offset declines in the working-age population and to reassess again their migration policies by opening the doors of the borders to the new comers.

Whereas European demographers have sounded warning bells for at least the last 30 years and “replacement migration” came on to the agenda as a suggested policy option to declining population and aging of labor force, most of the EU countries hesitated to respond firmly to the migration option until 2000. Even worse, they did not recognize the ongoing demographic situation as a threat for years. It is very recent that they declare the demographic trend they are passing through. Ultimately, Member States are trying to set out clear strategies and policy options for ensuring the adequacy of their social security systems without undergoing a huge amount of mass migration. Thus, they develop policy responses and propose some strategic solutions different from migration due to the fear of possible negative effects and costs of anticipated labor migration. These policies mainly aim to increase fertility rates or ameliorate the social security systems (increasing retirement age, promoting labor force participation or encoring private pension systems etc) The question is whether these alternatives allow for quick adjustment and supplies the profile of workers needed in the labor market. All alternative policies to labor migration prove to be failed or insufficient. It is notable that no single type of policy intervention will necessarily slow fertility declines. Although fertility rates tend to be higher in Member States implementing a sound policy of reconciliation of family and working life, they remain too low to prevent population aging. On the other hand, the policies and reforms to ameliorate the social security systems do not offer a

consistent long-term solution. Hence, it is noteworthy that without absolute migration, no reasonable policy measures will be able to counteract this change in the demographic structure of the European Union and its negative impact of the future welfare of Europe.

The statement of EU Commissioner, Anna Diamantopoulou summarizes the crucial process that EU is passing through in a very concrete manner:

The need to import labor is something that will present itself over the next few years and very much more in the next generation because Europe has a serious demographic problem. Europe is aging. No matter how hard we, in Europe, try to have an active aging policy as well as a policy for the entry into the labor market of women and other groups that do not work today, we will not be able to meet the changing needs of the labor market. So, certainly we will have a need to import labor in the near future.

After all, this study aims to evaluate and analyze the changing new context of current labor migration discussions and perceptions throughout Europe which emerges as an inevitable reality with reference to the demographic challenges. The study tries to present this conceptual framework as much as possible in a clear and comprehensive manner by paying special attention to support the facts it discusses with available current examples and further statistical data. The structural frame of this study comprises six chapters aiming to explain this broad issue as much as in a specific but intense way of handling.

After the introduction, the second chapter focuses on the demographic changes in Europe stemming from population decline and aging and it clearly explains the situation by presenting statistical information and other conducted researches. In this regard, the likely impact of aging and population decline on European labor markets is thoroughly analyzed in terms of the social security systems. Although the demographic situation affects and exerts influence on the labor markets from many aspects in terms of wages, productivity, savings, national income and etc., this study limits its focus only with the impact on social security systems which constitutes one of the most vulnerable components of welfare systems that can be damaged severely by consequences of the population change in Europe. With the aim to take attention to the critical demographic trends, the study just takes the social security systems as an example to reflect the serious undesired outcomes

that demographic challenges would possibly bring for the future welfare of Europe. The latest part of the first chapter addresses the discussed policy responses to the negative impacts of the demographic challenges that are classified under three main groupings. These cover the pro-natalist policies aiming to increase fertility rates, reforms to the social security systems and policies to increase labor force participation, and finally it makes an introduction to the migration as a policy response.

The third chapter provides a deeper analysis of labor migration as a policy option which came to the fore as one of the main prominent debates in Europe. It examines and looks at the debates and the relevant arguments of scholars that are dominated under the proponent and opponent stands. All the discussions including whether migration is required or not or to what extent it should be accepted and designed, besides its benefits or costs to the economic and social aspects of the societies are predominantly presented in this part. Within this regard, this chapter also gives a historical overview of migration and population trends in Europe during the second half of the twentieth century in order to give a general idea and a reference of the past experience to better grasp today's discussions. This chapter also provides insights to the debates which address the possible trends of inward migration from the new member states of Central and Eastern Europe to the Western Europe as a result of the enlargement process. From such a vintage point, the arguments concerning whether there will occur a high migration wave from the new Member States in the legal framework which allows the free movement of labor and if so whether the amount can compensate the required amount of labor force is analyzed in accordance with the statistical studies conducted in this context. In the last part of the chapter, as the EU Member States put a critical eye on the foreseen migration trends, the current implemented strategies and policies to offset population decline and Aging excluding migration are tried to be put forward in the context of the complex political debate that is associated with policies that aim to affect demographic behavior.

After discussing the migration coming again on the agenda of Europe, in the context of a policy option stemming from the demographic challenges, chapter four reviews the reactions and considerations of European states to this fact. Taking start with the outstanding debate of "Fortress Europe" which receives more attention nowadays in the migration literature, the dilemma between the restrictive migration

approaches of European states and foreseen labor force requirement which paves way for a new open and active migration approach formulates the general essence of this chapter. “Fortress Europe” discussion is followed by an examination of current labor-migration policies and the extent to which demographic considerations are influencing the development of new labor migration initiatives in Western Europe. Considering the fact that EU countries demonstrate diverged migration policies with respect to their distinct nature and interests, three EU countries, United Kingdom, Germany, and Italy will be highlighted in terms of clarifying and presenting three main points of view to the labor migration at the nation state level in Europe. One of the reasons that why UK and Germany are studied as pioneering countries is that they are two old immigration countries which have experienced large waves of immigration throughout the postwar period. Moreover, they continue to attract large numbers of prospective labor migrants on one hand and also the undocumented immigrants and asylum seekers who attempt to enter their territories seeking better employment opportunities and living conditions on the other. However, Germany and the UK have diverged since the late 1970s in terms of their migration policies. The differing standing points of these two countries with regards to migration policies lead the two main examples which would notably contribute much to the elements and context of current and future migration policies among the Europe. In this context, special focus will also be devoted to Germany, as it was always emerged as the leading country of the EU integration process in many aspects. On the other hand, Italy is scrutinized as the third country because it represents the lowest fertility rates together with the fact of being one of the oldest countries in the world and besides if it does not allow immigrants to compensate the growing number of labor shortages, it is considered as a critical country to be severely affected in the future owing to its serious demographic trends. Thus, Italy acquires particular significance to be analyzed in terms of its immigration policy. Coming to evaluate the general perception of migration issue at the nation state level by taking into account the migration policies of other European countries, it is commonly observed that in general, European countries are formulating and assessing their policies on the grounds of sector based skilled and unskilled labor context. Hence, the trends towards importing skilled and unskilled labor policies will be examined with the support of current examples and data. This part will bring a very crucial fact to the fore which deserves significant attention with reference to the attitudes of especially

the employers and some governments to turn a blind eye to treat illegal migrants and asylum seekers as source of their need for the low skilled short term labor force.

The final chapter which provides remarks about the role of the EU level initiatives in terms of harmonizing migration policies towards the aim of succeeding a common migration policy constitutes the complementary part of the discussion of this study which should not be excluded or underestimated in determining the new context of migration phenomena. It is no doubt that, the evolution of migration policy at the EU level will contribute to the future migration trends, regulations and common implications. However, there exists a dilemma for the Member States to cede sovereignty to a supranational authority to decide on migration issues. Thus, the clash of intergovernmental and supranational debate in the migration context will be opened to discussion primarily. This will generate a basis in order to better grasp the slow and constrained evolution process of migration policy at the EU level. The long history of this development will be chronologically assessed by focusing on the related Treaty frameworks and the revisions. Finally, in order to provide some concluding remarks, this chapter will try to present the collected contributions approaching the future migration policy of Europe.

I believe that this study will contribute to the literature in terms of its feature to attempt to link the two crucial but a new challenging reality namely the demography and migration with special attention to the current implementations and experiences. There has been some researches and studies on the demographic situation of Europe addressing the critical trend for the future and its possible implications on the European welfare. However, these studies mainly embodied in a manner to demonstrate the statistical facts, projections and possible outcomes. Although it is mainly discussed in these reports and studies that migration is a policy alternative to the declining and aging populations, comparatively little attention has so far been paid to discuss it in a more precise manner.

This stems from the fact that migration has always been a sensitive issue for the societies and it always stands as a discussed conflictual phenomena throughout the history with reference to its nature of being multi-dimensional, including many actors, clashing interests and affecting many aspects of life. Within this regard, it should also be noted that this study tries to draw its limits on the demographic concerns and the migration discussion develops around this debate. Therefore, it does

not attempt to determine whether how should be the European migration policy or its elements. Ultimately, this study provides an analysis of labor migration in the future of Europe under the recent and projected demographic developments in order to establish a new context which will shed light to further discussions and researches for many actors such as economists, demographers, political scientists, governments and peoples. This is the immutable nature and result of migration itself as human is the subject matter of all migration studies.

CHAPTER TWO

EUROPEAN LABOR MARKETS CONFRONTING THE DEMOGRAPHIC CHALLENGES

The population of Europe has been aging throughout the twentieth century and nearly all European nations have been undergoing long-term downward trends of aging and declining of their populations. On one hand, as a result of the dropping fertility rates that are going below the replacement level³, natural population growth rates are entering periods of decline, but at the same time, the proportion of elderly dependants continue to grow while the working-age population declines as a share of the overall population. (Rand Europe, 2004: 13)

According to the researches and population projections, this process of demographic change will continue in a more severe trend in the twenty-first century. As the aging population implies an increase in the number of older persons to be supported and cared for by public pensions and health services, the demographic situation entails a considerable economic and political concern about the social security systems and the workforce to pay for the public pensions of an expanding elderly population. Moreover, as the working-age population decreases, countries experience declines in human capital and the substantial change in the demographic structure of the work force in Europe affects the current and future welfare of all age groups, not only the elderly. As a result, the negative demographic trends could have potentially damaging consequences for European economies.

Therefore, the issue of demographic problem has received renewed attention in many developed European countries regarding the negative implications of the demographic changes on the economic structures. In order to mitigate these negative

³ The replacement level is the number of children needed per woman for each couple to replace itself. The global average is 2.1-2.5.

impacts, there are many policy strategies proposed. In the literature, these strategies are grouped under three main headings; raising fertility rates (supporting pro-natalist policies), policies to ameliorate social security systems, and lastly the international migration. However, it is open to discussion whether these policies can solely or together demonstrate a solution for future of Europe in the short or long term.

2.1. Demographic Change in Europe: Population Aging and Decline

The United Nations Report of March 2000, titled “*Replacement Migration: Is it a Solution to Declining and Aging Populations?*”⁴ notifies a forthcoming challenge of demographics for Europe⁵ and assesses the demographic trends in Europe mainly based on two factors: population aging and population decline.

According to the projection mentioned in the report, Europe's population will fall by 122 million until the year 2050, due to the fact that “the populations of most developed countries are projected to become smaller and older as a result of low fertility and increased longevity”⁶ (UN, 2000: 6). Over the next 50 years, the population growth is projected to go well below zero level and it is estimated that

⁴ The report evaluates the future migration scenarios and population levels up to the year 2050 in eight low-fertility countries and two regions (namely France, Germany, Italy, Japan, Republic of Korea, Russian Federation, United Kingdom, United States, Europe and the European Union). In each case, alternative scenarios for the period 1995-2050 are considered by highlighting possible impact of various levels of immigration on population size and population aging. (Saczuk,2003: 8) The UN typically produces three population projections for countries, regions and the world. The main variant in the projections is high, medium, and low levels of fertility depending on the situation of the country, including recent fertility trends and the trends in the determinants of fertility, such as age at marriage and contraceptive use. Medium variant of the UN’s population projection constitute scenario I; scenario II is formed by the same projection but amended by assuming zero migration after 1995. Scenarios III – V compute the number of migrants required to maintain the size of a total population, the size of the working-age population (15 to 64 years), and the potential support ratio (PSR) respectively, on the highest level they would reach in the absence of migration after 1995. (Keely, 2001:104)

⁵ According to the UN Report, Europe comprises 47 countries and areas: Albania, Andorra, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Channel Islands, Croatia, Czech Republic, Denmark, Estonia, Faeroe Islands, Finland, France, Germany, Gibraltar, Greece, Holy See, Hungary, Iceland, Ireland, Isle of Man, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom and Yugoslavia. The combined population of these 47 countries was 728 million in 1995 (UN, 2000: 79).

⁶ All these projections published by UN Population Division (2000) are based on optimistic assumptions of stable or slightly increasing fertility rates and further increases in life expectancy. **The UN projection of given data analyze population dynamics in the absence of mass immigration or emigration.**

especially the countries in Eastern and Southern Europe will experience severe population losses. Populations of Bulgaria and Latvia will decrease by 31 per cent, Italy by 28 per cent, Czech Republic and Spain by 24 per cent. In Western Europe, one of the most affected countries will be Germany, which will lose 11 per cent of its population. This process of changing population structure is giving critical signals for significant European countries with severe reductions as the following table and figure of UN present the basic data to compare the population decline and aging for the year 2000 and the projection for 2050 (UN, 2000: 6).

TABLE II.1. Countries whose Population is Expected to Decline Between 2000 and 2050: Changes in the Total Population and in the Proportion Aged 65 Years or Older

Country or area	Population (thousands)		Population Change		Per cent 65 years or older		Change in proportion 65 years or older
	2000	2050	(thousands)	(per cent)	2000	2050	(per cent)
Austria	8211	7094	-1117	-14	15	30	106
Belarus	10236	8330	-1907	-19	14	25	86
Belgium	10161	8918	-1243	-12	17	28	65
Bosnia Herzegovina	3972	3767	-205	-5	10	27	171
Bulgaria	8225	5673	-2552	-31	16	30	88
Croatia	4473	3673	-800	-18	15	26	77
Czech Republic	10244	7829	-2415	-24	14	33	144
Denmark	5293	4793	-500	-9	15	24	59
Estonia	1396	927	-469	-34	14	29	107
Finland	5176	4898	-278	-5	15	26	72
Germany	82220	73303	-8917	-11	16	28	73
Greece	10645	8233	-2412	-23	18	34	92
Hungary	10036	7488	-2548	-25	15	28	92
Italy	57298	41197	-16101	-28	18	35	92
Latvia	2357	1628	-728	-31	14	27	86
Lithuania	3670	2967	-704	-19	13	27	102
Luxembourg	431	430	-1	0	14	27	84
Netherlands	15786	14156	-1629	-10	14	28	104
Poland	38765	36256	-2509	-6	12	26	118
Portugal	9875	8137	-1738	-18	16	31	99
Romania	22327	16419	-5908	-26	13	31	131
Slovakia	5387	4836	-551	-10	11	27	139
Slovenia	1986	1487	-499	-25	14	32	131
Spain	39630	30226	-9404	-24	17	37	117
Sweden	8910	8661	-249	-3	17	27	53
Switzerland	7386	6745	-641	-9	15	30	104
Ukraine	50456	39302	-11154	-22	14	27	91
United Kingdom	58830	56667	-2163	-4	16	25	56
Yugoslavia	10640	10548	-92	-1	13	23	73

Source: United Nations Population Division, *World Population Prospects: The 1998 Revision*

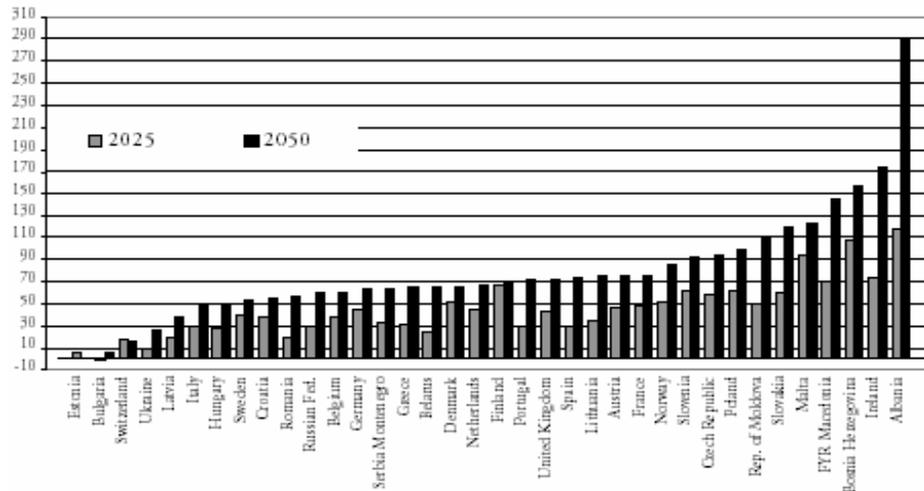


Figure II.1. Relative Population Decline in Selected European Countries, 2000-2050, Age Group 65+ as per cent of Population

Source: United Nations, World Population Prospects- The 2000 Revision; OECD Online Database, May 2002; Calculation: Humboldt University Berlin

A similar population projection has also been done by Lesthaeghe and he concluded that with the below-replacement fertility, the total population of the first twelve EU countries⁷ would be reduced by approximately 20 to 25 per cent by the year 2050. (Lesthaeghe, 1988: 30)

The main factors of population aging and population decline which implies the demographic change in Europe, are mainly caused by, on one hand the declining fertility and mortality rates and on the other the increased longevity. The demographic situation and aging process in Europe is the consequence of the generally low and declining fertility and mortality rates over the last twenty years. As seen in the Table II.2., in the middle of the 20th century, the average fertility level stood at 2.4 children per woman for the countries of the EU 15⁸ and for the future the total fertility rates (TFR)⁹ address a declining trend. Figure II.2. also illustrates the

⁷ Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, and United Kingdom.

⁸ The European Union 15 comprises the countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom.

⁹ Total fertility rate is the mean number of children that would be born alive to a woman during her lifetime if she were to pass through her childbearing years conforming to the fertility rates by age of a given year. This rate is therefore the completed fertility of a hypothetical generation, computed by

declining trend by 1995-2000, that TFR was below replacement level with the average of 1.4 children per woman.

TABLE II.2. Total Fertility Rates, 1950 to 2050, By Country or Region (Number of Children per Woman)

Country or region	Period				
	1950-1955	1965-1970	1995-2000	2020-2025	2045-2050
France	2.73	2.61	1.71	1.96	1.96
Germany	2.16	2.32	1.30	1.58	1.64
Italy	2.32	2.49	1.20	1.47	1.66
United Kingdom	2.18	2.52	1.72	1.90	1.90
Europe	2.56	2.35	1.42	1.67	1.78
European Union	2.39	2.52	1.44	1.45	1.80

Source: United Nations Population Division, *World Population Prospects: The 1998 Revision*

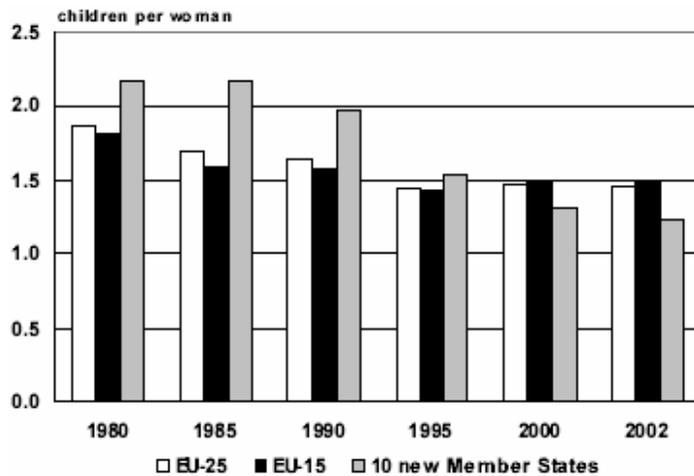


Figure II.2. Total Fertility Rate in the EU, 1980-2002

Source: Eurostat, *Population Statistics 2004*

adding the fertility rates by age for women in a given year (the number of women at each age is assumed to be the same). The total fertility rate is also used to indicate the replacement level fertility; in more highly developed countries, a rate of 2.1 is considered to be replacement level. (Eurostat, 2004:159)

Besides the fertility rates, life expectancy at birth¹⁰ and mortality rates are the other determinants of population structure.

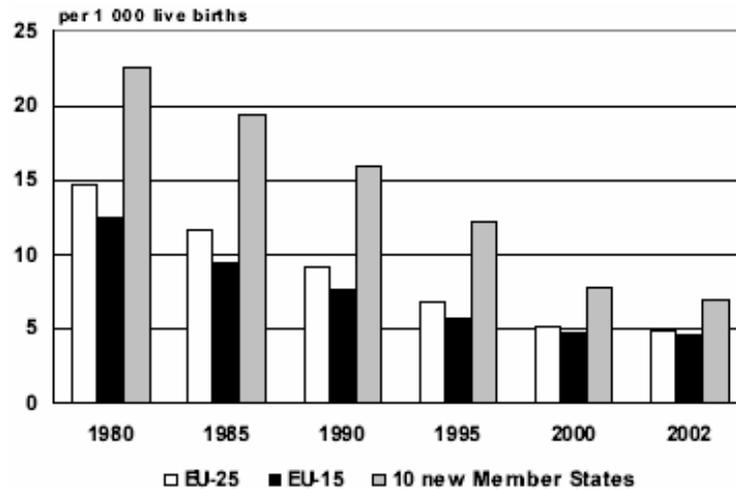


Figure II.3. Infant Mortality Rate in the EU, 1980-2002

Source: Eurostat, Population Statistics 2004

Concerning the mortality issue, life expectancy marked a rise from 66.2 years in 1950-55 to 73.0 years in 1985-95. The proportion of the population aged 65 or older has raised from 8.2 per cent in 1950 to 13.9 per cent in 1995. (UN Report, 2000: 79) The Table II.3. demonstrates that the proportion of the European population aged over 65 has increased from 8.7 per cent to 13.4 per cent since 1950 to 1991 and the next Figure II.4. indicates the current age of life expectancy at birth for the EU. Over the next years, it is estimated that, this elderly population will continue to expand its relative share to account for a fifth of the European population by 2025 (Johnson, 1993: 27). It is projected that the median age in Europe will increase to 42.9 by 2025 (Johnson, 1993: 26).

¹⁰ The mean number of years that a newborn child can expect to live if subjected throughout his or her life to the current mortality conditions (age-specific probabilities of dying). (Eurostat, 2004:157)

TABLE II.3. The Population of Europe 1950-2025

	1950	1960	1970	1980	1990	2000	2010	2020	2025
Total (m)	392	425	459	484	498	510	515	516	515
% 0-14	25.4	25.8	24.9	22.3	19.5	18.5	17.6	16.7	16.5
% 65+	8.7	9.7	11.4	13.1	13.4	14.9	16.0	18.6	20.1
Dependency ratios (%)									
Total	51.7	55.0	57.2	54.9	49.2	50.2	50.6	54.5	57.7
Young	38.5	40.0	39.2	34.6	29.2	27.8	26.5	25.8	26.0
Old	13.2	15.0	17.9	20.3	20.0	22.4	24.2	28.7	31.7
Total fertility rate / woman	2.6	2.6	2.2	1.8	1.7	1.7	1.8	1.8	1.9
Infant mortality / 1000 births	62	37	24	15	11	8	7	6	6
Expectation of life at birth									
Males	63.6	67.2	68.3	70.1	72.0	72.9	74.5	75.7	76.3
Females	68.0	72.4	74.5	76.8	78.5	79.3	80.5	81.7	82.2
Total	65.8	69.9	71.5	73.5	75.3	76.1	77.5	78.7	79.2

Source: United Nations (1991) in Zimmerman K, "Labor Markets in an Aging Europe"

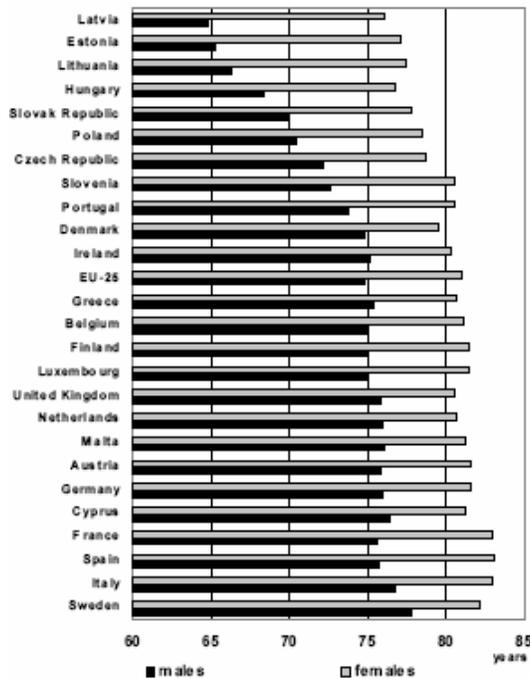


Figure II.4. Life Expectancy at Birth per EU Country, 2002

Source: Eurostat, Population Statistics 2004

In most European countries the number of people above 65 years of age is projected to increase until the year 2025 by 10 to 100 per cent and, until the year 2050 by 30 to 150 per cent. (IOM, 2003: 243) In Western Europe, the number of people aged 65 or more is estimated to increase from 63.4 million (2002) to 92.0 million by 2025 (+37.2 per cent) (IOM, 2003:244)

In conclusion, it should be underlined that although concerning the different population structures of the EU countries there is a considerable variation of the scale and the timing of this demographic change, but the crucial and real fact is that Europe is getting older and facing a population decline. As the following Figure¹¹ II.5 supports the statement and study of Johnson and Zimmermann that: “The Old World is becoming older” (Zimmermann and Johnson, 1993: 1)

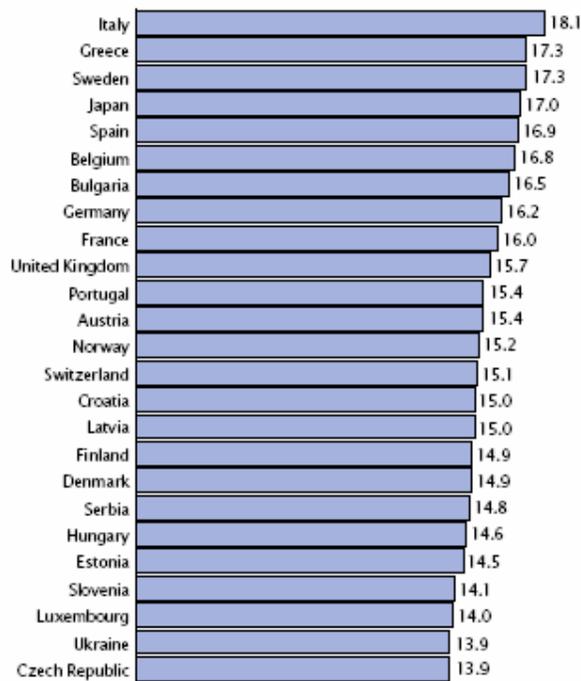


Figure II.5. The World’s 25 Oldest Countries: 2000 (per cent of Population 65 Years and Over)

Source: US Census Bureau, International Data Base 2000a

¹¹ With the exception of Japan, the world’s 25 oldest countries are all in Europe (Kinsella and Velkoff, 2001: 10)

2.2. Implications of Demographic Change on European Social Security Systems

There have been many discussions over the fear of possible negative impacts of population decline and aging on the economies of the states and therefore the long run impact of the demographic challenges has been a crucial concern in the public policy of European nation states for over a century. (Zimmerman, 1993: 1). In the last decade, there has been a growing recognition that prospective changes in the demographic structure of developed countries may affect the economy. Many elements of the economic system, the scale and the structure of demand, the creation and use of human capital, the savings and the investment rate, the direction of international capital flows, wage rates and productivity may all in some ways be affected by changes in the age structure of the population. (Johnson, 1993: 40). However, in Europe, one of the most important areas of interaction emerges through the operation of social security systems especially in the process of European integration aiming to further towards a more welfare Europe. Therefore, the relationship between the demographic structure of the population and its implications on the social security systems has attracted and remains to attract much attention.

The demographic changes addressing population aging and decline raise profound consequences and implications, which are already of concern, including the capacity to finance old age pensions and health costs of an aging population. As a result of the population structure, the emergence of labor force shortage spread throughout Europe will foster the damage to the problem of financing the pension and health systems of Europe. As Gruber and Wise states:

The populations in all industrialized countries are aging rapidly and individual life expectancies are increasing. Yet, older workers are leaving the labor force at younger and younger ages. Together, these trends have put enormous pressure on the financial solvency of social security systems (Gruber and Wise, 1999:34).

Generally, with reference to an aging population, defined as an increase in the relative number of persons at 55 or 60 years of age and over, it is expected that the supply of labor will decline, average incomes will fall, more of disposable incomes will be spent on consumption and so the savings will fall, and there will be an increase in government spending on income maintenance, health care and other

services. Such an outcome creates obvious social policy problems: on one hand, the aging population dictates an increase in government spending on income maintenance, health care and other services, whereas on the other, the fiscal capacity of governments is constrained by the decrease in growth.

The major concern about the current challenges, however, is that it is no longer possible to meet the welfare needs by continuing in the traditional way (Svallfors and Taylor, 1999:2). Governments simply cannot pursue further economic regulation or increase spending on services as they did during the post-war boom. The openness of international trade makes it difficult for any national government to intervene in the labor market in a way that might reduce the competitiveness of its workforce. This constrains the way in which governments can tackle the problem and provide the sustainability of financing the elderly. Moreover, regarding the welfare spending of the EU countries, Maastricht Treaty requirements for membership of the Single European Currency include a central government deficit not greater than 3 per cent of GDP and public debt at a level below 60 per cent of GDP. These conditions impose restraints on welfare spending, since government borrowing is curtailed in a context where politicians are reluctant to raise taxes to pay for high levels of public expenditure (Svallfors and Taylor, 1999: 4).

Another major consequence of a much older population and population aging is related with the potential support ratio (PSR) which is the ratio between the population in working age group 15-64 years and the population 65 years or older. Some studies have estimated that for an industrialized country, on average, the cost of supporting a person aged 65 years and over is substantially greater than the cost to support a young person less than 20 years old (UN Report, 2000:93).

Regarding the demographic developments in Europe, changes in population structure induce a situation in which the cost of providing pensions, health and social care for older people-already the most expensive aspect of public provision- is getting increased rapidly during the next half-century. As a consequence of low and decreasing fertility rates and continuous decline of mortality, the population in Europe aged rapidly and therefore many European countries would experience the largest contraction of their active populations.

The UN Report (2000:93) also accounts that under these conditions, Europe will soon face a broad range of social and economic difficulties due to demographic changes demonstrating the dramatic decreases in population over the next half-

century. The most crucial confrontation is the decreasing potential support ratio (PSR). The current system of providing income and health services for older no-longer-working persons has been based on an age-structure with a potential support ratio of 4 to 5 persons in working-age for each older person aged 65 years or older. Yet, in Europe, if the current age at retirement does not change the PSR is projected to decline to about 2 for 2050 (UN Report, 2000: 94). A decline of the PSR from 4 or 5 to 2 would certainly bring about the need to reconsider seriously the reform of the present system of pensions and health care for the elderly.

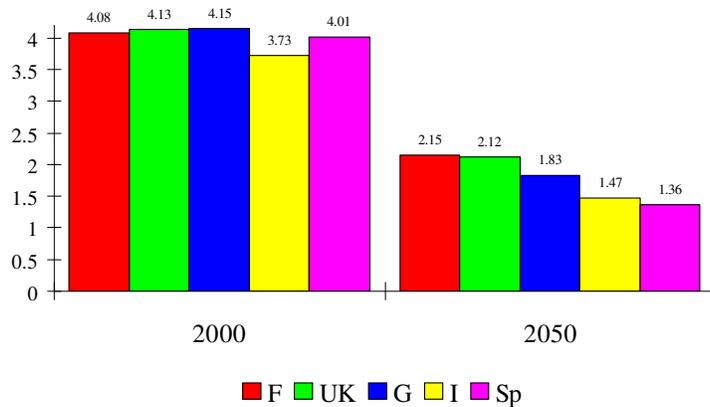


Figure II.6. Potential Support Ratio, Selected Countries, 2000-2050

Source: Coleman D. "You're Welcome" December, 2003, International Longevity Center

As it is presented in the Figure II.7., over the next decades, in many of the EU countries the population aged between 15 and 65 will register a decline for the year 2050. For instance in France, the projected decline is only -0.2 million (-0.5 per cent) up to 2025, but is expected to reach -4.3 million (-8.4 per cent) by 2050. Similarly, the United Kingdom will register a decline of -4.8 million (-12.3 per cent) by 2050. (World Migration, 2003: 244). Germany's working-age population is projected to decline sharply by -6.0 million (-10.7 per cent) up to 2025, and by a further -15.7 million (-28.2 per cent) until 2050. Italy's working-age population will also drop sharply by -5.7 million (-14.8 per cent) and of a further -16.3 million (-41.9 per cent) up to 2025 and 2050, respectively. Spain's population at working age is projected to diminish by -3.9 million (-14.8 per cent) up to 2025 and by a further -11.4 million (-41.5 per cent) by 2050. The situation is similar for most other Central and Eastern

European countries. Thus, under the assumption of without mass immigration, the Western European population between the ages of 15 and 65 is projected to decrease from 259.4 million (2000) to 237.3 million (-8.5 per cent) by 2025 and to 162.8 million (-37.2 per cent) by 2050 (IOM, 2003: 244). According also to another study¹² West Europe's labor force will contract by 5.5 per cent over next three decades from 145 million in 1990 to 137 million by 2020. (Ghosh, 1994: 233)

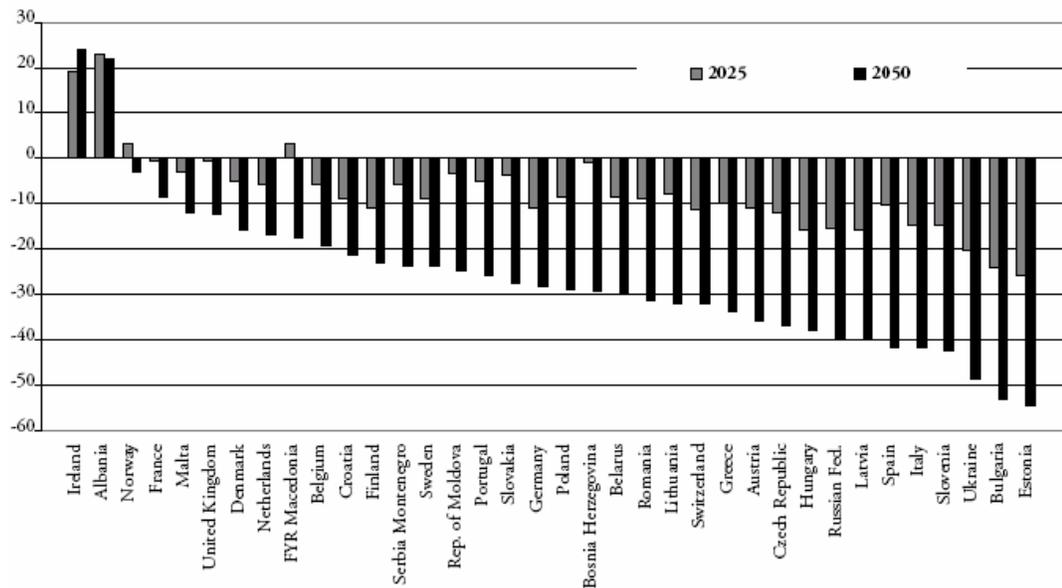


Figure II.7. Relative Population Decline in Selected European Countries, 2000-2050, Age Group 15-64 Years, as per cent of Population

Source: United Nations, World Population Prospects- The 2000 Revision; OECD Online Database, May 2002; Calculation: Humboldt University Berlin

As a result of these trends, by means of social security systems specifically the pension and health care systems, the costs of financing them have become a salient issue with the emerging situation of increasing portion of the population that receives social benefits and a decreasing portion that is responsible for bearing this financial burden. The social security systems in many contemporary European states are based on a “pay-as-you-go” arrangement, meaning that benefits are financed by taxes from the current labor force. Under these conditions, if all other parameters remain equal, the tax rates required to support the social security system will have to

¹² Business Strategies Ltd. People at Work-European Demographics in the 21st Century. 1990. London

increase. Consequently, European countries are facing considerable pressure on the affordability of social security systems. Therefore, it is inevitable to reform the social security systems in Europe reasoning from the demographic challenges within the framework of EU integration process.

Concerning the pension systems, many of the European countries public pensions are predominately financed on a pay-as-you-go basis. Public pension plans usually offer defined benefits that are not tied to individual contributions, but rather, are financed by payroll taxes. This arrangement is commonly referred to as a “pay-as-you-go” system that taxes on working adults are used to finance the pension payments of people who are retired from the labor force. Mandatory old-age pension plans now cover more than 90 percent of the labor force in most developed countries. Governments are responsible for mandating, financing, managing, and insuring public pensions. (Kinsella and Velkoff, 2001:115)

Most pay-as-you-go systems in industrialized countries initially promised generous benefits. These pension programs were based on a small number of pensioners relative to a large number of contributors (workers). However, it is estimated that by 2025, the number of pensioners will be equivalent to 40 per cent of the working age population in Italy, and over 36 per cent in Belgium, Germany, France, and Sweden (EU Commission, 1996). This trend is obvious in many countries as the ratios of pensioners to contributors are getting increased and in some countries became unsustainable.

Regarding the problems in health care systems the dramatic change in the age profile of the EU states will result in increased pressure and burden on the health care system.

It is obvious that the expectations and aspirations among new cohorts of elderly people have risen in accordance with the improved living conditions and the increase in perceived health care needs (Milivoja, 2002). On the other hand, with the increasing number of elderly population, health care expenditure in most European countries has grown faster than the national income. This trend seems to continue due to the combination of several factors including population aging, rising expectations of patients and medical progress.

Economic Policy Committee (EPC) made a research and projection in order to calculate the possible impact of population aging on the public expenditures of the EU countries. According to this projection, as it is seen in both Figure II.8. and

Figure II.9., public expenditures per head demonstrate an increases with age and are particularly high for the oldest age groups. Average expenditures per head on health care for different age groups are quite similar across Member States (EPC, 2003:24).

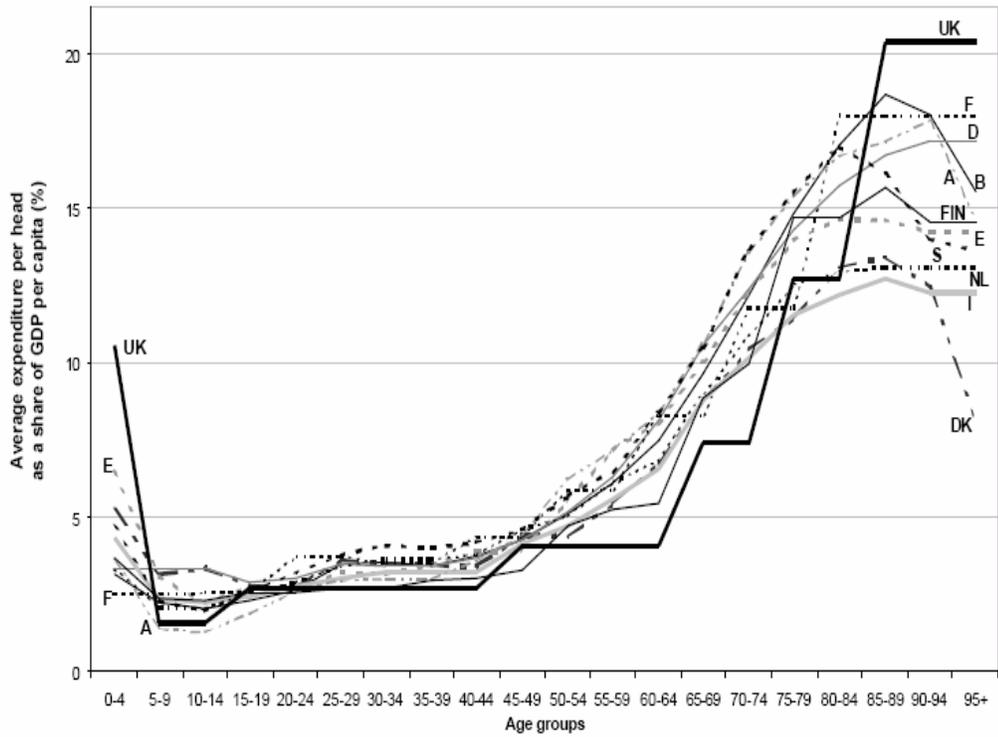


Figure II.8. Age Profiles for Public Expenditure per head on Health Care

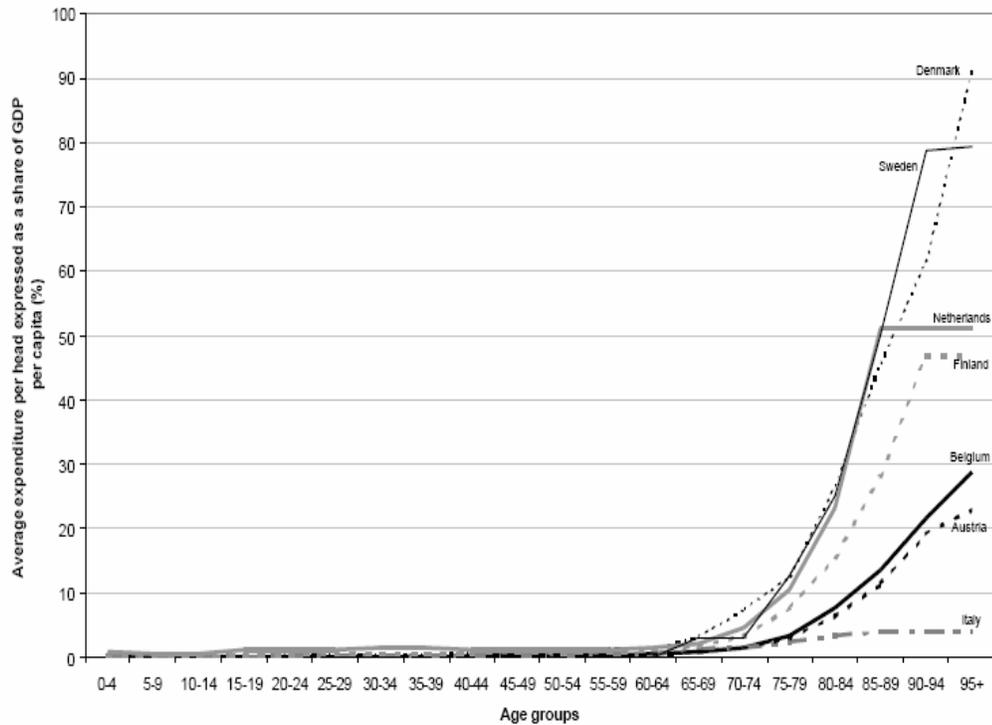


Figure II.9. Age Profiles for Public Expenditure per head on Long Term Care

A significant point in these figures is average expenditures per head on health care peak for almost all Member States at somewhere between 15 and 20% of GDP per capita, however average expenditures per head on long-term care peak at much higher levels. In 2050, it is estimated that public expenditure on health and long-term care would lead to around 30 to 40 per cent which is higher than in 2000. It is again estimated that the pure consequences of demographic changes would lead to public expenditure on health care and long-term care increasing by between 1.5 and 4 percentage points of GDP up to 2050 (EPC, 2003: 25).

2.3. Policy Responses to the Adverse Impacts of Demographic Challenges on the Social Security Systems

It might be possible to mitigate the negative consequences of population change through the implementation of specific policies. These policies could be preventive which are developed to reduce the negative impacts of demographic changes or ameliorative which are designed to ameliorate the effects of demographic

changes. Preventive policy measures are conceptualized under two categories: direct and indirect policies. Direct preventive policies aim to influence micro-level decisions. For instance, migration policy can be directed by influencing the decisions of people whether to move or not from a particular country. As another example for the preventive policy measures, the direct impact on families' decisions about whether to have children, household benefits, reproductive health policy, or policy that encourage women to combine maternity and participation in the labor force can be listed (Rand Europe, 2004: 3).

On the other hand, indirect preventive policies do not influence micro-level decisions directly but often at the macro level, they affect the demographic decisions. The indirect preventive policy measures can be related to gender, education, and economics. For instance, a government could provide women indirectly with more influence in the decisions about family formation by actively promoting the position of women within society.

The ameliorative policies attempt to ease the social and economic consequences of demographic changes. Initiatives to increase the labor force participation rate and health care policies can be itemized as some of the examples of ameliorative policies.¹³

There are many policies that can be addressed to remedy the negative consequences of demographic changes. In general, as Andorka notes, these policies and strategies can be categorized under three long term policy responses that are possible to the problems caused by aging: increasing the labor force participation of the adult population, a pro-natalist or family policy and increasing immigration of young adults (Andorka, 1989:22). Similarly, it is again stated in the "replacement migration" report of United Nations that the future population size and age-sex structure of any country and so the policies relating to demographics, depends basically on the three demographic components: fertility, mortality and international migration (UN Report, 2000: 9). Here, it has to be also underlined that fertility has not been the only force driving the aging process, but mortality has also a role to play. It is now recognized that the size and the age structure of the elderly population also depends on the changes in mortality at older ages. Although the fertility is at or below replacement level, mortality changes can cause population aging

¹³ For the detailed information on the "specific policy measures" please see the article of Rand Europe, 2004

(Johnson:1993:29). However, the reduction in mortality will be an overriding policy goal, so action in this area would be towards the increasing of life expectancy.

Taking into account the literature on categorization of policy responses to remedy or prevent the negative outcomes of demographic changes, the significant policies can be scrutinized under the three main headings: Pro-natalist policies aiming to increase the fertility rates, policies to increase the labor force participation including also the reforms to the social security systems and the international migration which will be specifically analyzed in the following chapters more in detail.

2.3.1. Increasing Fertility Rates and Pro-natalist Policies

The age structure of a population is the result of a complex interdependency between fertility, mortality and migration. In the absence of significant migration, it is the fertility rate which dominates changes in the age structure of a population. Encouraging marriage/cohabitation and childbearing through government action are some of the policy options to increase the fertility rates by altering the costs or benefits for the couples to decide on having children. It is expected that over time, any additional births will change the age structure of the populations as additional births will become additional workers, and ameliorate the challenges that result from fewer children, fewer workers, and many pensioners (Pinnelli,1995). Such pro-natalist policies including tax benefits, bonus payments, employment provisions, childcare subsidies, and various public service offerings are being pursued or seriously discussed in many countries, including some in the EU such as France. Other countries, such as Sweden, have long maintained a policy environment of tax, employment, and benefit programs that is friendly to childrearing, although it is in place for other reasons.

The main influence behind natural population growth is the choice of individuals regarding marriage, divorce, cohabitation, the woman's level of involvement within the workforce or whether to have children, and how many. Such decisions are affected by factors such as the household's financial situation and the costs to be taken into account. However, such decisions are complex and can have both negative and positive effects on fertility. For instance, if women decide to work, they may have less time to devote to having and rearing children, which then may

decrease the overall fertility rate of a country. On the contrary, they may have more income to contribute to the costs of having and rearing children, which may then increase the overall fertility of a country (Rand Europe, 2004:53).

As another influencing factor behind the population growth, macro-level variables can exert influence on micro-level decisions. One of these could be the economic situation within a country. When a country has a weak economy, families may hesitate more to have children. Moreover, macro-factors could include norms regarding female emancipation and individualization, and this can have a direct impact on micro-level decisions. Furthermore, macro-level trends, such as medical and technological progress and disease patterns, can also affect mortality.

The pro-natalist policies include many different forms and ways such as family allowances, housing benefits, exhortation through economic incentives, forcible restriction of contraception and abortion.

Many European countries have been instituting such policies for pro-natalist purposes. It is thought that by giving a family a monetary bonus for each additional child, couples would be motivated to have more children. Very briefly, the family allowances system now exists in practically every European country. It refers to the monthly government cash payment to parents, based on the number of children in the family (Pampel, 1993: 509). According to the economic theory of fertility, the demand for children is a function of individual preferences and the cost of children (Cigno, 1994: 301). Therefore, a governmental measure that is aimed at giving parents more income to contribute towards the cost of children can be expected to have a positive effect on the demand for children (Gauthier and Hatzius, 1997). The spread of family allowances was mostly followed by a fertility increase, however, although family allowances have played a crucial role in family policy since the beginning of the 20th century, in the last decade they have lost significance compared with other provisions.

Apart from financial incentives to improve the ability of families to cope with the expense of children, families with children may also be materially assisted in other ways. For example, better access to larger and more convenient housing may be provided at reasonable prices (Höhn, 1990:151). Assuming that the relationship between cost of housing and fertility holds, governments have an opportunity to influence fertility behavior through housing policy.

Pro-natalist policies have been all implemented in various European countries over the last hundred years. However as it is going to be examined in the next chapter, these policies are not sufficient alone and result without success to overcome the long-run severe decline in the population growth rate. Although some scholars like Orzechowska (2001:5) consider increase in the TFR as the best remedy for population decline and aging resulting in the rejuvenitization of population, it is unlikely possible. Policies aiming at reversing the declining trend in fertility rates, except in special circumstances have not been successful. Firstly, because the most significant determining factors of fertility lie in areas beyond the reach of the state, such as social values or social behavior. Secondly, even if the policies manage to rise the fertility rates, this effect is very temporary. In Sweden for example, in the late 1980s extra prolongation of maternity leave, enabling women to cumulate two maternity leaves by closely spacing two successive births, resulted in the short-term rise of fertility rates up to 2.14 in 1990 (Orzechowska, 2001:4). Nevertheless, in mid 1990s fertility started declining and dropped to 1.53 in 1997.

Therefore, it remains open whether such reforms will have a sufficiently great impact on the behavioral patterns of EU citizens. Moreover, even where policies designed to influence birth rates, do have an impact on behavioral patterns, these will require several decades to take effect. In the meantime, some shortages will almost inevitably occur and governments may need to introduce targeted programmes to recruit people in particular sectors to meet shortages (Boswell, 2004: 40).

2.3.2. Reforms to the Social Security Systems and Increasing Labor Force Participation

The new challenges being brought about by declining and aging populations will require objective, thorough and comprehensive reassessments of many established economic, social, and political policies and programmes, especially regarding the social security systems. Such reassessments will require incorporating a long-term perspective. Critical issues to be addressed in those reassessments would include policies aiming to increase the labor force participation, designing the appropriate ages for retirement, the levels, types and nature of retirement and health-care benefits for the elderly, the assessed amounts of contributions from workers and

employers to support retirement and health care benefits for the increasing elderly population.

Within this framework, one of the biggest policy issues facing the EU is the future of its pensions systems. All Member States have modified their public pension schemes in recent years, for example by raising the legal age of retirement, encouraging greater flexibility in retirement, changing the pension formula, curtailing early retirement or encouraging a mixed system. Such actions have stabilized the projected growth of pension spending as a proportion of GDP. Nonetheless there are continuing pressures towards pension reform which are stronger in some Member States than others. Certainly this issue has been high on the policy agendas of national governments for more than a decade and international economic agencies, such as the OECD and World Bank, have advocated the cause of pension reform (Walker, 1999: 7). In the existing literature on pension systems there is a tendency to look for a solution of the problem of viability of the systems in institutional changes which adjust the systems to the current, and possibly future, demographic conditions (Saczuk, 2003:15). Therefore, a less extreme and more feasible approach to reduce the cost pressure associated with population aging, and to slow the rate of growth in demand on public pension systems, is the reform of social security systems.

A first option to offset the impact of current and future demographic trends by means of social security reform would be to gradually increase the upper limit of the retirement age sufficiently to attain a sustainable PSR. Prolonging retirement age has the advantage of compensating for labor shortages due to population decline. Such an option would simultaneously increase the numbers of working-age people and reduce the number of non-working older persons. While formal retirement age is 65 in most EU states, actual retirement age is about 58 or 59. Preservation of today's actual support ratio would require actual retirement age to rise by between 5 and 6 years, to between 65 and 66. Some countries have already implemented this measure. Germany has increased the age for full benefits from age 60 –63 to age 65 (Zoubanov, 2000:9).

A second option consists discouraging the so-called “early retirement”. Teitelbaum (2000:11) suggests that the financial attractiveness of such early retirement could be reduced. In most EU countries today, over half of the persons between the ages of 55 and 65 are retired or economically inactive. In several

countries (e.g., Austria, Belgium, and Finland), as it is illustrated in the Table II.4 the average man retires 6 years or more before the standard retirement age. Differences are often greater for women, approaching 10 years in Luxembourg and the Netherlands (Kinsella and Velkoff, 2001: 108).

TABLE II.4 Standard and Actual Retirement Age in 24 Countries: 1995

Country	Male		Female	
	Standard	Actual	Standard	Actual
Austria	65	58.6	60	56.5
Belgium	65	57.6	60	54.1
Denmark	67	62.7	67	59.4
Finland	65	59.0	65	58.9
France	60	59.2	60	58.3
Germany	65	60.5	65	58.4
Greece	62	62.3	57	60.3
Iceland	67	69.5	67	66.0
Ireland	66	63.4	66	60.1
Italy	62	60.6	57	57.2
Luxembourg	65	58.4	65	55.4
Netherlands	65	58.8	65	55.3
Portugal	65	63.6	62.5	60.8
Spain	65	61.4	65	58.9
Sweden	65	63.6	65	62.1
Switzerland	65	64.6	62	60,6
United Kingdom	65	62.7	60	59.7

Source: OECD, 1998 (Ageing Working Paper 1.4)

To provide the higher participation rates among the ones aged 55 and over would keep more people in the work force. The main prerequisite to provide their continued active involvement is possible through the creation or maintenance of employment opportunities for those age groups, and to design the functioning of the labor market according to these facts. In Germany and Italy, access to the early retirement benefits have already been restricted. Similarly, France has tightened eligibility requirements; the number of years of contributions that are required for full benefits is being increased from 37.5 to 40, which became fully effective in 2003 (Zoubanov, 2000:10). In Sweden, early retirement schemes were confined to people demonstrating their inability to work. In Spain, a country with a rapidly aging population, even though there exists a high level of youth unemployment which might have provided an incentive for early retirement, voluntary retirement before the age of 65 is penalized.

A third option of social security reform is to reduce the size of benefits that are associated with retirement at the normal age. France and Italy have already increased the number of years over which earnings are averaged. In the UK, where benefits were based on the 20 highest years of earnings, the state earnings-related scheme has begun to be based on lifetime earnings (Zoubanov, 2000: 10). Finally, in Sweden pension schemes have also been under reform, and benefits levels have been considerably reduced.

Higher social security contributions and taxes are another possibility to save current pension systems. Countries might increase the amount of revenue going into the pension system through this way however, as Teitelbaum (2000: 11) claims, these increases would have to be substantial to compensate for demographic age shifts in many countries. On the other hand, it has to be noted that increasing social security contributions and taxes would inevitably have negatively impact upon the competitive position of a country's industries in the global market place and would be confronted by opposition particularly from employee organizations, such as the cases of France and Italy.

A final option involves revising the financial reliance on the "pay-as-you-go" system, and moving to a greater reliance on advance funding of pension schemes where people save for their own retirement. Some countries such as Germany and the UK already shift a portion of the responsibility for managing pension arrangements from public to private enterprises (Zoubanov, 2000:10). Occupational pension plans tend to be a more important source of retirement income than public pensions for high income workers in developed countries.

The desirability, feasibility, and effectiveness of these options are all subject to extensive debate. Höhn (2000:10) claims:

A reformist policy of reducing the level of pensions and increasing contributions by the working population, together with an increase in the age at retirement should be perfectly viable, since existing social security systems are so generous and flexible.

On the other hand, reforming the pension systems constitutes a crucial issue of democratic legitimacy and political consideration, since the higher number of

elderly people form an increasing electoral majority which expect continuing generous retirement benefits (Rand Europe, 2004:34).

Apart from the pension systems, the health care systems in many European countries comprise the other crucial part of the social security systems which is also being affected negatively from the trend of changes in population structure. Coming to mitigate the negative consequences of demographic challenges, two alternative strategies can be considered prior among the vast literature on health care improvement reform: cost reductions through rationing of the health care system and reducing medical dependencies through health care improvement (Rand Europe, 2004: 36).

Policies to ration healthcare to the elderly are debated in the literature, especially in the context of new medical technology (Uhlenberg, 1992:221). Although rationing health care is a mean to reduce the financial effects of aging, serious attention should be devoted to options to reform medical care as viable policy alternatives. An important question about this policy issue is whether the supply of medical personnel and facilities, should be increased in order to fulfill rising demand, and to what extent the state should subsidize these costs. In Europe, numerous measures to limit and control health care expenditures have been tried. In countries such as Germany and the Netherlands, all medical services were reimbursed (Höhn, 2000:13).

Coming to the alternative of improving health care, many governments have implemented policies to improve older people's health and well-being. These health and care initiatives, targeting the aging population, focus on enhancing the quality of life. In this regard, most industrialized European countries are experimenting with home health benefits. Some governments focus on incentives to encourage elderly people to take responsibility for becoming the principal promoters of their own health. As another initiative, in many countries governments support and encourage the community involvement in health care and social services for the aging period. For instance, in Germany, the role of the family in the responsibility for informal care is even prescribed in laws. Finland, France, and Sweden consider informal health care as employment, and are willing to pay for this. Unlike the most other European countries Germany is one of the few countries to introduce a long-term care insurance programme to provide cash benefits to relatives that are caring for disabled or old people (Rand Europe, 2004:36).

Apart from the reforms and reassessment of policies regarding the social security systems, the policies referring to increase the labor force participation constitutes another way of alternative strategies and options against the demographic challenges.

There are indeed a number of comprehensive possible policies to increase the size of the labor force. Apart from increasing the retirement age which has been studied before, lifelong learning and labor force policy for women and youth can be listed as some of the examples (Zoubanov, 2000:5).

One of the possible strategies that could offset or at least mitigate the foreseeable absolute decline in the population aged between 15 and 65 is improving the training and education levels of the existing workforce in order to have them longer in the labor market. So, the productivity of the existing workforce can be retained or enhanced via investment in so-called “lifelong learning”. By means of the introduction of lifelong learning policies, older employees can adapt to the increasing demands of the economy. On the other hand, it is argued that public policy should focus on programmes that would raise the productivity of older workers to competitive levels, and on programmes that would make it easier for older workers to move in quest of employment opportunities. Some countries have already taken active steps in this direction. As an example of an already implemented policy of workforce education in Europe, in the UK, the maximum age of access to its “Training for Work” programme has been raised from 59 to 63 years.

As a result of the retraining, on one hand the productivity will increase and on the other the elderly will stay more in the labor market. Yet, it should also be underlined that increased productivity in the future may lead to increased aspirations and demands from both the working age and the retired population.

Another strategy to offset the adverse consequences of population aging is to encourage the labor participation of certain population groups such as women and youth in the working age (European Commission, 2000c:10). The following two tables clearly illustrate recent low participation rates of national populations and the employment rates among the women in the EU countries.

TABLE II.5. Employment/Population Ratios, Activity and Unemployment Rates (Persons Aged 15-64 Years, Percentage)

	Employment/population ratio						Labour force participation rate						Unemployment rate					
	1990	1999	2000	2001	2002	2003	1990	1999	2000	2001	2002	2003	1990	1999	2000	2001	2002	2003
Austria	..	68.2	67.9	67.8	68.2	68.2	..	71.6	71.3	70.7	71.7	71.6	..	4.7	4.7	4	4.9	4.7
Belgium	54.4	58.9	60.9	59.7	59.7	59.3	58.7	64.6	65.2	63.6	64.1	64.3	7.3	8.7	6.6	6.2	6.9	7.7
Czech Republic	..	65.9	65.2	65.3	65.7	64.9	..	72.2	71.6	71.1	70.9	70.4	..	8.7	8.8	8.2	7.3	7.8
Denmark	75.4	76.5	76.4	75.9	76.4	75.1	82.4	80.6	80	79.2	79.9	79.4	8.5	5.2	4.5	4.2	4.3	5.5
Finland	74.1	66	67	67.7	67.7	67.4	76.6	73.6	74.3	74.6	74.5	74.1	3.2	10.3	9.9	9.2	9.1	9.1
France	59.9	59.8	61.1	62	62.2	61.9	66	67.8	68	68	68.3	68.2	9.2	11.8	10.1	8.8	8.9	9.3
Germany	64.1	65.2	65.6	65.8	65.3	64.6	67.4	71.2	71.1	71.5	71.5	71.3	4.9	8.5	7.8	7.9	8.7	9.4
Greece	54.8	55.4	55.9	55.6	56.9	58	59.1	62.9	63	62.1	63.1	63.8	7.2	12	11.3	10.4	9.8	9.1
Hungary	..	55.7	56	56.2	56.2	57	..	59.9	59.9	59.6	59.7	60.6	..	7	6.4	5.7	5.8	5.9
Iceland	79.9	84.2	84.6	84.6	82.8	..	82.1	85.9	86.6	86.6	85.6	..	2.7	1.9	2.3	2.3	3.2	..
Ireland	52.1	62.5	64.5	65	65	65	60.1	66.3	67.4	67.5	67.9	68	13.3	5.8	4.4	3.7	4.3	4.5
Italy	52.6	52.9	53.9	54.9	55.6	56.2	59.5	59.8	60.3	60.7	61.2	61.6	11.5	11.5	10.6	9.6	9.1	8.7
Luxembourg	59.2	61.6	62.7	63	63.6	..	60.1	63.1	64.2	64.1	65.3	..	1.6	2.4	2.4	1.8	2.6	..
Netherlands	61.1	70.9	72.9	74.1	74.5	73.6	66.2	73.6	74.9	75.7	76.5	76.4	7.7	3.6	2.7	2.1	2.6	3.6
Poland	..	57.5	55	53.5	51.7	51.4	..	65.9	65.8	65.7	64.8	64.2	..	12.8	16.4	18.6	20.3	20
Portugal	67.4	67.4	68.3	68.6	68.1	67.1	70.9	70.7	71.3	71.7	72	72	4.9	4.6	4.2	4.3	5.4	6.8
Slovak Republic	..	58.1	56.8	56.9	56.9	57.7	..	69.5	69.9	70.5	69.9	70	..	16.4	18.8	19.3	18.6	17.6
Spain	51.8	55	57.4	58.8	59.5	60.7	61.7	65.8	66.7	65.8	67.1	68.5	16.1	15.7	13.9	10.5	11.4	11.4
Sweden	83.1	72.9	74.2	75.3	74.9	74.3	84.6	78.5	78.9	79.3	79	78.9	1.8	7.1	5.9	5.1	5.2	5.8
Switzerland	78.2	78.4	78.3	79.1	78.9	77.8	79.7	80.9	80.5	81.2	81.3	81.2	1.8	3.1	2.7	2.5	3	4.2
United Kingdom	72.5	71.7	72.4	72.8	72.7	72.9	77.8	76.3	76.6	76.4	76.6	76.6	6.8	6.1	5.6	4.8	5.1	4.9
E-15	61.4	62.6	63.6	64.3	64.4	64.8	67.1	69	69.4	69.4	69.8	70.3	8.4	9.3	8.3	7.4	7.8	7.8

Source: OECD Employment Outlook (2004) "Statistical Annex" Paris: OECD Publications

TABLE II.6. Employment/Population Ratios, Activity and Unemployment Rates (Women Aged 15-64 Years, Percentages)

	Employment/population ratio						Labour force participation rate						Unemployment rate					
	1990	1999	2000	2001	2002	2003	1990	1999	2000	2001	2002	2003	1990	1999	2000	2001	2002	2003
Austria	...	59.7	59.7	59.8	61.1	61.2	...	62.7	62.5	62.3	64.0	63.9	...	4.8	4.6	4.1	4.6	4.3
Belgium	40.8	50.2	51.9	50.7	51.1	51.4	46.1	56.0	56.6	54.5	55.4	55.8	11.5	10.3	8.3	6.9	7.8	8.0
Czech Republic	...	57.4	56.9	57.0	57.1	56.3	...	64.1	63.7	63.2	62.8	62.5	...	10.5	10.6	9.9	9.1	9.9
Denmark	70.6	71.6	72.1	71.4	72.6	70.5	77.6	76.1	75.9	75.0	75.9	74.8	9.0	5.9	5.0	4.8	4.4	5.8
Finland	71.5	63.5	64.5	65.4	66.1	65.7	73.5	71.2	72.1	72.5	72.7	72.1	2.7	10.8	10.6	9.7	9.1	8.9
France	50.3	53.0	54.3	55.2	55.8	56.0	57.2	61.4	61.7	61.8	62.1	62.5	12.1	13.6	11.9	10.8	10.1	10.4
Germany	52.2	57.4	58.1	58.7	58.8	58.7	55.5	63.0	63.3	63.8	64.2	64.5	6.0	8.9	8.1	8.0	8.4	8.9
Greece	37.5	40.7	41.3	41.2	42.7	44.0	42.6	49.7	49.7	48.8	50.2	51.0	12.0	18.2	16.9	15.6	14.9	13.8
Hungary	...	49.0	49.6	49.8	49.8	50.9	...	52.3	52.6	52.4	52.7	53.9	...	6.3	5.7	5.0	5.4	5.6
Iceland	74.5	80.2	81.0	81.1	79.8	...	76.8	82.3	83.3	83.1	82.2	...	3.0	2.5	2.8	2.5	2.9	...
Ireland	36.6	51.3	53.3	54.0	55.2	55.4	42.6	54.3	55.7	56.0	57.3	57.6	14.0	5.5	4.2	3.5	3.7	3.9
Italy	36.2	38.3	39.6	41.1	42.0	42.7	44.0	45.5	46.3	47.3	47.9	48.3	17.7	15.8	14.6	13.1	12.3	11.7
Luxembourg	41.4	48.5	50.0	50.8	51.5	...	42.4	50.2	51.7	52.0	53.5	...	2.5	3.3	3.2	2.2	3.6	...
Netherlands	46.7	61.3	63.4	65.3	65.9	65.8	52.4	64.4	65.7	66.9	67.9	68.4	10.9	4.9	3.5	2.5	2.9	3.8
Poland	...	51.6	48.9	47.8	46.4	46.2	...	59.8	59.9	59.9	58.9	58.4	...	13.8	18.4	20.2	21.2	20.8
Portugal	55.4	59.5	60.5	61.0	60.8	60.6	59.6	62.9	63.8	64.5	65.0	65.6	7.0	5.3	5.2	5.4	6.5	7.7
Slovak Republic	...	52.1	51.5	51.8	51.4	52.2	...	62.8	63.2	63.8	63.2	63.5	...	16.4	18.6	18.8	18.7	17.8
Spain	31.8	39.1	42.0	43.8	44.9	46.8	42.2	50.9	52.9	51.6	53.7	55.7	24.7	23.2	20.6	15.3	16.4	16.0
Sweden	81.0	70.9	72.2	73.5	73.4	72.8	82.5	76.0	76.4	77.1	77.1	76.9	1.8	6.7	5.4	4.7	4.7	5.3
Switzerland	66.4	69.6	69.3	70.6	71.6	70.6	68.2	72.2	71.6	73.2	73.9	73.9	2.6	3.6	3.2	3.5	3.1	4.5
United Kingdom	62.8	64.9	65.5	66.1	66.3	66.4	67.3	68.4	68.9	69.0	69.3	69.2	6.6	5.1	4.8	4.2	4.4	4.1
E-15	48.6	53.0	54.2	55.1	55.7	56.1	54.5	59.5	60.1	60.3	61.0	61.3	10.9	10.9	9.8	8.6	8.7	8.6

Source: OECD Employment Outlook (2004) "Statistical Annex" Paris: OECD Publications

This strategy would be particularly promising in southern Europe, Belgium and Ireland, where female participation is still very low. Some countries, such as Italy and Germany are trying to get working-age people to work in greater numbers, especially young adults and women. The French Government in the last decade started to implement measures to provide temporary jobs and part-time jobs, and to encourage enterprises to employ young people at lower salaries. The Italian Government also intends to alleviate increasing aging costs without changing the social security system through a number of measures to increase employment of youth. (Zoubanov, 2000:7)

2.3.3 Migration

Stemming from mostly economic and social reasons, labor migration has an impact on the population structure -by influencing the decline and aging process variables- and labor markets of the host countries (Rand Europe, 2004: 53). Therefore, a third strategy would aim at compensating future gaps of labor shortage through encouraging immigration of prime-age workers into countries that are short of such workers.

Eventual shortages of workers stemming from demographic reasons may generate demands for immigrant labor (Peterson, 1999:48) and may force nations to pursue active and open immigration policies. Inflows of non-nationals through different labor migration or humanitarian routes can significantly affect the size of the labor force and it is obvious that immigration policies can have a substantial impact on labor supply (Boswell, 2004: 14). Nevertheless, in order this policy to reach success, such an approach should well determine the nature and extent of labor shortage and the possibility to recruit the migrants with the appropriate skills to meet the labor demands in European labor markets.

It is also notable that, immigration may also affect a country's fertility rate if immigrants have different fertility rates than natives. It is often observed that, migrants have higher fertility rates than the native population and they bring their families along and continue to build them after arrival. However, the policy tools of governments to influence the number and characteristics of immigrants, where they settle, and how long they stay holds an important role to affect the fertility rates.

Regarding this last policy option of immigration, which potentially could offset declines in working-age population, it will be evaluated in more detail under the light of other conducted researches and statistics in the following chapters. Nevertheless, it is a real fact that, demographic dynamics will make a decisive contribution to the nature and future of European countries in terms of migratory flows.

CHAPTER THREE

LABOR MIGRATION ON THE AGENDA OF EUROPE AS A POLICY OPTION

Immigration from less developed societies to the advanced societies of Europe seems to be unavoidable as immigration from poorer areas to mature advanced societies seems to have been happening at least since ancient Greece and Roman Empire (Andorka, 1989:120). Throughout the history, European countries many times have depended on immigrants with the aim to supply labor. However, the nature of migration is very complex, as it has so many driving factors behind it, so many impacts on economies, political implications and cultures due to its character of being multi dimensional. Concerning the demographic aspect of the issue, Europe represents a current example of encountering demographic challenges and experiencing debates over reacting against the proposed amount of migration as a policy option to mitigate the negative impacts of population aging and decline.

Since the 1990s, many EU countries have been reassessing their migration policies and calling for a different approach other than the nearly 30 years' pursued restrictive immigration and asylum policies. For the first time after many years, several European governments are considering the benefits of labor migration originating from their needs for labor force due to especially demographic reasons. As the potential strategies such as pronatalist policies or reforms to the labor market are unlikely to counter demographic challenges over the next half century, it is discussed that only international migration could be instrumental in addressing population decline and population aging in the short to medium term.

Some scholars such as Zimmermann and Johnson indicate that: "The substantial aging of the European labor force will significantly change employment structure and with open borders it will imply immigration. A larger amount of

immigration might be a reasonable policy to account for the decline in the labor force and its aging” (Zimmermann and Johnson 1993: 17). Höhn also (1993:17) notes: “Immigration is the only practical means of preventing population stagnation in Europe and that uncontrolled immigration and integration of immigrants should be the future policy focus”.

On the other hand, some scholars oppose the migration option and they consider it as undesirable by many of the European governments and particularly the European public. They offer and support other population and labor market policies rather than migration and regards migration strategies as only slowing down the process of population decline and aging. For instance, Coleman addresses that West Europe does not need to increase immigration as it has very substantial reserves of employable manpower. The optimism in such analysis about the upgrading training of existing workforce and the mobilization of “hidden labor force” through a much higher rate of female participation can be questioned. This group of scholars suggests that there are no feasible migration solutions to the age-structure change and its effects on social security as it is not caused by a deficit in migration but by low fertility and increased expectation of life. Coleman indicates that in the long run, only approximately replacement level fertility can moderate the demographic situation (Coleman, 2001:28). Another scholar, Keely, also emphasizes : “Increased immigration to retard aging of populations, slow declines in population and the labor force, and to provide workers to support old age pensions and health costs of aging societies, is probably not a sound policy initiative at this point” (Keely, 2001: 108).

Meanwhile, in the short run it is obvious that the rapidly growing population of the European periphery could compensate the labor shortage in the aging economies of Europe. However, whether such migration will be desired or allowed depends both on whether the human capital endowments of potential migrants fit with future of European labor market requirements, and on the political inclinations of European governments (Johnson, 1993:32).

3.1. Proponents of Labor Migration as a Policy Option

It is clear that the low fertility rates in Europe will clearly induce a drop in the number of young local labors, which will probably involve an overall contraction of the working-age population (aged 15-65). It is thoroughly demonstrated in the first

chapter that, in the absence of significant rate of immigration flow, the working age population would decline in most European countries by 2 to 22 per cent up to the year 2025 and by a further 10 to 55 per cent by 2050. (World Migration, 2003:244) It is suggested that the population structure will stabilize during the first half of the 21st century, on the condition that if indicated numbers of immigrants are allowed into the EU year after year. Therefore, this demographic situation in European labor force creates an incentive for immigration, as it is proposed that migrants can replace population losses in absolute size or young workers.

Countries which experience no or only a modest decline in the number of people of working age (less than -5 per cent) such as France, Ireland, the Netherlands and the UK are unlikely to confront demographically-induced labor shortages in the medium term until 2020-25. In the absence of immigration, countries that experience a significant decline in their active population (more than -10 per cent) with low or moderate labor-force participation rates may rely on recruitment of foreign labor more. Germany, Italy and Spain are some of the countries that fall into this category. Countries such as Belgium, Portugal, and Greece which register only a relatively modest decline in their active populations (-5 to -10 per cent) together with low or medium labor-force participation rates (less than 75 per cent) could either encourage labor immigration in the short or medium term (IOM, 2003: 245).

The critical point occurs when it comes to evaluate the situation for the long-term (up to 2050). As it is quoted from the World Migration “Up to 2050, without mass immigration nearly all European countries will have a decline of between 10 and 50 per cent in their active populations aged 15 to 65” (IOM, 2003: 245). This situation will almost inevitably require systematic recruitment of both skilled and semi-skilled or unqualified foreign labor on a larger scale than at present. Supporting this statement, according to the statistics of UN demonstrating demographic challenges and their implications on European labor markets, in 2050, Europe will need massive amount of labor migration which is specifically studied as “replacement migration”¹⁴ (UN Report, 2000). The report advises that migration may contribute to three aspects of population dynamics demonstrating population

¹⁴ Replacement migration: “It refers to the international migration that would be needed to offset declines in the size of population, the declines in the population of working age, as well as to offset the overall aging of a population.” (UN 2000, United Nations Secretariat Population Division Department of Economic and Social Affairs, 21 March 2000 “Replacement Migration: Is it a Solution to Declining and Aging Populations?” ESA/P/WP.160 New York)

growth, working-age population growth and changes in the potential support ratio. One of the main remarks of the UN Report is that if retirement ages remain essentially where they are today, increasing the size of the working-age population through international migration is the only short-to medium-term option to reduce declines in the potential support ratio.¹⁵

The report gave start to a lively debate on the feasibility of “replacement migration” as a way of compensating the impact of low fertility rates and aging population. According to the UN Report in the absence of migration, the declines in population size will be greater and the population aging will be more rapid up to 2050. Taking in to account the UN Report, in order to compensate the size of the active population in the European Union, it is estimated that annually about 550,000 foreign workers up to 2010 and a further 1.6 million workers would be necessary between 2010 and 2050. In total this amounts to a net inflow of 68 million people between 2003 and 2050 to Europe. With the fact that only around two-thirds of the current population of working age are gainfully employed, the current EU Member States would need an additional 46 million labor migrants up to 2050 in order to keep the work force constant. A similar study illustrated by Lesthaeghe demonstrates that, overall population decline during the first half of the twenty-first century can be avoided, if about one million immigrants, move into the area every year (Lesthaeghe, 1988:31).

However, the great number of inflow of migrants which would be equal to 16.8 per cent of the total population of the EU-15, or an annual net immigration¹⁶ of +3.8 per 1000 inhabitants is making many EU countries reluctant to accept the permanent inflow of such high numbers of foreigners. Because, the amount of migrants that EU would need to offset the decrease in the size of the working-age population is extremely large, and the proposed amount is vastly more immigration than experienced in history. When compared to the previous years, during 1990s the

¹⁵ As the age structure of immigrants is believed generally to be younger than that of the host population, immigration can make the population younger, thus changes support ratios.

¹⁶ Net migration is the difference between immigration into and emigration from a given area during the year (net migration is negative when the number of emigrants exceeds the number of immigrants). Since many countries either do not have accurate figures on immigration and emigration or have no figures at all, net migration is frequently estimated as the difference between total population change and natural increase between two dates (in Eurostat’s database it is then called corrected net migration). The statistics on net migration are therefore affected by any statistical inaccuracies in any of the components used for their derivation. (Eurostat, 2004:158)

number of immigrant flows was reaching an annual average of +2.2 per 1000 and between 1960 and 1989 it was only +0.7 per 1000. So, except United Kingdom and Germany, the level of immigration for the next 46 years needed to offset the population decline in Europe is higher than the experience in the recent past (UN Report, 2000: 93).

After all, the impact and consequences of other policy options which have been studied in the previous chapter to stand as a solution to the demographic challenges rather than migration should be analyzed in order to better grasp the migration strategy in comparison with their possible results.

Beginning with the pro-natalist policies, it is true that increasing fertility rates affect the number of new children entering a population and these will become potential new workers 18 –25 years later. Nevertheless, they will stand as non-productive dependents for a number of years before they are ready to enter the labor force. Immigration also adds people to a population, but the beneficial aspect is these people tend to be people of working age (Rand Europe, 2004:13)¹⁷. Moreover, given their temporary effect, the pro-natalistic fertility policies are costly. Providing financial incentives, in order to sustain fertility for a substantially longer period could be very expensive and run in competition with the increasing costs of aging. On the other hand, as Coleman states: “Replacement fertility cannot increase the PSR in mature populations to much more than three and would not avert some population decline in countries with long experience of below-replacement fertility” (Coleman 2001:5). Similarly, the UN Report notes that in the short to medium term measures to shore up fertility levels would not have any impact on the PSR (UN, 2000: 7). It is indicated in the report that: “Even a sudden sharp increase in fertility in the short to medium term would not substantially alter the situation regarding the potential support ratios” (UN, 2000: 93). As a result, while in the long run fertility levels will be the determinant factor in shaping the age structure of the population, according to the UN Report “plausible ranges of increases in fertility rates in the next decades would only contribute at best marginally to slow the process of population aging by 2050” (UN Report, 2000). As Hoem indicates: “The population of Europe is aging from the apex as well as the base of the population pyramid, it seems that the process

¹⁷ It is also another fact that, immigration can also affect population dynamics in the future if immigrants have different (typically higher) fertility rates than natives.

of aging will continue even if other countries follow the path of Sweden and French back to replacement level fertility in the 1990s” (Hoem, 1990: 50).

The other policy efforts, such as pension reform or rationing health care, conclude that ameliorative efforts are effective in mitigating the adverse socio-economic consequences of population aging. These measures are relatively straightforward, their costs are comparatively low and the impact is significant and visible in the short term. Hence, recently, ameliorative measures have become popular instruments of European governments in order to mitigate the impact of population aging on the affordability of the social security system, however there is little research on the sustainability of these measures.

In contrast with other direct policies, some authors regard immigration as the only effective strategy to prevent population aging and the recruitment of foreign labor appears to be the logical way to fill the labor shortages (Saczuk, 2003:3). Boswell supports this idea by mentioning that labor migration may indeed be the only feasible response if states want to retain certain levels of economic growth, or current living standards (Boswell, 2004:3). However, concerning the demographic situation in Europe the proposed amount of migration level is very high. The European Commission's Annual Review of the Demographic Situation in Europe in 1995 recognizes the contribution of high levels of migration to further population increase by expressing: “Inflow of migrants will not be able to prevent population declines in the future, nor rejuvenate a national population, unless the migration streams reach comparatively high levels”. It is also mentioned in the UN Report that “the levels of immigration needed to retard aging significantly or lead to positive population growth in countries with below replacement fertility are so high that they are probably not politically possible” (UN, 2000:11). However, it must be noted that the effectiveness of migration as a strategy towards preventing population aging and a decrease in the size of the population depends on the ability of national governments to implement suitable migration policies. The extent to which immigrants are ready and able to integrate into the receiving population appears to be a crucial factor for the success of immigration strategies.

In addition to these, labor migration carries its own problems and risks. Large sections of public opinion in European states remain anxious or skeptical about the need for recruiting labor from third countries. It is often discussed that additional immigration would generate competition with indigenous workers for scarce jobs.

Moreover, the experience of large-scale labor immigration in many West European countries since the 1950s has made many governments and electorates cautious about accepting migration as an instrument of labor market policy. The idea that labor migration can provide a flexible and interim solution to labor shortages has been largely discredited in many countries.

For these reasons concerning to evaluate the migration as policy option to the demographic challenges in Europe, governments have tended to endorse labor migration as only one part of a package of reforms (increase participation rates, increase numbers of years spent in work, encourage higher birth rates), with the emphasis clearly on domestic reforms as the first line of action to address shortages (Boswell, 2004:4).

3.2. Opponents of Labor Migration as a Policy Option

There is considerable disagreement in the literature on the sustainability of “replacement migration” as a solution for population aging and it is discussed by some scholars that “replacement migration” and the accomplishment of a sustainable replacement level in order to prevent a society from aging and maintaining a substantial support ratio is not commonly regarded as a feasible scenario. They proclaim that the high numbers of immigrants required to offset population aging and the PRS in the EU would be unacceptable under current socio-political climate of Europe. Thus this debate mainly focus on whether immigration may be effectively used to slow rather than prevent population aging.

For instance, according to Ulrich (1998) in the case of Germany, even with a relatively high level of immigration, the size of the country’s population would begin to decrease in the near future. As a result of his study, he concludes that immigration can only slow an inevitable decrease in size of the population of Germany (UN Report, 2000:97). According to this group of scholars, it is doubtful that if large numbers of working-age immigrants would slow population aging in the short term by simply postponing the problem in the long term. Lesthaeghe emphasizes: “Europe would be better served by relatively small contingens of immigrants and a partial recovery of native fertility, than by continued extremely low native fertility that is offset by a very large immigration stream“(Lesthaeghe, 1988:33).

On the other hand some scholars like Uhlenberg (1992: 463) questions the effect of immigration upon age distribution and notes that while the immediate effect of increasing the number of young adult immigrants is an addition to the size of the labor force and to the number of births, in the long run the immigrants and their children enter old age and these immigrants would themselves also age, so the problem will resist to survive. Espenshade (1994:762) also confirms that immigration has relatively little effect on the overall age composition of the population.

Scholars who constitute the opponent group of migration option put some arguments about migration flows and its possible costs in their discussion. First one is, as Coleman emphasizes that EU should not need increased immigration to satisfy quantitative work force shortages at least for the next ten or twenty years regarding the fact that the EU countries have substantial reserves of employable manpower and labor force of the unemployed and inactive population which exceed any short-term demographic deficiencies (Coleman, 2001:27). Orzechowska also puts attention to the reserves especially among women and the old and their mobilization to compensate a share of labor shortage (Orzechowska, 2001:7). These facts make large-scale legal movements by migrants from less developed countries into the European labor market unlikely. Coleman, for the long run refers more to the other policy options such as designing appropriate fertility rates, mobilizing the unemployed and housewives, changes in pension systems, increasing retirement age, training and retraining and assumptions about work force participation rather than additional migration streams (Coleman, 1992:443). Nevertheless, he also underlines that aging is inevitable and in face of current developments it cannot be avoided no matter fertility. Orzechowska also in her study concludes that the huge amounts of migration does not seem to be a realistic solution to aging and declining of labor population and she anticipates that some of them might be reserves in high unemployment and relatively low activity levels in Europe. (Orzechowska 2001:9). Similarly Feld, also puts more stress on the need for structural changes in social security system (Feld, 2000). However, neither Coleman and Orzechowska nor Feld consider the reluctance of citizens of the EU to take up certain jobs, also temporary, for example in agriculture, construction, industry, tourism, elderly care, cleaning etc. which is one of the main problems (Saczuk, 2003:7).

Secondly, although the global demographic and economic differences put a considerable immigration pressure on the industrialized European countries, they are

currently not so much interested in a new wave of permanent immigrants. A massive inflow of foreign workers and their descendants as in the 60s and 70s with the resultant costs for social welfare, education, and housing is not desired. Coleman states that the experienced one episode of mass migration in the 1960s has not prevented population aging and it is less clear if it had brought demonstrably desirable consequences either for the immigrants or for the host populations. Apart from that, it is discussed that the labor market situation has changed in comparison with those times: unemployment is high and will remain high for the foreseeable future. Furthermore, the qualification requirements have shifted from unskilled to skilled activities.

Thirdly, the inflow and presence of large immigrant masses apparently might produce grave social tensions. Whether immigrants and the descendants of immigrants amount to 5-10 percent or to 30-40 per cent of future young adult age groups is a big concern. In other words, the problems caused by immigrants originating from more or less alien cultures could be very damaging and severe with the fact that fertility levels of immigrant populations are usually higher, and sometimes much higher than those of Western host populations. In that case population replacement of host by immigrant populations will be accelerated (Coleman, 2001:14). So, high rates of migration flows would generate unsustainable population growth rates and can radically change the cultural and ethnic composition of the host population. These consequences have implied that, very high proportions of the populations concerned which will lead to eventually the majority would be of immigrant origin. In the long run, there is a risk that the minority will become the majority in a country if the increase of the proportion of the minority continues to increase through immigration and higher birth rates. Ultimately, the final population may be much smaller than the original one, and with the continued low replacement fertility of the original population, the original population becomes under the risk of dying out by leaving no descendants (Coleman, 2001:9).

As another fact, some scholars judge immigration being not very relevant to Europe's foreseeable economic needs nor helpful to the coherence of its society with the reason that the reliance upon the apparently easy option of importing labor from overseas, or to employ illegal immigrants for low wages and evade their training responsibilities, might risk exacerbating Europe's central economic problem, that of low productivity. Related to this, it is also discussed that an increase in immigration

threats the welfare society and brings heavier burdens regarding social welfare expenditures. Migrants can indeed put stresses on health and education service delivery systems, however some scholars indicate that in general, immigrants contribute more to the taxes that they pay than value of the public services that they use (Serow,1990:112). UK Home Office recent research noted that migrants contribute £2.5 billion more to the public purse each year than they consume in public services and welfare benefits (Spencer, 2002:227). Again related to this subject, it is another argument that immigration may depress wages of natives and induce unemployment (Zimmermann, 1993:238). Hence, in this term, many researches generally find that migrants have a modest effect on the labor market in the receiving country and that they mainly depress the wages of other immigrants rather than those of natives (LaLonde and Topel, 1997:820).

Finally, the issues that should not be also neglected are of both political and sociological nature. The spatial mobility of people has not only economic but also humanitarian, political and cultural implications. Discussing the matter of possible migration one cannot underestimate the possible assimilation problems and sociological tensions. No matter how beneficial the inflow of migrants might be, in practice the migrants themselves turn out to be both politically and socially unpopular group, which makes them more vulnerable to discrimination on both official and unofficial level (Saczuk, 2003: 20). Sociological issues are not so evident yet, but the increasing social tensions concerning migrants may suggest that they may become more serious problems if the migration undergoes to bigger scale as facilitating migration is not just a matter of obtaining entry visas. Migrants and their families need to drive, send children to school, receive health care, and contribute uninterrupted to retirement systems and these bring the issues of “integration of the migrants” to the fore.

In conclusion, encouraging more immigration to address population aging is considered demographically ineffective and a short-term measure which can bring serious cultural, social and political difficulties and economic costs. Thus, free migration is considered to be a threat to society as it can undermine state regulation of labor and housing markets and make planning virtually impossible (Brochmen, 1996:115). This group of scholars addresses that European societies would be ill-advised to rely solely on immigration to solve their demographic problems, because immigration is an inefficient counter to the problems posed by the current low

fertility levels. It is advised that the other discussed measures and policies, noted above, should go hand in hand. It is also agreed in the similar terms that just after the UN Report on “replacement migration”, the United Nations Expert Group Meeting on Policy Responses to Population Aging and Population Decline in October 2000 noted the consensus that replacement migration was not a viable “solution” in and of itself, but could buffer the likely impact of future aging if used by governments in conjunction with other policies such as increased labor force participation, especially among women or fertility inducements as noted above. All in all, it is a commonly shared view among the opponents of migration as a policy option that, mass migration will not be able to reverse the process of population aging and decline in Europe, but can be useful in easing the impact of aging on the work force.

3.3. Evaluation of the Past Experience: Migration and Population Trend between 1950 and 2003 in Europe

During the 20th century, the history of labor migration experience in Europe can be divided into three periods, the first starting with the huge wave of overseas emigration from Europe. During this first phase leading up to 1945, international travel was not controlled in Europe, with the exception of Tsarist Russia. It was even possible to settle down and work without the formality of permits. The second phase, starting in 1945, was again a period of a relatively liberal regulation policy in Western Europe. The post-war reconstruction with extensive labor demand provided the economic rationale for this liberalism. Cold War refugees and the decolonization process also accounted for parts of the positive immigration spirit in Europe during these years. The third period which constitutes the beginnings of 1970s was characterized by the introduction of a system of regulation and control. This was the first time that economic depressions with severe unemployment led to protectionist demands from the national labor forces. This period signified by the immigration stop of the early 1970s, introduced strict immigration regulation throughout the receiving countries of Europe. This introduced restrictionism has been further strengthened during 1980s.

On the other hand, individual countries have also had their own special experiences such as the migration to France of *pieds noirs* (people of European descent in Algeria) in 1962, Ugandan Asians to the UK in 1972 and the return of

Portuguese from Africa in the 1960s and 70s. The migration stemming from the specific ethnic groups have also at certain times been highly mobile such as the migration of Jews from Central Europe in the 1930s (Salt, 2001:3).

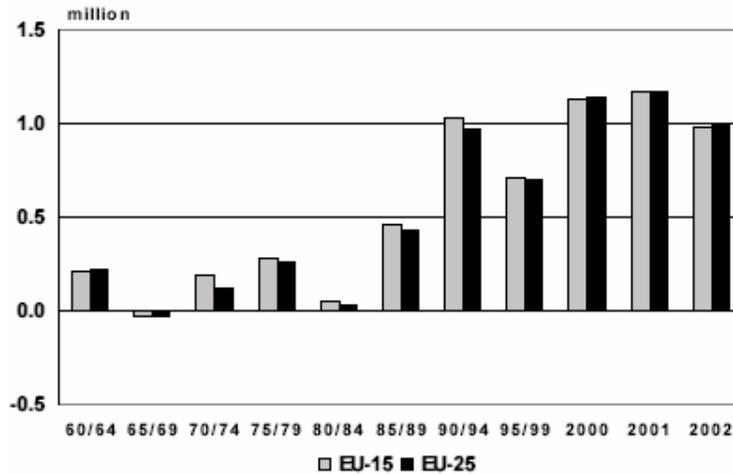


Figure III.1. Net Migration in the EU, 1960-2002

Source: Eurostat, Population Statistics 2004

The 1950s and 1960s constitutes a significant period where large amounts of labor migration is experienced as a response to the problem of general labor force shortage in some of the Western European countries.¹⁸ Today, it is again being discussed that the current specific labor shortage caused by population aging could be met by migration from outside Europe.

During the 1950s, some countries such as Belgium, France, former West Germany, Sweden and Switzerland opened their borders widely for large-scale recruitment of foreign labor. One of the main reasons behind this was, in relative terms most notably from Portugal and Ireland, in absolute terms also from Italy, Spain and Greece many people emigrated for economic reasons overseas as well as to other European countries. This brought the labor shortage problem among European countries. Demography was not direct the crucial driving force as much as

¹⁸ The labor migrants had been mainly from Turkey to West Germany, from North Africa to France and from the Caribbean and the Indian sub continent to the United Kingdom.

today behind this migration trend, but migration debates were again related with the labor market problems.

During the 1960s, immigration started to outweigh emigration also in other Western European countries, namely Austria, Denmark, the Netherlands, and Norway. In the 1950s and 1960s foreign workers were considered the cheapest possible way to face the increasing labor demand (Golini, Bonifazi, Righi, 1993: 70). These major migration movements of 1960s from developing countries contributed to the economic development of Europe between 1945 and 1975. During this period European countries experienced strong economic growth, the development of heavy industry, manufacturing, building and public works sectors. The wave of migrants from Ireland and Southern Europe (Greece, Portugal, Spain and, to a lesser extent Italy) at first met the labor market needs of Western Europe. The case was the same for the migrants from North Africa, Turkey, the former Yugoslavia and, in the particular case of the United Kingdom, the former Commonwealth (Garson, 2003:463). On the other hand, during this period, numerous bilateral agreements were signed, for example, between Germany and the following countries: Italy (1955), Greece and Spain (1960), Turkey (1961), Morocco (1963), Portugal (1964), Tunisia (1965) and Yugoslavia (1968). Belgium, France, the Netherlands, Luxembourg and Switzerland also signed agreements with most of these countries.

All these countries stopped recruiting foreign labor in 1973-74. Since the recruitment ban in 1973-74, the efforts with regard to the national immigration policies of the Western European countries have been concentrated rather on the restriction and control of access of foreign workers. In other terms, the early 1970s introduced a new approach that immigration was increasingly seen as a social problem which called for stricter regulation and new measures. The authorities were in dilemma which resulted in the “two-tier policy”: on one hand, fears of social unrest due to “ethnic imbalance” favored restrictions; but at the same time the continued demand for certain types of manpower implied the encouragement of particularly European immigration (Brochmen, 1996:114).

In the 1980s and 1990s, migration balances turned positive for the first time in Finland, Ireland, and later also in Greece, Italy, Portugal and Spain which were the traditional sending countries of economic migrants before. As one of the reasons of this migration trend was the returning of former labor migrants home from the Benelux, France, Germany, Sweden, Switzerland and the UK. By the early 1980s,

the resident foreign population in Western Europe had effectively tripled since 1950, and it reached around 15 million (Garson, 2003: 46).

The moderate positive net migration in most advanced market economies continued in the 1990s. West-Germany, Austria and Luxembourg recorded very high migration inflows.

European migration in the 1990s indicates a number of unique characteristics. The first and foremost of these characteristics is that contrary to earlier periods when labor shortages in Western European markets induced policies of labor recruitment in peripheral countries, in 1990s migration to Europe has become a mostly unwanted phenomenon. As a result, Western European immigration policies have had to move from proactive to reactive. The second, interrelated, characteristic of European migration in the 1990s consists of the recent pressures of two major migratory fronts, Eastern Europe and the South. The third characteristic of European migration in the 1990s relates to the state of the receiving countries' economies. With recession hitting most of Western Europe's national economies, and long term and youth unemployment reaching unprecedented levels, little flexibility can be expected from Western societies with respect to future immigration from non-member states. Even considering Western Europe's negative demographic trends, short and medium term immigration pressures will largely outstrip the immigration capacity of the West (Ardittis, 1994: 40-41).

On the other hand, despite the discussions of restrictive immigration policies, since the 1990s, all countries of Southern Europe experienced an inflow of foreign labor and other foreign immigrants (World Migration, 2003: 239). Member States have experienced a positive crude rate of total population growth¹⁹, where falling natural growth rates²⁰ have been offset by positive net immigration into Member States. The highest crude rate in the Member States for 2001 is over 11 per 1,000 populations for both Ireland and Luxembourg, which have seen an increase in birth rates building upon increases in net immigration over the late 1990s. On the other hand, in the 1990s, the majority of Applicant Countries of that time have experienced

¹⁹ Population growth is the ratio of the total population change during the year to the average population in that year. The value is expressed per 1000 inhabitants. (Eurostat, Population Statistics 2004:155)

²⁰ Natural growth rate is the difference between the number of live births and the number of deaths during the year. The natural increase is negative (and then called natural decrease) when the number of deaths exceeds the number of births. (Eurostat, Population Statistics 2004:157)

negative crude rates of total population growth, where falling natural growth rates have added to negative net migration, as in the case of many of the Central and Eastern European countries and Baltic States. However, it is worth recalling that, despite the restrictive policies and stricter border controls, Europe received substantial net migration throughout the 1990s. The immigrant population continues to increase by family unification or family formation, asylum, temporary work/tourism and undocumented migration and also by the higher fertility of the immigrants which induced the production of an increasing second generation. Contrary to some expectations that a strong migration pressure will come from the Central and Eastern European countries, the movement from East to West has slowed down at the end of the 20th century. Major immigration flows are now from non-European countries into Europe (Cliquet, 2002:4). The Netherlands, Britain and Germany have been the major destinations. During 1994-96 alone, Western Europe had a net gain in foreign population by migration of 1.26 million, including 526.000 in Germany, 145.600 in the Netherlands and 216.000 in Britain (Salt, 1999: 12). It should be noted that the number of 1.26 million for 1994-96 excludes asylum-seekers. Once the asylum figures are added, therefore, a clearer picture of the scale of migration to Europe emerges.

In 2001, the traditional European immigration countries, France, Switzerland and Austria recorded prominent increases in migration inflows, respectively equivalent to 141.000, 99.500 and 74.800 admissions. In Germany, the increase of immigration rate between 2000 and 2001 was close to 6 per cent. On the other hand, Netherlands, Sweden, Luxembourg and Denmark saw a moderately immigration growth rate in between 2000-2001 which is below or equal to 3.5 per cent. The beginning of the 2002 was characterized by a significant increase in labor-related migration, both temporary and permanent. (OECD, 2001:25-26)

It is expected that the current growth in migration flows will continue to some extent in the EU countries due to the labor related demographic changes and the enlargement process of the EU which will also gave way to the inter-EU migration.

Coming to calculate the impact of migration on population structure, immigration plays a significant role on the demography of several European countries (Italy and Spain in particular) and in fact in offsetting the population decline (OECD, 2004, Annual Report 2003:16). Migration affects the population

structure in two ways. First, migrant populations contribute to the rate of natural increase when the fertility rates of foreign women relative to native women is high. Second, when net migration is positive, the population of the host country increases by the same amount.

In the forty years between 1960 and 2000, Western Europe's population increased by 4.3 per cent through a net inflow of some 16.7 million people (World Migration, 2003:240). In the period 1990-97, migration was the most important component of population change with 45.5 per cent (Salt, 2001:3). As it is illustrated in the Table III.1. , the main receiving countries were Germany (net migration balance 1960- 2000: +8.5 million), France (+3.9 million), the Netherlands (+1.0 million), the UK (+0.9 million) and Switzerland (+0.8 million). Relative to population size, the largest net gain through international migration was registered in Luxembourg (1960-2000: +22.8 per cent of total population), Switzerland (+11.2 per cent), Germany (+10.4 per cent), Sweden (+7.6 per cent) and Austria (+7.5 per cent). As a result, demographic net gain of slightly more than half of Western Europe happened during the last decade through legal migration. Between 1990 and 2000, this net gain amounted to an additional 8.7 million people. During this period, Germany (net migration balance 1990-2000: +3.6 million), Italy (+1.2 million) and the UK (+0.8 million) had the largest net inflow. Relative to population size, the net migration balance was again the largest in Luxembourg (1990-2000: +9.7 per cent), followed by Germany (+4.4 per cent), Greece (+4.2 per cent) and Austria (+3.6 per cent of total population). (IOM, 2003: 240)

TABLE III.1. Net Migration Flows in Western Europe, 1960-2000

	Average Annual Net Migration Balance			Cumulative Net Flow					
				1960-1990		1990-2000		1960-2000	
	1960-1990	1990-2000	1960-2000	In 000s	As % of population	In 000s	As % of population	In 000s	As % of population
Austria	1.3	3.6	1.9	308	4.0	294	3.6	602	7.5
Belgium	0.9	1.5	1.0	247	2.5	153	1.5	400	3.9
Denmark	0.6	2.5	1.1	97	1.9	129	2.4	226	4.2
Finland	-1.0	1.3	-0.5	-140	-2.8	64	1.2	-76	-1.5
France	2.1	1.0	1.8	3270	5.8	585	1.0	3855	6.5
Germany	2.1	4.4	2.6	4857	6.1	3638	4.4	8495	10.4
Greece	-0.1	4.2	1.0	27	0.3	442	4.2	469	4.4
Iceland	-1.4	-0.4	-1.1	-9	-3.5	-1	-0.4	-10	-3.5
Ireland	-3.0	2.4	-1.6	-285	-8.1	91	2.4	-194	-5.1
Italy	-0.6	2.0	0.0	-904	-1.6	1177	2.0	273	0.5
Luxembourg	5.4	10.0	6.5	58	15.2	42	9.7	100	22.8
Netherlands	1.5	2.3	7.7	644	4.3	360	2.3	1004	6.3
Norway	0.8	2.0	1.1	98	2.3	88	2.0	186	4.2
Portugal	-4.6	0.3	-3.4	1197	-12.1	35	0.4	-1162	-11.6
Spain	-0.3	0.9	0.0	-286	-0.7	358	0.9	72	0.2
Sweden	1.9	2.2	2.0	476	5.6	194	2.2	670	7.6
Switzerland	3.0	3.3	3.1	569	8.3	235	3.3	804	11.2
United Kingdom	0.1	1.5	0.4	114	0.2	827	1.4	941	1.6

Source: UN World Population Prospects, The 2000 Revision-Calculations: Brücker and Demography at Humboldt University Berlin

It is more difficult to obtain accurate and comparable data across Europe for stocks of labor than for the foreign population as a whole. There are problems of determining who is included, and which sources might be used. In addition, unrecorded workers are almost certainly proportionately more important in the labor market than are unrecorded residents in the total population (Salt, 2001:16). Therefore, in most countries the real numbers of foreign worker stocks are higher because of the presence of illegal workers. The following table of OECD gives an idea about the foreign labor force in some EU countries between 1995 and 2000 without taking into account the illegal labor migrants.

TABLE III.2 Foreign Labor Force between 1995-2002

Foreign labor force				
	Thousands		% of total labor force	
	1995	2002	1995	2002
Austria	366	387	9.7	9.9
Belgium	327	357	7.9	8.2
Czech Republic	..	50	..	1.0
Denmark	84	104	3.0	3.7
Finland	18	38	0.8	1.4
France	1566	1612	6.3	6.2
Germany	3505	3511	9.1	8.9
Greece (2001)	..	413	..	9.5
Hungary	21	23	0.5	0.6
Ireland	42	101	3.0	5.6
Italy (2001)	332	801	1.6	3.3
Japan (2001)	88	169	0.1	0.2
Luxembourg	65	83	39.1	43.2
Netherlands	281	295	3.9	3.6
Norway	59	80	2.7	3.4
Portugal	21	125	0.5	2.5
Spain	121	490	0.8	2.7
Sweden	186	205	4.2	4.6
Switzerland	729	864	18.6	21.8
United Kingdom	1011	1406	3.6	4.8

Source: OECD, 2004: Trends in International Migration Annual Report 2003

There seems little doubt that in Western Europe as a whole, stocks of foreign population have increased considerably in recent years. In 1950, there were 3.8 million foreign citizens in Western Europe. By 1970-71, this number had risen to almost 11 million and further in the beginning of the twenty-first century it reached to 20.5 million people. The total recorded stock of foreign population living in European countries in 1999-2000 stood at around 21.16 million people. In Western Europe around 1999-2000 there were about 7.88 million recorded foreign workers (Salt, 2001:16).

The majority of foreign workers in Europe in 1999 were concentrated in the Federal Republic of Germany and France, with a total of over 3.56 million workers.

There were also over a million foreign workers in the UK. The largest groups of foreign workers in Germany are Turks, Yugoslavs and Italians; in France, Portuguese, Algerians and Moroccans; in the UK, Irish. Turks are the largest single foreign worker group in Germany, the Netherlands, and the second largest group in Austria; Yugoslavs are the largest group in Austria, the second largest in Sweden and Switzerland; whilst Italians are the most prominent group in both Switzerland and Belgium. In addition to their numerical importance in France, Moroccans are the second largest group in both Belgium and the Netherlands (Salt, 2001:16).

The foreign population appears to constitute some 2.6 per cent of the aggregate population of Europe in 2000. On the other hand, there were 8 million people which were foreign-born but not foreign nationals as they either already immigrated as citizens of a European country or had obtained citizenship in this country in the meantime (Salt, 2001: 6).

Coming to 2003, more than three quarters of the increase in the EU's population came from cross-border migration. Spain accounted for 23% of all the net migration to Member States, Italy 21%, Germany 16% and the United Kingdom 10 per cent (Eurostat Statistics, 2004). In early 2004, after the last enlargement the European Union (EU 25) had 455 million inhabitants²¹. International migrants constitutes the nearly 34-37 million of these 455 million people and this representing roughly 8 percent of Europe's total population (Münz, 2004:4).

Thus, no doubt that, immigration has played an important part and contributed to boosting population growth and compensating the labor force in Western Europe over the last decade, as it was one of the main factors in balancing the excess of deaths over births in demographic terms. The intensification of international migration flows mentioned earlier, along with a rate of natural increase supports this phenomenon. On the other hand, the past experience of labor migration proves the contribution of labor migrants to the well being of the European economies which ameliorates the particular labor force deficiencies.

²¹ The 15 Member States that constituted the EU until recent enlargement had 381 million EU citizens and legal foreign residents.

3.4. Labor Migration from the Central and Eastern European Countries (CEEC) to the Western Europe: Sufficient to Compensate the Current Labor Force Shortage?

With the breakdown of the communist regimes in Eastern Europe, the potential size of migration pressure has risen considerably. Furthermore, the enlargement process of the EU puts more pressure to move from East to West with the increasing new greater opportunities, and substantial economic differences (Zimmermann, 1993: 227). Some scholars propose that the natural free movement of people from the new Member States can compensate the labor shortage stemming from population decline and aging in the EU. However, most Central and East European countries that have recently become a Member State of the EU (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic and Slovenia) have a stagnant or shrinking population and either experiencing natural population decline and aging (Fassman and Münz, 2002: 17). In most of them, size of total population has already begun to decrease. Only the Slovak Republic experienced a population increase since 1989. Decreasing population size in Central and Eastern Europe stems from the very low fertility rate like the Western European countries. In Poland, the population decline is projected to reach -2.3 million (-8.6 per cent) and -7.7 million (-29.1 per cent) by 2025 and 2050, respectively. Hungary's natural population rate has been in decline since the early 1980s to -3.4 in 2002, and Bulgaria's rate has fallen from 1990 to -5.5 in 2001 (World Migration, 2003: 244).

According to the first demographic estimates for 2003, published by Eurostat, the Statistical Office of the European Communities, the EU had a population of 380.8 million on 1 January 2004. The population of the euro zone²² is estimated at 306.9 million and that of the 10 Acceding Countries at 74.1 million (Eurostat Statistics in Focus, 2004). Half of the 10 Acceding Countries, in particular Latvia (-5.6‰) and Lithuania (-4.5‰), had declining populations in 2003, whilst the biggest rises were in Cyprus (+17.4‰) and Malta (+5.7‰). (Eurostat Statistics, 2004). Foreign resident population in 15 EU originating from CEEC is estimated to increase from 850.000(1998) to 3,9 million by 2030. (Fassmann and Münz, 2002:8)

²² Euro zone: Belgium, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal and Finland.

TABLE III.3. Annual Increase in the Number of Migrants from Central and Eastern Europe in the EU 15

	2002	2005	2010	2020	2030
Belgium	4241	3140	1855	534	30
Denmark	3489	2583	1526	439	25
Germany	218430	161720	95560	27510	1539
Finland	4718	3493	2064	594	33
France	8661	6412	3789	1091	61
Greece	7925	5867	3467	998	56
Great Britain	15353	11367	6717	1934	108
Ireland	79	58	34	10	1
Italy	13577	10052	5940	1710	96
Luxembourg	276	204	121	35	2
Netherlands	3782	2800	1654	476	27
Austria	45147	30020	17739	5107	286
Portugal	307	228	135	39	2
Sweden	10310	7634	4511	1299	73
Spain	4149	3072	1815	523	29
EU 15	335843	248649	146926	42297	2366

Source: Brücker 2000, Studie über die Auswirkung der EU, Final report, Part I Analysis

Another aspect of the issue is, there is also problem of the population aging in Central and Eastern Europe. In 1999-2000 some 20 per cent of total population was below age 15 and only 18 per cent over age 60. (Fassman and Münz, 2002:22) The number of people aged 65 or more is 16.6 million (2002), and it is expected to increase to 23.6 million in 2025 (+41 per cent) and to 29.2 million in 2050. The working-age population in Central and Eastern Europe is expected to decline from 88 million (2000) to 80 million (-9.2 per cent) by 2025 and to 61 million (-30.9 per cent) by 2050 (World Migration, 2003: 244). Under these conditions, it is estimated that they will require a net inflow of 8 million people to stabilize their working-age population until 2025. Some scholars predict that some 3 to 5 million citizens of Central and Eastern Europe would move to Western Europe for economic reasons during the first 15 years following EU enlargement (Fassmann and Münz, 2002:5). However, the Central and Eastern European countries are themselves becoming a target for labor migrants, while demographically-induced labor shortages will also reduce their emigration potential.

Related to this subject, in connection with EU enlargement one of the most frequently asked questions is whether a larger or smaller East-West migration will take place once citizens of the new Member States have free access to the labor markets of the current 15 EU Member States (Fassman and Münz, 2002:5). It is clear that, economic integration of Central and Eastern Europe stimulates economic growth in this area. Therefore, the speed of this economic integration has a significant impact on the reduction of existing income differentials, leading to smaller number of potential migrants in the new EU Member States. Hence, future trends in migration from Central and Eastern Europe crucially depend on how fast the process of convergence in GDP per capita levels will occur, and on the expectations of residents of the accession countries about the closing of the income gap with the EU. With the improvement of the economic situation in these countries and regions and closing of the economic gaps, it is probable that this will further reduce emigration pressure (Fassmann and Münz, 2002: 6).

The EU approach links economic integration and free migration. As a result, the EU attempts to ensure that there is likely to be relatively little migration before a country is accepted for EU membership and its citizens receive full freedom of movement rights. There is usually a transition period of seven years between full EU membership and full freedom of movement rights, and during this time, regional aid and investment can create enough opportunities at the new Member States so that when for instance Spanish or Portuguese or Greek workers obtain full freedom of movement rights, few migrate (Martin, 1999:8). Thus, it is discussed that in the twenty-first century, neither Central nor Eastern Europe can be considered a region from which persistent high rate of mass migration to the former 15 Member States can be expected. Regardless of regional economic development, the migration potential in Central and Eastern European is expected likely to decrease for simple demographic and economic reasons. Supporting this, a recent study carried out by Eurobarometer found that perceived fears of a huge wave of migration from the new EU Member States after enlargement seem to be unfounded. Even if current EU Member States did not restrict their labor markets after 1 May 2004, when ten new countries will join the EU, migration from these new Member States to all current Member States would only be about 1 per cent of the working age population (Work Permit News, 2004).

3.5. Policies Implemented in Europe Excluding Migration Option

While these discussions are ongoing about migration, having the hesitance to deal with migration issue, European countries at the beginning of the 1990s, hesitated even to accept the demographic problem that they were passing through. Yet, as the demographic situation started to give signals of danger for the sustainability of the welfare benefits, European states began to declare their concerns over the demographic situation and started to discuss the policy options including migration to counter the problem. Some governments prefer pro-natalist policies to increase the fertility rates whereas some put more emphasis on the labor market reforms. However, as migration stands as the inevitable option, the governments also began to take new, but cautious, initiatives to admit more labor migrants. These varying migration policies will be analyzed in the next chapter more in detail.

Perception of challenges of population decline and aging among Member States were slightly different. As it is illustrated in the Table III.5 in 1999, most of the European countries were satisfied with the level of population growth except for Austria (0.5 per cent in 1995-2000), Greece (0.3 per cent in 1995-2000) and Portugal (0.0 per cent in 1995- 2000), thus the majority of the countries did not recognize low population growth as major concern. In 1999 none of the States claimed to intervene with population growth rates.

TABLE III.4. Population Growth Rates, Total Fertility Rates and Government Views and Policies on Population Growth, Fertility and Immigration

	Annual growth rate	Total fertility rate	Population Growth		Fertility		Immigration	
	per cent	per women	View	Policy	View	Policy	View	Policy
Country	1995-2000		1999		1999		1999	
Austria	0,5	1,4	Too low	No intervention	Too low	Raise	Too high	Lower
Belgium	0,1	1,6	Satisfactory	No intervention	Satisfactory	No intervention	Satisfactory	Maintain
France	0,4	1,7	Satisfactory	No intervention	Too low	No intervention	Too high	Lower
Germany	0,1	1,3	Satisfactory	No intervention	Too low	No intervention	Too high	Lower
Luxembourg	1,1	1,7	Satisfactory	Maintain	Too low	Raise	Too high	Lower
Netherlands	0,4	1,5	Satisfactory	No intervention	Satisfactory	No intervention	Satisfactory	No intervention
Greece	0,3	1,3	Too low	No intervention	Too low	No intervention	Satisfactory	Lower
Italy	0,0	1,2	Satisfactory	No intervention	Too low	No intervention	Satisfactory	Maintain
Portugal	0,0	1,4	Too low	No intervention	Too low	No intervention	Satisfactory	Lower
Spain	0,0	1,2	Satisfactory	No intervention	Too low	No intervention	Satisfactory	Maintain
Denmark	0,3	1,7	Satisfactory	No intervention	Satisfactory	No intervention	Too high	Lower
Finland	0,3	1,7	Satisfactory	No intervention	Satisfactory	No intervention	Satisfactory	Maintain
Ireland	0,7	1,9	Satisfactory	No intervention	Satisfactory	Maintain	Satisfactory	Maintain
Sweden	0,3	1,6	Satisfactory	No intervention	Satisfactory	No intervention	Satisfactory	Maintain
United Kingdom	0,2	1,7	Satisfactory	No intervention	Satisfactory	No intervention	Satisfactory	Lower

Source: The Population Policy Data Bank maintained by the Population Division of the Department of Economics and Social Affairs of the United Nations

Rather than of population decline, the European Member States were more concerned of population aging. Austria, Germany and Greece identified population aging as an area of its major concern. However, Italy which has the “oldest population” in Europe, and United Kingdom associate population aging as an area of its minor concern whereas France took no official position on this issue (Orzechowska, 2001:9). Although the majority of the Member States (Austria, Germany, France, Greece, Luxembourg, Italy, Portugal and Spain) evaluated its fertility rates as too low, they did not introduce any active pro-fertility policies until 2000s.

However, most governments favor welfare policies (welfare payments, workplace and housing policies etc.) rather than migration especially in 1990s. For instance, the UK family support programmes and other welfare arrangements such as subsidized social housing are aimed at welfare and have no demographic intentions although they may have unintended demographic consequences. (Coleman 2001: 8)

In 2000, the perception of most European states towards demographic challenges has shifted. Stemming mainly as a response to the private sector pressure of labor force shortages in certain sectors, some Member States such as Austria, Germany, Italy, Spain and United Kingdom recognized the significance of the problem (Orzechowska, 2001: 10).

Considering the option of policies targeting to raise fertility rates, most governments are still away from clear pro-natalist measures or rhetoric. One of the reasons is, there is public resistance to pro-natalist government policies, due to the heavy-handed birth promotion programs supported by undemocratic governments in the past (such as in Germany, Romania, and Spain). Secondly, births are viewed as impediments to women’s progress in the workplace (Population Reference Bureau Staff, 2004:28). For instance, in the UK, no proposals have been suggested, specifically addressed to the issue of increasing the birth-rate. However, in comparison, as a percentage of gross national product (GNP), the Scandinavian countries – Denmark, Finland, and Sweden –devote over 4 percent to family allowances, while Mediterranean countries devote much less, ranging from 0.2 percent in Greece to 1.1 percent in Portugal. Most of the other EU countries devote between 2 and 3 percent of their GNPs (Levy, 1998:3). In Sweden also due to the measures that enabled women to combine employment and family, both the labor force participation and fertility rates registered an increase. Romania and France also

demonstrated an increase in fertility rates immediately after the introduction of the pro-natalist incentives. The situation in France has reasoned from the most interventionist set of policies implemented by the government to encourage families to have children. However, the higher fertility rates do not seem to be sustained in the long run. Scandinavian countries, and to some extent France, appear to have encouraged more children with social measures and flexible work options designed to help parents. Also campaigns to promote responsible fatherhood in Scandinavia have had a degree of success in encouraging greater male involvement in child upbringing. Thus, given the priority assigned to social cohesion in other policy areas, promoting mutually supportive and responsible parenting would result in larger families. (Coleman, 2003:9)

Besides the differing policy implementations in the EU countries, the following source of tables clearly indicates the fertility and migration as a policy option for the three selected countries; United Kingdom, Italy and Germany.

TABLE III.5 Government Views and Policies, United Kingdom

Population policy variable	1976	1986	1996	2003
<u>Population size and growth</u>				
View on growth	Satisfactory	Satisfactory	Satisfactory	Satisfactory
Policy on growth	No intervention	No intervention	No intervention	No intervention
<u>Population age structure</u>				
Level of concern about				
Size of the working-age population	--	--	--	Major concern
Aging of the population	--	--	--	Major concern
<u>Fertility and family planning</u>				
View on fertility level	Satisfactory	Satisfactory	Satisfactory	Satisfactory
Policy	No intervention	No intervention	No intervention	No intervention
Access to contraceptive methods	Direct support	Indirect support	Direct support	Direct support
Adolescent fertility				
Level of concern	--	--	Major concern	Major concern
Policies and programmes	--	--	Yes	Yes
<u>International migration</u>				
<u>Immigration</u>				
View	Too high	Too high	Too high	Too low
Policy	Lower	Lower	Lower	Raise
Permanent settlement	--	--	Lower	Raise
Migrant workers	--	--	Lower	Raise
Dependants of migrant workers	--	--	Lower	Raise
Integration of non-nationals	--	--	Yes	Yes
<u>Emigration</u>				
View	Satisfactory	Satisfactory	Satisfactory	Satisfactory
Policy	Maintain	Maintain	No intervention	No intervention
Encouraging the return of nationals	No	--	No	No

Source: World Population Policies 2003, Population Division of the United Nations Secretariat

TABLE III.6 Government Views and Policies, Italy

Population policy variable	1976	1986	1996	2003
<u>Population size and growth</u>				
View on growth	Satisfactory	Satisfactory	Satisfactory	Satisfactory
Policy on growth	No intervention	No intervention	No intervention	No intervention
<u>Population age structure</u>				
Level of concern about Size of the working-age population	--	--	--	Major concern
Aging of the population	--	--	--	Major concern
<u>Fertility and family planning</u>				
View on fertility level	Satisfactory	Satisfactory	Satisfactory	Too low
Policy	No intervention	No intervention	No intervention	No intervention
Access to contraceptive methods	Indirect support	Direct support	Direct support	Indirect support
Adolescent fertility				
Level of concern	--	--	Not a concern	Not a concern
Policies and programmes	--	--	No	No
<u>International migration</u>				
<u>Immigration</u>				
View	Satisfactory	Too high	Satisfactory	Too high
Policy	Maintain	Lower	Lower	Lower
Permanent settlement	--	--	Lower	Lower
Migrant workers	--	--	Lower	Maintain
Dependants of migrant workers	--	--	Maintain	Lower
Integration of non- nationals	--	--	Yes	Yes
<u>Emigration</u>				
View	Too high	Satisfactory	Satisfactory	Satisfactory
Policy	Lower	Lower	No intervention	No intervention
Encouraging the return of nationals	No	--	No	No

TABLE III.7 Government Views and Policies, Germany

Population policy variable	1976	1986	1996	2003
<u>Population size and growth</u>				
View on growth	--	--	Satisfactory	Satisfactory
Policy on growth	--	--	No intervention	No intervention
<u>Population age structure</u>				
Level of concern about				
Size of the working-age population	--	--	--	Major concern
Aging of the population	--	--	--	Major concern
<u>Fertility and family planning</u>				
View on fertility level	--	--	Too low	Too low
Policy	--	--	No intervention	No intervention
Access to contraceptive methods	--	--	No support	No support
Adolescent fertility				
Level of concern	--	--	Not a concern	Major concern
Policies and programmes	--	--	No	Yes
<u>International migration</u>				
Immigration				
View	--	--	Too high	Too low
Policy	--	--	Lower	Maintain
Permanent settlement	--	--	Lower	Lower
Migrant workers	--	--	Lower	Raise
Dependants of migrant workers	--	--	Lower	Lower
Integration of non-nationals	--	--	Yes	Yes
Emigration				
View	--	--	Satisfactory	Satisfactory
Policy	--	--	No intervention	No intervention
Encouraging the return of nationals	--	--	No	No

In the framework of regulations in the social security systems, for instance UK government pursued initiatives to discourage early retirement and to encourage later working. Tax relieves are being removed from private pensions taken before age 55, and the tax system made working beyond age 65 easier. Both employers and government are likely to discourage favorable early retirement terms in occupational pension schemes. On the other hand, “phased retirement” will be encouraged where the pensioner continues in part-time work. It can be said that the UK pensions situation is already much more favorable than in continental Europe. The necessary shift away from primary dependency on state-run pay-as-you-go pension schemes is already succeeded. Furthermore a high proportion of workers are already members of

funded occupational or private pension schemes and government policy aims to extend such coverage to an even higher proportion of the population. (Coleman 2001: 8)

Additionally, increasing the retirement age from 65 to 67 years is another discussion. It has also been proposed by the Commission assigned by German Interior Minister Otto Schily. However, the German Federation of Unions strongly opposes the raise of the retirement age, arguing that, more people should take early retirement to reduce unemployment, which is currently at 3.8 million, or 9.3 per cent. Similarly, Walter Riester, Federal Secretary of Labor, also opposed employers' appeal to raise retirement ages, responding that: "We can talk about this after 2010" (Hegen, 2001). Concerning the UK example, postponing the retirement age until 72 by 2040 in UK would appear to solve the problem of a falling support ratio. However, as Coleman states: "the implications of such a policy would no doubt prove extremely unpopular in practice" (Coleman, 2003:11)

In conclusion, before developing policies to counter the negative impacts of demographic challenges, most of the EU states did not declare the critical demographic situation officially. Therefore, they did not take significant steps or propose any strategy towards the trend of population aging and decline and their possible impacts on the labor markets and the welfare of the Europe. The late-come reaction of the European states was more towards to pursue rearrangements and reforms in the labor market and to some extent to support pro-natalist policies. Most governments facing low fertility found it preferable to raise fertility rather than to substantially increase the flow of immigrants. (Population Reference Bureau Staff, 2004:31) Governments are thus shifting toward a more comprehensive approach, combining fiscal policies (allowances, taxes, and bonuses) with policies that allow parents to combine work with family life. However, without migration, even if the birth rates were to return to replacement levels, it would only take the support ratio to just under 3. In order to reach the PSR of 4 or over average of 4 children per family would be required, a rate which has not been seen since the turn of the century. Therefore, all these policy options excluding migration, appeared to have temporary effects and they seem to be not very effective and sufficient when compared with the serious and critical population change which will foster more be faster and generate more severe negative impacts in the future. As a result, labor migration is coming to the fore as an inevitable option, in fact the reality.

CHAPTER 4

REACTIONS OF THE EU MEMBER STATES TO LABOR MIGRATION AND THE CURRENT NATIONAL IMMIGRATION POLICIES

At the beginning of the twenty first century, European governments returned to immigration as a means of addressing their economic - needs of industry for low-skilled workers, shortages in high-skilled sectors- and demographic problems. Although many European governments by taking into consideration the public opinion polls are aware of the fact that there is little public support for further immigration, the move towards opening the borders for migrants was led by Germany and then the UK, the two most notorious examples of self-proclaimed “zero-immigration countries” in Europe²³ (Favell and Hansen, 2002: 592).

In the past, in the case of labor shortages, EU governments have often responded by introducing temporary migration programmes for particular low-skilled sectors, especially in agriculture, food processing, construction, and hotel and catering. Coming to the twenty-first century, facing the demographic challenges and its negative impact, employers who are experiencing especially skilled-labor shortages have been calling on governments to open up new labor migration channels for foreign workers. Hence, many countries experience tensions between public and private policies on labor market interventions (Orzechowska, 2001:12).

However, Europe differs from traditional countries of immigration (United States, Canada, Australia) in three distinct ways: the European labor market is less flexible and adjusts slowly to economic differences. Secondly, Persistence of unemployment and labor market imperfections are more important in Europe and make the impacts of immigration less predictable. Lastly, Europe has a different

²³ For instance, a survey published in the German newspaper *Die Woche* in July 2000 indicated that 63 per cent of the interviewed people thought that Germany did not need any more immigrants. (Laczko, in IOM, 2003:248)

view on cultural variety and social networks than those countries. The functioning of the assimilation pressures in Europe are much stronger (Zimmerman, 1993:253).

In considering the nature of migration in the last decade, Europe has basically accepted large numbers of semi-permanent and temporary migrants through the abolition of visas on first-wave candidate countries, encouraged a sharp increase in trans-border movement; and its largest Member States have even openly adopted more positive immigration policies (Boswell, 2004:39).

The temporary migration programmes are the most preferred ones regarding the labor migration context. Yet, they have a number of negative and unintended consequences.

First, temporary programmes can encourage increased illegal stay and labor, through the phenomenon of overstay of those entering on temporary permits, or through the expansion of migrant networks which can facilitate additional influx, stay and employment outside of legal programmes. Permanent settlement mostly brings serious integration problems. Second, employers may become structurally dependent on this source of labor. Thus, even though programmes may have been designed as exceptional, to fill the labor gaps, firms will push for the persistence of such programmes, or for the possibility of retaining workers who entered on temporary programmes but have now developed skills necessary for the job (Boswell, 2004: 43).

Besides these, it is another important aspect that in EU countries, work permit systems represent the main way for foreign workers from non-EU countries to enter for employment. However, conditions governing the granting of work permits as well as the types of permits vary enormously among European countries. This diversity is highlighted in a comparative study on the admission of third-country nationals for either employment or self-employed economic activities prepared for the EU (ECOTEC, 2001:19). The study shows that both third-country nationals wishing to be admitted to employment in the EU, and EU employers in need of third-country workers, are confronted with “sometimes highly complex administrative procedures” with “only a few common rules and principles applicable in all Member States” (ECOTEC, 2001:19).

Therefore, stemming from the varying migration policies among the EU Member States, three main EU states, United Kingdom, Italy and Germany will be examined at the nation state level in terms of the current migration policies, the

relating discussions, and work permit systems which embodies the labor migration arrangements. Furthermore, the illegal migration and to some extent asylum-seekers' issue will be touched as they constitute a significant share of foreign labor stock in the economy.

4.1. "Fortress Europe"

During the 1990s, many articles were published on or about "Fortress Europe". In terms of the construction of a "Fortress Europe", academics and policy makers have repeatedly evaluated the interrelation of immigration and European integration. The concept takes its base from the argument that with the enlarged EU, the competencies of nation states over internal cooperation are increasingly transferred to the supranational level, and thus the EU will open its external borders to immigrants, and especially to non-white immigrants. That idea is considered with hesitance by European states who desire to seek control and power over the migration issues within their borders. Thus, the vision of "Fortress Europe" which is shared by some scholars in different ways refers to the idea of Europe that is shaped on one hand by promoted pro-migrant activists and on the other by control-minded European governments and hostile public opinion (Favell and Hansen, 2002:582).

One of the basic versions of the "Fortress Europe" argument is dominated by British scholars, and based on frequent arguments made about British policy on race and immigration in the 1970s and 1980s. It demonstrates that the sort of racism that led Member States to close their doors to colonial migrants at 1970s and 1980s has simply now been extended to the Union as a whole (Favell and Hansen, 2002, 586).

Another argument is more shaped by the cultural components that in the construction of a new European identity, Europe also constructed the barriers of "Fortress Europe" through a process in which Europeans distinguish themselves from an inferior, hostile "other", in this case with the immigrants. Favell and Hansen indicates that "enlargement will cement this new Eurocentric order by creating an implicit set of concentric circles around Europe that offers partial integration to Central and East European nations, and even less to peripheral, non-European dependents such as Morocco and Turkey" (Favell and Hansen, 2002, 586).

The implication of these arguments concludes that the migration policies of EU and Member States converge towards effective restrictions and the exclusion of

further non-European migrants. Boer points out that as even the introduced agreements on immigration aim at exclusion rather than inclusion, the “Fortress Europe” metaphor correctly reflects the development which carries all the symptoms of mobilized social fears. (Boer, 1995:94)

On the other hand, some scholars mention that since the middle of the decade on, taking into consideration the shift of Member State politicians and EU policy-makers towards a pro-immigration stance, after years of zero-immigration rhetoric, to talk about a new European Fortress has come to a discussable point. Favell and Hansen support that idea by stating that the arguments on “Fortress Europe” are wrong in their characterization as the market-building drive has led to a more liberal, expansive, open European immigration scenario, that does not necessarily end even at the borders of the EU’ s accession partners (Favell and Hansen, 2002: 587). Supporting this point of view, currently there is a significant transformation in migration processes in Europe. From a historical context migration policies were dominantly shaped and restrained by state-centred and territorially bound forms of governance. The transformation is currently towards the migration policies which are increasingly designed and governed by market forces and the inability of states to enforce their jurisdiction over labor mobility. However, the public and scholarly discussion about migration is falsely interpreting changes in European attitudes and policies on migration in terms of the construction of a “European Fortress”. In other words, despite the nation-state’ s continued attempt to define migration as a political phenomenon, migration in Europe is in fact beginning to resemble more the scenario of labor market theorists, who point to self-regulating supply and demand factors as the ultimate determinants of movement of people.

4.2. Current Labor Migration Policies at the European Nation State Level

Despite the growing need for labor migrants due to economic and demographic reasons the majority of the governments (Belgium, Netherlands, Greece, Italy, Portugal, Spain, Finland, Ireland, Sweden, United Kingdom) perceived immigration flows as satisfactory in 1999. Whereas, Austria, France, Germany, Luxembourg and Denmark evaluated the migratory inflows as too high, none of the EU countries was willing to increase it. (Orzechowska; 2001:10)

The perception of demographic challenges shifted towards a change in 2000. Stemming mainly as a response to the private sector pressure of labor force shortages in certain sectors, some Member States such as Austria, Germany, Italy, Spain and United Kingdom recognized the significance of the problem and the migration issue again came on to the agenda. Many European governments took action to recruit more migrants, especially highly skilled workers. They also consider the recruitment of foreign low- skilled workers to some sectors of employment which have aging workforces such as agriculture and the health services (IOM, 2000:74). However, as it will be discussed separately the policy approaches of EU Member States vary and there is no common European approach on labor migration.

As Collinson mentions “Approaches differ across Europe because decisions on migration policy involve complex choices and trade- offs, involving winners and losers” (Collinson, 2002:225) The migration experience of a selected group of EU countries and the current labor migration policies of these countries would contribute to the immigration discussions in the Europe.

4.2.1. United Kingdom: “Zero Migration Country?”

Traditionally, the United Kingdom has been a country of emigration. In the last decades, immigration took place mostly from the British Commonwealth and Ireland. Although United Kingdom was once described as one of the “country of zero immigration”, now there is a growing awareness of the need to recruit more labor migrants as the British government has been encouraged to reconsider more open policies and labor migration to the UK has been increasing steadily in recent years. The UK already has a sizeable ethnic minority and foreign-born population that currently accounts for 8% of the population, around 4.8 million people. Typically, the trend over the last few years has been for immigration figures to rise (Coleman, 2003: 5)

Since 1998, the United Kingdom government has been actively reassessing its labor migration policies, principally to deal with shortages of skills and labor in the labor market. The increased entry routes for the high and low skilled labor address this significant change of perception. Therefore, due to the rise of asylum applications, unauthorized entries, and the continuation of uneasy race relations, immigration has re-emerged as a hot political topic in the UK. The political

discussions are mainly set up on the topic of managing an increasingly diverse society and mediating the multicultural challenge to traditional notions of national identity under the pressures of skill shortages and to some extent demographic challenges. (Hernandez, 2002)

In 2000, the UK Immigration Minister Ms. Barbara Roche stated the significant role of migrants that can meet the economic and social needs of United Kingdom and Europe by mentioning “migration as one of the range of measures that could help to ease the economic impact of such demographic change²⁴” (Orzechowska, 2001:11). In September 2000, the government also announced new immigration rules easing the requirements for workers entering the country and allowing them to stay longer (Favell and Hansen, 2002: 593).

In 2001, the UK government has claimed a controversial re-evaluation of immigration policy. It considers that labor migration should be encouraged further to meet specific current shortages and possibly longer term general needs. Demographic concerns have so far only been indicated at only rather vaguely. (Coleman, 2001: 7)

UK Government policy currently has a multi-faceted approach to immigration policy which attempts to reflect the various issues, whether economic or social, behind different types of migration. Over recent years the UK Government has expanded the available opportunities for immigration into the UK to tackle issues such as labor and skills shortages caused by changes to the population composition, rather than to change the demographic composition of the UK. The overall aim of UK immigration policy is to meet the wider objectives of keeping the UK economy competitive, maintaining economic growth, particularly GDP, and also fulfilling social policies around urban renewal, social inclusion and citizenship. (Coleman, 2003: 6)

Migrant labor to the UK is controlled primarily through a tightly managed work permit system. The Work Permits System, streamlined in 1992, remains the most commonly used way for labor migration into the UK. The scheme is employer-led, so applicants must be individually recruited into the country. Applications are made by employers for a particular person to do a particular job with the condition that the employers must show there is no resident worker to fill the post. For many employers wishing to employ migrant workers, the work permit scheme had been

²⁴ UK Migration in a Global Economy, Draft Speech by Barbara Roche, Immigration Minister, Home Office, September 11th 2000 (Orzechowska, 2001: 10)

seen as excessively bureaucratic and cumbersome. It is clear that, the need to relax the over-restrictive work permit system became a major focus of reform (Jan Niessen, 2003:49)

In the UK, entry routes are limited almost entirely with essential skills or experience. The skilled labor shortages are highly selective in the UK. The skill shortages exist in mainly the health care sectors, thus the UK National Health Service has already begun to recruit nurses from abroad and already relies heavily on foreign doctors. Another sector where labor shortages exist in the UK is notably the IT sector. The Department for Education and Employment announced in May 2000 that British businesses would be given the power to quickly employ non-European workers in areas of severe labor shortage notably information technology and health without normal immigration rules (Favell and Hansen, 2002:593). Figures for 2000 show that computer services and health and medical services account for large proportions of the work permits issued (Home Office White Paper, 2002, 3.8). In January 2002, the UK Home Office introduced Highly Skilled Migrants Programme for those who wish to enter the UK without being requested by an employer. This operates on a points system and currently accounts for about 3000 immigrants per year, a smaller number in comparison to other means of entry. The point system refers that applicants must score a minimum number of points in three areas: personal characteristics (education, work and business experience), business plan (viability), and economic benefits (Favell, 2002:593). In the first year of the Scheme, 53 per cent of the 2500 applicants were approved (OECD, 2004:290). More recently, according to the Employers Skills Survey, there were nearly 700,000 vacancies in 2003, particularly in the health, hospitality and construction industries. Moreover, according to official Labor Market Statistics for April 2004 alone, there were nearly 300,000 new vacancies across skill levels. (Niessen, 2003:7)

It is also observed that there is an opening up of legal, low-skills entry routes for migrants into the UK. These include the Seasonal Agricultural Workers Scheme, which has seen some of the rules relaxed in recent years, as has the Working Holiday Maker Scheme. Reflecting current provisions under the Seasonal Agricultural Workers Scheme, the new scheme will not carry the right to settle in Britain or to bring families. On the other hand, sector-based scheme will allow a closely managed fixed quota of 10,000 people to enter short term casual employment for strictly time limited periods to enter the UK each year. (Niessen, 2003:7)

Meanwhile, in the UK, it is difficult to decide on whether, and to what extent, to open up low-skilled labor migration channels. No doubt that, the asylum seekers are primarily motivated by the desire to work and stay in the host country, along with those working illegally. They are constrained by the absence of legal channels to access the available jobs. If the legal channels do not provide enough workers, firms that cannot get staff will turn eye into a deregulated labor market. There is then a danger that they will operate outside other regulations, such as health and safety norms and the minimum wage. Yet, there is less consensus on whether opening up legal migration channels will in practice reduce the numbers claiming asylum or working illegally. Moreover, a long-term low-skilled scheme would raise difficult questions about family reunion and the potential costs for public services that would proceed (Sarah, 2002:227). The current number of the asylum seekers, stocks of foreign population and labor force in the UK is demonstrated in the following table.

TABLE IV.1 Current Figures on Flows and Stocks of Foreign Population and Labor Force, United Kingdom (thousands)

	1998	1999	2000	2001		1998	1999	2000	2001
Migration flows					Total grants of citizenship in the UK				
Total inflows	390,3	453,8	483,4	479,6	by previous country or region of nationality	53,5	54,9	82,2	90,3
Inflows of non-British citizens	287,3	337,4	379,3	373,3	Indian sub-continent	14,6	14,8	22,1	23,7
<i>of which:</i>					Africa	12,9	12,9	21,9	29,8
EU	81,8	66,6	63,1	60,4	Asia	10,7	10,9	15,8	14
Non-EU	205,5	270,8	316,2	312,9	Middle East	4,3	4,7	6,6	5,3
Inflows of British citizens	103,1	116,4	104,1	106,3	Remainder of Asia	6,4	6,2	9,2	8,6
Total outflows	241,5	290,8	320,7	307,7	Europe	5,9	7,3	11,4	11,1
Outflows of non-British					European Econ.Area	1,3	1,7	2,1	1,7
Citizens	125,7	151,6	159,6	148,5	Remainder of Europe	4,6	5,6	9,4	9,4
<i>of which:</i>					America	5,2	5,4	7,0	7,2
EU	48,9	58,6	57,0	49,1	Oceania	1,6	1,5	1,7	1,5
Non-EU	76,8	93,0	102,6	99,4	Other	2,5	2,2	2,3	2,6
Outflows of British					Asylum seekers	46,0	71,2	80,3	71,4
Citizens	125,8	139,2	161,6	159,2	By region of origin				
Net migration	138,8	163,0	162,8	171,8	Europe	17,8	28,3	22,9	14,3
Non-British citizens	161,6	185,8	219,7	224,8	Africa	12,4	18,4	17,9	20,7
<i>of which:</i>					America	1,0	2,0	1,4	1,3
EU	33,0	8,0	6,1	11,2	Asia	11,9	17,5	23,2	23,6
Non-EU	128,6	177,8	213,6	213,6	Middle East	2,8	4,2	14,4	11,2
British citizens	-22,7	-22,8	-57,0	-53,0	Other	0,1	0,8	0,4	0,3
Acceptances for settlement	69,8	97,1	125,1	106,8	According to the place where the application was received (%)				
By region of origin					At port	50,9	59,0	32,3	35,3
Europe (excl.EU)	7,3	16,0	15,1	13,8	In country	49,1	41,0	67,7	64,7
America	10,8	8,5	11,5	11,9	Illegal immigration statistics				
Africa	16,1	27,0	44,5	31,4	Persons against whom				
Indian Sub-Continent	16,4	21,4	22,7	22,9	enforcement action taken	21,1	23,0	50,6	76,1
Middle East	4,2	5,6	7,1	..	<i>of which:</i> Illegal entry	16,5	21,2	47,3	69,9
Remainder of Asia	9,5	13,1	17,7	20,5	Total persons removed from the UK	34,9	37,8	46,7	49,1
Oceania	3,7	4,1	4,9	5,5					
Other	1,8	1,4	1,6	0,9	Total work permit applications approved				
By category of acceptance					Total (incl.trainees)	48,2	53,4	66,9	81,1
Accepted in own right	10,3	31,7	39,9	..	<i>of which:</i>				
Spouses and dependants	53,0	65,2	84,9	76,7	Short-term	28,0	28,4	30,7	30,8
Other	6,4	0,2	0,3	..	Long-term	20,2	25,0	36,2	50,3
Stock of total population by nationality					Total work permits and first permissions	37,5	42,0	64,6	85,1
Total population	58106	58298	58425	58866	India	5,7	5,7	12,3	16,9
British citizens	55895	56079	56065	56272	United States	10,2	9,7	12,7	11,1
Foreign nationals	2207	2208	2342	2587	Philippines	0,3	2,3	6,8	8,5
					Australia and New Zealand	3,4	3,8	5,7	7,9
					Other countries	18,0	20,5	27,2	40,7
					Total stock of employment				
					Total	26736	27025	27568	28029
					British citizens	25696	26018	26460	26799
					Foreign nationals	1039	1005	1107	1229

Source : OECD, (2004) Trends in International Migration Annual Report 2003

Concerning the need for immigration due to the demographic reasons, UK is not experiencing as much as severe reductions in the population decline and aging when compared with the other Western European countries. In 2002, the potential support ratio was 4.2 for the UK. However, by 2050, this is expected to slip to 2.1, placing a greater burden on pensions and public services (Coleman, 2003:2). Without net immigration, the population of working age is expected to fall by 2 million over the next 25 years (Niessen, 2003:5).

Steady increases in immigration, evident since the 1980s, and current government policy suggest that immigration is likely to continue to rise in future. The figure of 60,000 net immigration per year in 1996 rose to some 135,000 in 2002. The UK has said it will not impose restrictions on Eastern European nationals willing to work in the UK after 2004 and the government is planning to expand the numbers of work permits from 129,000 to an eventual 200,000. (Niessen, 2003:6) Recently, the stock of the foreign population has increased steadily since 1985, from 1.73 million to 2.34 million in 2002 (Hernandez, 2002). Regarding the immigration policy discussions, there are several delicate issues facing the government recently. The delicate path of UK government policy among race, politics, and labor requirements will be a critical determinant in the debate over immigration in the future. Generally, the focus of its labor recruitment efforts indicates a willingness to look at skilled immigration as a long-term source of needed labor. On the other hand, the government is putting more focus on human smuggling and trafficking, while trying to limit illegal immigration channels. Race relations, however, and their close association with immigration and asylum policy, continue to be a problematic issue at local and national levels. (Hernandez, 2002)

Hence, it should be noted that the UK government, exercising its right under the Protocol to the Treaty of Amsterdam on the position of the United Kingdom and Ireland, has opted out to participate only a limited number of Title IV (See, Appendix A) measures, notably those which aim to control illegal immigration. In line with its policy to preserve frontier controls, the government does not participate in measures which would create new rights of entry for third country nationals. There is no indication that the position of the UK with regard to Title IV measures will inevitably have the impact of limiting the UK's influence on the shaping of a Community immigration policy.

In conclusion, UK is already experiencing a high level of migration, considerably more than it needs. Unsurprisingly, it is likely that future population growth in the UK would be heavily influenced by high levels of immigration. Furthermore, the UK boasts some of the most advanced immigration policies in comparison to the rest of Europe.

The new essential policy of UK labor migration is reflected recently in the White Paper *Secure Borders, Safe Havens: Integration with Diversity in Modern Britain*, published in February 2002. The core objectives of the UK migration policy aims to support economic growth, whilst ensuring public protection, encouraging international development, respecting human rights and promoting social cohesion. Building on available research findings, the 2002 White Paper is considerably clearer about the need for a new approach to migration than at any point in the previous four years. Migration is now addressed as “an inevitable reality of the modern world which brings significant benefits”. On the other hand, the recently launched consultation paper, “Strength in Diversity” also raises attention to the fact that UK migration policy has traditionally been based on a relatively liberal, market-orientated approach and the effectiveness of this approach has been a key contributor to the UK’s economic success. (Niessen, 2003:6)

4.2.2. Italy: “The Oldest of Europe”

Italy has been an “emigration” country since the late 19th century, and millions of Italians continued to migrate to other European countries and to America, right up to the 1970s. It was only at the start of the 1980s, with Italy officially the world’s fifth industrial power, that foreign immigrants started to arrive in large numbers. The country became a “host” for the first time. (Foot, 1995:132)

Italy provides a malodorous example of the effects of recent population dynamics resulting from low fertility levels and increasing longevity. Recently, Italy became the demographically oldest of the world’s major nations. The UN projection scenario for Italy indicates that the population of 57.3 million in 1995 would shrink to 40.7 million by 2050. Italy will lose 28 per cent of its population by 2050 and the UN Report estimates that the working age population of Italy will go down from 1995 to 2050 from 39 to 22 million. This means that whereas today the ration of workers to retiree is 4.1 to 1, by 2050 there would be only 1.4 workers for every

retiree. In order to maintain its working age population, Italy would need to start importing more than 350,000 immigrants per year or, alternatively, keep its citizens working until they are 75. (UN, 2000:21)

Italy is one of the countries who reacted late to the demographic challenges even the figures demonstrate that it will face the serious consequences of population change.

Italy adopted its first pro-migration policy on 6 March 1998. It provides for the establishment of an annual quota administered by the Ministry of Labor for new immigrants, as well as an annual quota for temporary workers entering the country for 20 days to 6 months. The total quota was set to 89,400 in 2001. This number includes 39,400 seasonal workers, 15,000 sponsored entry for job seekers, 12,000 dependent workers²⁵, 3,000 nurses and high tech workers and 11,000 favored nationalities. (OECD, 2004: 216)

Regarding the pressures from Northern Italian business lobbies suffering from labor shortages, the Italian Parliament launched a regularization programme in 1999 with the aim to equip 56,500 unauthorized foreigners with legal status²⁶. In 2000 Italy granted in this way 93,000 foreigners the legal status (Orzechowska, 2001:12). In Italy, it is also a common recognition that cheap immigrant labor plays a very significant and effective role in the ongoing economic miracle of Northern Italian small and medium enterprises.

The pro-migration policy continued in 2000 as the Italian Minister of the Interior, Enzo Bianco said in July 2000 that Italy “urgently needs a labor force and new vital energy, because it is growing old very quickly. If Italy wants to develop and grow, it must turn to immigrants, who can act as lifeblood” (Economist, 2000: 32). In 2000, the foreign population had reached nearly 1,388,200 with some 850,700 immigrants in Italy for employment reasons. Today, most of Italy’s immigrants work and reside in the Central (34 per cent) and Northern regions (54 per cent) of the country rather than in the islands or Southern regions. Morocco and Albania combined account for more than 20 per cent of the stock of the foreign population. (Hamilton, 2002) However, the majority of illegal immigrants (primarily from Morocco, Albania, Tunisia, Romania, Poland, and Brazil) enter Italy via its exposed shores. This imbalance has furthered the hot political debate because, while

²⁵ Dependent worker means a worker in a family in which someone else has greater personal income.

²⁶ The condition for the foreign workers to acquire the legal status was to find employer to provide them with housing and at least \$ 3, 000 a month support.

immigrant labor is increasingly needed, especially in the north, public opinion has continued to associate high immigration levels with increased crime and poverty. (Hamilton, 2002)

TABLE IV.2. Current Figures on Foreign Population, Italy (thousands)

	1998	1999	2000	2001		1998	1999	2000	2001
New residence permits issued					Foreigners who hold a residence permit	1250	1252	1388	1363
by nationality					By region of origin				
Albania	11,2	37,2	31,2	27,9	Europe	401,4	499,1	556,6	563,9
Romania	5,9	20,9	20,7	18,7	Africa	297,6	356,8	385,6	366,6
Morocco	7,3	24,9	24,7	17,8	Asia	195,6	239,8	277,6	259,8
China	3,4	11,0	15,4	8,8	America	135,6	153,0	165,0	158,2
Poland	3,9	6,7	7,1	8,7	Others	3,1	3,3	3,3	14,2
Other	79,3	167,4	172,5	150,7	By reason for presence				
Total	111,0	268,0	271,5	232,8	Employment	588,7	747,6	850,7	803,2
New work permits	182,0	219,0	145,3	92,4	Family reunification	251,9	308,2	354,9	393,9
Inflows of seasonal workers					Study	29,9	30,7	35,7	30,8
by region of nationality					Religion	54,5	54,3	55,1	48,9
Europe	..	19,6	29,4	27,9	Tourism	9,5	10,3	8,5	..
Africa	..	0,4	0,9	1,5	Retirees	41,1	..	45,3	44,6
Other	..	0,4	0,7	1,0	Refugees	6,2	5,4	6,3	15,3
Total	16,5	20,4	30,9	30,3	Others	51,6	95,5	31,7	26
Inflows of asylum Seekers	11,1	33,4	24,5	13,3	By region of residence				
Acquisition of Italian nationality	9,8	11,3	9,6	10,4	North	674,0	670,8	761,3	773,4
					Central	367,7	368,6	422,5	396,8
					South	208,5	143,9	143,1	133,3
					Islands	..	68,7	61,3	59,2
					Stocks of foreign employment	614,6	747,6	850,7	800,7
					Registered foreign unemployed	206,0	204,6	91,0	59,1

Source : OECD, (2004) Trends in International Migration Annual Report 2003

Italy's immigration policy context changed further with the victory in 2001 of Silvio Berlusconi who is the current Prime Minister for the second time since 1994 in Italy. Berlusconi's cabinet, which comprises of members from the far-right Northern League and the former neo-fascist National Alliance, has been seeking ways to curtail immigration into Italy and to set up a range of enforcement and control mechanisms. In 2002, the government passed legislation to regulate immigration by adopting a decree to provide for the regularization of undocumented immigrants

already in the country. The new Law No. 189, also known as the Bossi-Fini Law, amends the 1998 Immigration Act and introduces new articles. Some of the most significant changes address the immigrant quotas, mandatory employer-immigrant contracts, stricter illegal immigration deportation practices, amnesty for illegal immigrants who have worked and lived in the country for over three months, and new provincial immigration offices to help manage immigrant worker and family reunification cases. The law also ensures the legalization of two types of irregular immigrants that are employed either as domestic workers and home-helpers or as dependent workers. (Hamilton, 2002)

The trade unions and employers' organizations criticized the new legislation, with the argument that the law could ultimately harm the national economy. Trade unions oppose the new mandatory employment contracts as they fear that the law and the stricter controls put simply another barrier to entry and will divert potentially legal flows toward illegal and irregular channels.

On the other hand, some sectors within Italy, assess the new legislation positively as the employers must now sign formal contracts that guarantee migrant workers housing and return travel expenses, while also fixing wages and length of employment. Moreover, the tightened visa issuance policy provides for a more selective immigration process. Those in favor of the Law No. 189 consider it as filling the needs of the Italian economy with a pool of better qualified immigrants.

With a very conducive geography for the illegal migrants (4.720 mile coastline) and one of the world's lowest total fertility rates (1.23) it is clear that Italy will have more immigrants and fewer Italian workers in the following years. Thus, it is clear that managing immigration flows and policies under such extreme demographic trends, policy shifts will remain a challenge for any government in Italy.

4.2.3. Germany: “A Country of Immigration”

Süssmuth (2003) states that: “Germany is undergoing the slow process of recognizing that it is a country of immigration. It is in the process of facing its longstanding inconsistencies: It is a major exporter, but does not want immigration; it has recruited workers and their families, but sees them only as “guests” staying temporarily in the country; it invests widely abroad and its citizens travel across the

globe, but it sees cultural diversity at home as a threat. Germany must recognize the inevitability of migration and cultural exchange. This is a delayed learning process that is taking place in Germany and in Europe.” She concludes by declaring: "We must recognize that to secure our prosperity, our future, we are dependent on people from other countries with skills that we desperately need" (Broomby, 2001).

4.2.3.1. Migration Trends in Germany Since Post War Europe

Although German authorities denied it until 2000, the Federal Republic of Germany has been a “country of immigration” since its founding. In fact, the postwar West Germany was fundamentally shaped by the “gastarbeiter” paradigm and between the mid-1950s and 1970s, the Federal Republic recruited large numbers migrants as the so-called guest workers. (Menz, 2004:12) In the mid-1950s and 1960s Germany intentionally tried to attract foreign “guest workers” to satisfy the needs of the labor market. The assumption was that the presence of guest workers would simply follow the ups and downs of the business cycle and they would leave once the job opportunity came to an end. However this was not the case happened as Dettke (2001:3) mentions: “It is true, guest workers moved in and out of the labor market over the years, but it is also true that there is nothing more permanent than temporary workers.”

Recruitment of guest workers stopped in 1973, but since then Germany has remained a “country of immigration”, mainly as a result of family reunification and various regulations allowing individuals with particular skills to migrate to Germany (Süssmuth, 2003).

At the end of the 1980s, Germany faced the dramatically increased number of asylum seekers and German settlers from former communist countries and later, after unification, a substantial temporary intra-German migration took place with the result of serious labor market imbalances, housing problems as well as social and cultural tensions. Until 1998, the former government of the Federal Republic of Germany led by Chancellor Kohl tried to introduce reforms with the aim of reducing the number of foreign citizens living in Germany and to curtail the number of asylum seekers, based on an official policy again which maintained that Germany is not an “immigration country” (Dettke,2001:3).

Between 1950 and 1995 an estimated number of 28 million guest workers entered in Germany and some 20 million left during the same period of time, leaving about 8 million foreign residents in Germany in 1995 (Dettke, 2001:3). Throughout the 1990s, Germany was Europe's most important country of migration despite the official denial. Coming to the 2000, there were 5.8 million immigrants living in Germany. According to the OECD statistics (2004) as presented below in the Table IV.3 the overall migration in 2001 was 273.000 which illustrates a significant increase of 63 per cent when compared to the previous year. Today, after Switzerland, Germany is the country that has the highest number of immigrants living within its borders of any country in Europe. In Germany, the number of non-citizen immigrants in 2000 was around 9 per cent of the total population which constitutes 7.297 million people. (Süssmuth,2003)

TABLE IV.3 Current Figures on Flows and Stocks of Foreign Population and Labor Force, Germany (thousands)

	1998	1999	2000	2001		1998	1999	2000	2001
Components of population changes					Naturalisations				
<i>Total population (Total change)</i>	-20,3	126,4	95,7	182,0	of foreign nationals	106,8	143,3	186,6	178,1
Natural increase	-67,3	-75,6	-71,7	-91,0					
Net migration	47,1	202,0	167,4	273,0	Issue of work permits	1050,1	1034,5	1083,3	1054,5
<i>Germans (Total change)</i>	163,1	175,4	160,6	159,0	<i>of which:</i>				
Natural increase	-	153,6	156,5	107,0	for a first employment	402,6	433,7	473,0	553,7
Net migration	80,6	83,7	81,0	84,0					
Acquisition of German Nationality	236,1	248,2	186,7	178,1	Stock of foreign workers				
	-				Turkey	..	1008	996	1004
<i>Foreigners (Total change)</i>	183,3	-49,1	-64,9	22,3	Italy	..	386	395	403
Natural increase	86,3	80,9	35,3	12,1	Greece	..	219	207	210
Net migration	-33,5	118,2	86,5	188,3	Croatia	..	189	195	193
Acquisition of German Nationality	-	-	-	-	Austria	..	118	110	115
	236,1	248,2	186,7	178,1	Others	..	1625	1643	1690
					Total	..	3545	3546	3615
Migration of foreigners					Contract workers (annual average)				
Inflows by nationality	605,5	673,9	648,8	685,3	Poland	33,0	39,9	43,6	46,8
<i>of which:</i>					Hungary	16,9	18,2	18,5	22
Poland	66,1	72,2	74,1	79,7	Croatia	5,0	6,4	6,7	7,3
Turkey	48,0	47,1	49,1	54,6	Romania	2,8	3,9	5,1	5,2
Russian Federation	21,3	27,8	32,1	36,6	Czech Republic	2,6	3,9	5,2	3,7
Italy	35,6	34,9	32,8	34,5		1,1	1,4	1,4	1,4
Federal Republic of Yugoslavia	59,9	87,8	33,0	28,3	Seasonal workers				
Net migration	-33,5	118,2	86,5	188,3	by nationality	201,6	223,4	219,0	277,9
					Poland	182	199,4	192,2	236,7
Russian Federation	11,0	17,7	20,7	24,5	Romania	5,6	7,1	8,7	16,6
Turkey	2,8	6,2	10,1	18,7	Slovak Republic	4,9	6,0	6,4	9,7
Poland	5,4	13,6	13,7	15,0	Croatia	3,9	3,4	4,9	6,0
Romania	0,4	2,2	7,4	1,8	Hungary	2,8	3,3	3,0	4,6
Federal Republic of Yugoslavia	14,8	39,5	-56,3	-7,6	Unemployment (national definition)				
Inflows of ethnic Germans from:					Total number of unemployed				
Central and Eastern Europe	103,1	104,9	95,6	98,5	workers (whole Germany)	4279,3	4099,2	3888,6	3851,6
<i>of which:</i>					Total number of unemployed				
Former USSR	101,6	103,6	94,6	97,4	workers (western	2904,3	2755,5	2529,4	2478,0
Romania	1,0	0,9	0,5	0,4	Germany)				
					Unemployment rate (%)				
Poland	0,5	0,4	0,5	0,6	(western Germany)	10,5	8,8	8,7	8,7
Inflows of asylum seekers	98,6	95,1	78,6	88,3	Total number of foreign unemployed				
<i>of which:</i>					workers (western	505,2	477,7	436,8	436,8
Iraq	7,4	8,7	11,6	17,2	Germany)				
Turkey	11,8	9,1	9,0	10,9	Foreigners' unemployment rate				
Former Yugoslavia	37,2	33,7	13,0	7,8	(%) (western Germany)	19,6	18,4	16,4	16,4
Afghanistan	3,8	4,5	5,4	5,8					
Stock of foreign population									
by duration of stay	7320	7344	7297	7319					
Less than one year (%)	5,2	5,6	5,0	5,3					
1 year to less than 4 years (%)	14,8	13,9	13,6	13,4					
4 to less than 8 years (%)	21,0	19,5	17,0	15,6					
8 to less than 10 years (%)	8,1	8,8	9,8	9,3					
10 to less than 20 years (%)	19,9	20,2	21,3	22,5					
20 years and more	31,1	31,9	33,4	33,9					
Total (%)	100,0	100,0	100,0	100,0					

Source : OECD, (2004) Trends in International Migration

Regarding the asylum seekers and refugees, owing to the restrictions imposed since 1993, the number of asylum seekers demonstrates a decrease until 2000, however rose again in 2001 by over 12 per cent compared to 2000 (OECD, 2004).

With regard to the current situation of asylum-seekers and refugees in Germany, the U.S. Committee for Refugees estimated that in 2000, approximately 180.000 refugees sought asylum in Germany. According to the German Federal Commissioner on Foreigners' Affairs in 2000 the total number of refugees residing in Germany was at almost 1.2 million (Hegen, 2001).

As an important development, in December 2000, Germany lifted an employment ban on asylum seekers, affecting an estimated 75.000 claimants. As of January 1, 2001, asylum seekers are able to work 12 months after entering Germany provided no German citizen or foreign national with permanent residence status is obtainable to take the job. This fact exerts attention on the issue that many asylum seekers are seen as labor stocks even sometimes governments underestimate their illegal employment and to manage the system according the high demands coming from the employers especially for the low skilled labor. As this situation is one of the most crucial real facts that has be faced and dealt in more attention by many other European governments, except in Germany no any effort or steps has been taken in this term owing to the fact that European governments are still hesitating to face the reality of their severe labor force shortages and more significantly they are not ready to accept foreign labors with respecting the democracy and human rights framework. This issue will be discussed under a separate heading in the following parts of this chapter.

Today, the foreign population of Germany is constituted by four major groups of migrants. The first group comprises of "Labor Migrants", (*Gastarbeiter*, "guest workers"), who were recruited from the 1950's until the mid-1970's to work mainly in construction and mechanical industries. Their family members followed them and are today in third generation. Immigrants from Turkey (2.05 million), Yugoslavia (720.000), Italy (616.000), Greece (364.000), Spain (130.000) and Portugal (133.000) constitute Germany's largest foreign communities originating in guest worker programmes. The second group consists of the "Asylum Seekers", who migrate to Germany seeking asylum, because of claimed political persecution. The third group is composed of "Ethnic Germans", who have the German origin, and coming from the former eastern part of pre-World War II Germany until 1937.

During the last decade about 1.8 million ethnic Germans, predominantly from the former USSR, Poland and Rumania, migrated to Germany. When they receive permission to migrate to Germany, they are officially recognized as Germans and are naturalized automatically. The last group involves the "Contingent Refugees", who are refugees, granted a permanent staying permit, because of international treaties²⁷. (Hegen, 2001)

Although immigration has taken place throughout the history of the Federal Republic of Germany, it denied that it was a "country of immigration", "Einwanderungsland", for years. The political leaders of Germany officially denied until the early 1990s the fact that their country is a destination for foreigners and hence needs an immigration policy. Edmund Stoiber, when he was the Bavarian Minister of the Interior, had announced in November 1992: "Germany is not a country of immigration and therefore is in no need of an immigration law" ²⁸ (Turmann, 2004). One main reason of this attitude was, if Germany declares it self as "country of immigration", it would become even a more attractive country for the migrants and it has to define in which ways foreigners are supposed to be integrated in the German society and what rights and obligations should be given to the long term foreign residents.

The debate over being an "immigration country" was shaped by another debate about German ethnic homogeneity which refers to the meaning of being German in today's world and demonstrates the paradigm of whether Germany is a "country of immigration" or not. Some scholars mention that there is a German "Leitkultur", a guiding culture, and that Germany is not a "classical country of immigration." This is about that German immigrants should attempt to fit into Germany's social order and cultural heritage, which many conservatives define as a legacy of Christianity, Roman law, the Enlightenment, and Greek philosophy. The newly coined word of a "Leitkultur" has turned into a key term in this debate. (Sachsenmaier, 2003)

²⁷ According to Section 33 of the Aliens Act, the Federal Minister of the Interior may decide to receive specific aliens in Germany for reasons of international law or on humanitarian grounds. This is usually done according to a defined quota. In the early eighties and the nineties, Vietnamese "boat-people" and Jewish immigrants from Russia respectively were able to come to Germany as quota refugees. Germany has no agreement with UNHCR regarding the reception of quota refugees. (Hegen,2001)

²⁸ Quote listed by the Green Political Party : <http://www.gruene-wl.de/themen-stoiber.html>

Yet until recently, Germany did not have an immigration law as labor immigration has been officially 'banned' since 1973. Foreign workers that entered Germany had been covered by other categories of immigration such as family reunification or by various schemes under bilateral agreements that regulate the issuance of work permits to non-EU nationals on a temporary basis (Turmann, 2004).

However, the altering conditions of the international environment and more specifically the demographic problem gives way to the discussions over a need of a managed immigration policy for Germany which has to be more open and active.

4.2.3.2. Demographic Challenges in Germany

Concerning the main driving theme of this study which is the demographic challenges underlining the migration discussions, it should be explained that, like many other countries in Europe, the demographic structure of the German population has also changed enormously. It is noted that by 2010, Germany will find itself with a growing population of retirees and a shrinking labor force. The UN Report indicates that, in Germany the total fertility rates dropped from 2.49 children per woman to 1.3 children between 1965 and 1995 and besides the life expectancy increased from 68 years in 1955, to 76 years for both sexes in 1995. Without mass migration it is projected that Germany's population will fall from its current 82 million to under 60 million people by 2050. Future models suggest that the increase in the number of older people is estimated to be more than 30 per cent in 2020 (Naegele,1998:93). On the other hand, the working-age population is projected to decline sharply by -6.0 million (-10.7 per cent) up to 2025, and by a further -15.7 million (-28.2 per cent) until 2050 (IOM, 2003:244). UN Report estimates that the working age population of Germany will go down from 56 to 43 million. In order to maintain the current numbers of persons of working age, it is proposed that Germany must take in 500,000 persons annually. In fact, immigration has already been an important determinant of the German age structure in the past. The presence of young immigrant labor had prevented substantial aging from taking place earlier. (Schmidt, in Zimmerman: 217)

With a declining birth rate and an aging population Germany has been forced into a radical re-think of its migration considerations. As Süßmuth (2003) mentions: "Given the extent of Germany's welfare state, it is absolutely necessary that the

country has a fully functional system of steering migration and fostering integration before the demographic crunch cripples the economy and welfare system.”

4.2.3.3. Changing Perception of Migration

Although times have dramatically changed and German society has become a mature service economy, it has been following its "guest-worker" or "Ausländer"-philosophy for many years which was established in the 1960s. Now, it becomes obvious that the German "guest-worker" programme looks politically tempting but turned out to be completely ineffective in reality. The practice proved that the target has failed to restrict the inflow of foreigners, to keep their duration of stay temporary and to treat them as guests. The more temporary migration has been replaced by permanent settlement, the more clear it has become that the concept of "guests" or "foreigners" is socially and economically misleading. Besides as Straubhaar (2000:27) notes: "Immigrants to Germany have stayed and have become long term residents without equal political and individual rights as the natives. Guest workers were supposed to pay taxes but were treated as production factors, not as equal people."

Stemming from the altering conditions occurred in economic, political and demographic environment both in Europe and the world, Germany felt the need to change its perception of immigration. In this regard, in the last five years, Germany introduced several far-reaching modifications with respect to its immigration and asylum policies. There were three main motives for these current developments. First, were the major transitions in the nation's demographic structure and its workforce demands as illustrated above. Therefore, it started to consider new concepts expected to alleviate negative effects of aging and workforce decline through liberalized, labor-based immigration provisions. Secondly, the intensifying process of European integration and the European Union's efforts to harmonize immigration and asylum procedures influenced Germany to adopt legislation, which takes into account these transnational commitments. Thirdly, federal, state as well as local legislators find themselves under increased pressure generated in scores of public debates on asylum, foreigners and Germany's identity in terms of immigration and integration issues. (Hegen, 2001)

Under these conditions, it was very recent in 2000 that, the German political parties came to a consensus on recognizing that Germany is indeed a "country of

immigration” and this was followed by the attempts towards a new immigration law which will be discussed in the further parts of this study (Süssmuth, 2003). Today, Germany is without doubt an “immigration country” comprising of about 7.3 million foreigners, representing nine percent of the total population. In this framework the German word for immigration, “Einwanderung”, was replaced by a new term, “Zuwanderung”, in order to stress that the movement of persons to Germany did not necessarily have to be permanent, but could also be temporary or transitional. However, although it seems that the attitudes towards immigration have changed in Germany, as Süssmuth (2003) states : “What initially seemed to be a change in the German immigration paradigm turned out to be two steps forward and one step back”.

4.2.3.4. The New Immigration Act: Open Borders for the Skilled Labor Force

With the need to develop a new, more open and more modern immigration policy, in August 2001, German Interior Minister Otto Schilly introduced a new legislation to the cabinet containing a new immigration policy concept which was intending to change dramatically the national approach to migration, reopening labor migration channels closed since 1973. There were some main reasons behind this initiative concerning the amendment of actual immigration policies. Mehmet Okyayuz summarizes these reasons as stemming from the economic and demographic changes demanding for more qualified labor force, insufficiency of the mechanisms to regulate the integration process of migrants, combating with illegal migration, the need for redesigning the administrative responsibilities of the immigration bureaus on federal and Länder level and the need for the harmonization of Immigration and foreigners’ law at the European level. (Okyayuz, 2004)

However, the controversial bill could not pass the cabinet due to the Christian Democrat's, as well as the Green Party's intense criticism on the Act. The key recommendations of the report were covering the immigration reform of simplifying the entry and integration of qualified individuals. Significantly, the bill, for the first time was combining provisions relating to work permission and residence status. Furthermore, the variety of different immigration statuses is reduced to temporary and unlimited residence permissions. The law was also aiming to create a new federal office for Migration and Refugees including a commission of independent

advisors to provide further recommendations on the implementation of immigration policy and integration practices. In its later stages to become a “Law”, the Immigration Act is blocked by the Federal Constitutional Court owing to its procedural failings in December 2002. In January 2003, the Sozialdemokratische Partei Deutschlands- Gruene Partei government re-introduced the new law into parliament. Difficult negotiations between government and opposition failed to succeed a compromise until July 2004. (Oezcan, 2004).

During the time of discussion on the new law, there were much controversies and debates concerning some of its aspects. These issues were very briefly including the introduction of a point-based system for allowing skilled workers to migrate to Germany, the number of hours of language courses for integration purposes and their financing problem, the maximum age at which children have a right to be reunited with their parents, the persecution of people on gender-specific grounds, and the persecution of individuals by an entity that is not a nation state (Süssmuth,2003).

Concerning the other critiques of the new act, Okyayuz puts a very critical aspect to the discussions by evaluating the issue from a theoretical point of view. He assesses the draft act until its abrogation by the Constitutional Court in December 2002, as an positive attempt to socialize the issue of migration and foreigners which has been ignored for years by the German officials. The social dimension of the issue was apparent in the context that the integration of the foreigners having lived in Germany for more than two decades was proposed to be sustained by giving them certain guaranteed rights on the political-legal level. (Okyayuz, 2004) However, after the annulment of the new act in December 2002, this positive focus has shifted towards the need for a new Immigration Law for the economic and demographic reasons and mainly to prevent the entry of new unskilled migrants. Therefore, the focus was more on to extend the control mechanism on the foreigners rather than the integration and social aspect of the issue. Furthermore, the new act discussions was more around the need for protecting the self-identity of the German population. (Okyayuz, 2004)

The hardly agreed law, which finally passed both chambers on 9 July 2004 that is officially named “Act to Control and Limit Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners”, sets it aims as to increase transparency in the immigration process, speed up the asylum process, and actively offer immigrants a better chance to integrate into German society through language

instruction and courses on German society and culture. It aims to allow highly qualified non-EU-workers such as scientists or top-level managers to obtain a residence permit of unlimited (Oezcan, 2004). The law provides that the immigration and residence of foreigners in Germany should be regulated by an overall policy on migration. This primarily indicates that skilled foreigners can enter in line with the interests of the economy and the labor market; it also means that the entry and residence of unskilled foreigners will be controlled and restricted to a greater extent than has been the case to date (Milenski, 2004). However, companies are allowed to hire non-EU workers on the condition that if there are no Germans (or foreigners such as EU nationals, who are legally treated as Germans) available for the job. This is the similar implementation in Italy. In addition, the immigration of those who aim to establish a business in Germany will also be welcomed, if they invest at least a million euros and provide at least 10 new jobs (Oezcan, 2004). Concerning the other provisions of the legislation, similarly in the UK, foreign students will be allowed to stay in Germany for a year after finishing their studies to look for a job. Finally, asylum seekers who are persecuted because of their sex will be recognized in the “refugee” status. (Oezcan, 2004). The act will come into Law on January 1, 2005. (For further details of the New Immigration Act, see the Appendix B).

At this point, it should be useful to present some opinions and critiques of migrants’ perspectives to the new act that is mostly neglected in the discussions. Referring to Okyayuz’s conference notes (2004), some evaluates the new law as having a repressive character of a defensive law, then not for the foreigners but a law against the foreigners. It is another critique that the new law still reflects the old priorities as it lies on the economic interests of the German entrepreneurs. On the other hand, it is argued that although it was one of the main aims to ease the German citizenship rights, the new law making it even more difficult and complicated to become a German citizen. The situation is also less clear for the skilled labor that they will not have the same rights with the German citizens and they will not become settlers. As regards to these facts, it seems that the “guest worker” policy perception of sixties and seventies did not change so much. Finally, the core point emerges on the integration of the migrants and the new law shapes it around mainly to learn German, work hard, to act in a socially peaceful way and to obey the legal rules. However, as Okyayuz mentions integration requires a broader sense and the real

change in German migration politics will come at the point that the integration issue will be served in its multi-dimensional and comprehensive terms.

Yet, trying to find a more concrete attitude in evaluating the current migration policy in Germany, it becomes clear that like in the British and Italian cases, Germany also considers the labor migration in the context of opening borders and allowing work permits especially for skilled labor force²⁹. In this regard, the first attempt has been initiated in July 2000, by Chancellor Schroeder's Social Democrat and Green Party Government which introduced so-called "green-card" legislation³⁰. This programme was an example for the first time since the 1973 immigration stop, a liberalized labor immigration policy (Hegen,2001). Since the adoption of the law in August 2001, 20.000 of visa are issued and approximately 9.000 foreign information technology (IT) specialists came to Germany on a green card-visa. The overall outcome is considered only moderately successful and stirred discussion over amending the law to appeal more to needed IT specialists. There is still a need for highly qualified workers in Germany. The German Government decided in July 2003 that the German Green Card programme will continue until the end of 2004. It means that IT professionals and German employers will continue to benefit from this programme that has allowed around 15,000 IT professionals to gain entry to Germany since the German Green Card scheme was introduced. It is expected that by the end of 2004, there will be a new immigration law which will extend to other sectors of the economy. On the other hand, it remains under question whether the new immigration law will help to attract highly qualified migrants to Germany which constitutes one of the main goals of the legislation from the beginning.

²⁹ In Germany, the work permit programmes include, a programme for IT specialists (the 'green card'), a guest-employee programme, a job-on-contract programme, a cross-border programme, and a seasonal workers programme. Each work permit programme has a different time-frame. For example, the 'green card' is limited to five years, while the seasonal work permit is valid for a maximum period of three months. On the other hand, each schemes except for the seasonal workers programme, are subject to different quotas. For example, the quota for 'green cards' has been extended from 10.000 at the start of the programme to now 20.000. The quota for contract workers was 56.000 in 2002. (Turmann, 2004)

³⁰ Even though the name of the German work permit for IT specialists was borrowed from the American 'green card', these two immigration channels have little in common. In the American context, a green card represents the right of an immigrant to live and work in the US permanently. After five years, the immigrant can apply for American citizenship. Thus, the US green card holds with it the prospect of unlimited residence status. (Turmann, 2004)

4.2.3.5. German Migration Concerns in the EU Context

Evaluating the German migration case in terms of the EU level context, most significantly as a general feature, Germany like other Member States is very reluctant to shift competencies to the European Commission in the immigration area. Germany disagrees that immigration should become subject to the open method of coordination which will be studied in the next chapter and insists that the consensus principle should be the base for any decision on European immigration policy.

It is another important fact that the enlargement of the European Union by 10 states means another challenge to Germany in terms of migration. However, it achieved to limit the right of free movement for nationals of the new members in the negotiations leading to the May 1, 2004 expansion. The cautious approach of Germany to immigration is manifested in delaying free movement of workers from the new Member States through introduction of transitional periods. These transitional arrangements, which were first agreed in the EU Treaty of Accession signed in Athens on 16 April 2003, restrict access to EU-15 labor markets for workers from the new Member States, which in Germany is realized through maintaining quotas for work permits. For a period of up to seven years, potentially until May 2011, Member States can continue applying bilateral agreements limiting ‘the right to move and reside freely’ within the EU (Turmann, 2004). In fact, as analyzed in the previous chapter the potential for migration flows from Eastern Europe does not constitute as much as high expected numbers. For instance, in 2002, the Federal Agency for Employment reported that roughly 320,000 new work permits were issued to citizens from the Central and Eastern European Countries under different temporary employment schemes. Yet the number of registered persons from these countries for the same year, obtained from the Federal Bureau of Statistics, was just 91,250 persons.

The migration perception and considerations of Germany exert a smooth impact and influence on the EU level decision making especially about the evolution of common immigration policy. In this regard, during the Convention discussions, Germany achieved to block EU plans to pursue a common immigration policy when it secured the right for national governments to decide whether to give non-EU nationals access to Member State labor markets.(Schlagheck, 2003) Germany, which has a history of blocking EU decisions on immigration policy, had been the only

country to openly oppose plans to introduce majority voting by member state governments on immigration policy decisions.

The sensitivity of German authorities on migration issues insists on the securing of national veto on immigration policy decisions at the EU level. Thus, German Foreign Minister Joschka Fischer, a Green politician and two fellow convention members wrote a letter to Valéry Giscard d'Estaing, the president of the EU Convention stressing: "A satisfying solution of this issue is crucial for Germany with regard to the overall outcome of the convention". This opinion is backed by such a grand coalition, from Stoiber, the head of the Christian Social Union, to Fischer. (Schlagheck, 2003)

4.3. Separated Migration Policies for the Skilled and Unskilled Labor

While examining the differing migration policies perceived by the EU Member States, it is observed that there is an aspect of an obvious separation of skilled and unskilled migrant labor.

It is common that as demonstrated in the previous part and demonstrated as a list in the following table, under the demographic challenges and facing the problem of labor shortage especially for the long term, several European countries have recently introduced measures to facilitate the entry and labor market access but especially for skilled labor migrants. (Table IV. 4). Among the most widespread have been shortages of highly qualified workers in IT, and employees in the health sector, as well as consumer and commercial services (Germany), education, health and social services (Sweden), construction (France), or engineers and teachers (UK) (Boswell, 2004:3).

TABLE IV.4. Labor Migration Schemes in Selected Countries, Skilled Labor

Country	Type of permit		Application field by		Skills targeted	Quato	Labor market testing	Change of Status for foreign student on completion of Studies	Priority processing
	Permanent	Temporary	Employer	Migrant					
Belgium		✓	✓	✓		n.a.	✓	n.a.	✓
Czech Republic		✓	✓				A point system for temporary skilled workers is under consideration	✓	n.a.
Denmark		✓	✓		IT, medicine, biotechnology				Fast track
France		✓	✓		Science, research and IT			Facilitated for IT student	Fast track
Germany Green Card Programme		✓			IT: Specialist can contact the Federal Employment Service which coordinates between employers and applicants	✓	✓	IT students	For IT students: one week
Italy		✓	✓		IT	✓			
Ireland		✓	✓		IT, construction, engineering			✓	Fast track
Netherlands		✓	✓		IT		National but no regional test for skilled workers	✓	2 weeks
Spain		✓							
UK		✓	For general work permits	By innovators and highly skilled workers			For general work permits	Visa switching currently under consideration	Fast track

Source: IOM, 2003, *World Migration*

Since the mid-1990s, German, British and other European governments have looked with a sympathetic eye towards new kinds of skilled migration. The shift has multiple causes, but the most important concerns the position of the European economy within the global market. From 1995, American economic growth accelerated. The source of the new growth potential was said to be a productivity increase occasioned by new applications of information technology (IT). As a result European economies faced labor shortages in the IT sector; for instance during the 2000 IT boom, Germany reported 75,000 unfilled vacancies. (Favell and Hansen, 2002:591)

In the United Kingdom, the qualifications required to obtain a work permit were significantly reduced in 2000, in order to make it easier and quicker for skilled foreign workers to obtain a work permit for a wider range of jobs and the residence validity increased from four to five years. Moreover, the labor-market testing requirements were also eased for the foreign workers. On the other hand, the points system of UK, which sets out selection criteria based on factors such as age, dependants, qualifications, experience, and salary is designed for the skilled workers. Such programmes generally assume permanent settlement, rather than temporary migration. (Boswell, 2004: 41)

In the same framework, another approach has been introduced to the new labor migration programmes. The German “Green Card” programme which was introduced in August 2000, was one of the best known examples of a new labor migration scheme but for skilled workers. It was Germany’s first attempt to attract skilled immigration by issuing 20.000 visas for high-skilled, high-wage jobs, in the framework of ‘Green Card’ programme. The main aim of this programme was to facilitate the recruitment of computer engineers, IT-experts and software developers. Since late 2001, Germany also issued “Green Cards” to nurses and other qualified para-medical professionals. Between August 2000 and March 2002, 11,984 “Green Cards” were issued (IOM, 2003:248). Importantly, Germany announced this policy during a time of high unemployment and continued opposition to new immigration. (Favell and Hansen ,2002:591)

In France, new directives concerning the recruitment of highly skilled workers have been in force since January 2002. Yet, even before this, companies were able to employ IT-specialists once the French Labor Ministry had accepted their application. Since 2002, employers have the opportunity to fill job openings in

all sectors of the economy with qualified international labor migrants from non-EU countries by applying to the Labor Ministry for work and residence permits. This ministry is responsible for examining whether the international migrant would be employed and remunerated in accordance with his or her qualifications. If affirmative, the Labor Ministry, together with the Ministry of Interior, approves the employer's application without further bureaucratic delay.

With regard to the unskilled workers, although there is a severe need for young especially semi- skilled and unskilled foreign worker, under the given current high levels of unemployment, many EU countries are reluctant to re-open new labor migration channels for unskilled workers which have been largely closed since the early 1970s. For instance in Germany, for example, according to the report prepared by the Commission assigned by Rita Süßmuth priority should be given to recruiting skilled migrants. The Commission recommended that the immigration of poorly qualified workers is not a viable option at present, with the exception of seasonal and temporary employment.

Several other EU countries prefer to have agreements to recruit seasonal labor such as France (with Morocco, Poland, Senegal and Tunisia) and Italy (with Albania) and conditions governing the granting of work permits as well as the types of permits for the unskilled migrants , vary enormously among European countries as seen in the following Table IV.5. By 2000, numbers of seasonal workers were up again, reaching 264.000 (Martin 2002).

TABLE IV.5. Labor Migration Schemes in Selected Countries, Unskilled Labor

Country	Entry Schemes for unskilled foreign labor migrant			Other admission channels			
	Work permit scheme based on unskilled work	Special seasonal work scheme	Other labor migration programmes	Family Reunion	Asylum Seekers (2001)	Mass regularization programmes since 1990	Working holidays-makers
	Numbers	Numbers	Numbers				
Austria		Quota for 8.000 person 6 month limit	Harvest helpers, Quota of 7.000	12.200 (2000)	30.135		
Belgium	1 year no quota			4.871 (2000)	24.549	In process of 50.680 applications 2.226 are regularised	✓
Denmark			Trainee and contract workers 1.074 (1998)	9.500 (1999)	12.403		✓
France		7.929 (2000) 6 months		65.000 (1999)	47.263	75.600 (1997-1999)	
Greece	✓	6 month	Contract workers 40.000 (1999) trainees	n.a.	3.083	369.629 (1998-1999)	
Germany		223.400 (1999) 3 months			88.363		
Italy	120.00 (2001)			308.200	9.620	130.745	
Ireland	✓				10.324		✓
Netherlands		✓			32.579		✓
Spain	✓	Details to be set	Favourable treatment for certain Latin American nationals	n.a.	9.219	15.0000 (1991-1996)	
UK		Quota 15.200 7 months		65.200	71.700 without dependants		approx. 40000

Source: IOM, 2003, *World Migration*

The basic idea here is that the general attitude in many EU states regarding is that they foreign workers are only temporarily needed. Temporary migrants may come under a “guest worker” and/or rotation system. It is a commonly shared view that a larger amount of cheap, low-quality labor may lead to a loss in the host country’s competitiveness in the long-run, since this induces a slowdown in adjusting from low-quality production to high-quality production (Zimmermann, 1993:236). On the other hand, one may think that temporary migration is more beneficial, because some theories predict that the higher the probability of return migration, the higher the economic performance of migrants. Temporary migration also allows adjusting the stock of labor migrants more easily accordingly to the business cycle, importing labor in boom phases and exporting unemployment during recessions.

It is discussed that, for practical economic reasons it is useful, even necessary to admit temporary workers, especially for foreign companies which wish to bring in managerial or specialized staff. Temporary employment affords greater operational flexibility and may alleviate temporary shortages of national labor.

Another important aspect is, in the case of short-term immigration the family does not normally join the foreign worker. Thus the receiving country can avoid the medium-term and long-term integration costs which would arise from family unification. These costs include education, social welfare or housing.

In conclusion, at the nation state level in Europe, the regulations are still towards to create opportunities for less skilled workers in order to meet the short-term employment to meet specific labor demands whereas for the long term the creation of new labor migration channels aim to attract the highly skilled workers. The attempts and evaluation of the issue at the EU level will be discussed in the next chapter.

4.4. Illegal Migrants and Asylum-Seekers as Flexible Labor Supply

Illegal migration and asylum seekers are another fact that has to be taken into consideration with caution that they usually constitute a reserve of required labor force especially for the low-paid, unskilled jobs for the short-term demand.

In the absence of legal labor migration channels, hundreds of thousands of workers have found illegal way of work in Europe. There is growing evidence that large numbers of foreigners are entering the labor market without appropriate

permissions, and whose situation may be deemed irregular in some way. (Salt, 2001: 23) Therefore, in estimating and studying the demographic facts, the aspect of the illegal migration has to be also taken into consideration.

According to the estimations of the number of illegally employed workers in 1998 there were nearly 3 million undocumented migrants in Europe, compared to fewer than 2 million in 1991 (IOM, 2000). Many of these workers were engaged in low-skilled and low-paid work which many EU nationals and native workers are no longer interested in, or at least not at the levels of pay offered. (IOM, 2003: 253)

Regarding some of the examples from the Member States to give a general number, for instance the German Police Trade Union indicates that some 100.000 illegal migrants are smuggled into Germany each year. According to the United Kingdom Immigration Service Union, there are up to one million irregular migrants in the United Kingdom. Coming to France, it is estimated that there are some 500.000 irregular migrants in France. Besides, in 2001 alone, close to 10.000 irregular migrants were intercepted near or along the coast of Tarifa (Cadiz) in Spain. Irish Police estimates that some 10,000 irregular immigrants are working in the country (IOM, 2003: 253, EU Immigration Factbox, 25 April 2002, Reuters, London). Most of these irregular migrants that are coming from Africa, Eastern Europe, the Middle East, Central Asia and China attempt to enter the EU through the Mediterranean region, Eastern Europe.

However, these estimated numbers are not reflecting the exact ones as there is an absence of any official count, regarding the clandestine nature of irregular migration flows. It is reported by the IOM 2003 Report: “The figure of three million irregular migrants is still valid, but it’s undoubtedly a basic minimum now”. Similarly, IOM spokesman Jean-Philippe Chauzy stated: “Nobody really has accurate data on irregular migrants and the real figure is probably much higher. We only have estimates of those without identity documents in the Schengen area, but nobody has a very clear view of the matter”. (IOM, 2003: 253)

Some countries, especially those in Southern Europe, have introduced programmes to offer these workers a regular status. Five countries in the EU (Belgium, France, Greece, Italy, Portugal and Spain) enacted amnesty programmes for undocumented migrants to legalize their status. IOM and the Organization for Economic Cooperation and Development (OECD) estimate that during the 1990s 1.5 million were affected from these schemes: Italy regularized 716,000 irregular

migrants in three waves; Greece accepted 370,000 people in 1997-1998, mainly from the Balkans and Eastern Europe; Spain effectively regularized 260,000 immigrants mainly from Africa and Latin America; Portugal legalized 61,000 migrants. During the 1990s, all and more than one million workers were included in these programmes between 1991 and 2001. Despite these developments, IOM estimates that currently there is a stock of at least three million irregular migrants in the European Union.

In the United Kingdom, in October 2001, a need for a sensible and managed system for illegal migrants is announced by the Home Secretary with the fact that there should be talks with employers and trade unions on creating more opportunities for unskilled workers to find employment in the country. In February 2002, the government announced its intention to expand opportunities for seasonal employment in the UK. The government by this attempt aims to undercut both the trend to have the illegal workers and to have a managed system for employability of the unskilled migrant workers. (IOM, 2003: 254) On the other hand, also Austria extended seasonal employment possibilities beyond the traditional tourism, agriculture and construction sectors. However, such seasonal workers will not be permitted to bring their families to Austria, nor will they be able to upgrade their residence status or work permit.

The interesting and the crucial aspect of the illegal migration is the legalization of the immigrants' status does not always match by pan-European measures in tackling with the clandestine workers in Western Europe as the European work-permit systems are essentially employer-led (Collinson, 1993:15). In this framework, illegal migrants constitute an important part of the unskilled migrant labor resource for the employers. Ultimately, this means that where there is a demand for cheap and easily exploited labor, it is mostly underestimated to legalize the status of immigrants. Therefore, illegal immigration flows sometimes generate certain patterns of demand which in turn stimulate further immigration as the employers in certain sectors come to rely increasingly on sources of cheap, flexible and exploitable labor which are not available in the national labor supply. The comprehensive presence of unauthorized immigrants indicates that there are internal (unofficial) contradictions in the various receiving countries when it comes to the influx of cheap labor and demand for illegal labor is strong in some sectors, exploited at low wages and with low levels of job protection in marginal areas of the economy (Brochmann, 1996: 135). Collinson supports the idea that "this does not necessarily imply a

damaging effect on the receiving economy, since many enterprises which depend on irregular labor supplies, would not exist in the absence of illegal immigration flows—a point which counters the view that illegal immigration necessarily displaces indigenous workers.” (Collinson, 1993:15) As a result, some West European States have turned a blind eye to illegal immigration depending on the economic benefits of undocumented immigration especially during periods of economic boom. It is a fact that, irregular migration was tolerated in some of the countries of the EU up till the 1970s.

Apart from the illegal migrants, asylum seekers constitute a big share as one of the most important resource of again short-term cheap labor force. However, it must be noted that much of the discussion about the scale of migration into and within Europe separates out asylum seekers from ‘normal’ (predominantly labor and family reunion) migration flows.

Inflows of asylum seekers to Western Europe have fluctuated in total and between destination countries since the mid-1980s. The number of asylum seekers reached a peak of 695,580 in 1992, falling to 247,500 in 1996 before rising to 392,200 in 2000. There are still hundreds of thousands in number yearly in Europe despite the restrictionist measures of governments throughout Western Europe. (Favell and Hansen, 2002: 582)

There have also been significant changes in asylum pressure. The following countries had greater pressure in 2000 than in 1992: Austria, Belgium, Greece, Ireland, Italy, Luxembourg, Netherlands, United Kingdom and Norway. On the other hand, Sweden and Denmark had the most applications per 10,000 of their populations in 1985 but their situations were relatively modest in 2000. Germany rose from 9.5 in 1985 to 54.59 in 1992, falling back to 9.6 in 2000. The UK experienced a strong upward pressure, from a very low figure in 1985 to 16.3 in 2000, although this was still less than eight of the other countries listed. By 2000 Belgium, with 41.6 applications per 10,000 of its population was the country undergoing the greatest pressure. The lowest pressures were experienced by the Mediterranean countries. (Favell and Hansen, 2002:589)

It is obvious that the growth of asylum-seeking is aided by an increasing demand for low-skilled, irregular labor across Europe. It is a growing perception in the West that asylum channels have come to be seen and used as the prime channel for unsolicited, unskilled labor migration. Therefore, political parties stressing

stricter controls on immigration, usually on the right, have been gaining ground in most of Europe, from Scandinavia to Spain. (Francis, 2002) However, the point is that the political issue of how to deal with the asylum seekers is mixed with the economic issue of labor migration. The prevailing view is that a large share of the asylum seekers are actually economic migrants and that they are abusing the asylum rights. This is difficult to prove, but also difficult to reject. It can be conjectured that it is the impossibility of applying for a work permit that leads many people to abuse the asylum rights (Zimmermann, 1993:227). Apparently, many of the lowest-status economic opportunities in the Western labor market have been filled by the continued flows of asylum-seekers. Moreover, many asylum seekers are not in need of protection and are attempting to migrate for economic and/or family reasons (Salt, 2001:20).

This is clearly the case in countries with high levels of asylum-seekers such as Denmark and Sweden where these persons quickly and in large numbers have been incorporated into service industries such as cleaning work. The case is most similar in Britain, where the numbers of asylum seekers are in a trend to increase year by year, that refugees are incorporated into the labor market, through informal and illegal work where there are abundant job opportunities awaiting in London for them.

Thus, asylum-seeking has become a dirty word, replacing “economic migration”. It is open discussion that as Favell states: “Asylum shopping for the most welcoming migrant network and most accessible labor market is a fact of asylum migrant life in Europe that the Dublin Convention has done little to stamp out” (Favell and Hansen, 2002:589). As a result, although the use of asylum channels for economic migration distort the ability of the market to select the best and most appropriate migrant workers for the low-level labor opportunities that exist, it is still the case which is even sometimes under estimated by some European nations to have asylum seekers as filling the low-paid unskilled workers for the short term.

In conclusion, no matter how tight controls at EU borders are, immigration to the EU is inevitable and people fleeing persecution, war and poverty, will continue to risk their lives trying to get into the EU zone. However, by maintaining strict control over migration into the EU and by turning down the vast majority of asylum requests, thousands of immigrants are forced to live in Europe illegally. This creates a workforce that will accept the most insecure working conditions together with the

worst salaries and conditions. Entire sections of the EU economy base their profits on the exploitation of these people: building companies, restaurants, textiles, agriculture, etc. so although it is commonly shared that the EU is struggling against illegal migration, illegal workers are considered as a workforce that can be easily controlled and would serve the needs of the many European governments, companies and employers.

CHAPTER 5

EVALUATION OF THE NEW MIGRATION POLICY AT THE EUROPEAN UNION LEVEL

The persistent democratic challenges in the European countries, the population growth in developing countries combined with continued high unemployment levels, on-going conflict situations, easier communication and access to transport, as well as certain effects of new globalization policies, constitute the principal factors that will continue to cause increasing levels of migration into the EU.

Needless to say, these global migration factors and implications have also had a determining impact on the evolution of migration policies in Europe, and in particular in the European Union where significant progress has been achieved in approaching these new migration challenges in a concerted and, to some extent, integrated manner. (Favell and Hansen, 2002: 582)

However, in almost all European countries there is a wide and growing gap between the goals of national immigration policy and its actual outcomes. The main reason for the failure of national migration policies is the loss of effective competence to control current migration flows at a national level. Once national governments had closed the front door of legal immigration more or less strictly, most of the entries to Europe occurred through the side door in the form of asylum seekers, refugees, or family reunion or through the back door as illegal immigrants (Ghosh, 1994: 231). These facts strengthen an increasing need for a common effective European migration policy at the EU level (Straubhaar, 2000:6). On the other hand, as another fact, the European project is marked by a liberal “marketbuilding” structural bias, embedded in the Treaty of Rome, and revived in the re-launch of the Single Market in the 1980s. However, the project was many

times challenged by the defenders of national sovereignty such as in the case of Foreign Common and Security Policy. Common migration policy is encouraged as it is considered to be a policy area that to some extent could be constructed as serving the purpose of this market-building project. Consequently, labor and migration policy in the 1960s, 1970s, and again most recently sought to promote trans-European migration flows (Menz, 2004:19). While internal migration by EU citizens has thus been encouraged, relatively little initiative has focused on encouraging intra-EU mobility for third country nationals. Therefore, this relatively sensitive area has been generally left to the nation-states and it creates barriers to find a compromise on the evaluation of a common immigration policy although more cooperation and policy harmonization at European level is desirable in theory. Yet, there is a danger that policies will be harmonized at the level of lowest common denominator, thus they might be harmonized down towards those of the most restrictive countries, which is in fact what is happening in the “Schengenland”. (Franklin, 1993: 27)

Ultimately, evolution of the process regarding harmonization of migration policies is mainly developed around the discussions over supranational and intergovernmental decision making. Whereas the nation states are keen on their national sovereignty in controlling their borders, the differing interests and implications among the EU is complicating the future well being of the EU integration process. Thus, this induces the slow evolving process of a migration policy which is decided at the EU level and reveals all the Member States. The steps taken to realize this aim are reflected in the developments and revisions of Treaties that are spread over a period of 40 years’ time. Overall in these Treaties, relevant policy initiatives and discussions concerning migration, shape the trend of a desired common, pro-active, open and to some extent selective migration policy at the EU level. Yet, how should be the common EU immigration policy concerns many aspects and dynamics over which it is difficult to find a compromise and accordingly the formulation of the future EU migration policy still stays as an open discussion to the alternatives, strategies and contributions.

5.1. Supranationalism versus Intergovernmentalism in the Migration Context

Border controls on people and migration is a key area where the EU governments find it particularly hard to reconcile national sovereignty and security requirements. Therefore, in Europe, immigration and asylum policy are decidedly intergovernmental in character and EU Member States react in an ad hoc mode to the migratory phenomena as they have been reluctant to cede responsibility for immigration policy to supranational institutions. (Monica den Boer, 1995:94) Power has been concentrated into the Council and its bureaucracy whereas the Commission has limited responsibilities in these areas and the European Court of Justice and European Parliament have been largely excluded in migration matters. A principle consequence has been the transposition of a narrowly focused conceptualization of the immigration problem related to control of the numbers of the migrants. This reflects national priorities, but also arises as a consequence of “lowest common denominator” decision making where in a system relies on unanimity of the preferences of the most reluctant Member States have a decisive effect on the range of possible outcomes. (Geddes, 1999:181) The result of this is that national policies and the EU’s decision making environment skew EU policy towards control with less scope for countervailing measures in the direction of immigrant integration.

In fact, some member states have long sought to keep the EU out of the immigration policy area. As it will be discussed below, British and Danish non-participation in Schengen has only been the most conspicuous example. Before the Amsterdam Treaty, immigration policy governing movement from outside the EU, as well as the movement of third-country nationals within the EU, was kept firmly beyond the EU’s competence.

It was only until the Amsterdam Treaty (entered into force 1 May 1999) that the “communitarization” of immigration and asylum policy was realized and it was important because it meant that aspects of immigration and asylum policy were moved closer to normal EU decision-making process, thus providing a role for the Commission, European Parliament, and European Court of Justice. Even though immigration and asylum have become subject to the more usual Community-based decision-making processes, there were still remaining significant limitations on the power of supranational institutions (Geddes, 2001:23). The exclusion of EU

competence was even greater in citizenship and national immigrant integration policies. Yet, even the Council of Ministers' restrictionist impulses should not be overstated.

However, as the free movement has been central to the establishment of the EU and these rights have been extended mainly to EU citizens, it is, therefore, important to distinguish between highly developed EU competences for free movement for EU citizens (intra-EU migration) and relatively under-developed competence for immigration and asylum issues (extra-EU migration). Intra-EU migration is supranationalized while immigration and asylum policy remain largely intergovernmental. There are clear and consequential links between two paradigms because it is intra-EU free movement that has stimulated cooperation and integration on immigration and asylum policy. Ultimately, free movement for EU citizens has meant attempts to develop control policies at the external frontiers of the Union as well as internal security measures designed to monitor movement.

The new logic represents an important challenge to the nation-state-centered conceptions of immigration and citizenship on which the political control of migration had been argued during most of the twentieth century (Favell and Hansen, 2002, 586). The control of European nation-states over migration and population dynamics entered in a process of being voluntarily changed through the economic integration governed by the European integration process. The economic integration dictates that states must give up the discretion they once claimed to designate who is and is not a legitimate resident of their territory, and rather allow market forces to dictate supply and demand of migrant labor across economically interdependent territories. The implication is that migrants will not stay where the market does not want them, if it is the case that their opportunities and benefits are in fact better back home. As long as there is a demand for workers, the market-based reasoning for integration allows that the European labor market can draw on labor from throughout the European Union and beyond, orienting its demands to geographically proximate countries found in the periphery of Europe and in the newly opened East. The EU has thus in effect sanctioned that certain forms of European mobility can no longer be restrained or contained by national conceptions of citizenship and welfare-state closure; it has given power to the market to decide over who moves across borders and how they do it, where they live and work, and whether they bear any responsibility to the nation-state they happen to be resident in. (Favell and Hansen,

2002, 586) Labor markets within the EU have been fully open since 1993, no country can follow an independent migration policy without affecting and potentially harming the other countries, implying a need for policy coordination. (Zimmermann, 1993:242) Membership in the EU, then, implies a radical shock to the nation-state's pretence to control and govern migration through its exclusive border controls and its inclusive citizenship and welfare rights. (Favell and Hansen, 2002, 586)

The deeper, underlying issue is how developing EU migration policy responsibilities affect the sovereign capacity of states to regulate international migration. Cooperation and integration between EU Member States on migration policy do not necessarily weaken these states in the sense that they "lose" or "surrender" power to the EU. Member states now share power but this does not mean that their relevance is waning. Instead, EU responsibilities provide new international venues for the pursuit of policy objectives. Cooperation has thus far tended to strengthen the hands of the executive branches of national governments (particularly interior ministries at the expense of courts and parliaments (Geddes, 2001:22). It is argued that far from weakening EU Member States or symbolizing some "loss of control", EU cooperation and integration have thus far helped Member States consolidate and reassert their ability to regulate international migration through the use of new EU-level institutional venues. This raises legitimacy issues as the EU moves into politically sensitive policy areas.

However the agreements about the development of immigration control are generally intergovernmental. They have been created within which are not integral parts of the European Union, thereby constructing a set of intergovernmental relations. Actors in this bureaucratic subtext are eventually senior officials from the national ministries of justice and home affairs, and representatives from national criminal intelligence centers. A consequence of this is that neither the European Parliament nor the European Court of Justice has the power to amend, vote, veto or adjudicate the outcomes of that decision-making. Hence, intergovernmental agreements are subject neither to standard EU legislative procedures, nor to an effective democratic and legislative control by EU institutions. Moreover, the mechanism of intergovernmental structures often by nature do not allow public scrutiny of the proceedings, thereby increasing anonymous decision making, and undermining transparency and public accountability (Wessels, 1990:238).

5.2. Harmonization of the Migration Policy at the EU Level

Closer cooperation and integration of immigration and asylum issues establish a policy context at EU level which as well as is being related to national policy contexts. As Geddes states: “This suggests a conceptualization of EU policy co-operation and integration as being alone a continuum ranging from intergovernmentalism to supranationalism” (Geddes, 1999: 177).

There are certain common elements in the policies and principles adopted by individual EU countries that could seemingly help the process of policy harmonization at the community level. These include the commitment of all EU countries to maintain a set of basic human rights as enshrined in the European Convention on Human Rights and other international and European human rights instruments. Similarly, they all agree on the commitment to the protection of refugees in keeping with the provisions of the 1951 UN Convention on the Status of Refugees (and the 1967 Protocol) and to an effective integration of the legally resident immigrant groups. Apart from combating irregular immigration and abuse of asylum procedures, all EU countries have also demonstrated a common interest in restricting immigration, as reflected in their policies to curb labor immigration and to reduce emigration pressures in existing or potential sending countries. (Ghosh, 1994: 221)

However, despite the evident need to evolve a community wide approach to migration, especially concerning the entry of new immigrants and integration of existing ones, and the common adherence of national states to certain goals and principles, EU countries have found it difficult to harmonize their policies within a coherent framework. Yet, shared principles have guided to comparable difficulties as the member countries have different dynamics, interests and differences in the migration issue stemming from their past immigration patterns and links, from their divergent political and social traditions and from variations in current and projected immigration pressures (Ghosh, 1994: 222). There are countries in Europe with a long tradition of receiving immigrants, such as France, Germany and the UK. On the other hand, countries such as Greece, Spain, Portugal and Italy, up until 10 years ago were countries that exported immigrants. These countries have much less experience than the other countries. Additionally, there are different mentalities in Europe. The mentality of the Dutch and the Scandinavians is different to the mentality of people

in Mediterranean countries as most of the people in the Mediterranean countries have more lived as immigrants in other countries and they tend to show more tolerance to the immigrants. This brings the integration aspect of the issue to the fore of the discussion. Concerning the policies for the immigrants to integrate into the society there are countries that have progressive integration policies, such as Holland, as well as Scandinavian countries such as Sweden which have very progressive and successful integration policies. On the other hand, there are countries which are completely inexperienced, such as our country. These countries do not have an integration policy for migrants and are now trying to deal with this. (Diamantopoulou, Interview) Finally, there is the problem that while the political leaders are aware of the need to fill the shortages in their labor markets, people in the EU have the fear of cheap foreign workers getting their jobs and therefore opposing any initiative for further opening the borders for the immigrants. Thus, at the EU level there exists many different situations, interests, experiences and considerations regarding the migration issue.

After all these facts and developments, as a conclusive remark it can be referred to the statement of Antonio Vitorino who is the European Commissioner for Home Affairs, that: "Immigration was neither a problem, nor a solution. It was a reality that had to be properly managed." He also puts an attention to the labor market situation in Europe by mentioning: "This is just a first step for immigrants to come in legally and be given work permits and a generous set of rights if there are jobs, as we are increasingly aware that there are such jobs available for third country immigrants that cannot be filled by the local job market". (Lungescu, BBC, 2001)

Ultimately, the harmonization of the national migration policies at the EU level towards a common immigration policy is an inevitable and irrevocable determined need and goal of the EU. The EU level analysis of the migration policy relates to the Treaty framework. However, again when this evolving Treaty process is examined it is up to now obvious that the establishment of an immigration policy context embodies a tension between the intergovernmental approaches of Member States and the supranational attempts towards to harmonize them at the EU level.

5.2.1. Treaty of Rome and Single European Act: Towards a Common Market

The elementary relationship between migration and welfare was one of the basic ideas behind forming the Common Market in the 1950s. The original Treaty of Rome of March 25, 1957, which established the European Economic Community, contains the provision for free movement of labor in Article 48 which stipulates that “ freedom of movement for workers” entails the “ abolition of any discrimination based on nationality between workers of the Member States with respect to employment , remuneration and other conditions of work and employment.” Therefore, it was basically the 1957 Treaty of Rome that was to give the recognition of the subjective right of nationals of the six signatory states to have access to employment throughout the territory covered by the Treaty. However, in spite of the idea of creating a single European economy by establishing a common market as defined by the Treaty of Rome in 1957, many of the original barriers to the internal market survived for 30 years. (Callovi, 1992:357)

The EC Treaty, as amended by the Single European Act, requires that as of January 1, 1993, the “four freedoms,” the free movement of people, capital, goods and services have to be achieved. This implies the abolishment of any restrictions on internal labor mobility, including the abolishment of internal border controls. It attempts to overcome the many obstacles to mobility, such as language differences, education systems, insufficient recognition of degrees and qualifications, and cultural differences. (Zimmermann, 1993:247) The Single European Act states in its Article 8A that (renumbered Article 7a by the Maastricht Treaty and Article 14 by the Treaty of Amsterdam) “the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.”

Nevertheless, for the Single European Act, the question of migration was concentrated on the problems linked to the removal of physical controls. This is why another general declaration is not to be interpreted as a contradiction: “Nothing in these provisions shall affect the right of Member States to take such measures as they consider necessary for the purpose of controlling immigration from third countries.” A possible Community migration policy and the political opportunity is therefore left

to the powers that the original Treaty of Rome gives the Community (Callovi, 1992: 359, See Appendix A).

5.2.2. Schengen Agreement and Dublin Convention

In the early 1980s, the mood began to change and the European Parliament and federalist movements put pressure on Member States, on the Commission and the Council to accelerate the implementation of the four fundamental freedoms.

The Schengen Agreement was a first step towards the comprehensive free movement of persons. Although it was intergovernmental in nature, Schengen was a significant step towards cooperation between the states on the migration and asylum policies. It was originally signed by Belgium, Germany, France, Luxembourg and the Netherlands (Schengen I on 14.6.1985, Schengen II on 19.6.1990). Since then Italy (1990), Spain and Portugal (1991), Greece (1992), Austria (1995), Denmark (1996), Finland (1996) and Sweden (1996) have joined the Schengen area. Norway and Iceland have become associated members with the implementation of the Schengen acquis and its further development on the basis of an Agreement signed in Luxembourg on 19 December 1996. Although they were not holding voting rights on the Schengen Executive Committee, they were able to express opinions and formulate proposals.

The objectives of the Schengen initiative comprises of elimination of internal border checks, consistent and tighter external border controls, a more unified visa policy and a coordination of different asylum policies. The Schengen Agreement provides for the abolition of internal border controls among the signatory states and increased control of the common external borders. According to the Schengen Agreement non-EU foreigners can move only freely up to three months to other EC countries and are only allowed to work in that country which had originally permitted entry. As a consequence, there was no free labor mobility for non-EU foreigners. (Zimmermann, 1993: 247.)

The Schengen Agreement has become effective at the beginning of 1998 when all border controls between Italy, Austria, and Germany were in fact given up. This step immediately provoked strong discussions about the credibility and efficacy of external border controls. Especially some German politicians and border police officers have been afraid of easy access to Schengenland via the southern regions.

Thus, Germany initiated a new form of control, the so-called “Schleierfahndung”. It shifted control from outer border away towards an internal control of people. Consequently, as first reports from various borders demonstrated, the signatory states have their own views on the practical implications of these measures. For instance, Germany has stepped up close watch at its internal border with France, while cross-border activities of the Italian police are to be restricted to a zone of only 10 kilometers inside the Austrian border. On the other hand, Switzerland which is a non-Schengen and non-EU state, is being treated by its Schengen-neighbours France and Germany almost as if it had already joined the Schengen Group. Since, Schengen Agreement remained primarily an instrument for the enforcement of border controls, for police co-operation on the territory of the EU and for the execution of asylum and refugee legislation (Straubhaar, 2000:14). The agreement was said to be about the freedom of movement over the internal borders between the Schengen countries however, much of the agreement was about increased control of incomers. In fact, there are just four articles concerning the open borders, but 138 articles are about increased control. As a result, whereas the common rules regarding visas, asylum rights and checks at external borders were adopted, the coordination of the police, customs and the judiciary was increased.

Until 1999, the “Schengen” movement was not part of the EU process, it was a parallel movement towards integration. In 1999 the Member States decided that Schengen should be taken over by the European Union, because in the meantime almost all Member States of the European Union were also members of the Schengen area. Then, as from 1 May 1999 Schengen cooperation incorporated into the framework of the EU by the Schengen Protocol to the Treaty of Amsterdam of 2 October 1997.³¹ As a result, the Schengen area, which is the first concrete example of enhanced cooperation between thirteen Member States, became within the legal and institutional framework of the EU. As from 25 March 2001, the Convention started to be implemented with the countries of the Nordic Passport Union³² and five

³¹ The full text of the Schengen Acquis integrated into the European Union is available in the official website of the EU with the following address:
<http://ue.eu.int/uedocs/cmsUpload/SCH.ACQUIS-EN.pdf>

³² Nordic Passport Union was like Schengen providing an area without travel restrictions for Iceland, Denmark, Sweden, Finland and Norway since 1954. When the Nordic EU members Denmark, Sweden and Finland joined the Schengen co-operation, Norway and Iceland had to enter into an agreement with the Schengen countries in order to retain the Nordic Passport Union. Accordingly, Norway concluded an agreement with the EU about its association with Schengen in 1999. This

countries became part of the Schengen zone. This meant that the first 15 countries of the European Union³³ – with the exception of the UK and Ireland – plus non-EU countries Norway and Iceland, abolished border controls at their common borders.

The UK remains opposed to the abolition of border controls and does therefore not intend to join the Schengen area. Ireland, like UK, either opposes becoming a full member as it has a joint Passport Union with the UK. The UK and Ireland are thus in principle not bound by the Schengen *acquis*, but may at any time request to take part in some or all of the provision of the *acquis* (Article 4 of the Schengen Protocol³⁴). In this context, both have expressed their wish to sign many of the Schengen provisions in the area of police co-operation and an agreement has already been reached with the UK. In March 1999, the UK has manifested its intention to take part in some of the Schengen “compensatory measures”, namely in the fields of police cooperation and judicial cooperation in criminal matters. The UK has not completely excluded the possibility of a future participation in other fields such as immigration, visas and asylum. (Boer and Corrado, 1999:412)

Concerning the possible motives behind UK’s opposition to join the Schengen cooperation, Wiener focuses on the geographical location of UK as one of the relevant reasons that UK disagrees to change its border control (Wiener, 1999: 446). The British argument is that, as an island, the UK has a comparative advantage in the field of border politics. In other words, the government maintains that based on its geographic location the UK’s immigration control is reduced to certain main ports of entry such as airports, seaports, and, the Channel tunnel. Joining Schengen would mean significant changes in UK border politics. For example, in a White Paper titled “Fairer, Faster and Firmer – A Modern Approach to Immigration and Asylum” the government policy of United Kingdom on frontier controls is characterized by

agreement allows Norway to take part in drafting new legislation on the implementation and further development of the Schengen *acquis*. (The Official site of Norway in the United States)

³³ Schengen area includes 15 countries: Belgium, the Netherlands, Luxembourg, France, Germany, Spain, Portugal, Greece, Italy, Austria, Sweden, Denmark, Finland, Iceland and Norway.

³⁴ The High Contracting Parties invite the Council to seek the opinion of the Commission before it decides on a request under Article 4 of the Protocol integrating the Schengen *acquis* into the framework of the European Union by Ireland or the United Kingdom of Great Britain and Northern Ireland to take part in some or all of the provisions of the Schengen *acquis*. They also undertake to make their best efforts with a view to allowing Ireland or the United Kingdom of Great Britain and Northern Ireland, if they so wish, to use the provisions of Article 4 of the said Protocol so that the Council may be in a position to take the decisions referred to in that Article upon the date of entry into force of that Protocol or at any time thereafter. (Eur-Lex)

frontier controls that are regarded as an effective means of controlling immigration and of combating terrorism and other crime. Furthermore, these controls match both the geography and traditions of the country and have ensured a high degree of personal freedom within the UK. This approach is different from the continental Europe, where due to the difficulty of policing long land frontiers, there is much greater dependence on internal controls such as identity checks. The British authorities feel that, to join the Schengen zone, they would need to impose continental European style registration laws and make all people carry official identification at all times. (Wiener, 1999:446)

Wiener puts the second reason which developed within the framework of constructivist theorizing in European integration. It implies that the ideas and identity constructions become consensual when actors thoroughly internalize and perceive them as their own. It is the case in the UK that “Europe” is still perceived “as Britain’s other”. The Schengen policy suggests an identity that does not resonate with the majority of the policy addresses. Therefore, due to the slowly changing national interest that prevails as a main factor in the formation of public opinion, the UK government cannot simply move in and go ahead and change its policies regarding the EU. This situation significantly restricts the identity options available to the UK as a potential Schengen Member State as well.

Lastly, Schengen impacts on the core components which define the sovereign status of nation-states in global politics, borders, security and, citizenship. Schengen is about politics and policymaking about border crossing and it touches on the core areas of governance (Wiener, 1999:441). Traditionally, UK does not so much willing to cede power to a supranational decision making structure therefore it still keeps its right not to participate common policy initiatives on the sensitive issues such as migration or as it was the case of using “Euro” as the single currency.

As to make a general evaluation of the Schengen, it can be considered as a milestone in reducing barriers to the mobility of people within the EU. However, it stayed basically about designing efficiently the external control of borders in a community which has abolished its internal borders for the transport of goods and free movement of people. Moreover, it does not have an impact on the national authority to regulate the immigration of workers or persons. (Brücker, Epstein, McCormik, Gilles, Venturini, Zimmermann, 2001:96)

At the same time as the Schengen process was developing, all EU Member States experienced relatively large historical increases in asylum numbers. The crucial impetus for action at the EU level was leading to calls for centrally determined ‘burden sharing’. The call for common action came typically from those countries that were experiencing the greatest pressure, like Germany and Austria, rather than the UK or Ireland, which wanted to rely to a greater extent on national and bilateral actions. (Moraes, 2003: 3) Following this, the next significant step towards the harmonization of migration and asylum policies was taken at the European Council of Dublin in June 1990. With the Dublin Convention of June 15, 1990, a set of measures regarded as essential was adopted again in an intergovernmental character relating the determination of the country responsible for examining an application for asylum. (Callovi, 1992: 363) In the Dublin Convention of 1990, all the Member States of the Community agreed on a joint procedure on asylum seekers. It basically confirms the Schengen Accord on this issue. (Zimmermann, 1993:248) The Convention allocates responsibility for the examination of the asylum application to the first EU country where the asylum seeker has an opportunity to make an application. It was concluded in order to stop the “refugee-in-orbit” syndrome, whereby an asylum applicant was sent around from country to country without any state taking the responsibility for processing the request for asylum. Another purpose was to prevent “asylum-shopping” where the refugee would search for the Member State with the best conditions for his/her asylum application. This Convention did not enter into force until 1998 in all EU countries. (Gradin, 24:2003)

5.2.3.Maastricht Treaty

Until 1992, migration and refugee matters in countries of the European Union fell directly within the sovereign sphere of Member States. Since then, however, with the Maastricht Treaty, and in particular with the entry into force of the Amsterdam Treaty on 1 May 1999, the policy on asylum, the free movement of persons, visa policy, rules governing the crossing of the EU’s external borders, immigration policy and the rights of third country nationals, have all become full Community responsibility.

The Treaty on European Union, signed in Maastricht in December 1991, was a compromise between the statist and the community approach to migration issues. It marked a modest advance over the statist trends by establishing the Community's legal competence in determining the third countries whose national will need visas when crossing to external borders. (Article 100 C) In the Article K and Title VI the Treaty lists several areas of "common interest" which include asylum policy, rules governing the crossing of external borders, and immigration policy (conditions of entry and movement of third country nationals, residences, family reunion and access to employment of third country nationals and unauthorized migration) (Ghosh, 1994: 224).

Significantly, Maastricht Treaty declared "asylum policy", "the rules governing the crossing by persons of the external borders of the Member States" and "immigration policy and policy regarding nationals of third countries" to be "matters of common interest". (Article. K1)

Moreover, the 1993 Union Treaty (TEU) provided a new basis for collaboration between all the Member States in the field of justice and home affairs by adding a third pillar to the structure of the Community (which was also known as Title VI of the TEU, from Articles 29 to 42) and thus immigration policy also became part of the third pillar of the treaties which is the "co-operation in the fields of justice and home affairs". With the reservation that decisions must be unanimous, immigration policy was transferred to the competence of the Community. Art. K.9 of the Maastricht Treaty, together with Art. 100c EC Treaty, also offered a basis for a much more comprehensive joint approach. (Straubhaar, 2000:15) The new form of cooperation covered nine areas considered to be of common interest: asylum policy; the crossing of external borders; immigration; combating drug addiction; combating international fraud; judicial cooperation in civil matters; judicial cooperation in criminal matters; customs cooperation; police cooperation.

Three major building blocs can be identified in the Treaty on the migration issue. The first bloc concerns the clear legal competence to the community in the area of "visas (to determine those countries whose nationals need visas, which will have a uniform format). The second building bloc sets formal cooperation on Justice and Home Affairs, and lists several areas of common interest (Title VI, Article K): asylum policy, crossing of the external borders of the Member States by persons, immigration policy (conditions of entry, residence, movement and treatment of

unauthorized immigration), drugs, fraud on an international scale, civil matters, criminal matters, customs and police cooperation. The third building bloc is found in a “Protocol on Social Policy,” and an annexed “Agreement” concluded between eleven Member States, with the exception of the UK. (Calovi, 1992:371)

Evaluating the issue from an institutional perspective, the third pillar as constructed by the Maastricht Treaty gives the Community institutions only a limited role and no real opportunity to control decisions taken by the Member States. Court of Justice is limited for the legal control of the acts of Member States. Concerning the European Parliament, under the terms of the Treaty it is consulted by the Council but is usually informed after the event and is therefore unable to express an opinion on discussions while they are taking place. On the other hand, the right of initiative of the European Commission is limited to six of the nine areas covered by Title VI of the EU Treaty and is shared with the Member States (the Member States alone can initiate measures in relation to judicial cooperation in criminal, police and customs matters). Furthermore, the condition that Council's decisions must be unanimous cripples the decision-taking. These difficulties facing cooperation in justice and home affairs influenced and induced the criticisms voiced by the Commission, Parliament and other bodies at the discussions held before and during the 1996-97 Intergovernmental Conference which produced the Treaty of Amsterdam (Official web site of the European Union).

5.2.4. Amsterdam Treaty and the Tampere European Council

The 1997 Treaty of Amsterdam was a giant step further along the road to a common European migration policy. In Europe the 1997 Amsterdam Treaty empowered the European Union's institutions to act on migration, changing intergovernmental co-operation among Member States into the development of joint policies on immigration and immigrant integration. At the times of a new debate on the role of immigration to address economic and demographic imbalances, Amsterdam Treaty can be considered as a cornerstone that it constitutes a shift from “pillirization” in the Maastricht Treaty to “communitarization”. (Geddes, 1999: 21).

The Amsterdam Treaty lays down that the Council of Ministers has to adopt measures that ensure the free cross border movement and the abolition of all controls of persons, no matter if they are citizens of the Union or nationals of non-member

countries, within five years after the Treaty comes into force. In other words, it addresses that the abolition of internal controls will be completed within the Union in a few years, however until then any decision within the Council will still have to be made by unanimity. (Straubhaar, 2000:15)

Treaty of Amsterdam confirms that intergovernmentalism will underpin decision-making in most immigration and asylum policy areas until early in the twenty-first century at least. It also increases the scope for involvement in policy by supranational institutions. The Commission is given power to bring forward proposals in these areas. The Court of Justice is for the first time, given power to review measures relating to immigration and asylum policy. Unanimous decision-making is confirmed for the five-year period which is specified as the framework within which measures will be brought forward immigration and asylum after Treaty ratification. After this five year period, decision-making will be reviewed, despite the fact that there is no guarantee for occurrence of increased supranationalisation (Geddes, 1999: 179).

In Title IV, the Amsterdam Treaty announces the progressive establishment of an area of freedom, justice, and security as the freer movement entails closer cooperation in internal security policy involving crime and terrorism, but also immigration and asylum. Immigration and asylum have become security issues in the sense that they impact on the ability of the states and societies to maintain their independence identity and their functional integrity. (Geddes, 1999: 179)

Relating with the security issue, most significantly, Amsterdam Treaty incorporated the Schengen *acquis* into the Union framework. Schengen embodies the articulation between liberalization and security which connect immigration and asylum policy with both external frontier control and internal security. As a result of the introduction of the Schengen *acquis* into the main body of the Community via the Amsterdam Treaty, the decisions made in secret by civil servants have been incorporated into the EU without proper examination by Parliamentarians at either national or EU level. (Geddes, 1999: 180)

Building on the drive of the Amsterdam Treaty, the special meeting of the European Council in Tampere, Finland, in October 1999 agreed that the separate but closely related issues of asylum and migration call for the development of a common EU policy by establishing an area of freedom, security and justice. Thus, EU Member States agreed to coordinate their migration policies in the area of asylum

and refugees by the year 2004. In Tampere, it was also recognized that the EU needed a common migration policy based on a comprehensive approach to migration that would also address political, human rights and development issues in countries of origin and transit. This policy would be composed of the following elements: partnership with countries of origin, a common European asylum system, fair treatment of third country nationals, and an effective management of migration flows (Gradin, 2003:26). Tampere was important because it was the first time the Council had been unambiguous both in calling for the EU to work formally towards a binding common EU policy and in setting out an outline for a common policy which could be described as comprehensive. (Moraes, 2003:4)

In Tampere European Council conclusions, strict deadlines are established for introducing the necessary agreements and legislation to put in place a common immigration policy. It was dedicated to the establishment of an Area of Freedom, Security and Justice and elaborated the political guidelines for the next years in the field of immigration and attempted to come to agreements on common EU immigration and asylum law before the deadline in 2004. These developments within the EU had direct implications for all states throughout Europe. A direct result has been the strengthening of border controls and border management to counter irregular migration. (Jenny, 2001:3) Until today, agreements have been made which generally make it increasingly difficult and dangerous for refugees and asylum seekers to enter the EU and which increase cooperation on particularly the deportation of illegal immigrants.³⁵

5.2.5. Nice Treaty and EU Summit in Thessaloniki

The Intergovernmental Conference held in Nice on 7 and 8 December 2000, concerning the Title IV of the EC Treaty (visas, asylum immigration and other policies related to free movement of persons), the Member States decided that most of those areas would no longer require unanimity but would be subject to the co-decision procedure (Article 251 of the EC Treaty). However, the transition to the co-

³⁵ For further information on the developments in the area of cooperation on migration and asylum until the determined deadline of 2004 of Tampere, please see the Appendix C titled "Communication from the Commission to the Council and the European Parliament Area of Freedom, Security and Justice: Assessment of the Tampere Programme and Future Orientations"

decision procedure has been subject to certain conditions. Certain decisions on immigration will be taken under the co-decision procedure as from 1 May 2004, whereas in the area of asylum policy the transition is subject to the absolute prerequisite condition that the Council has previously adopted common rules and basic principles governing these issues. Therefore the Article 63 titled as asylum, refugees, immigration policy states that:

The Council may, acting by qualified majority, adopt certain measures on asylum, refugees and displaced persons, immigration policy and the rights of nationals of third countries legally resident in a Member State, provided that it has previously, acting unanimously, adopted Community legislation defining the common rules and basic principles governing these issues. The introduction of qualified majority voting therefore remains subject to these conditions and to the prior definition of common principles in this area. The co-decision procedure now also applies to this article (Official website of the EU).

More flexibility was attained regarding judicial cooperation on civil matters, that the Nice Treaty provides for the transition to the co-decision procedure as soon as it enters into force, with the exception of family law.

Coming to the EU Summit in Thessaloniki in June 2003, the EU has been granted the authority to establish policies in the areas of labor migration, refugees, and integration for all its Member States. However, EU was not granted the power to establish immigration quotas for its member countries (Süssmuth, 2003). More significant, as a result of the request at Thessaloniki European Council, the Commission submitted a report on migration and integration in Europe in July 2004 which gives an overview of migration trends in Europe, analyses and discusses the changes in immigration and describes actions taken regarding the admission and integration of immigrants at national and European level. (European Commission, 2004). In order to have current information, this report once more confirmed the important role that immigration continues to play in the economic and social development of the European Union. The main focus of the report was related to the integration of the migrants to the society which constitutes the most significant topic in migration matters at the EU level. Within this regard the report underlined that there is a need to strengthen and develop policy instruments to address the integration of third country nationals. On the other hand, it reconfirms the key elements for a global approach to integration identified in the Commission

Communication of 2003 on migration, integration and employment. The report, more clearly pointed out two key issues. First, Europe needs to continue its consideration of the sensitive issue of legal migration, particularly for the purposes of labor. The report estimates that immigrant workers contributed to 22% of employment growth between 1997 and 2002. Secondly, there is a need to put the issue of integration firmly on the political agenda for the coming years under the challenges posed by the aging of Europe's population. However, the report carries the nature of reflecting the principles in a form of a declaration of intention. They should be sufficiently concrete in order to realize the formulation of objectives and guidelines for the different concerned policies, by means of an approach which includes all the dimensions of integration.

As a general overview of these revision to the EU Treaty and the other policy developments regarding migration, it is seen that although EU has agreed in the Treaty of Amsterdam to create a common immigration policy within a five year on particularly one common policy for visas, political asylum, for economic migrants and family reunion, coming to the 2004, still each EU Member State has its own policy to handle each one of these four matters. This clearly demonstrates the conflictual, slow process of harmonization in migration matters.

5.3. Towards What Kind of EU Migration Policy?

Under the challenge of demographic developments and its implications on the European labor markets together with the pressure of global competitive markets on one hand and the development of the EU project towards a Europe without nations on the other, it has become obvious that EU needs a more coherent, conceptual and effective migration policy. Especially the Western European governments have to search for a common modern and time-adequate migration policy to cope with new forms of contemporary migration. In an interview with EU Commissioner Anna Diamantopoulou, she supports this idea by stating: "What Europe needs is not a liberal or a restrictive immigration policy, but one common immigration policy."

The inefficiency of national migration policies has made it obvious that an independent procedure by single nation states is no longer adequate. On the other hand, still a "Fortress Europe" is also not acceptable for humanitarian grounds as well as for economic reasons. (Straubhaar, 2000:17) An approach which seeks to

make West Europe a “Fortress” is, as we have seen, not viable in the face of the contemporary migration realities, nor does it serve the longer term interests of Europe. Therefore, a simple solution for complex migration phenomena is either economically costly, politically naive or not more than populist arguments. Neither an open Europe nor a fortress Europe are feasible alternatives.

There is no doubt that harmonizing policy regarding immigration within the EU is an immense task. However, as a unified immigration policy is a long-term goal, as was the common currency, it is important to set ambitious but achievable short-term goals as well as deadlines in route to the completion of a common policy. The key will be to make new policies that are not too drastic and it requires extensive discussion to implement appropriate policies and prevent backlash from EU states.

In this regard, European countries are facing two challenges. On the one hand there is the situation of communities constituted in the last 40 years of ill-integrated immigrants and the more recent inflows in the southern European countries, and on the other hand there is possible future inflows due to economic, demographic and political differentials. To the first challenge concerning the integration of third country migrants residing lawfully in the Member States, EU has to respond to this issue more efficiently by developing relevant policy initiatives. Yet, here again EU initiatives may be jeopardized by the question of community power versus national sovereignty (Callovi, 1992:368). Golini also emphasizes this dimension that while keeping the door open to new moderate immigration, there is the need to encourage and foster an environment of full acceptance and integration for immigrants. (Golini, Bonifazi, Righi, 1993:81) He notes that if this is not done, the democratic structure of the Western countries would be in danger. It seems that there is no other choice: it is a question of integration or conflict. If a society targets to remain democratic, it must treat foreigners in the same way as it treats its own citizens by giving them full rights. The ultimate objective is to guarantee equal rights to immigrants while fully protecting their cultural identity and making sure that they are not pushed out from the society. If the immigrants are left as misunderstood strangers on the margins of society regression towards a weakened democracy would be inevitable. Growing political and social tensions would be provoked by native citizens trying to preserve their right at all costs and the foreigners trying to avoid having to live a life without their social, economic and political rights. (Colini, Bonifazi, Righi, 1993:81)

As regards the second challenge, confronted with an aging and eventually shrinking domestic population Europe also has to consider a pro-active migration (Münz, 2004:3). Yet, the community has not yet developed a consolidated response as a machinery of control is not the only answer to the need for an active policy on migration.

On the way to a pro-active policy, first, it is proposed that all countries should develop a comprehensive migration policy, beginning with a review of existing aims and measures which is designed to identify gaps and introduce greater coherence. Currently, most European governments have policies to deal with some aspects of migration, but few of them can claim to vary across the whole range of migration types and issues. Second, that policy should be internally coordinated between all government departments with responsibilities for migration and integration matters in order to ensure coherence in both initiatives and response. Third, a strategic approach to management of migration matters requires the input of all actors in the migration field, including a wide range of NGOs. In order to be effective both at the national and European level, non-governmental actors should also consult and cooperate on the European level and add a European dimension to the work they are doing on the national level. Fourth, migration policy should be transparent, so that all actors feel that they have a positive role, with initiatives and decisions being openly communicated. Under the regime of potential immigration gains, more openness on the part of the EC towards labor migration seems desirable. Finally, national policies should be internationally coordinated to ensure the greatest possible degree of agreement and harmonization.

However it should be noted that there exists many obstacles to the realization of a more comprehensive and pro-active policy at the EU level. These obstacles includes such as problems with the way in which the EU forms Justice and Home Affairs policy, political tensions between the Council, Commission and Parliament, distinctions among Member States' views on cooperation and governments' fears of public resistance to EU involvement in migration issues, and the way in which public and media pressure at national level has been played out at EU level (Moraes, 2003:5). All these barriers constitute a very profound context which enacts a very difficult and slow process to be compromised, managed and developed.

As another point of view for the future of the EU migration policy, it seems that the future will bring a dramatic increase in the mobility of high skilled

specialists, managers and business people. Under the conditions and the need to survive in highly competitive international markets with high innovative activity, it might be persuasive for industrialized countries to consider a selective immigration policy to attract workers with high qualifications needed in innovative industries. (Zimmermann, 1993:235). As it is discussed in the previous chapters, it is clear in many national cases that EU countries are likely to open their borders particularly for the high skilled migrants to be employed in the innovative industries such as information technology or health sector.

On the other hand, it is another observation that, in Europe migration takes the form of a cross-border placement together with the continuing inner-firm movement. In future it can be expected that the importance of this form of migration will continue to increase. However, the resulting migration can take different forms. It might not necessarily have a permanent character, specifically due to the geographical proximity within Europe, but can instead take place in the form of relatively temporary, shorter-term oriented such as weekly stays or business trips or as periodic commuter movements. (Straubhaar, 2000:28)

On the way to common immigration policy, Commission has made proposals adopting a two-track approach: establishing a common legal framework concerning conditions of admission and stay of third country nationals on the one hand, and an open coordination procedure to encourage the gradual convergence of policies not covered by European legislation on the other. The objective is to manage the migration flows by a coordinated approach which takes into account the economic and demographic situation of the EU.

The open method of co-ordination proposed by the Commission in the immigration field has been regarded by many scholars with concern. One of the reasons is that, for instance, the indicative targets established under the European immigration policy would effectively be treated as quotas and these targets prevent the real needed number of migrants by damaging the EU economy. National governments are already poor in predicting labor market needs and states may set targets which do not truly reflect their economic needs. In this regard, those who have commented upon the Commission's proposal have found it difficult to see the benefit of the synthesizing of information on the admission of migrants. The process

outlined seemed also ineffective and useless to keep pace with the speed of developments within the labor market. (Niessen, 2003:29)

On the other hand, while the need for more open policies are discussed, concerning the alternative quota system for migration policies, it is getting to find more supporters among the EU. From several points of view the quota arrangement may not seem to be an ideal way of migration regulation. The political right would suspect it as a sneaky tool to term West Europe into an area of foreign immigration forever by negating all future options. The left could find it too restrictive. But, with all its shortcomings, the flexible quota system could help West European countries meet their all manpower and demographic needs, provide a safety against the high emigration pressure from other parts of the world, and create a favorable political climate for closer cooperation between West Europe and the potential sending countries. An attractive feature of the quota system is that the annual or multi year quota of intakes could be adjusted to the changes in the labor markets of West European countries. Several West European countries, including Austria, Italy and Spain have already opted for or are moving towards a flexible quota system. In France, Germany and Switzerland the approach, though still controversial. (Ghosh, 1994: 235)

Finally, the EU has to make sense of a mixture of national rules and jurisprudence on asylum and immigration. The Council should determine the overall aims of Justice and Home Affairs policy and the Commission should work out the measures necessary. The current joint right of initiative induces overlap and unnecessary tensions between Council and Commission. It is already obvious that, with decisions still taken by unanimity, progress is far too slow. The Council can move to qualified majority voting if all members agree. This should be achieved if they aim to succeed a coherent approach to migration policy. The existing EU blueprint for a comprehensive strategy should be developed; but it will certainly require political leadership to join it up, and turn it into a reality.

CHAPTER 6

CONCLUSION

The advent of twenty-first century signals a turning point for the welfare states of Europe that most of the EU countries entered the new millennium with a serious shift in the demographic structure of their populations. In virtually, birth rates of most of the Western economies appear to have declined permanently and have led to projections of shrinking populations coupled with high expectations of life and, thus, with a higher fraction of elderly among the population. This development has triggered massive research on the problems stemming from aging societies. The literature concentrates more on the problems of financing the social security systems under the conditions of contraction of working age populations which refers to the decreasing number of young labor force and increasing number of elderly. Hence, by 2010, tens of millions of post war “baby boomers” will be streaming into retirement and available labor forces in the EU will become drastically insufficient to support the growing number of this older population. The century’s second decade will bear witness to the EU entering into a period of population decline lasting for the indefinite future. This development which coincides with the gradual formation of European Union aiming to have an integrated welfare Europe, puts migration discussions on the agenda of Europe in a different context as an inevitable urgent need. As a consequence of the demographic challenge, the reassessment and revision of migration policies referring to opening the EU labor markets to non-EU immigrants came under serious discussion both at the Member State and EU level decision making.

Migration which gains more attention owing to the demographic challenges today, has always been a sensitive and controversial issue in the history of the European countries. Facing and experiencing this reality in every stage of time,

European countries were always very sensitive and enthusiastic to keep their sovereignty on deciding about migration and controlling their own borders. Therefore, they were free to choose whether to open their borders when they need migrants or to close them during times of restrictive policies. However, the demographic trends are today putting the societies under pressure of inescapable rethinking of opening borders for the migrant labor as out of necessity although they are willing to prolong on their restrictive migration policies. All the other policy options other than migration to ameliorate, mitigate or even prevent further negative outcomes of demographic trend are discussed in the second chapter in order to give a brief knowledge about the policy choices and proposed strategies to make a better comparison with the migration option and emphasize its crucial significance in terms of presenting an appropriate solution. However in considering these policy options, it is briefly studied that different interventions have varying effects because of the complex and shifting political, economic, and social contexts within which they are implemented.

As it is evaluated in the third chapter, although most of the EU countries were late to recognize the population decline and aging as a serious concern, they generally prefer to introduce policies mostly regarding the fertility and labor participation rates with much concern on the labor market situation and the financing of the social security systems. However, the long-term effects of these policy packages are less visible as especially the pro-natalist policies take effect slowly, and while these policies may be necessary, they are not sufficient to present a concrete solution for the long-term welfare of the EU. Regarding the deficiencies of these policies the outcome is, they are unlikely to stop the aging of Europe's population though they may slow it down. After indicating the arguments behind the facts that why some scholars and governments prefer migration or not, the analysis of conducted studies and available documentation demonstrates that migration is considered only as one of the component of policy mix countering for demographic trends but regarded more efficient on compensating negative labor market consequences. All in all, it is concluded that no single policy intervention by itself will reverse low fertility in all cases. Historically, governments have had success in slowing fertility declines through a variety of interventions. However, the literature suggests that this is less attributable to a single policy mechanism. It requires a combination of policies but the great contribution will certainly be served by the new

migrant groups both for stimulating the population increase and ameliorating the labor market problems. However, this conclusion gives way for further studies which bring the question of politics of migration, integration problems, and significantly persuading the public opinion of the EU societies for a new episode of mass migration in the European history.

It is also denoted in the same chapter that conducted researches consent on the fact that the inward migration from new EU members of Central and Eastern Europe will contribute to the labor demands however, the amount of labor migration will not be in such high levels as it is expected and the migration flows from these countries will further decline over time. On the other hand, regarding the fact that also these countries are experiencing the same demographic problem of population decline and aging, the longer-term picture is likely to involve greater use of workers from non-EU developing countries.

The analysis of the issue at the national level in Europe implies that the current trend demonstrates a dilemma for the EU Member States between the restrictive migration policies aiming to exert more control on the borders but also managing immigration more efficiently under the realistic assessment of the labor force need. In the past, most European countries have not considered themselves as countries of immigration. Their first instinct had been to resist large numbers of new arrivals. Recent developments, however, suggest possible changes of perceptions towards migration. A review of current European initiatives to attract more foreign workers suggests that the emphasis is very much on recruiting limited numbers of skilled workers on a temporary or permanent basis. For the time being, the introduction of special programmes for admitting temporary workers in order to increase the labor supply directly seems to be preferred to permanent immigration policies in the European countries. Supporting this fact, as it was clearly described in the three country cases of United Kingdom, Germany and Italy, in Europe at national level, policies on immigration illustrates a tendency towards more open borders but restricts it with mainly the recruitment of temporary skilled labor. In terms of the unskilled labor, although EU states are aware of the unskilled labor force shortages in the relevant sectors of the economy, they resist to increase stricter rules for their entry mainly owing to European governments' political considerations and the negative public opinion. However, by advocating the stricter controls for unskilled and illegal migration on one hand, it is a commonly observed situation that some EU

governments are tolerating the use of illegal migrants and asylum seekers as compensating the need in the short-term low skilled labor market. This situation also puts attention to the deadlocks and wearisome environment of Europe being under the desperate situation of incapability to manage migration in a way to satisfy all the parties while at the same time meeting its welfare needs. Stemming from these conditions and facts, the perception of migration policy at the European nation state level implies a system of efforts to control immigration, which include measures to tighten up border controls, to simplify and speed up the processes for dealing with skilled labor migration and combat illegal migration.

The last chapter brought the EU dimension into the discussion of migration as it cannot be excluded from the evolution and future of migration policy. The general principles and dynamics of EU integration process eventually contribute to the character and nature of European migration streams. Besides, the general clash of intergovernmentalism and supranationalism debate taking place in many other areas of EU policy making dominates the migration policy dynamics as well. Therefore, it was from the mid-1980s that the initiatives indicating the need and the struggle to develop a common policy on non-EU immigrants at the EU level just came after when the countries of the EU became more concerned about their common external frontiers. Within this regard, one of the most significant step was the adoption of Schengen Accords, originally signed in 1985. In 1990 these were formalized into the Schengen Convention which moved the EU closer to a “borderless union” and to common policies on immigration and asylum. This path of creating a common EU level migration policy under the framework of EU’s aim to become an economic and political union on the bases of liberal principles includes the relevant revisions and developments taken in the Maastricht, Amsterdam and Nice Treaties. On the other hand, several Summits of European Council also contributed to the migration discussions which in return partly incorporated into the Treaty framework. However, it is still the fact that as far as immigration from outside the EU is concerned, governments prefer national policies to supranational ones and have proved reluctant to transfer authority to European bodies such as the European Commission or the European Court of Justice. For instance, while barriers to intra-EU mobility of labor have been removed, the entry of non-EU immigrants to EU’s labor markets is still regulated by the individual Member States. Therefore, it is the case that although the competence of the European Community for a common immigration and asylum

policy has been established in the Treaty of Amsterdam, it does not go much beyond an information mechanism of national policies.

To sum up, the debate on migration is ongoing and up until now it is difficult to draw exclusive conclusions, which could directly identify the future trends in migration policies in Europe. In this logic of perception, it is unlikely to expect radical shift in migration policies in the European Union. It should also be noted that even there is an urgent need for foreign labor force, to accept huge numbers of migrants is a not feasible for many European states. Nonetheless, as a response to the labor force shortages resulting from aging and declining of population, it can be expected that future migration policies of the European Union Member States will be more open, pro-active and selective. However, it is also clear that the path towards harmonizing the migration policies and determining the common denominators will be difficult to design and experience. The discussions over ceding sovereignty to decide on migration issues and differing interests and needs of Member States will also shape the future of migration considerations in Europe. On the other hand, despite the existing obstacles, sharing the burden of increasing number of illegal migrants and asylum seekers, triggers a common policy objective which bases the great efforts of Member States to be achieved for the better future of Europe and its people. Lastly, whatever the demographic, economic or political indicators demonstrate, movement of people is an integral part of human nature and no doubt that people will continue to migrate from one place to another forever. The facts and conditions only determine the direction, scale, character and perception of migration phenomenon. Thus, the point where the demographic reality and the European nations' own economic and political considerations on migration issue within the EU integration process will interact, this will mainly shape and determine the essential aspects of the future migration trends and policies.

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APPENDICIES

APPENDIX A

RELEVANT ARTICLES FROM THE TREATY ON EUROPEAN UNION

(Source: Official Web site of European Union: www.europa.eu.int)

TITLE VI

PROVISIONS ON POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article 29(13)

Without prejudice to the powers of the European Community, the Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters and by preventing and combating racism and xenophobia.

That objective shall be achieved by preventing and combating crime, organised or otherwise, in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud, through:

- closer cooperation between police forces, customs authorities and other competent authorities in the Member States, both directly and through the European Police Office (Europol), in accordance with the provisions of Articles 30 and 32,
- closer cooperation between judicial and other competent authorities of the Member States including cooperation through the European Judicial Cooperation Unit ("Eurojust"), in accordance with the provisions of Articles 31 and 32,
- approximation, where necessary, of rules on criminal matters in the Member States, in accordance with the provisions of Article 31(e).

Article 30

1. Common action in the field of police cooperation shall include:

- (a) operational cooperation between the competent authorities, including the police, customs and other specialized law enforcement services of the Member States in relation to the prevention, detection and investigation of criminal offences;
- (b) the collection, storage, processing, analysis and exchange of relevant information, including information held by law enforcement services on reports on suspicious financial transactions, in particular through Europol, subject to appropriate provisions on the protection of personal data;
- (c) cooperation and joint initiatives in training, the exchange of liaison officers, secondments, the use of equipment, and forensic research;
- (d) the common evaluation of particular investigative techniques in relation to the detection of serious forms of organized crime.

2. The Council shall promote cooperation through Europol and shall in particular, within a period of five years after the date of entry into force of the Treaty of Amsterdam:

- (a) enable Europol to facilitate and support the preparation, and to encourage the coordination and carrying out, of specific investigative actions by the competent authorities of the Member States, including operational actions of joint teams comprising representatives of Europol in a support capacity;
- (b) adopt measures allowing Europol to ask the competent authorities of the Member States to conduct and coordinate their investigations in specific cases and to develop

specific expertise which may be put at the disposal of Member States to assist them in investigating cases of organised crime;

(c) promote liaison arrangements between prosecuting/investigating officials specialising in the fight against organised crime in close cooperation with Europol;

(d) establish a research, documentation and statistical network on cross-border crime.

Article 31(14)

1. Common action on judicial cooperation in criminal matters shall include:

(a) facilitating and accelerating cooperation between competent ministries and judicial or equivalent authorities of the Member States, including, where appropriate, cooperation through Eurojust, in relation to proceedings and the enforcement of decisions;

(b) facilitating extradition between Member States;

(c) ensuring compatibility in rules applicable in the Member States, as may be necessary to improve such cooperation;

(d) preventing conflicts of jurisdiction between Member States;

(e) progressively adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the fields of organised crime, terrorism and illicit drug trafficking.

2. The Council shall encourage cooperation through Eurojust by:

(a) enabling Eurojust to facilitate proper coordination between Member States' national prosecuting authorities;

(b) promoting support by Eurojust for criminal investigations in cases of serious cross-border crime, particularly in the case of organised crime, taking account, in particular, of analyses carried out by Europol;

(c) facilitating close cooperation between Eurojust and the European Judicial Network, particularly, in order to facilitate the execution of letters rogatory and the implementation of extradition requests.

Article 32

The Council shall lay down the conditions and limitations under which the competent authorities referred to in Articles 30 and 31 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State.

Article 33

This title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

Article 34

1. In the areas referred to in this title, Member States shall inform and consult one another within the Council with a view to coordinating their action. To that end, they shall establish collaboration between the relevant departments of their administrations.

2. The Council shall take measures and promote cooperation, using the appropriate form and procedures as set out in this title, contributing to the pursuit of the objectives of the Union. To that end, acting unanimously on the initiative of any Member State or of the Commission, the Council may:

(a) adopt common positions defining the approach of the Union to a particular matter;

(b) adopt framework decisions for the purpose of approximation of the laws and regulations of the Member States. Framework decisions shall be binding upon the Member States as to the result to be achieved but shall leave to the national authorities the choice of form and methods. They shall not entail direct effect;

(c) adopt decisions for any other purpose consistent with the objectives of this title, excluding any approximation of the laws and regulations of the Member States. These decisions shall be binding and shall not entail direct effect; the Council, acting

by a qualified majority, shall adopt measures necessary to implement those decisions at the level of the Union;

(d) establish conventions which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements. Member States shall begin the procedures applicable within a time limit to be set by the Council.

Unless they provide otherwise, conventions shall, once adopted by at least half of the Member States, enter into force for those Member States. Measures implementing conventions shall be adopted within the Council by a majority of two thirds of the Contracting Parties.

3.(15) Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 205(2) of the Treaty establishing the European Community, and for their adoption acts of the Council shall require at least 62 votes in favor, cast by at least 10 members.

4. For procedural questions, the Council shall act by a majority of its members.

Article 35

1. The Court of Justice of the European Communities shall have jurisdiction, subject to the conditions laid down in this article, to give preliminary rulings on the validity and interpretation of framework decisions and decisions, on the interpretation of conventions established under this title and on the validity and interpretation of the measures implementing them.

2. By a declaration made at the time of signature of the Treaty of Amsterdam or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice to give preliminary rulings as specified in paragraph 1.

3. A Member State making a declaration pursuant to paragraph 2 shall specify that either:

- (a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment; or
- (b) any court or tribunal of that State may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

4. Any Member State, whether or not it has made a declaration pursuant to paragraph 2, shall be entitled to submit statements of case or written observations to the Court in cases which arise under paragraph 1.

5. The Court of Justice shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

6. The Court of Justice shall have jurisdiction to review the legality of framework decisions and decisions in actions brought by a Member State or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The proceedings provided for in this paragraph shall be instituted within two months of the publication of the measure.

7. The Court of Justice shall have jurisdiction to rule on any dispute between Member States regarding the interpretation or the application of acts adopted under Article 34(2) whenever such dispute cannot be settled by the Council within six months of its being referred to the Council by one of its members. The Court shall also have jurisdiction to rule on any dispute between Member States and the Commission regarding the interpretation or the application of conventions established under Article 34(2)(d).

Article 36

1. A Coordinating Committee shall be set up consisting of senior officials. In addition to its coordinating role, it shall be the task of the Committee to:

- give opinions for the attention of the Council, either at the Council's request or on its own initiative,
- contribute, without prejudice to Article 207 of the Treaty establishing the European Community, to the preparation of the Council's discussions in the areas referred to in Article 29.

2. The Commission shall be fully associated with the work in the areas referred to in this title.

Article 37

Within international organizations and at international conferences in which they take part, Member States shall defend the common positions adopted under the provisions of this title.

Articles 18 and 19 shall apply as appropriate to matters falling under this title.

Article 38

Agreements referred to in Article 24 may cover matters falling under this title.

Article 39

1. The Council shall consult the European Parliament before adopting any measure referred to in Article 34(2)(b), (c) and (d). The European Parliament shall deliver its opinion within a time limit which the Council may lay down, which shall not be less than three months. In the absence of an opinion within that time limit, the Council may act.

2. The Presidency and the Commission shall regularly inform the European Parliament of discussions in the areas covered by this title.

3. The European Parliament may ask questions of the Council or make recommendations to it. Each year, it shall hold a debate on the progress made in the areas referred to in this title.

Article 40(16)

1. Enhanced cooperation in any of the areas referred to in this title shall have the aim of enabling the Union to develop more rapidly into an area of freedom, security and justice, while respecting the powers of the European Community and the objectives laid down in this title.

2. Articles 29 to 39 and Articles 40a to 41 shall apply to the enhanced cooperation provided for by this article, save as otherwise provided in Article 40a and in Articles 43 to 45.

3. The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice and the exercise of those powers shall apply to this article and to Articles 40a and 40b.

Article 40a(17)

1. Member States which intend to establish enhanced cooperation between themselves under Article 40 shall address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so. Those Member States may then submit an initiative to the Council designed to obtain authorization for the enhanced cooperation concerned.

2. The authorisation referred to in paragraph 1 shall be granted, in compliance with Articles 43 to 45, by the Council, acting by a qualified majority, on a proposal from the Commission or on the initiative of at least eight Member States, and after

consulting the European Parliament. The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community.

A member of the Council may request that the matter be referred to the European Council. After that matter has been raised before the European Council, the Council may act in accordance with the first subparagraph of this paragraph.

Article 40b(18)

Any Member State which wishes to participate in enhanced cooperation established in accordance with Article 40a shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of the date of receipt of that notification, possibly accompanied by a recommendation for such specific arrangements as it may deem necessary for that Member State to become a party to the cooperation in question. The Council shall take a decision on the request within four months of the date of receipt of that notification. The decision shall be deemed to be taken unless the Council, acting by a qualified majority within the same period, decides to hold it in abeyance; in that case, the Council shall state the reasons for its decision and set a deadline for re-examining it.

For the purposes of this Article, the Council shall act under the conditions set out in Article 44(1).

Article 41

1. Articles 189, 190, 195, 196 to 199, 203, 204, 205(3), 206 to 209, 213 to 219, 255 and 290 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this title.

2. Administrative expenditure which the provisions relating to the areas referred to in this title entail for the institutions shall be charged to the budget of the European Communities.

3. Operating expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except where the Council acting unanimously decides otherwise. In cases where expenditure is not charged to the budget of the European Communities, it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise.

4. The budgetary procedure laid down in the Treaty establishing the European Community shall apply to the expenditure charged to the budget of the European Communities.

Article 42

The Council, acting unanimously on the initiative of the Commission or a Member State, and after consulting the European Parliament, may decide that action in areas referred to in Article 29 shall fall under Title IV of the Treaty establishing the European Community, and at the same time determine the relevant voting conditions relating to it. It shall recommend the Member States to adopt that decision in accordance with their respective constitutional requirements.

TITLE IV

VISAS, ASYLUM, IMMIGRATION AND OTHER POLICIES RELATED TO FREE MOVEMENT OF PERSONS

Article 61

In order to establish progressively an area of freedom, security and justice, the Council shall adopt:

(a) within a period of five years after the entry into force of the Treaty of Amsterdam, measures aimed at ensuring the free movement of persons in accordance with Article 14, in conjunction with directly related flanking measures with respect to external border controls, asylum and immigration, in accordance with the

provisions of Article 62(2) and (3) and Article 63(1)(a) and (2)(a), and measures to prevent and combat crime in accordance with the provisions of Article 31(e) of the Treaty on European Union;

(b) other measures in the fields of asylum, immigration and safeguarding the rights of nationals of third countries, in accordance with the provisions of Article 63;

(c) measures in the field of judicial cooperation in civil matters as provided for in Article 65;

(d) appropriate measures to encourage and strengthen administrative cooperation, as provided for in Article 66;

(e) measures in the field of police and judicial cooperation in criminal matters aimed at a high level of security by preventing and combating crime within the Union in accordance with the provisions of the Treaty on European Union.

Article 62

The Council, acting in accordance with the procedure referred to in Article 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt:

1. measures with a view to ensuring, in compliance with Article 14, the absence of any controls on persons, be they citizens of the Union or nationals of third countries, when crossing internal borders;

2. measures on the crossing of the external borders of the Member States which shall establish:

(a) standards and procedures to be followed by Member States in carrying out checks on persons at such borders;

(b) rules on visas for intended stays of no more than three months, including:

(i) the list of third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement;

(ii) the procedures and conditions for issuing visas by Member States;

(iii) a uniform format for visas;

(iv) rules on a uniform visa;

3. measures setting out the conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of no more than three months.

Article 63

The Council, acting in accordance with the procedure referred to in Article 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt:

1. measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties, within the following areas:

- (a) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third country in one of the Member States,
- (b) minimum standards on the reception of asylum seekers in Member States,
- (c) minimum standards with respect to the qualification of nationals of third countries as refugees,
- (d) minimum standards on procedures in Member States for granting or withdrawing refugee status;

2. measures on refugees and displaced persons within the following areas:

- (a) minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection,
- (b) promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons;

3. measures on immigration policy within the following areas:

- (a) conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion,
- (b) illegal immigration and illegal residence, including repatriation of illegal residents;

4. measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.

Measures adopted by the Council pursuant to points 3 and 4 shall not prevent any Member State from maintaining or introducing in the areas concerned national provisions which are compatible with this Treaty and with international agreements. Measures to be adopted pursuant to points 2(b), 3(a) and 4 shall not be subject to the five-year period referred to above.

Article 64

1. This title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

2. In the event of one or more Member States being confronted with an emergency situation characterized by a sudden inflow of nationals of third countries and without prejudice to paragraph 1, the Council may, acting by qualified majority on a proposal from the Commission, adopt provisional measures of a duration not exceeding six months for the benefit of the Member States concerned.

Article 65

Measures in the field of judicial cooperation in civil matters having cross-border implications, to be taken in accordance with Article 67 and in so far as necessary for the proper functioning of the internal market, shall include:

(a) improving and simplifying:

- the system for cross-border service of judicial and extrajudicial documents,
- cooperation in the taking of evidence,
- the recognition and enforcement of decisions in civil and commercial cases, including decisions in extrajudicial cases;

(b) promoting the compatibility of the rules applicable in the Member States concerning the conflict of laws and of jurisdiction;

(c) eliminating obstacles to the good functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States.

Article 66

The Council, acting in accordance with the procedure referred to in Article 67, shall take measures to ensure cooperation between the relevant departments of the administrations of the Member States in the areas covered by this title, as well as between those departments and the Commission.

Article 67(7)

1. During a transitional period of five years following the entry into force of the Treaty of Amsterdam, the Council shall act unanimously on a proposal from the Commission or on the initiative of a Member State and after consulting the European Parliament.

2. After this period of five years:

- the Council shall act on proposals from the Commission; the Commission shall examine any request made by a Member State that it submit a proposal to the Council,
- the Council, acting unanimously after consulting the European Parliament, shall take a decision with a view to providing for all or parts of the areas covered by this title to be governed by the procedure referred to in Article 251 and adapting the provisions relating to the powers of the Court of Justice.

3. By derogation from paragraphs 1 and 2, measures referred to in Article 62(2)(b) (i) and (iii) shall, from the entry into force of the Treaty of Amsterdam, be adopted by the Council acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

4. By derogation from paragraph 2, measures referred to in Article 62(2)(b) (ii) and (iv) shall, after a period of five years following the entry into force of the Treaty of Amsterdam, be adopted by the Council acting in accordance with the procedure referred to in Article 251.

5. By derogation from paragraph 1, the Council shall adopt, in accordance with the procedure referred to in Article 251:

- the measures provided for in Article 63(1) and (2)(a) provided that the Council has previously adopted, in accordance with paragraph 1 of this article, Community legislation defining the common rules and basic principles governing these issues,
- the measures provided for in Article 65 with the exception of aspects relating to family law.

Article 68

1. Article 234 shall apply to this title under the following circumstances and conditions: where a question on the interpretation of this title or on the validity or interpretation of acts of the institutions of the Community based on this title is raised in a case pending before a court or a tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

2. In any event, the Court of Justice shall not have jurisdiction to rule on any measure or decision taken pursuant to Article 62(1) relating to the maintenance of law and order and the safeguarding of internal security.

3. The Council, the Commission or a Member State may request the Court of Justice to give a ruling on a question of interpretation of this title or of acts of the institutions of the Community based on this title. The ruling given by the Court of Justice in response to such a request shall not apply to judgments of courts or tribunals of the Member States which have become *res judicata*.

Article 69

The application of this title shall be subject to the provisions of the Protocol on the position of the United Kingdom and Ireland and to the Protocol on the position of Denmark and without prejudice to the Protocol on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland.

APPENDIX B

DETAILS OF THE IMMIGRATION ACT

(Source: Official Web Site of German Ministry of Interior)

1. New structures

- Reduction of the number of residence titles to two. In place of the residence title for exceptional circumstances, the residence title for specific purposes, the limited residence permit, the unlimited residence permit and the right of unlimited residence, the Act now provides for only two residence titles: The (limited) residence permit and the (unlimited) settlement permit. The new residence legislation is based no longer on residence titles, but on purposes of residence (education, gainful employment, subsequent immigration of dependents, humanitarian grounds).
- Important duties are to be allocated to the new Federal Office for Immigration and Refugees, which will supersede the previous Federal Office for the Recognition of Foreign Refugees (Residence Act, Section 75):
 - Development and implementation of integration courses for foreigners and repatriates;
 - Keeping the Central Aliens Register;
 - Implementation of measures to promote voluntary returns;
 - Scientific research on migration issues (accompanying research);
 - Coordination of information on labour migration between foreigners authorities, the Federal Employment Agency and German diplomatic representations abroad.

2. Labour migration

- The Act provides for highly qualified persons to be granted permanent residence from the outset; such persons may receive a settlement permit immediately (Residence Act, Section 19). Family members who enter

Germany with such persons or subsequently are entitled to take up gainful employment (Residence Act, Section 29).

- Promotion of the settlement of self-employed persons. As a general rule, self-employed persons are to receive a residence permit if they invest at least 1 million euros and create at least 10 jobs (Residence Act, Section 21).
- Possibility for students to remain in Germany for up to one year after successfully completing their studies, for the purpose of seeking employment (Residence Act, Section 16 (4)).
- The previous dual approval procedure (work/residence) is to be replaced by an internal approval procedure. The foreigners authority is to issue the work permit together with the residence permit in a single act, subject to internal approval from the labour administration, Residence Act, Section 39 (1) (one-stop government).
- The ban on the recruitment of unqualified persons and persons with low qualifications is to be maintained (Residence Act, Section 39 (4)).
- The ban on recruitment is also to be maintained for qualified persons, subject to an exemption: A work permit may be issued in justified instances, when there is a public interest in an individual taking up employment (Residence Act, Section 18 (4)).
- Nationals of acceding states have access to the labour market for qualified employment (according to the priority principle, that is, only insofar as no German or person enjoying equal rights is available); priority over nationals of third countries (Residence Act, Section 39 (6)).
- The points system has been abolished.

3. Humanitarian immigration

- Refugee status (refugee recognised under the Geneva Convention) is also granted in case of non-state persecution pursuant to the EU Asylum Qualification Directive (Residence Act, Section 60 (1)).
- Gender-specific persecution is recognised according to the following formulation (Residence Act, Section 60 (1)):

"When a person's life, freedom from bodily harm or liberty is threatened solely on account of their sex, this may also constitute persecution due to membership of a certain social group."

- Improved status for persons enjoying subsidiary protection, though not for persons who have committed violations of human rights or similar serious criminal offences (grounds for denial from the EU Qualification Directive) and in case of repeated or gross breaches of duties to cooperate (Residence Act, Section 25 (3)).
- Residence permit in case of obstacles to deportation in order to avoid successive suspensions of deportation, if the obligation to leave the country cannot be fulfilled within 18 months (Residence Act, Section 25 (5)). No residence title in case of misconduct on the part of the foreigner (e.g. attempt to disguise true identity).
- Suspension of deportation is retained as a "fine tuning" instrument (Residence Act, Section 60a).
- Hardship provision, excluding legal rights. At the request of a Hardship Commission established by a Land government, the supreme Land authority may order a residence permit to be issued to a person who is obliged to leave the country unappealably, by way of derogation from the usual conditions pertaining to the issuance and extension of permits. A Hardship Commission may be set up at the discretion of the respective Länder (Residence Act, Section 23a).

4. Subsequent immigration of children

- The current legal situation is to be maintained, according due consideration to the directive on the subsequent immigration of dependents: Subsequent immigration is permitted up to the age of 18 for children of persons entitled to asylum and of refugees recognised under the Geneva Convention, whereby such children are also permitted to enter the country as part of their family unit, other factors being a command of the German language or "positive integration prognosis" - age limit otherwise: 16, plus restrictive discretionary

ruling, whereby the child's wellbeing and the family situation are to be taken into consideration, however (Residence Act, Section 32).

5. Integration

- Introduction of the entitlements model for new immigrants who are to take up permanent residence in the Federal Republic (Residence Act, Section 44).
- Imposition of sanctions relating to right of residence in case of failure of new immigrants to attend courses: Breach of obligation to attend courses to be taken into account in decisions on extensions to residence permits (Residence Act, Section 8 (3)).
- Obligation for foreigners already living in the Federal Republic insofar as places on courses are available (Residence Act, Section 44a) [persons drawing employment benefit II and persons with special integration needs].
- Breach of this obligation to attend integration courses to be punished with a reduction in benefits for the duration of nonattendance as a sanction under social law (Residence Act, Section 44a (3)).
- Integration courses for EU citizens insofar as places are available (EU Act on the General Freedom of Movement for EU Citizens, Section 11(1)).
- The Federation bears the costs of integration courses (Residence Act, Section 43 (3)).
- The costs of the integration courses for new immigrants (including repatriates) are to be estimated at € 188 million per annum. The costs pertaining to the annual attendance of courses by around 50,000 to 60,000 foreigners already living in Germany amount to approx. € 76 million. Provision is made for contributions by those attending the courses on a graduated basis according to their financial status.
- Länder bear costs of child care and support from social education authorities.

6. Security aspects

- Introduction of a deportation order (Residence Act, Section 58a), which can be issued by the supreme Land authorities and, in the case of a special federal interest, by the Federation on the basis of a "evidence-based threat assessment". Legal redress only possible via a single appeal to the Federal

Administrative Court. If deportation cannot be effected on account of obstacles to deportation (torture, death penalty), enhanced security is to be provided by obligations to report to the authorities on a periodic basis, restrictions on freedom of movement and bans on communication backed up by appropriate penalties (Residence Act, Section 54a).

- As a new provision, the smuggling of people into the Federal Republic of Germany constitutes a compelling ground for deportation in the case of persons receiving non-suspended custodial sentences for such offences (Residence Act, Section 53 (3)).
- Regular expulsion when facts justifiably lead to the conclusion that a foreigner belongs to or has belonged to an organisation which supports terrorism or supports or has supported such an organisation; membership and supportive acts in the past are relevant insofar as they form the basis for a currently prevailing danger (Residence Act, Section 54 (5)).
- Introduction of regular expulsion for leaders of banned organisations (Residence Act, Section 54 (7)).
- Introduction of discretionary expulsion for "intellectual incendiaries" (e.g. agitators in mosques): Section 55 (2), no. 8. "(2) A foreigner may be expelled pursuant to Section 1 in particular, if he or she [1. – 7.] 8. a) publicly, at a meeting or by disseminating literature, endorses or promotes a crime against peace, a war crime, a crime against humanity or terrorist acts of comparable importance in a manner conducive to disturbing public safety and order or b) incites hate against sections of the population or calls for violence or arbitrary measures against the same in a manner conducive to disturbing public safety and order or attacks the human dignity of others by insulting, maliciously disparaging or slandering sections of the population."
- Introduction of a standard request for information on any anti-constitutional records prior to issuance of a settlement permit (Residence Act, Section 73 (2)) as a residence title of unlimited duration and prior to the decision on naturalisation (Public Prosecution Act, Section 37).

7. EU citizens

- In order to implement the freedom of movement within the European Union, residence permits will be abolished for EU citizens. In future, EU citizens

will merely be required to register with the registration authorities, in the same manner as Germans. EU citizens are to receive certification confirming their right of residence (EU Act on the General Freedom of Movement for EU Citizens, Section 5).

8. European harmonisation

- The EU directives on the granting of temporary protection and the recognition of decisions by other member states to return persons to their country of origin and the directive on supplementation of the provisions pursuant to Article 26 of the Schengen Implementation Agreement are to be implemented.

9. Asylum procedure

- The residence status of those having what is called “asylum status according to the Geneva Convention” (“kleines Asyl”) will be brought into line with the status of persons entitled to asylum (Residence Act, Section 25). Both groups will initially receive a limited residence title which can become permanent after three years if the appurtenant conditions continue to be met. Persons having “asylum status according to the 6 Geneva Convention” are to have unimpeded access to the labor market - such as was previously granted only to persons entitled to asylum.
- Prior to issuing a settlement permit to persons entitled to asylum and holders of “asylum status according to the Geneva Convention”, it is to be assessed whether the situation in the country of origin has changed (Residence Act, Section 26 (3)).
- The system whereby individual decision-makers are not obliged to follow instructions is to be abolished, as is the office of Federal Commissioner for Asylum Matters. This will speed up the procedures and lead to a standardisation of decision-making practice.
- Asylum seekers who apply for asylum at border authorities or foreigners’ authorities but who subsequently go underground without filing a formal application for asylum, thereby delaying the beginning of their asylum

procedure, will be referred in future to the follow-up application procedure (Asylum Procedure Act, Section 23 (2)).

- In future, the asylum status according to the Geneva Convention is to be ruled out as standard procedure when the foreigner leaves his or her country of origin in the absence of any persecution and subsequently gives rise to persecution only as a result of (subjective) post-flight reasons which they themselves create (Asylum Procedure Act, Section 28 (2)).
- Foreigners who enter the country illegally without applying for asylum and who, upon their illegal entry being established, cannot be placed in custody pending deportation and deported or expelled directly from custody are to be distributed among the respective Länder prior to the decision on the suspension of deportation or issuance of a residence title (Residence Act, Section 15a).

10. Repatriates

- Introduction of proof of a knowledge of the German language for repatriates' family members as a prerequisite for inclusion in the admission notice (basic knowledge), Federal Act on Refugees and Expellees, Section 9 (1).

11. Entry into force and timetable

- Final consultation in the Mediation Committee on 30 June 2004. The Mediation Committee's resolution was adopted in the Bundestag on 2 July 2004 and in the Bundesrat on 9 July 2004.
- Entry into force on 1 January 2005.
- Following provisions to enter into force ahead of the actual Act (on the day following promulgation): Renaming of “Federal Office for the Recognition of Foreign Refugees” as “Federal Office for Immigration and Refugees”, abolishment of the system whereby individual decision-makers are not obliged to follow instructions, and abolishment of the office of Federal Commissioner; authorisation to adopt ordinances having the force of law to implement the Immigration Act.

APPENDIX C

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations

Brussels, 2.6.2004

1. FIVE YEARS TO ESTABLISH THE AREA OF FREEDOM, SECURITY AND JUSTICE

The progressive establishment of the area of freedom, security and justice was a new objective set for the European Union by the Treaty of Amsterdam. The Tampere European Council in October 1999 placed this objective at the head of the Union's political agenda and set a very ambitious programme. The programme set out policy guidelines and practical objectives, with a timetable for their attainment. The Commission, at the request of the European Council, drew up a scoreboard to review progress every six months.

This final six-monthly report will therefore mark the end of this five-year period by presenting an overall balance sheet and outlining future priorities.

In this regard, the Commission is opening a public consultation process and calls on interested parties and individuals to send their contributions on a new programme by 31 August 2004, to the following address: DG JAI Public Consultation "Future of Justice and Home Affairs", European Commission, LX 46, 1049 Brussels (Jai-Tampere-consultation@cec.eu.int).

1.1. Important achievements in a difficult environment

- Substantial progress has been made in most areas of justice and home affairs. Compared to 1999, progress to date has been undeniable and tangible. The Commission has presented the main proposals called for at Tampere.
- European public opinion supports the development of European action in the field of justice and home affairs. Public opinion surveys (Eurobarometers) show that a high proportion of citizens fully support cooperation and joint action at European level. In particular, nationals of new Member States have high expectations of the European Union regarding security.
- The justice and home affairs dimension is now firmly identified as one of the Union's priority policies.

These matters are regularly on the European Council's agenda, and the volume of justice and home affairs business being done in the European institutions is evidence of their vital importance. The Commission Communication on the new financial perspective also reflects the growing importance of these matters, as the establishment of the area of freedom, security and justice is the central element of the new heading "European Citizenship".

- Within the general framework of Tampere, specific priorities were identified by the European Council in response to serious unforeseen events.

The Union has proved it can act efficiently and rapidly when the situation demands. This sensitivity to crises, such as the tragic events of 11 September 2001 and 11 March 2004, have sometimes given rise to criticism that progress is made in an unbalanced way overemphasising security aspects. While this is the impression that may be given by certain media reports, European integration in this area is based on a rigorous concept of the protection of fundamental rights, and the Commission has always been at pains to ensure balance between the freedom, security and justice aspects. In addition, the Union must guarantee a high level of security so that the freedoms can be exercised to the full.

- The constraints of the decision-making process and of the current institutional context preclude the effective, rapid and transparent attainment of certain political commitments.

Despite the resolute line taken by the Tampere conclusions, it was not always possible to reach agreement at European level for the adoption of certain sensitive measures relating to policies which remain at the core of national sovereignty. The legal and institutional constraints of the current Treaties, where unanimity in the Council generally remains the rule, partly explain these difficulties. The Member States are sometimes reluctant to cooperate within this new European framework when their interests are at stake. Moreover, the right of initiative shared with the Member States sometimes had the effect that national concerns were given priority over Tampere priorities. In addition, the current restrictions on Parliament's role as co-legislator have been criticised in terms of the transparency of the decision-making system.

Once the instruments are adopted, the institutional limits regarding the real possibilities for verifying the implementation of policies by national authorities, given the limited role of the Court of Justice and the restricted powers of the Commission as regards police and judicial cooperation in criminal matters, are a real obstacle to ensuring that the instruments and decisions adopted are actually effective. In addition, Union action cannot be effective if it is not backed up, in the Member States, by a declared political determination to ensure that European decisions have effect in reality. It is up to the experts in the Member States to use the opportunities for cooperation that European integration offers.

In conclusion, it is clear that the successes that have been achieved are considerable. However, the original ambition was limited by institutional constraints, and sometimes also by a lack of sufficient political consensus. The step by step approach was often the only possible way of moving forward. For the Commission, the establishment of the area of freedom, security and justice has been a strategic priority to be attained also with contributions from several of the Union's policies.

1.2. A new context

In a new context, the institutional progress envisaged in the field of justice and home affairs at the Intergovernmental Conference, and in particular the transition to qualified majority voting in the enlarged Union, will make it possible to increase the

rate of completion of work. But the possibilities offered by the Treaties of Amsterdam and Nice will have to be fully exploited.

Apart from certain new decision making procedures which automatically entered into force on 1 February 2003 and on 1 May 2004, Article 67(2) of the EC Treaty provides that the Council, after 1 May 2004, is to take a decision with a view to providing for all or parts of the areas covered by Title IV to be governed by the codecision procedure⁶. It would be legitimate to make use of this facility immediately after 1 May. Enlargement will increase the number of citizens wishing to enjoy the benefits of living and moving in the area of freedom, security and justice. The adoption of high common standards as regards security and justice is bound to help strengthen the general level of security throughout the territory.

Enlargement also raises specific challenges for certain policies, such as the strengthening of external borders, the establishment of the second-generation Schengen Information System and more generally the preparation of the new Member States for full accession to the *Schengen 'acquis'* with a view to removing all internal border checks. In this respect, the EU is in process of providing the necessary means to strengthen the external borders of the new Member State, such as the Schengen Facility. In order to allow for the new Member States' full participation in Schengen and the removal of internal frontiers as swiftly as possible, it is necessary to put in place the SIS II and undertake the evaluation process foreseen by the *acquis* as soon as possible. Similarly, in judicial matters, the enlarged Union further enhances the need to adopt measures to boost mutual confidence in order to consolidate the mutual recognition principle. In the light of expected developments as regards management of external borders, solutions will also have to be found guaranteeing that the current variable geometry in Schengen does not have a negative effect on the smooth operation of cooperation between the Member States implementing the '*acquis*'.

2. WHAT PRIORITIES FOR THE FUTURE OF THE AREA OF FREEDOM, SECURITY AND JUSTICE

Major practical progress has been made in the first phase of the area of freedom, security and justice. But the objectives set at Tampere have not yet all been achieved. Pending the results of the Intergovernmental Conference, the current institutional framework will cause difficulties. In this respect, and for the intermediate period, the possibilities offered by the Treaty of Nice could have an energizing effect. The use of Article 67(2) of the EC Treaty should be envisaged.

Most of the projects in hand flow logically from the Tampere programme, and there is consequently some overlap between them and the future priorities. The ambition of this Communication is to be the starting point for studying the development of a future programme of measures identifying priorities in the field of justice and home affairs for the period 2004-09. This Communication will also lay the foundations for a public debate. Several elements have to be taken into account **at Union level for the** development of the future programme. First, this means measures following on from the Tampere programme. In particular:

- Work still in hand, and long-term measures that have already been defined;
- The degree of effective implementation of the instruments adopted and their evaluation.

The Commission has embarked on an exercise to evaluate a first generation of instruments adopted following the Tampere European Council. It is important that the future programme is accompanied by a process that evaluates the establishment and implementation of the *acquis* adopted following Tampere, in order to ensure that new proposals complement efficiently the existing instruments. Secondly, for the future, proper institutional and financial resources will have to be made available to attain the new objectives. As regards the draft Constitutional Treaty, the Commission believes that one of its most important aspects will be the abolition of the multi-pillar structure of the Union and the extension of the Community method to the full range of justice and home affairs matters⁷. As concerns the financial aspect, the Commission has proposed a substantial increase in the resources available for the area of freedom, security and justice under the “European Citizenship” heading. The

ideas put forward in this Communication do not prejudge the proposals that will be made in connection with the new financial perspective or the inter-institutional debates ahead. It will be important to adhere to established priorities in order to avoid an excessive dispersal of common action. These priorities will have to take into account the overall context facing the Union. In particular: economic divergence between the regions of the world, and political instability in certain regions or countries; demographic changes in Europe; the expectations of citizens in relation to their rights; citizens' expectations as regards security.

2.1. Improve the protection of persons in the exercise of their fundamental rights

European integration rests on common values in the form of fundamental rights, respect for the rule of law and democratic institutions. These must be the basis for any action of the Union. Incorporating the Charter into the Constitutional Treaty and accession to the European Convention for the protection of human rights and fundamental freedoms will place the Union, including its institutions, under a legal obligation to ensure that in all its areas of activity, fundamental rights are not only respected but also actively promoted. In December 2003, the representatives of the Member States meeting within the European Council, stressing the importance of human rights data collection and analysis with a view to defining Union policy in this field, agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia and to extend its mandate to become a Human Rights Agency to that effect. The Commission intends to present a Communication in 2004. The specific mandate of the agency will be defined on the basis of the outcome of the debate which will follow from it.

The measures taken to protect democracy and the rule of law in Europe against all forms of criminality and against terrorism need to respect fundamental rights, the right to free movement, the respect of privacy and the rules related to data protection.

Thought must be given to the need for a single overall framework, which would take account of the specific features and requirements as regards protection of public order and public security and the fight against crime, and at the same time the need to

provide for a high level of protection of private life. It will also have to reflect the prospect of rationalising the supervisory authorities that already exist at the European Union level for the protection of data used for the purposes of law enforcement, while respecting the competences of the independent supervisory body established under Article 286 of the EC Treaty. It will also be necessary be attentive to the relationship between Union action and the action undertaken by the national authorities, and to develop a partnership with the private sector and nongovernmental organisations in devising and adopting rules.

2.2. Encourage initiatives as regards Union citizenship

The strengthening of Union citizenship must remain a major principle of our action. The draft Constitutional Treaty provides the possibility for a certain number of citizens to present a proposal calling on the Commission to give effect to a provision of the Constitution.

Democratic participation in elections to the European Parliament has to be encouraged. Many Union citizens complain about the loss of their right to take part in certain national elections in their country of origin, which is not offset by the acquisition of a similar right in their host Member State. Consideration will have to be given to this point both in the Union and in the Member States. The right to freedom of movement, which Union citizens and their family members already enjoy, must be fully guaranteed by careful monitoring of the Member States' implementation of the recent Directive governing this issue. This will also make it possible to check whether further measures are needed.

2.3. Develop an integrated border management system and visa policy

In the short and medium term, close attention will have to be paid to establishing the conditions in which internal border checks can be abolished with the new Member States.

The establishment of an integrated external border management system is provided for by the draft Constitutional Treaty. Serious action has already been taken on it

following the Seville and Thessaloniki European Councils. Action will have to continue both with new legislation and on the operational and financial fronts.

In this context, the smooth operation of the External Borders Agency must be ensured. The development of coordination mechanisms must be strengthened and supplemented with the long-term objective of establishing a European Corps of border guards to complement the national border guards⁹. To perform its tasks, the Agency should cooperate with other services engaged in border checks, in particular customs. The possibilities for synergies between the Agency and the customs and other services operating at borders should be kept under permanent review.

This Union policy and its implementation must be governed by the principle of solidarity and burden-sharing between the Member States, including financial burdens. The practical application of this principle will entail mobilisation of substantial funds. Visa policy will have to address serious concerns regarding document security and allow for improved consular cooperation. The work started on biometric data in travel and identity documents, in particular passports, must also continue.

The Visa Information System (VIS) and the new Schengen Information System (SIS II) must actually come into operation and their full potential should be used. Finally, there is a need for greater cooperation with neighbouring countries, and in particular countries with whom we share borders, consistent with the new Union neighbourhood policy.

2.4. Promote a genuine common policy of management of migratory flows

There must be a realistic approach taking account of economic and demographic needs, to facilitate the legal admission of immigrants to the Union, in accordance with a coherent policy respecting the principle of fair treatment of third-country nationals. It is clear that the right of Member States to set the actual numbers of third-country nationals admitted to work in an employed or self-employed capacity will have to be maintained, within an overall framework including the respect of account.

Integration policy, of third country nationals, will have to be promoted and continued. In this perspective, the Union must put in place adequate measures in order to support the action of Member States.

The credibility of a positive and open common approach to immigration will also very much depend on the ability of the European Union to control illegal immigration. A stronger fight against trafficking in human beings, and the development of an effective policy on returns and readmission, will be facilitated by the future Constitutional Treaty. Here as elsewhere, the effectiveness of the action will depend largely on strong solidarity.

2.5. Develop a common European asylum policy on a fair basis

A better balance between the efforts made by the Member States in the reception of refugees and displaced persons will be achieved by means of the principle of solidarity. An approach based on partnership and cooperation with third countries of origin and of transit, countries of first asylum request and of destination, will have to be established.

The main objective of the common European asylum system will be to determine a uniform asylum and subsidiary protection status, a common procedure for granting and withdrawing this status, and a common system of temporary protection. At the same time there is a need for an integrated approach involving efficient administrative decision-making procedures on returns, reintegration schemes and entry procedures that deter unfounded requests and combat networks of people traffickers. This approach is all the more important as the victims of abuses of the system are often genuine refugees.

2.6. Establish a European judicial area respecting the legal traditions and systems of the Member States, and closely associating those working in relevant areas

The development of the European judicial area has neither the object nor the effect of challenging the legal and judicial traditions of the Member States. This approach, based on the proportionality and subsidiarity principles, is stated by the draft Constitutional Treaty. The principle of mutual recognition has been placed at the heart of European integration in this field. However, mutual recognition requires a common basis of shared principles and minimum standards, in particular in order to strengthen mutual confidence. In order to ensure the effectiveness of the European policy on judicial matters it will remain necessary to maintain a high degree of involvement of those working in this field.

2.7. Establish a judicial area in civil and commercial matters to facilitate cooperation and access to justice

The development of judicial cooperation in civil matters must continue to make tangible improvements in the daily life of individuals and businesses by enabling them to assert their rights at Union level. One of the first priorities will have to be to continue and increase work provided for by the mutual recognition programme. Efforts should concentrate on fields where there are as yet no Community rules on mutual recognition (for example, the consequences of separation of married and unmarried couples in property terms, or successions and wills). In addition, new mutual recognition instruments not appearing in the initial programme might be necessary. For example facilitating the recognition of various types of documents will become increasingly important. In certain fields such as successions, the practical problems faced by individuals more often concern this type of question than the traditional problem of the recognition of judgments. In addition, it might prove useful to facilitate mutual recognition in new fields such as the civil status of individuals, family or civil relations between individuals (partnerships) or paternity.

Another very important field concerns the enforcement of judgments. Only rapid and effective execution procedures will enable citizens and businesses to exercise their

full legal rights. Further progress with mutual recognition depends on greater mutual trust between Member States, including the adoption of certain minimum procedural standards. Importance will also have to be given to the actual implementation of Community legislation that has been adopted. The appropriate resources will have to be

committed to attaining this objective, in particular by developing the activities of the European Judicial Network in Civil Matters. Turning to substantive law, the Commission is already engaged in drafting a Common Reference Framework to ensure greater consistency in the *acquis communautaire* and improve its quality in the field of contract law¹⁰. The work should be completed in 2008. To meet these ambitious challenges for judicial cooperation in civil and commercial matters, it will be advisable to have adequate legal means. The Constitutional Treaty will provide them. But it will be necessary to avoid a situation where in each Member State there are two separate legal regimes, one relating to the disputes with a cross-border implication and the other to purely internal disputes.

2.8. Promote a coherent criminal justice policy

In the field of criminal justice, the Union should concentrate on four priorities: *Continue mutual recognition:* As in the civil field, the principle of mutual recognition must remain the *cornerstone* of judicial cooperation. As regards mutual assistance, a single instrument based in particular on mutual recognition should gradually replace the entire current system of mutual legal assistance, in particular for all questions concerning obtaining evidence. This progress will have to be accompanied by measures to clarify the allocation of jurisdiction in order to prevent and solve conflicts of jurisdiction. In the field of the enforcement of judgments in criminal matters, major work remains to be done. The system for the enforcement in one Member State of a sentence passed in another Member State will have to be defined, along with the conditions of mutual information on convictions given through a European register of convictions and disqualifications (“European criminal record”), and how account should be taken of convictions in other Member States, either to avoid new proceedings or to adjust the sentence passed (question of recidivism). Strengthen mutual trust by assuring all European citizens of a high-quality system of justice based on common values: A series of measures to ensure

mutual trust between national judicial authorities should cover: the definition of fundamental guarantees, the conditions for the admissibility of evidence and measures to strengthen the protection of victims. Improvements in the training of those working in the criminal justice systems and work on the evaluation of those systems will also help to strengthen mutual trust. Give the Union a coherent crime policy to fight effectively against serious crime in all its forms: The actions undertaken to define and fix the minimum thresholds for penalties for certain offences will have to be deepened. As regards approximation of legislation it will be necessary to go further in certain areas. It will be vital to adopt the institutional mechanisms making it possible to monitor and ensure that Union instruments are properly implemented. The new Treaty should guarantee the possibility of building a coherent criminal justice policy, whether it be in response to specific criminal phenomena or the extension of an existing Community policy.

Put Eurojust at the centre of European criminal policy: As the draft Constitutional Treaty states, the mission of Eurojust must be to support and strengthen coordination and cooperation between the national authorities responsible for prosecutions relating to serious crime affecting several Member States. Eurojust should therefore be the natural means for national authorities to extend their activities in the cross-border cases. Subject to review by the Court of Justice, Eurojust should be able to guide the criminal response to offences that threaten the Union's activities and policies. A European Public Prosecutor's Office with specific responsibility for offences to the detriment of the Union's financial interests, should be able to be created from Eurojust. These ambitious objectives can be achieved only if Europe has an institutional and legal framework in the criminal field that matches the issues at stake in the enlarged Europe. The reintroduction of the unanimity rule for provisions that the draft Constitutional Treaty envisaged to be subject to qualified majority voting would be a retrograde step which could only reduce the Union's capacity to meet the challenges of the fight against organised crime and terrorism.

2.9. Strengthen the efficacy of police and customs action

In order to strengthen police and customs cooperation in the Union, the Commission has identified the need to take measures simultaneously at three levels: operational,

decisional and legislative. Experience has shown the need to increase the operational capacities of cooperation between the Member States' enforcement authorities, through better use of the cooperation instruments and mechanisms already in place. At Union level, thought must be given in particular to supplying information to and strengthening the role of Europol.

To show that there is a real commitment to the fight against organised crime and terrorism, bilateral cooperation between Member States must be continued but multilateral exchanges must also be built up. This exchange must include intelligence services. It is also necessary to simplify decision-making mechanisms by encouraging qualified majority voting. The draft Constitutional Treaty makes provision for this, subject only to measures concerning operational cooperation. One of main innovations in the draft Constitutional Treaty is the establishment of a Standing Committee within the Council to promote and strengthen operational cooperation on internal security. Accordingly, the role of the Police Chiefs' Task Force might be reviewed, revitalized and developed in view of its privileged position in operational coordination. All the other actors here, particularly Europol, will also have to be associated. Similarly, care must be taken to encourage consistency between the operational and legislative aspects of Union action. And it seems indispensable:

- to establish a legal framework to improve information exchanges between the Member States' enforcement services and to control their access to the various sources of information;
- to give thought to the legal framework of Europol, to make it truly operational and convert it into a Union agency, financed from the Community budget. There will have to be greater democratic and judicial control of its activities to correspond to this greater effectiveness;
- to pay great attention to the training of police officers. CEPOL must guarantee the European dimension of the programmes at national training institutes and promote cooperation between them.

To ensure the effectiveness of the measures adopted, the draft Constitutional Treaty makes it possible to establish the procedures for an evaluation of the implementation

of this policy. Thought should be given to setting up “performance agreements” between the main authorities concerned. Attention must also be paid to upgrading international cooperation with all actors involved, such as for example Interpol. With regard more specifically to customs cooperation, the ratification and implementation of the Naples II Convention and the Convention on the Customs Information System (CIS) by all the Member States remain priorities. Generally, it is important to implement the work programme concerning the customs cooperation strategy currently based on Title VI of the Union Treaty, adopted by the JHA Council on 30 March 2004.

2.10. Strengthen action to prevent and combat terrorism and specific forms of crime

Prevention and the fight against terrorism will unfortunately have to retain their priority status. The main lines of action identified by the European Council on 25 and 26 March 2004 will have to be implemented. It is crucial to create a European framework to control the threat that serious crime and terrorism pose for society. In order to coordinate and exchange strategic and operational information efficiently, The Union should set up a new information exchange mechanism – an information exchange centre – as proposed by the Commission at the European Council of 25 and 26 March 2004, with which Europol and Eurojust should be fully associated.

Exchanges between national criminal intelligence systems should also be promoted. A policy on intelligence for preventive and enforcement purposes should be devised for the Union. This action must be accompanied by a legislative initiative on the treatment and protection of personal data used by police services. Under the European Security Strategy, it will be necessary to implement the action called for by the European Council on 25 and 26 March 2004 and to develop a multidisciplinary approach, providing a coherent interface between the internal and external dimensions of the various Union policies. Moreover, it will be essential to monitor and support the proper implementation of existing legislative instruments. In addition, new initiatives could be drawn up. With full respect for fundamental rights and data protection, the potential of the new large-scale computer systems should be explored to contribute in particular to fighting terrorism. The existing legal

possibilities, such as joint investigation teams, and the work of Europol, in particular as regards information analysis, must be fully used. If it is to be completely effective, the fight against terrorism must be handled in conjunction with other forms of crime, and in particular organised crime. A broad based approach is necessary to improve the fight against these phenomena, in particular by combating any form of financing of terrorism. There is a particular need for greater transparency and traceability of financial transactions, the fight against financial crime remaining a priority. The fight against serious crime also involves two tracks which require the Union's involvement:

- First, the development of public-private partnership should aim to combine the expertise, resources and information available to the private sector and to police services in order to fight more effectively against, for example, counterfeiting, piracy, cyber-crime and corruption.
- Secondly, statistical work and the collection of information on the development of crime and public perceptions of the level of security, should be improved, in particular through a harmonised information collection system which is structured and regular. With regard to trafficking in human beings, particularly women and children, preventive and enforcement action must continue to be combined.

2.11. Stronger action for crime prevention

As regards crime prevention, efforts must be made to make goods and services less vulnerable to crime. The crime-proofing of legislation must be an integral part of this effort. As regards the prevention of general crime, five fields of action will have to be prioritised: a more precise definition of the priority forms of crime; an inventory of good practice; a common methodology to implement and evaluate practical actions and allow standardised comparison between the States; and stronger monitoring and evaluation, and better comparability of statistics. Crime prevention should continue and be supported by a financial instrument.

2.12. Develop multidisciplinary mobilisation to combat drugs

Demand reduction must be favoured and there must be a tighter link between the external dimension of the fight against drug trafficking and justice and home affairs

policies. The time has come to make changes in this field on the basis of experience gained with the 2000-2004 Action Plan. The policy to combat drugs must seek to provide the public with a practical response.

2.13. Resolute external action

Assessment of achievements since Tampere and the initial thinking on future priorities reveal that the Union's external action must take into account the justice and home affairs dimension and that general Union activity must be better coordinated. To ensure that the Union can speak with one voice without undermining our common priorities, it will be necessary that Member States support Union activity and observe more solidarity and discipline in their bilateral relations.

3. CONCLUSIONS

Considerable work has been done since the Tampere European Council, even if much still remains to be done to complete the area of freedom, security and justice. In a rapidly-changing world, the aspirations of citizens for full freedom of movement and action and their legitimate calls for strict respect of fundamental rights combine with substantial demands to live in an environment that ensures their security. In an enlarged European Union, the final adoption of the Constitutional Treaty and its rapid entry into force are becoming essential, in order to meet these expectations. Similarly, the new Treaty will fulfil the essential requirements for transparency and democratic control both because the role of the European Parliament as colegislator is to be expanded and because of the increased role of national parliaments. The latter will be particularly attentive to the subsidiarity principle and will be able to play an effective role in the evaluation of the activities of Europol and Eurojust. Moreover, being informed systematically of work at European level, they will be able to take account of it in their national parliamentary activity. Union action must continue and take practical form in a second European programme for the area of freedom, security and justice, with detailed priorities and a precise timetable. The working method followed at Tampere is good and should be preserved. The Commission can already undertake to continue in the future with its follow-up work through the regular Scoreboard. In addition the Commission intends to present an

additional Communication within the context of the new financial perspective. The future financial instruments will be of a significant total amount- and will complement the existing and future legal instruments, notably by strengthening the operational aspect of the policies in the field of freedom, security and justice. The European Council must preserve its essential guiding role in the definition of strategic guidelines and the planning of future action on justice and home affairs. This role will have to take shape in particular when the new programme comes up for adoption and then for mid-term review. The future programme must make it possible to guarantee all the benefits that go with the new area that the enlarged Union constitutes. It will be important to achieve a political consensus on this programme with Parliament and the Council, during the second half of 2004. There must be a public debate on subjects which cover fundamental questions for our societies and closely affect citizens' daily life. The establishment of the area of freedom, security and justice is a major political objective and one of the most important challenges that we have to take on together. The Union must continue to show the same degree of ambition and determination as it did for the completion of the internal market.