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Irregular Migration as an International Problem

Risks and Options

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Risks and Options**

Irregular migration is one of the fastest-growing forms of migration worldwide. For many destination countries irregular migrants present a serious challenge. To reduce their number, most of these countries have invested significant sums of money in recent years to develop instruments of governance and control. Up until now, however, these efforts have failed to produce the desired results.

This failure has been evident in both European and Non-European countries. Why is this? The present study examines the phenomenon from a global perspective. It takes as its starting point the still unresolved issue of governance: Why is it so difficult—especially for democratic countries—to limit irregular migration? Why does irregular migration have to be reduced at all? What problems and risks does irregular migration pose—for receiving countries, but also for countries of origin? Given that irregular migration is a transnational phenomenon, what has been the outcome of the steps undertaken to develop inter-governmental and international cooperation; what instruments are available to governments; and what recommendations for future action can be derived from these efforts for European policy-makers?

This study is devoted to answering these questions in five chapters. The first chapter explains why irregular migration has become a global problem. The second defines the concepts that are central to this issue and provides an overview of current trends and overall levels of global migration. The third deals with related political challenges—particularly the challenge of governance and the problems and risks associated with irregular migration. The fourth describes the various instruments of governance and control used at the national level, and the (still largely rudimentary) regional and international approaches to solving the problem. The fifth chapter offers recommendations for European policy-makers.

The findings of this study can be summarized as follows:

Irregular migration constitutes a major political challenge. It undermines state sovereignty, calls into question the legitimacy of government action, and brings with it numerous risks for state, social, and individual security. What is more, not only do countries

of origin, transit states, and receiving countries have different interests regarding irregular migration, but there also exists a range of different actors with particular interests within each of these countries. This diverse range of interests makes it difficult to reach compromise at the international level. Added to this is the fact that existing legal frameworks and conditions in the different countries limit the scope of governmental action and to some degree exist outside the sphere of government influence.

In addition to the basic difficulties outlined above, irregular mito national governments. From a political viewpoint, these include the risk that the public will lose trust in government efficacy if reductions of irregular migration are promised but do not succeed. From an economic point of view, irregular migration can have negative consequences on national labor markets, income, working conditions, and labor productivity. Despite this, irregular migration offers nations, businesses, households—and not least of all migrants themselves—such attractive advantages that it becomes even more difficult for governments to deal with the issue.

Irregular migration can also endanger the internal security of both countries of origin and receiving countries, particularly when accompanied by organized crime, or when the migrants become victims of human trafficking. Ultimately, irregular migration can strain relations between countries—for example, when the destination country believes that the country of origin is not undertaking adequate efforts to prevent migration, or alternatively, when the country of origin feels that the receiving country is not adequately protecting the human rights of its citizens.

Because of the limited possibilities for action on the national level, most countries are directing increasing efforts into cooperation with other countries. There are numerous forms of cooperation that differ in their goals, scope, and outcomes. What is clear, however, is that institutionalized consultation processes form an important first step in developing more far-reaching forms of cooperation.

These findings give rise to a number of general recommendations:

As a basic principle, it needs to be stated that every effort to reduce irregular migration should be founded on clarity and realism. In particular, a concerted attempt should be made to prevent awakening public hopes that irregular immigration can be stopped altogether. Such promises would be altogether unrealistic. Since isolated, short-term national measures are not appropriate for curbing irregular migration on an ongoing basis, comprehensive, long-term, internationally coordinated approaches must be chosen to link the different domestic, foreign, and development policy instruments. It is also in the interest of the receiving countries to eliminate deficits in the human rights protection of irregular migrants. This is imperative not only with regard to human smuggling and trafficking, but also to questions of residence and repatriation.

To this can be added a number of specific recommendations for European policy makers, which go beyond the policies that have been pursued thus far:

First, the EU member states and the European Commission should develop further comprehensive migration policy approaches (such as the Global Approach on Migration) and open up new channels for labor migration, to reduce push and pull factors of irregular migration.

Second, within such a comprehensive approach, the European Commission's proposal to support circular migration through "Mobility Partnerships," in which countries of origin could be offered immigration quotas in return for their cooperation in controlling migration, should be implemented on a trial basis.

Third, during the upcoming second phase in the development of a European asylum system, consideration should be given to how the recently reduced access to the asylum process in many countries can be liberalized, and how the international system of refugee protection can be maintained—in the European interest as well.

Fourth, sustained efforts should be made to provide more efficient support for immigrants wishing to return to their native countries. This is an area in which there are still vast potentials for European and international cooperation to provide sustainable solutions.

Fifth, statistical and other scientific information on irregular migration should be compiled systematically and made available to the research community.

Irregular Migration: A Global Problem

In many countries, irregular migration—that is, immigration, residence or work without a permit from the receiving country—is still considered a domestic policy issue that can only be overcome by unilateral enforcement efforts using repressive methods. Often, the issue of irregular migration is not approached systematically by integrating foreign policy, development policy, and security policy viewpoints. Furthermore, the idea that cooperation between countries of destination, transit countries, and countries of origin is necessary to balance the diverse interests involved is one that is still not widely accepted. Yet, from a global perspective, irregular migration is one of the most rapidly increasing forms of migration,[1] in a context where the number of international migrants generally has been growing faster than the world population for many years.[2]

Irregular immigration is a problem for industrialized countries in particular; however, it is increasingly seen as a problem by less-developed countries as well— both those that serve as transit countries for irregular migrants and the migrants' countries of origin.

Like almost no other form of migration, irregular migration sparks fear in the resident populations of industrialized countries: fear of increased competition on the labor market, greater burdens on social systems, soaring crime, and, in general, fear of eroding government control over national borders. Governments are often accused of not doing enough to stop irregular immigration. But in fact many have launched major efforts for years to control this form of immigration, and have invested large sums in national policies.

Nevertheless, industrialized countries remain incapable of reducing irregular migration on a

sustainable basis and, by contrast, irregular migration can be expected to further increase in the future. The driving forces behind this migration include globally divergent demographic processes and increasingly disparate levels of development among the countries and regions of the world. The Population Division of the United Nations predicts that the world's population will increase from 6.5 to 9.2 billion by the year 2050.[3] This growth will take place almost exclusively in the less-developed countries, which are unable to offer their populations decent life prospects. As a result, we can expect that more and more people will want to live and work in the industrialized countries.

These immigration endeavors will not, in all likelihood, be welcomed in the receiving countries. In any case, up until now no government of an industrialized country has given any indication of intending to open its borders to immigrants, and very few states are in favor of even a cautious expansion of immigration.[4]

As the primary destinations for irregular migration up to now, the industrialized nations will have to search further to find strategies for dealing with these migration patterns. Irregular migration, however, presents an increasing problem for many less-developed countries as well. There are many reasons for this, and one of the main ones is the restrictive immigration policy of the industrialized countries.

There exists a direct correlation between the intensification of border controls in the industrialized countries and the number of migrants in less-developed countries. Many migrants who view less-devel-

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1 Demetrios G. Papademetriou, "The Global Struggle with Illegal Migration: No End in Sight" (Washington: Migration Policy Institute, September 2005), p. 2.

2 See International Organization for Migration (IOM), *World Migration 2003. Managing Migration. Challenges and Responses for People on the Move* (Geneva, 2003), pp. 4–5; IOM, *World Migration 2005. Costs and Benefits of International Migration* (Geneva, 2005), p. 396. For an overview, see also: United Nations General Assembly, *International Migration and Development. Report of the Secretary-General,* A/60/871 (New York, 2006), pp. 23–34.

3 And this is in the medium-term, in the forecast seen as most probable, see United Nations Department of Economic and Social Affairs, Population Division, *World Population Prospects. The 2006 Revision* (New York, 2007), pp. 1–2. For an overview, see the tables in United Nations Population Fund, *State of World Population 2007. Unleashing the Potential of Urban Growth*, New York 2007, pp. 86-95.

4 According to a survey by the UN population division in the year 2005, 54% of the countries in the world intended to maintain the volume of migration, 22% intended to reduce migration, 18% wanted no migration policy intervention and only 6% of countries announced wanting to increase migration. levels, see United Nations Department of Economic and Social Affairs, Population Division, *World Population Policies 2005,* ST/ESA/SER.A/254 (New York, 2006).

oped countries only as transit points and ultimately want to move on to industrialized countries are prevented from doing so by immigration restrictions and thus feel compelled to stay longer or even indefinitely in the transit countries. In this way, the transit countries actually become receiving countries for irregular migrants.

Some of these countries already feel that they have reached their absorptive capacities, and are now attempting to reduce immigration out of fear of potential destabilization. Many of these countries did not formerly police their borders but rather were generally tolerant of immigration in all possible forms. These countries are now attempting to create sound border regimes on their own behalf—even if they, as in the case of several West African countries, have historically been part of a unified immigration space traditionally marked by permeable borders and high levels of internal migration. Installing new border regimes would reduce migrants' chances of using these countries as transit states, and thus create the same effect that has been seen since the tightening of controls along the EU's external borders: migrants are willing to take longer, more expensive, and more dangerous paths to reach their goal.

For the countries of origin, the tightening of border controls and the implementation of stricter measures against illegal immigrants worldwide means an increasing number of immigrants who are unable to realize their emigration plans. From a domestic policy perspective, this can also create a problematic situation in certain circumstances, increasing the number of dissatisfied inhabitants without real prospects and thus also the potential for political destabilization.

In summary it can be stated that irregular migration has become a challenge of global dimensions. Three current developments support the internationalization of the problem:

First, there is a new willingness—at least in industrialized countries—to cooperate with other nations in the effort to curb irregular migration. Industrialized nations were convinced for many years that irregular migration could only be controlled and combated with domestic policy instruments—mainly repressive measures. Since the 1990s, this has amounted to tightening border controls, the increased legal possibilities for carrying out identity checks within national borders, and stricter punishments for those who support and organize illegal migration.[5] However, few of these countries invested in fighting the root causes of irregular migration and there was an overall failure to give the question of human rights due consideration.

In some countries there has been a change in thinking. Namely, they have begun to recognize that irregular migration (like all forms of migration) occurs within networks that link countries of origin, transit states, and destination countries. Both the European Commission and the EU member states are considering development, migration, and economic policies that could provide incentives to minimize irregular migration. These deliberations have moved in the direction of integrated concepts, including bilateral and multilateral agreements with countries of origin and transit states.

In this process, there has been greater priority placed on strategic foreign policy considerations. Recent cooperation between EU countries and countries along transit routes is raising awareness in transit states that Europeans depend on them for cooperation, and that they are thus able to make quid pro quo demands: for example regarding checks on those leaving the country and the repatriation of irregular migrants. Irregular migrants thus increase the bargaining power of transit countries in negotiations, as well that of many countries of origin.

This is closely linked to a *second* reason for the internationalization of policies on irregular immigration. In industrialized countries and other destination states, the inadequacy of early governance attempts, which apparently did not take the complexity of irregular immigration fully into account, has created awareness of the need to understand the driving forces behind this phenomenon. Often, the diversity of the different governmental and nongovernmental interests affected by these migration movements was simply not acknowledged. On one hand, industrialized countries are concerned about their capacity to control immigration and the economic and social consequences of irregular migration. On the other hand, however, some individual economic sectors and private households in these countries have a strong interest in employing irregular migrants. Similarly, ambivalent interests exist in the countries of origin.

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5 See Steffen Angenendt and Imke Kruse, "Irreguläre Wanderungen und internationale Politik," in Matthias Blum, Andreas Hölscher and Rainer Kampling (eds), *Die Grenzgänger. Wie illegal kann ein Mensch sein?* (Opladen, 2002), pp. 11−24.

Their governments want to see the human rights of their citizens abroad protected and to minimize the effects of human smuggling on their country as much as possible. But at the same time, they benefit from easing labor market pressures and from remittances, which increasingly come from irregular migrants.[6]

A *third* factor that has contributed to the internationalization of efforts to control irregular migration is the specific actors involved. Along with countries of origin, transit states, receiving countries, and the migrants themselves, more and more intragovernmental and international organizations are grappling with this problem. These include regional bodies like the EU, which is granted the power to control illegal immigration by the Treaty of Amsterdam. International organizations are also increasingly faced with the phenomenon of irregular migration. The United Nations High Commissioner for Refugees (UNHCR), for example, in charge of protecting refugees' rights, is confronted with the issue of irregular migration because many industrialized countries have created such restrictive asylum policies that illegal means are the only way asylum-seekers can enter these countries at all. Finally, a range of internationally organized networks is gaining in importance, as many migrants are either aided by human smugglers or become the victims of human traffickers.

Overall, one can conclude that irregular migration is increasingly becoming a task for international policy, and is also being perceived as such.[7] However, the ways of meeting this challenge at the national and international levels are hampered by conceptual ambiguities and inadequacies in the data.

6 See Dovelyn Rannveig Agunias, *Remittances and Development. Trends, Impacts, and Policy Options. A Review of the Literature* (Washington, D.C.: Migration Policy Institute (MPI), 2006), pp. 7–10. On the case of remittances from irregular immigrants in the USA, see Eduardo Stein, *The Development Role of Remittances. The Case of Central Americans in the U.S.*, International Conference on Migrant Remittances: Development Impact, Opportunities for the Financial Sector and Future Prospect, London, October 9–10, 2003. www.livelihoods.org/hot_topics/docs/RemitCAmericas.doc.

7 See, inter alia, the report by the World Commission on International Migration, *Migration in an interconnected world: New directions for action* (Geneva, 2005).

Ideas, Concepts, and Trends

National and international discourses on irregular migration employ a range of different concepts, each invested with its own specific meanings.[8] This diverse language has an impact on the political approaches to the phenomenon.[9]

Problematic Concepts

All of the concepts used in the present debate contain weaknesses. Among other things, this is due to the lack of an overarching theory of migration.[10]

In the present study, the concept of "*irregular* migration" is used in contrast to the term generally used by the EU, "*illegal* migration." The latter concept is a problematic one since illegality is usually associated with criminality. From the point of view of human rights and refugee aid organizations, this term contains an unfair stigmatization. It is argued that migrants are usually not criminals in the narrower sense. Rather, they are people who have committed a statutory violation against entry, residency, or labor laws of the country in question.

Many non-governmental organizations prefer to use the concept "undocumented migration," because, in their opinion, this term pinpoints the fundamental characteristic of these people: their lack of valid identity documents or residency or work permits. But this concept is unclear as well since it is applied not only to people who are not registered with the authorities but also to those who do not possess identity documents at all. Furthermore, not all irregular migrants find themselves in this kind of situation. Many of those who work illegally, for example, do in fact have a residency permit. Their violation consists in the lack of a work permit. Based on an argument similar to the one used by aid organizations, the Organization for Economic Cooperation and Development (OECD) uses the term "unauthorized migration."[11] But this term also fails to take into account that various forms of unauthorized immigration, residency, and employment merge and overlap in practice.

Most international organizations choose to use the term "irregular migration," which is seen as less discriminatory, and adequately neutral and comprehensive. The Global Commission on International Migration (GCIM) described its grounds for choosing this term as follows: "The term 'irregular migration' is commonly used to describe a variety of different phenomena involving people who enter or remain in a country of which they are not a citizen in breach of national laws. These include migrants who enter or remain in a country without authorization, those who are smuggled or trafficked across an international border, unsuccessful asylum seekers who fail to observe a deportation order and people who circumvent immigration controls through the arrangement of bogus marriages."[12]

Yet this concept, too, still must be defined more precisely.

Irregular Migration as a Concept

An important consideration to begin with is that the concept of irregular migration is dependent on specific political and legal contexts. Since it is defined with reference to the existing legal norms, it can be

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8 See also the seminal contribution by Elspeth Guild, "Who Is an Irregular Migrant?" in *Irregular Migration and Human Rights: Theoretical, European and International Perspectives*, Barbara Bogusz, Ryszard Cholewinski, Adam Cygan and Erika Szyszczak (eds), (Leiden, 2004), pp. 3–28.

9 See Sarah S. Willen, "Exploring 'Illegal' and 'Irregular' Migrants' Lived Experiences of Law and State Power," in *International Migration* 45, no. 3 (2007), pp. 2–7.

10 See Gustav Lebhart, "Internationale Migration. Hypothesen, Perspektiven und Theorien," in *Demographie aktuell* (Berlin: Humboldt-Universität zu Berlin, 2002) 19. On theoretical work dealing with irregular migrants, see Dora Kostakopoulou, "Irregular Migration and Migration Theory," in *Irregular Migration and Human Rights*, Bogusz et al, pp. 41–57 (see n. 8).

11 See also the annual migration reports of the OECD published up to 2005 as "SOPEMI" reports and that have since appeared under the title "International Migration Outlook." Most recent issue: OECD, *International Migration Outlook. Annual Report. 2007 Edition* (Paris, 2007).

12 Global Commission for International Migration, *Migration in an interconnected world: New directions for action,* p. 32 (see n. 7).

applied more easily in countries where legal norms strongly regulate conditions of social coexistence, economic activities, and institutional functions. The concept also assumes that the state has the power to regulate a defined territory and that it controls immigration within these national boundaries. These conditions are undoubtedly valid for industrialized countries, but not for countries that lack a comparable system of control, which is the case with many of the economically less-developed countries. When these political entities are in regions of the world where there are traditional trans-border patterns of settlement and migration, and where either no identity documents are issued, or where they play no role in everyday life, irregular migrants are often difficult to distinguish from the native population. Thus, the concept cannot be applied usefully in this context.

One political outcome of this context-dependence, which has an impact above all on international cooperation, should not be underestimated: the perception of irregular migrants as a political problem differs from one context to the next. Thus in countries with highly regulated labor markets, the population and the government tend to view irregular immigrants and workers as more of a burden than in countries with less regulation. This results in differing degrees of pressure on the respective governments to take action against irregular immigrants, which in turn produces differing national interests, which can either help or hinder the development of common strategies to reduce irregular migration.

A third argument against the universal use of the term "irregular" migration is its temporal connection. The irregular status of these migrants is, with very few exceptions, not a permanent condition but a phase. Many irregular migrants were regular migrants at some earlier point in time, and they can also become regular migrants again by going through legalization procedures. The concept must therefore be employed as a temporary construct.

Forms of Irregular Migration

The need to distinguish the forms of irregularity is important for the governments of many receiving countries. They have to decide whether measures aimed at reducing irregular migration should be more focused on preventing illegal entry or illegal residence, and also how their limited resources should be spent.

The different forms of irregular migration should be differentiated according to entry, residence, and employment. Depending on whether these are accomplished legally or illegally, different hybrid forms of irregular status can result, some of which have a bearing on political practice because they concern the point in time when statutory violations occurred.[13] In the practical implementation public policy, therefore, it does not make a difference whether irregular migrants entered the country legally—for example, with a valid visa—and then stayed in the country illegally after expiration of the visa, or whether they entered illegally in the first place.

Mixed Forms of Migration: Migrants or Refugees?

For policies in response to different forms of migration, it is important to differentiate between migrants and refugees. The international treatment of migrants and refugees is based on the assumption that migrants left their native country of their own free will and for economic reasons, while refugees were forced to leave due to violence and political persecution. Because of their acute need for protection, refugees are protected under the 1951 Geneva Convention on Refugees. To provide them with support, the United Nations High Commissioner for Refugees (UNHCR) was established.[14] The core element of the legislation governing the international treatment of refugees is the so-called "non−refoulement principle," whereby the signatory states to the Geneva Convention do not have to grant asylum, but may not expel the person into an area whether he or she might again be subjected to persecution. For migrants, however, there is no comparable principle of international law. How they are dealt with is left largely to the discretion of the individual countries (within the framework of generally accepted human rights principles).

This distinction between refugees and migrants has shaped how governments have dealt with refugees and migrants since the Second World War. During the Cold War the distinction was relatively easy to make. For the last several decades, however, there has been a

13 For a systematic differentiation of these forms of irregularity, see OECD, *Trends in International Migration* (Paris, 1999), p. 232.
14 See Steffen Angenendt, "Das Weltflüchtlingsproblem und die Vereinten Nationen," in *Aus Politik und Zeitgeschichte* (2002) B 27−28, pp. 26−31.

worldwide increase in "mixed migration" and it is becoming increasingly difficult for governments to distinguish between refugees and migrants. Migrants often do not leave their home country of their own free will but are forced to out of economic necessity. Seldom have refugees suffered political persecution as defined under the Geneva Convention, but they often have fled their home country to escape widespread violence, or because the basis of their economic livelihood has been destroyed. This, in turn, means that fewer and fewer refugees fall under the protection of the Geneva Convention.

The fact that refuges and migrants use similar networks makes this distinction even more difficult. Furthermore, refugees increasingly turn to agents or smugglers for help overcoming the obstacles many countries have set up to prevent entry into their national territories, barriers which further obstruct access to asylum.

Human Smuggling and Human Trafficking

For effective political practice, furthermore, it is important to distinguish between human smuggling and human trade. Both offenses shape the public and political debate on irregular immigration and they are frequently confused. The majority of human smuggling and human trafficking takes place in a very unspectacular manner, usually by entering a country illegally at relatively unmonitored points along the border, or via "secure" travel routes with the help of "fake IDs" or forged identity documents.[15]

Two UN Protocols have clarified the distinction between human smuggling and human trade. Human smuggling is defined as the business of procuring the illegal entry of a person into a state of which the person is not a national or permanent resident. Human trafficking, on the other hand, is defined as a much more severe crime.[16] The UN Protocol obligates its signatories to prosecute all levels of involvement in

trafficking in persons, ranging from recruitment to the use of the victims' services, for example, through forced prostitution.

These terminological definitions make it clear that both human smuggling and human trafficking are criminal offences that must be combated in every constitutional state, but that there are differences in the gravity of the crimes. Human smuggling may contribute to the expansion of criminal networks and undermines national migration policies as well as the trust of the population in the capacity of its government to take effective action in this area. Human trafficking, in contrast, is without doubt a severe human rights violation. The victims are subject to physical and psychic violence and acutely in need of protection. Human trafficking is usually a particular form of international organized crime, which makes it much harder to identify and prevent and thus requires close international cooperation. To combat this form of crime and to identify criminal structures, it is usually advisable to offer the victims the right of residence and recruit them to act as witnesses in criminal trials. This may mean having to accept some tension between different political goals—particularly that of reducing the number of irregular migrants in the country on one hand, and that of destroying the structures of human trafficking on the other.

Global Trends

The available data and estimates on irregular migration reveal two general trends: first, the number of irregular immigrants worldwide is increasing, and in fact at higher rates than regular migration. Second, in most cases, there are much larger numbers of irregular migrants living in the country *(stocks)* than new entrants *(inflows)*. Yet irregular migration constitutes only one portion of total migration in most countries, and in absolute numbers, regular migration is usually predominant. Second, the phenomenon of irregular migration has long extended beyond the industrialized countries, and in fact the majority of irregular migrants now move from one less-developed country to another.

Overall, the data available on the levels and tendencies in irregular migration are unsatisfactory.[17] Many countries do collect extensive data providing either

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15 See High Council of Experts on Migration and Integration, *Migration und Integration—Erfahrungen nutzen, Neues wagen.* (Nuremberg, 2004), p. 361.

16 See United Nations (UN), *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime* (November 15, 2000); ibid, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (November 15, 2000).

17 See Council of Experts on Migration and Integration, *Migration und Integration*, pp. 414–419 (see n. 15).

direct or indirect information on these forms of migration—for example, on the number of illegal immigrants apprehended at the border, or on illegal employment. Still, the global data situation is extremely fragmentary, since data from different sources are often not compiled, even at the national level, and are thus not comparable between countries. This is due in part to the different definitions of irregular migration and country-specific procedures for data collection and analysis. Thus, an authoritative source for data on irregular migrants still does not exist. Even the OECD, with its otherwise well developed reporting system on migration data, is unable to produce comparable and detailed figures on this type of migration.[18]

Because of the methodological and empirical inadequacies in the national statistics, the global estimates on the extent of irregular migration also show broad margins of fluctuation: low calculations estimate 2 million irregular migrants (ICMPD), high calculation estimates show up to 40 million (Council of Europe).[19] The most widely held assumption is that 15 to 20 percent of the 175 to 200 million migrants worldwide live in an irregular status *(stocks)*.[20] The share of irregular migrants in new immigration *(inflows)* is usually estimated at one-third for the industrialized countries; the International Organization for Migration (IOM) even estimates that half of all new immigration into the industrialized countries takes place by illegal means.[21]

It is clear that irregular migration is a global phenomenon. Governments throughout all parts of the world are currently seeking means of managing this form of migration.

18 See the Organization for Economic Co-operation and Development's (OECD) annual *International Migration Outlook*, formerly published as *Trends in International Migration* (most recent issue: 2007).

19 See Khalid Koser, "Irregular Migration, State Security and Human Security," Paper prepared for the Global Commission on International Migration (September, 2005) p. 9, www. gcim.org/attachements/TP5.pdf.

20 For example, Papademetriou, *The Global Struggle with Illegal Migration*, p. 3 (see n. 1).

21 IOM, *World Migration 2003*, p. 58 (see n. 2). As previously analyzed in: Bimal Ghosh (ed.), *Huddled Masses and Uncertain Shores. Insights into Irregular Migration* (New York, 1998).

Political Challenges

What risks are connected with this form of immigration? Why is it so difficult for governments to control the dynamics of migration?

Difficulties in Controlling Irregular Migration

In combating irregular migration, governments face three main difficulties: *First,* this form of immigration, more than others, demands that the state be capable of taking effective action. This is a test of its authority and legitimacy and it also raises questions of the relationship between state, societal, and human security. *Second,* irregular immigration is confronted with competing interests in the receiving countries. It is also connected to different goals and expectations in the countries of origin and transit states that are often very difficult for the governments involved to identify and balance. *Third,* the scope of political options available to governments for dealing with irregular migration is constrained by a multitude of legal and situational factors. As a result, the efforts of many governments around this issue threaten to founder on the wide gap between their will to action and the options actually available to them. These difficulties apply not only to industrialized countries but also to less-developed states.

The Relationship between State, Societal, and Human Security

The control of borders remains a core element of national sovereignty. The basic pillars of democratic systems, however, include the rule of law and the protection of human rights. These two aspects are difficult to unite in relation to irregular migration. This is true in particular for asylum-seekers and refugees who have entered the country by illegal means but are seeking protection. The challenge governments face consists in controlling and establishing conditions for the entry of these migrants to the national territory in such a way that adherence

to human rights standards and duties under international law is guaranteed.

As such, the countries themselves are often unaware whether there are specific risks arising from irregular migration and what they are. In political debates, one increasingly hears the argument that irregular migration constitutes a threat to state sovereignty, and occasionally it is said to endanger state security.[22] Neither possibility can be ruled out entirely. Usually, however, irregular migration levels are nowhere near high enough to "flood" the receiving countries, and there is little empirical support for generalizations about criminality among irregular immigrants, or for their role spreading diseases or sicknesses (a theme that appears in connection with the countries of southern Africa strongly affected by HIV/AIDS). The same applies to the frequently assumed connections between irregular migration, political extremism, and terrorist threats. Whether such connections do indeed exist must be carefully examined on a case-by-case basis.

The obvious risks lie much more in guaranteeing human security. This is true in particular for the victims of human trafficking—above all women who are often forced to work under slave-like conditions in the sex industry. But this danger exists as well for irregular immigrants who, in return for the help provided by human smugglers, work to pay back their debts under forced labor conditions. In general, every form of irregular residence bears significant personal risks for the migrants. These range from precarious work relationships and the imposition of dirty or dangerous tasks—in which migrants' pay is often withheld, with no legal recourse available to them under the circumstances—to the absence of health care and appalling living conditions. The family members suffer as well under the daily fear of discovery. The authorities can increase the pressure further, depending on their approach, by raising the

[22] See Koser, *Irregular Migration*, p 11 (see n. 19). On the recent debate around the "securitization" of migration policy see, inter alia, Christina Boswell, "Migration Control in Europe after 9/11: Explaining the Absence of Securitization," in *Journal of Common Market Studies*, 45, n. 3 (2007), pp. 589–610.

threat of tracking down illegal immigrants. Furthermore, in many countries, the children of irregular migrants are not given adequate access to school or training.

Governments of the receiving countries face the challenge of adhering to and reconciling the partly contradictory conventions and rules of state, societal, and human security. In practice, the focus of government action clearly lies on strengthening state security, while the issue of providing human security for irregular migrants clearly takes a back seat. Fundamentally, however, the guarantee of human rights is not conditional on nationality or residency status, but applies to irregular migrants as well.[23]

Differing National Interests

A second difficulty facing governments of the destination countries, countries of origin, and transit countries lies in respecting the interests of the other nations involved in or affected by irregular migration. These interests are often difficult to identify. Solid, reliable agreements between the participating states for controlling irregular migration movements require, however, an adequate understanding of the goals of all partners in the negotiations. Furthermore, such agreements demand both diplomatic skill and the willingness to offer something in return, which once again is only possible when the interests of the other side are well understood.

At the same time, the governments of the receiving countries must take into account that many countries of origin (as well as transit states) have no interest in reducing irregular migration because they profit from it economically or politically. For them, it makes no essential difference whether remittances stem from regular or irregular migrants, and their labor markets are eased by both forms. Furthermore, agreements on irregular migration can even be counterproductive for them, particularly agreements designed to reduce the number of migrants in the receiving country (which is usually the objective in these negotiations) that offer no other form of compensation (such as development aid, infrastructural help, or direct investment).

The situation is similar for transit countries: they are called on by destination countries to accept the return of irregular immigrants who traveled through these countries and to implement stricter border controls. A higher number of deported migrants may exceed the (subjective or objective) absorptive capacities of the particular transit country, and cause the migrants to go without adequate care and provisions or be deported to neighboring countries in violation of human rights standards. In these cases as well, it is of decisive importance that receiving countries offer their contractual partners forms of compensation that enable them to deal with these added burdens and enter into cooperation.

Finally, irregular migration movements also constitute a welcome resource for many receiving countries. This is true above all when receiving countries have a structural need for cheap and low-qualified workers, when the work is too insecure, dirty, or badly paid for nationals, and when there are no adequate measures in place to recruit legal guest workers. Not only businesses that want to save money and stay competitive have an interest in employing irregular workers, but also many private households that buy services from irregular workers that they otherwise could not afford or would not buy on the regular labor market. In Spain, for example, private households are among the most important employers of irregular immigrants— in addition to the agricultural sector and the building industry. The presence of irregular immigrants there has had a positive overall effect on the economy, contributing a significant amount to Spanish economic growth in the last several years.[24] The diversity of interests of the various actors within the receiving countries makes it difficult for their governments to develop a consistent long-term policy on irregular immigrants.

Limited Possibilities for Government Action

The governments of the receiving countries also face additional difficulties caused by segments of the elec-

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23 Council of Europe, Parliamentary Assembly, *Human Rights of Irregular Migrants, Report, Committee on Migration, Refugees and Population*, Strasbourg, 4 May 2006, (Doc. 10924) http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc06/EDOC10924.htm (accessed on November 20, 2007).

24 For example, the Spanish Oficina Económica del Presidente reports that from 2000 to 2005 immigration contributed more than 50% of Spanish economic growth, see *Inmigración y economía Española: 1996–2006*, Madrid: Oficina Económica del Presidente (November 15, 2006), as well as Rickard Sandell, "Spain's Immigration Experience: Lessons to be Learned from Looking at the Statistics" (Working Paper No. 30, Real Instituto Elcano, Madrid, 2006).

torate demanding that they do more to combat irregular migration, despite their limited possibilities for action.[25] Individual governments can scarcely have an effect on some of the driving forces behind irregular migration: wars and conflicts in the regions of origin, the internationalization of product and service markets, or the income differences between rich and poor states. Governments also have a particularly hard time asserting themselves against market forces with an interest in irregular migration. Furthermore, they are virtually incapable of preventing past migration flows from leading to new ones. After all, transnational networks foster follow-up migration, and governments often fail to factor in family reunion that results from past immigration.

The instruments of action available to governments pertaining to irregular migration are shaped by a number of framework conditions. From the point of view of the industrialized countries, these include:

▸ Possibilities for border surveillance and control,
▸ Adherence to legal norms and instruments for enforcing them,
▸ Capacities for identity control within the country,
▸ Existence of smuggling networks,
▸ Existence of immigration organizations,
▸ Absorptive capacity of the economy and labor market for migrants,
▸ Density of labor market regulation and possibilities for reducing illegal labor,
▸ Treatment of irregular migrants in the receiving country, and
▸ Resilience of the social security system and public infrastructures.

These national aspects are, in turn, embedded in international frameworks that determine the specific situational characteristics. Thus, crises and conflicts, economic globalization, and the entire complex of international legal norms and transnational networks (macro level) influence the scope of action available to national-level policy-makers (meso level), and thereby the specific manifestations of irregular immigration in a particular country (micro level).

To control these migration movements, countries employ a broad range of instruments. Here, one can observe a proliferation of control measures in countries that lie along certain migration routes. Particularly the transit states for irregular migrants are making efforts to implement more efficient controls

in the countries that these people come from and are strengthening their own border controls.[26]

Risks of Irregular Migration

Different security concepts, specific national interests, and a multitude of situational and legal framework conditions make it difficult for countries to control irregular migration. The question might well be asked: Why do they attempt to control it at all? What problems and risks are associated with irregular migration?

Political Risks

Fundamentally, a government's incapacity to solve the problem of irregular immigration can undermine the trust of the population or electorate in its capacity for effective political action. Numerous fears are connected with irregular immigration in particular. Many people in the destination countries fear the loss of their jobs, a rise in crime, and an increase in political extremism.

One acute political risk for governments lies in the relative ease of misusing irregular migration for populist purposes—precisely because there is a lack of reliable data on the levels and structure of this type of migration, and thus there is not a sound understanding of its economic and social consequences.

When a government cannot demonstrate a capacity to deal with irregular migration, it will necessarily have difficulties eliciting public support for its policies in other areas of migration policy. As a result it will have problems implementing new measures—for example, programs to increase labor migration or integrate foreigners to reduce irregular immigration—a vicious circle.

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25 Koser, *Irregular Migration*, pp. 15f (see n. 19).

26 For a comparison of Mexican and Moroccan efforts at cooperation with countries of origin see Ann Kimball, "The Transit State: A Comparative Analysis of Mexican and Moroccan Immigration Policies" (Working Paper No. 150, Center for Iberian and Latin American Studies and Center for Comparative Immigration Studies, University of California, San Diego, 2007).

Economic Risks

Uncontrolled immigration can produce negative effects on labor markets, income, labor conditions, productivity, and the overall economic structure of a country.

Irregular immigration principally expands the informal sector of the labor market. Through the additional competition, wage levels of workers in regular employment (nationals and immigrants) may fall, and their working conditions may worsen as well. This will be true mainly for workers in economic sectors with irregular employment, and above all for low-qualified workers. At the wage level of more highly qualified workers, irregular immigration has no directly negative effects according to most labor market experts.[27]

Irregular immigration can also have negative effects on economic modernization and restructuring of economic sectors because the availability of cheap labor reduces the pressure on firms to adapt. Thanks to the low labor costs, unprofitable companies with low productivity can remain in existence for an extended period because of their cost advantages over competitors that do not employ irregular workers. There is little pressure to make reforms, which also prevents these companies from improving their working conditions. From a macroeconomic point of view, such delayed reforms are fundamentally problematic.

The economic risks of irregular migration are thus difficult to combat by political means because the unique features characterizing this form of migration—as discussed above—offer certain actors significant advantages. Irregular immigration (like irregular employment) is not only attractive to the migrants themselves because they avoid taxes, social security contributions, and formal restrictions on access to the labor market but also because their net earnings are generally higher than for workers in comparable regular employment. The cost and recruitment advantages apply as well to the companies employing these workers. And when irregular immigration leads to additional employment, this can also enable better-qualified native workers to advance in their careers. This can also be advantageous for the economy of the receiving country: under some conditions, irregular migrants have a corrective effect on inadequate and inflexible labor market policy and dysfunctional labor markets, as US economist Gordon H. Hanson noted in regard to Mexican immigration to the USA.[28]

For the countries of origin, one risk of irregular migration consists of the increased dependence on remittances and the problem this creates for the economy when it prevents economic adjustments from taking place.[29] The dramatic increase in remittances worldwide and the levels that these financial transfers have already reached in some countries show that this is not merely a hypothetical scenario. The World Bank, for example, has pointed out that in many migrants' countries of origin, the inflows from remittances have reached higher levels than the sum of public development aid and foreign direct investment.[30]

Societal Risks

With respect to the societal consequences of irregular immigration, one must distinguish between the effects on the receiving country and the effects on the irregular immigrants themselves.

From the perspective of the destination countries, irregular immigration appears at first glance to have similar effects as other forms of immigration: it expands the size of the population, necessitating additional infrastructures, and it requires that both immigrants and the receiving society make efforts towards adaptation and integration. One fundamental difference between regular and irregular immigration, however, is that the receiving country usually offers regular immigrants concepts and services aimed at fostering social integration, such as language and integration courses, and also defines what it expects from

27 See Agustín Escobar Latapí and Susan Martin, *Mexico−U.S. Migration Management: A Binational Approach. Executive Summary* (Washington, D.C., 2006), p. 14. www.sre.gob.mx/eventos/ fenomenomigratorio/docs/lagetionmigrengl.PDF; and Thomas Straubhaar, *Illegale Migration. Eine ökonomische Perspektive,* Politische Essays zu Migration und Integration, No. 3 (Osnabrück: Institut für Migrationsforschung und Interkulturelle Studien (IMIS), Universität Osnabrück: Rat für Migration, 2007).

28 See Gordon H. Hanson, "Illegal Migration from Mexico to the United States" (Working Paper No. W12141, National Bureau of Economic Research (NBER), Cambridge: Mass., April, 2006), p. 5.
29 See Bimal Ghosh, *Migrants' Remittances and Development. Myths, Rhetoric and Realities*, Geneva: IOM, 2006, as well as, for an overview of the state of the research, Dovelyn Rannveig Agunias, *Remittances and Development. Trends, Impacts, and Policy Options, A Review of the Literature*, Washington, D.C.: MPI, 2006.
30 World Bank, *Global Economic Prospects 2006. Economic Implications of Remittances and Migration*, Washington, D.C.: World Bank, 2006.

the immigrants in return: to work actively to integrate themselves into the labor market and society of the receiving country. This principle of mutual responsibility for integration is at the base of all current concepts of integration.

But different conditions apply to irregular migrants. Their presence in the receiving country is (at least officially) undesirable, and so they are left to rely largely on their own resources and networks. At the same time, all of the industrialized countries provide those irregular migrants who are identified or identify themselves as such with a minimal provision for their basic needs up until their departure, which could de facto mean for years. In many countries, irregular immigrants also receive basic medical care, and their children are allowed to attend school.

For the receiving society, the presence of irregular immigrants means that part of the resident population is permanently marginalized and lives without actual rights in a situation of acute insecurity. Social stabilization, integration, and social advancement are only possible through legalization. Irregular immigration can thus lead to the so-called "underclassing" of the receiving society as well as increased crime and divergent behavior. Furthermore, it can exacerbate social tensions if nationals begin to feel that the benefits of irregular immigration are being privatized while its costs are being distributed to the public. Correspondingly, surveys in all of the industrialized countries have repeatedly shown that the population expects their government to reduce irregular immigration. At the same time, the public displays a great willingness to help in unique cases. Particularly in the case of deportation of families, for example, solidarity is often shown in segments of the receiving society that extend far beyond the usual circle of supporters.

From the viewpoint of irregular immigrants, the main problems consist in the necessity to take on badly paid and low-skilled work in order to make a living, which subjects them to exploitation and oppression without any form of protection. For example, it is extraordinarily difficult for irregular migrants to take an employer to court to demand payment of withheld wages. Furthermore, many arrived in the receiving country with the help of smugglers and are compelled to work to pay off their debts, or are victims of human traffickers and have become entangled in criminal networks.

If irregular immigrants are not able to improve their legal status through legalization procedures or some type of grandfather clause, they will have no chance of social or cultural integration into the receiving society. Long-term social disintegration may be the potential outcome.

Internal Security

The September 11, 2001 terrorist attacks on the United States raised the question in security circles whether the perpetrators entered the United States by irregular means, possibly facilitated by lax border controls. However, official investigations found that the assassins had entered the country in diverse ways with legal or pseudo-legal documents, and that they were living in the country with regular residence permits or even as naturalized US citizens. The conclusion drawn by security experts was that the danger lies less in irregular migrants than in the "sleepers," legal residents of the country who only become active when called on, as well as in the strategies employed by terrorist organizations that recruit supporters among regular but socially marginalized and disillusioned second and third-generation immigrants.[31] Thus, home-grown terrorism seems not to be directly linked to irregular migration.

In addition to the question of international terrorism, the political discussion on the security risks of irregular migration has focused particularly on transnational organized crime. The available evidence from many countries illustrates the connection between organized crime and irregular immigration.[32] It is clear that failure to control migration movements may result not only in significant economic damage, but may also bring about increased trafficking in drugs, weapons, and humans, and expand economic and environmental crime, counterfeiting, smuggling, money laundering, and corruption.

31 See Steven A. Camarota, *The Open Door. How Militant Islamic Terrorists Entered and Remained in the United States 1993–2001* (Washington, D.C.: Center for Immigration Studies, 2003); The National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report* (Washington, D.C., 2004), and Robert S. Leiken, *Bearers of Global Jihad? Immigration and National Security after 9/11* (Washington, D.C.: The Nixon Center, 2004).
32 On the Belgian example, see Julie Kaizen and Walter Nonneman, "Irregular Migration in Belgium and Organized Crime: An Overview," in *International Migration*, 45, no. 2 (2007), pp. 121–146.

International Relations

The question of whether irregular migration move-ments also have an effect on intergovernmental and international relationships has scarcely been dis-cussed to date. Yet it is obvious that higher levels of irregular immigration can lead to tensions between countries, just as the forcible deportation of large numbers of irregular migrants can create stresses.[33] There exist numerous examples of such conflicts, such as the mass deportation of irregular migrants from Southeast Asian states after the Asian financial crisis, when several hundred thousand irregular migrants were deported from Malaysia alone; or the repeated mass deportations from the Dominican Republic, home to an estimated more than one million irregular immigrants. These measures not only drew repeated protest from the countries of origin for the human rights violations inflicted on their citizens, but also caused severe tensions with the receiving countries.[34]

For both the receiving countries and the countries of origin, irregular migration entails economic, societal, and domestic and foreign policy risks that make a laissez-faire approach dangerous. The dimen-sions and complexity of these risks go far beyond capacities to solve the problems involved at the national level. As a result, international solutions are becoming increasingly important. What possibilities exist for this kind of cooperation, and what govern-ance instruments do countries have at their disposal?

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33 For an overview, see Myron Weiner (ed.), *International Migration and Security* (Boulder,1993).
34 On the Malaysian example see, *inter alia*, Amnesty Inter-national, *Malaysia. Human Rights at Risk in Mass Deportation of Undocumented Migrants,* AI Index: ASA 28/008/2004 (London: Amnesty International (AI), December 2, 2004).

International Cooperation and National Regulatory Instruments

In recent years, there has been a dramatic increase in efforts to find international solutions for regulating irregular migration. Participants in these initiatives include diverse actors (governments, international organizations, and non-governmental organizations) whose divergent interests, however (reduction of irregular migration and promotion of regular migration, prevention of discrimination, adherence to human rights standards) make cooperation difficult.

This multilateral cooperation can be divided into regional and international forms. On neither level has the full range of possibilities been exhausted. Regional cooperation is often limited to exchanging information about specific national problems concerning irregular immigration and discussing the intended political response. International cooperation is similarly rudimentary, as evidenced by the heated battle over international labor standards that could contribute to a reduction in irregular migration.

Regional Cooperation

Within the *European Union*, however, regional cooperation has advanced substantially. In compensation for the opening of internal borders under the Schengen Agreement of 1985, the signatory states were obliged to expand joint control of their external borders.[35] The Amsterdam Agreement of 1997 also placed important aspects of asylum and immigration policy under joint competency.[36] So far, this agreement's objectives have been implemented to varying degrees, but in any case, a strong interest on the part of member states in measures to reduce irregular migration is clearly apparent. Accordingly, focused efforts are underway to improve external border controls, joint visa issuance

procedures, and the repatriation of irregular migrants.

Since the 1960s, the European states have concluded several agreements with the *Maghreb countries* to control migration movements. Some of these have included measures to prevent North African workers from being discriminated against regarding working conditions, wages, and social security provisions.

The EU has also intensified its internal migration and asylum policy cooperation in the framework of the "Common Strategy for the Mediterranean," concluded in July 2000, in particular by simplifying and accelerating the visa issuance process. This strategy also foresees concluding repatriation agreements, creating more effective border control systems, and improving the social integration of migrants living legally in the EU. Finally, with the December 2005 "Global Approach to Migration," the EU has created a conceptual framework for asylum and migration policy cooperation. The reduction of irregular migration is granted high priority in this strategy paper as well.[37]

The issue of irregular migration from *Eastern Europe* already had a place on the EU states' political agenda in the early 1990s. In view of the strongly increasing migration from this part of the world even at that time, member states began working towards closer cooperation with their Eastern European neighbors. Regional consultation processes were initiated, for example, in the 1993 "Budapest Process," which has since involved the participation of high-ranking government officials from forty countries. When the French government took over the EU presidency in the second half of 2008, it proposed giving irregular migration high priority on the European policy agenda, announcing a "European Pact on Immigration and Integration."

But in other parts of the world as well, such as North America,[38] Africa,[39] and Asia,[40] regional inte-

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35 On EU policy see Steffen Angenendt, "Steuern, schützen, integrieren. Die schwierige Vergemeinschaftung der Migrations- und Asylpolitik," in: Werner Weidenfeld (ed.), *Europa-Handbuch*, 4th edition (Bonn, 2008) (under preparation).
36 On the fight against human smuggling in the EU see John Morrison and Beth Crosland, *The Trafficking and Smuggling of Refugees: The End Game of European Asylum Policy?* New Issues in Refugee Research; UNHCR Working Paper Nr. 39 (Geneva, 2001), pp. 11–13.

37 European Council, *Global Approach to Migration, Priority Actions Focusing on Africa and the Mediterranean.* Annexes to the Presidency Conclusions, Brussels, December 1–16, 2005 (15914/1/05 REV 1).
38 On the debate on the new US immigration law, which was met with resistance in the Senate in June 2007 (Comprehen-

gration associations have been endeavoring in recent years to build cooperation aimed at reducing irregular migration.

Alongside these official forums of negotiation, informal communication and advisory procedures have increased in recent years in all the world's regions.[41] These regional consultation processes offer countries facing similar problems the opportunity for informal exchange, but have the disadvantage that no binding decisions can be made on this level. In general, these consultations have failed to produce palpable and immediate effects on the migration policies of the participating countries; however, the involvement of many governments is evidence that a substantial political need continues to exist.[42]

International Cooperation

Instruments for the reduction of irregular migration movements are also being sought at the level of international cooperation. Various UN bodies, such as the General Assembly and the Economic and Social Council, as well as a series of UN organizations, have passed resolutions against irregular migration and thus against related human rights violations. The International Labour Conference adopted ILO Convention No. 143 binding all of the signatory states (only 23 up to now) to undertake measures against irregular migration.[43]

The International Convention on the Protection of the Rights of Migrant Workers passed by the United Nations in December 1990[44] deals expressly with irregular migrants, requiring that the member states guarantee to protect the human rights of all migrants and eliminate all discrimination. The signatory states are obliged to undertake efforts to prevent irregular migration and illegal employment, and to decide the legal status of individuals taking into account the specific conditions under which migration took place, the duration of the migrant's stay and gainful employment, and the family situation. The signatory states are required to ensure that the working and living conditions of irregular migrants are not worse than those of regular migrants.[45]

Overall, only weak human rights protections exist for irregular migrants. The industrialized countries in particular fear that measures strengthening the legal status of these migrants might significantly constrain their options for taking action against irregular migration. To some extent, they also fear negative consequences on their labor markets and the imposition of higher labor law standards.[46]

sive Immigration Reform Act, CIRA) and deals primarily with reducing the number of irregular (Mexican) immigrants, see "Senate: Immigration Reform Stalls," in: *Migration News*, 14 (July 2007) 3; on South America see Jorge Gurrieri, *El Proceso consultivo en América del Sur. La Conferencia Sudamericana sobre Migraciones*, Mexico City: UN Population Division, Department of Economic and Social Affairs, November 30, 2005.

39 See Michele Klein Solomon, "International Migration Management through Inter-State Consultation Mechanisms. Focus on Regional Consultative Processes on Migration, IOM's International Dialogue on Migration and the Berne Initiative." Paper Prepared for United Nations Expert Group Meeting on International Migration and Development (July 6 to 8, 2005), p. A8.

40 *Asean Plan of Action for Cooperation on Immigration Matters*, www.aseansec.org/16572.htm; on the fight against human trafficking, the *Asean Declaration Against Trafficking in Persons, Particularly Women and Children* was passed in 2004, www.aseansec.org/16793.htm (both accessed on July 7, 2007).

41 See Robert G. Paiva, "Regional Consultative Processes," Lecture held at the UNITAR/UNFPA/IOM-Workshop "Regional Consultative Processes," New York, June 20, 2006.

42 See Colleen Thouez and Frédérique Channac, "Shaping International Migration Policy: The Role of Regional Consultative Processes," in: *West European Politics* 29, no. 2 (2006), pp. 370–387.

43 Articles 1–5 of the Convention on Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, December 9, 1978.

44 International Convention for the Protection of the Rights of all Migrant Workers and Members of their Families of December 18, 1990.

45 Ibid., Articles 68–70. The convention has been in force since July 2003, but so far, like ILO Convention 143, only ratified in a small number of states (37 as of July 18, 2007), with not a single Western industrialized country among them.

46 Nonetheless, the general human rights norms apply to irregular migrants as well, in particular die UN Human Rights Declaration of 1948, the International Covenant on Civil and Political Rights of December 16, 1966, the Convention on the Elimination of All Forms of Racial Discrimination of All Forms of Racial Discrimination of March 7, 1966, the Convention on the Elimination of All Forms of Discrimination against Women of 1979, the UN Convention on the Rights of the Child of 1989, International Pact on Economic, Social, and Cultural Rights of 1966, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Furthermore, specific migration-related conventions apply, such as the Geneva Refugee Convention of 1951 and the Protocols against Human Trafficking and Human Smuggling (2000).

Nongovernmental and Civil Society Actors

The number of actors from nongovernmental and civil society sectors dealing with regular migrants is so huge that it is nearly impossible to estimate, even in the European countries alone. In general terms, it can be said[47] that only a small percentage of these organizations focus specifically on irregular migrants, and that most of their efforts on behalf of this population are part of more comprehensive work on migration and refugees. Some organizations deal exclusively with particular issues related to irregular immigration, such as aiding the victims of human trafficking. Most nongovernmental organizations deal less with the problem of how to control irregular migration than with protecting the rights of irregular migrants.[48] They see their main task as helping migrants attain residency in the receiving country.[49]

The work of these organizations is important, and not only for irregular migrants. In some countries and international discussion forums, nongovernmental organizations have become regularly integrated into the consultations, for example, in the "Global Forum on Migration and Development" of July 2007 in Brussels.[50]

Overall, our evaluation of regional and international cooperation has produced ambivalent results. So far, only in the EU has regional cooperation developed to an extent that could be described as emergent joint governance. In all other parts of the world—which also lack the pressure that comes with an internal area without borders—efforts at coordination have not progressed very far up to now, despite the obvious problems. The EU is usually considered a paragon of cooperation, but there are vast differences in interests between the member states, and the political will to conceive joint approaches is lacking. Similar statements can be made about international cooperation, which just as quickly comes to a standstill when countries fear restrictions on their own freedom of action.

Nevertheless, an increasing interest in regional and global consultation processes can be seen everywhere, with countries exchanging perspectives on the problem of irregular migration and their respective national strategies for confronting it. As previous experiences show, these processes can help the individual actors to acknowledge their diverse interests and arrive at a shared understanding of the problem. These processes benefit from the fact that the participants in them are not under immediate pressure to act. Furthermore, such discussions allow non-governmental organizations to be integrated more easily. At the same time, discussion often goes on in these forums for years before tangible results are produced. Speedy solutions cannot be expected.

National Regulatory Instruments

What options do governments have for dealing with irregular migration? What instruments can they employ in view of their limited options to take action and the still rudimentary cooperation structures that have developed up to now? What advantages and disadvantages does each instrument have, and what measures are appropriate for attaining which objectives?

Border Controls and Visa Policies

For the majority of countries, the first option for reducing irregular migration is to intensify the control of external borders. Since the beginning of the 1990s, as noted above, governments have invested primarily in this mechanism—both by expanding technical border infrastructures and personnel, and in promoting cooperation with border authorities.[51] Furthermore, many countries are attempting to move their border controls as far as possible into the countries of origin and transit countries, by involving transportation companies in identity controls or by drafting reciprocal agreements with the transit states.

Cooperation among border authorities plays a very important role here. Regular and intensive contacts are a precondition of reducing irregular migration.

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47 Koser, *Irregular Migration*, p. 20f (see n. 19).

48 For example, on the European level, the Platform for International Cooperation on Undocumented Migrants (PICUM) founded in 1998, www.picum.org.

49 For example, the 1997 initiative of the European Red Cross organizations "Platform for European Red Cross Cooperation on Refugees, Asylum Seekers and Migrants" (PERCO), www.ifrc.org/docs/pubs/perco/perco-tor-en.pdf, (accessed July 9, 2007).

50 See www.gfmd-fmmd.org (accessed November 21, 2007).

51 For the EU; see European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), *Frontex Annual Report 2006*, (Warsaw, 2007).

This is often lacking, as international migration organizations and the OSCE have pointed out.[52]

Visa issuance is the migration policy equivalent of border control. Since the most common pattern of irregular migration worldwide is that of entering legally with a valid visa and subsequently remaining in the country after the visa has expired, visa policy will play a key role not only in governing migration policy as a whole, but especially in limiting irregular migration. Whether visas are issued justifiably or not depends on the clarity of policy targets, the precision of the conditions for visa issuance, the care exercised by consulates in screening, and the information sources available to consulate staff for the identification of false statements. The quality of visa decisions can be improved significantly by equipping authorities with modern technical and especially IT infrastructure and through the close and effective cooperation with authorities in the countries of origin.

Ultimately, the cooperation with consular authorities is the operational basis for reducing irregular migration. In the EU, with its open internal borders, the different countries not only have to agree on which countries will be subject to visa requirements but also on a common visa practice. Thus, in 1996, the European Council adopted a recommendation that the consular representations of the member states work together in issuing visas. Among the Schengen member states, which have agreed on a joint visa system, the administrative cooperation goes even further: member states have issued a Common Consular Instruction (CCI) that standardizes administrative procedures ranging from visa applications to visa screenings and decisions on visa issuance.[53]

Depending on how they are carried out, visa issuance procedures and border controls can contribute to either increasing or decreasing irregular migration. They are a necessary condition for the reduction of irregular migration, but are not enough on their own, as seen in the continuing high levels of immigration even in states that have fully fledged border controls and efficient consular systems.

Accelerating Asylum Procedures

As mentioned above, when it comes to approving visa applications it is irrelevant whether asylum seekers entered the country legally or illegally. At the same time, asylum seekers may become irregular immigrants if their asylum application is rejected and they fail to comply with deportation orders. Given the usually very low percentages of asylum applications granted, there are large numbers of rejected asylum applicants living in most receiving countries. Either they live in an indeterminate status somewhere between legality and illegality—for example, with a temporary stay of deportation—or they have remained in the country in an irregular status. The longer asylum procedures take, the greater the incentives to ignore deportation orders and remain in the country as an irregular migrant.

For this reason, many countries have shortened their asylum procedures. Still, for organizational reasons these procedures often take years because of the technical complexities involved in obtaining and screening applicant information. Some countries are making efforts to work more closely with others to attain a better information base for decision-making and thus accelerate visa procedures. It is hoped that this will reduce the number of obviously unjustified asylum applications by signaling to potential applicants that they can expect a short processing time for their applications.

The underlying assumption behind this is that irregular immigrants make the decision to migrate based on the asylum and migration policies of their potential destination country and the actual numbers of applications granted there. The validity of this assumption, however, must be called into doubt. Given the difficulties of even entering a country where an asylum application can be submitted, individuals suffering political persecution are forced ever more frequently to turn to human traffickers for help. The result is that decisions on migration routes and destination countries are increasingly being made by traffickers. Decisions on which country to immigrate to and whether an asylum request will be submitted there are thus shaped more by the networks and structures for apprehending illegal immigrants in the target country than on its asylum-granting practices.

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52 See OSZE/IOM/ILO, *Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination* (Vienna, 2006), p. 166.

53 "Common consular instructions on visas for the diplomatic missions and consular posts f the contracting parties to the Schengen Convention," in *Official Journal of the European Union*, C 326/5 (December 22, 2005).

Support for Voluntary Repatriation

Measures that provide migrants with incentives to return home voluntarily play an important role in regulatory mechanisms. All of the countries with high levels of irregular migration constantly emphasize that promoting repatriation is one of their political priorities. Often, however, there is a significant gap between their proclaimed policies and their actual practice, probably due to the fact that both elements of this approach—the promotion of voluntary repatriation and compulsory repatriation (deportation)—are difficult to implement in actual practice.

Voluntary repatriation (which, depending on the country in question, can also consist of return to a safe third country) is undoubtedly a far better solution for irregular migrants than deportation. As a result, organizations like IOM and (under special conditions and in relation to refugees) the UNHCR have become involved in the development of these kinds of programs. Human rights organizations see problems with this kind of policy, and point out that the distinction between voluntary and compulsory repatriation becomes blurry in practice. They criticize that behind the guise of "voluntary" repatriation, migrants are often placed under overwhelming pressure by government agencies and that, when they are confronted with the threat of being placed in a detention facility pending deportation, one can hardly talk about migrants having a choice.

Although many industrialized countries have introduced repatriation support programs in past decades, a well developed and generally applicable concept has not yet been developed. Most of the countries that have created programs have not received the desired response, and programs providing financial incentives have often simply led to bandwagon effects among migrants who wanted leave the country anyway.

In general, there is a wide spectrum of policies promoting repatriation. These programs provide advice to migrants seeking to leave and offer diverse forms of support in getting the required documents, organizing departure, planning arrival in the country of origin, and even helping with local reintegration. International organizations favor these kinds of integrated programs because of their sustained impact.

In actual practice, different countries tend to single out individual instruments and use them selectively. Integrated programs that prioritize sustainability are conceptually elaborate and financially costly, and are preconditioned not only on the will to achieve long-term solutions but also on more intensive cooperation with the countries of origin. Repatriation programs do not differ in this regard from development projects, and have to be planned, carried out, and evaluated with equal care.

Forced Repatriation

The other side of repatriation policy—forced repatriation—is even more difficult to put into practice than promoting voluntary repatriation. Human rights organizations usually do not question states' rights to remove irregular migrants from their national territory, but they do criticize the conditions under which people are deported. Certain cases of deportation and expulsion—particularly families that have lived in the receiving country for a longer period with children born there—have raised widespread public protest and stimulated discussion about the relationship between principles of immigration and constitutional law on the one hand, and humanitarian principles on the other.

Objections are raised in particular against the conditions surrounding deportation, above all against the use of detention pending deportation, in which migrants are either held in jails or placed in special "deportation camps." Human rights organizations have lodged numerous complaints about these forms of detention and the circumstances of deportation—for example, when people are removed from the country bound and gagged and placed on regular flights; occasionally the flight personnel themselves refuse to carry out the deportation. Therefore, the governments increasingly use chartered deportation flights.

Repatriation Agreements

From a practical viewpoint, repatriation is always problematic because it requires that the country of origin (or a third country) be willing to take back the migrants in question. Sometimes this is not the case. To avoid the tensions that result from this situation, the receiving countries have undertaken concerted efforts in the last two decades to conclude bilateral repatriation agreements. Such agreements are often difficult to negotiate because the countries of origin expect far-reaching compensation in other policy areas in return for their intervention. Furthermore, the transit countries in particular react by attempting

to safeguard themselves through similar agreements with the migrants' original countries of origin. The example of the EU clearly shows what intricate networks of bilateral repatriation regulations can result, and how this in turn leads to efforts towards multilateral repatriation agreements.[54]

A basic question is thus whether repatriation to the country of origin is just or reasonable. Governments regularly face this dilemma when deporting failed asylum seekers to a country of origin in the midst of a crisis or into a war region where the conflicts have not yet ended. Most receiving countries suspend deportation to such regions if there is doubt as to the pacification of the region, but there are also numerous cases where countries have deported migrants in violation of international law to regions where their lives were in grave danger.[55]

In general, the governments of the receiving countries assume that both forms of repatriation, voluntary and compulsory, have deterrent effects. The validity of this premise must be called into question, however, when repatriation puts migrants (who are often indebted to relatives and smugglers) in an economically and politically precarious situation that, in their view, they can only escape from through another attempt at migration.[56] Furthermore, the powerful forces driving people to emigrate are underestimated: many irregular migrants are willing to take major risks—even to risk their own lives—to gain residency in their destination country.

Legalization Campaigns

A similarly contested option is that of legalization or the institution of grandfather clauses. These are exceedingly effective instruments for quickly reducing large numbers of irregular migrants. Numerous governments, both in Europe and in other parts of the world, have undertaken such campaigns repeatedly, and in so doing have granted legal residency status to hundreds of thousands of irregular immigrants.[57]

Legalization campaigns make sense particularly when irregular migrants have been living for an extended period of time in the receiving country and cannot be deported in the foreseeable future for situational reasons (lack of flight connections, inadequate documents, unwillingness of the country of origin to accept their return) or legal reasons (threat of persecution). Legalization can help reduce exploitative labor conditions, social marginalization, and societal disintegration, and can end the years of legal insecurities that may, for some migrants, have severe psychological repercussions. Furthermore, from the point of view of the receiving country, legalized migrants increase government tax revenues and contributions to the social security system.

Opponents of this practice object that legalization can undermine the country's migration policies and signal to potential migrants that efforts at irregular entry pay off because legalization can be expected after a certain period of time. There is no empirical evidence that this is true,[58] but the criticism cannot be disregarded—especially when the receiving countries carry out these programs on a fairly regular basis, and when the intervals between legalization campaigns are not too long. For example, legalization campaigns have been carried out since the 1980s approximately every four years in Italy and every five years in Spain, legalizing more than 1.4 and 1.2 million irregular migrants, respectively.[59] Other EU countries criticize these measures with the argument that they have a "pull effect," and that they just increase the already high immigration to the countries in question and thus to the EU as a whole.

The undesired effects of legalization campaigns could possibly be reduced if legalization were used as part of a coherent migration concept and not for emergency damage control, to manage migration with laissez-faire policies of "retrospective regulation," that is, after it has already occurred. This would require that the conditions for legalization be defined more precisely (deadlines, required minimum duration of stay, proof of employment and language skills, guarantee of living space and adequate subsistence for the migrant and his family, evidence of no prior criminal convictions). It would require the involvement of employers and labor unions, whereby employers could

54 See Imke Kruse, *EU Readmission Policy and its Implications for Non-member States,* Freie Universität Berlin (Dissertation), 2005.
55 See, among other literature on this topic, the annual reports of the European Council on Refugees and Exiles (ECRE). Zuletzt erschienen ist der *Country Report 2005* (Brussels: ECRE, 2006).
56 See Koser, *Irregular Migration*, p. 22 (see n. 19).
57 See on this topic the regular reporting in the OECD reports on international migration, OECD, *International*

Migration Outlook 2007 (see n. 11); and, previously, OECD, *SOPEMI.*
58 OSZE/IOM/ILO, *Handbook on Establishing Effective Labour Migration Policies*, p. 170 (see n. 52).
59 See IOM, *World Migration 2005*, p. 448 (see n. 2).

potentially be obliged to apply for the legalization of their workers. Furthermore, it would require the development of a program for regular migration.

Creating Legal Options for Immigration

Irregular migrants are usually primarily driven by the hope and prospect of better working and living conditions. It matters little whether the working conditions actually do exist or are subjectively perceived. Many industrialized and newly industrializing countries have a structural need for labor power that they cannot fill on their own either because they have failed to educate or provide qualifications to their own native workers, or because the age cohorts in question are too small for demographic reasons. As a result, some countries have begun developing new programs for temporary labor migration.

In the industrialized countries, these considerations take their starting point in the existence of "mismatches" on their labor markets. That is, there are discrepancies between the number of available positions and the number of unemployed residents of a country, who either lack qualifications for these jobs or consider the pay, working conditions, or location unacceptable. Nevertheless, governments often have difficulty developing and implementing new recruitment programs because, due to the high unemployment, they will inevitably be confronted with the argument that they should first integrate their own unemployed citizens into the labor market. The migration policy debates of the last few years in the EU have shown that governments usually react by setting up priority systems, whereby a foreigner is only granted a work permit if there is no native or other higher-priority foreigner (for example, Turkish citizens on the EU labor market) available to take it.

In recent times, however, efforts to create new programs for labor migration have gained new impetus through debates over irregular migration. In the EU there is currently an intense discussion about the concept of "circular migration," that is, repeated, temporary labor migration between country of origin and receiving country. The idea proposed is to offer residency quotas to EU neighbors that are the sources of the most substantial irregular migration, providing a set number of limited-term visas to their citizens and asking for their commitment to repatriate their irregular migrants in return and prevent further irregular migration flows.[60] The receiving countries would profit from an increase in cross-border labor mobility and would at the same time maintain control over migration levels through so-called "mobility partnerships" with the countries of origin. The hope here is that by opening up such legal options for immigration, the incentives for irregular migration will be reduced.

In the debate over "circular migration," there are still numerous conceptual, practical, and political questions open, and the willingness of member states to invest effort in the introduction of such instruments differs in relation to their particular labor market needs and how severely they are affected by irregular migration. Whether such programs can indeed help reduce irregular migration will not depend on their concrete form—that is, whether an adequate number of work permits is actually available, what options are provided for return migration, and what kind of reintegration support and start-up programs are available—but rather on how the framework conditions are defined, and how successful the particular country is in reducing clandestine and irregular employment.

The overview provided in this chapter of the national-level instruments for steering irregular migration shows that governments are in no way powerless against this phenomenon. There are in fact numerous possibilities for taking action—even if they are often constrained by existing legal regulations or situational factors. Which instruments can ultimately be used depends on the desired outcomes. For the receiving countries, three goals can be identified that shape their policies toward irregular migration: preventing irregular immigration, reducing illegal residency, and combating illegal employment.

If the goal is to reduce illegal immigration, the issue of visa-granting regulations comes to the fore. As mentioned above, the main source of illegal immigration in most countries begins as legal immigration and is followed by migrants remaining past the expiration of their visa. Here, granting visas in a restrictive manner, tied to strict conditions, may possibly be the instrument of choice for these governments to reduce abuses. In those countries where illegal immigration takes place mainly by illegally entering a country

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60 See Steffen Angenendt, *Circular Migration. A Sustainable Concept for Migration Policy?*, Berlin: German Institute for International and Security Affairs, SWP Comments 2007/C 11 (June, 2007).

across "green" or "blue" borders, however, it may be advisable instead to expand border control and surveillance. Countries with extremely protracted asylum application processes, where some portion of the illegal immigration comes about through misuse of the right of asylum, should reform and above all shorten the length of their asylum procedures.

If the goal is to reduce illegal residence, however, different instruments have to be employed. Of central importance here is repatriation support, that is, creating financial or other incentives that encourage immigrants to return home voluntarily. Usually, repatriation support only produces the desired results when the migrant in question sees good prospects for himself and his family in his country of origin. Since a large majority of immigrants come from less-developed and conflict-ridden countries and thus have a less favorable disposition toward returning home, the receiving countries have developed parallel procedures for repatriation and deportation to impel them to return. Usually, deportation can only be enforced when repatriation agreements have been concluded with the countries of origin. These agreements therefore constitute an important supporting instrument for the reduction of irregular immigration.

The third goal—that of reducing illegal employment—can potentially be achieved through legalization programs. These can be designed in different ways, but in any case, the clearer and more transparent the procedures, the more effective such programs will be. At the same time, this instrument is controversial in many countries, particularly because of the fear of "pull effects." Programs to support legal migration can provide an additional instrument, although it is particularly doubtful that those that focus on a concept of temporary immigration will be able to achieve their aims on a sustainable basis.

In general it is debatable how extensive such programs would have to be in order to continue to meet their goals on a sustained basis in the future. After all, cross-border irregular migration will, in all likelihood, continue to increase worldwide. Immigration pressure will remain high, as will the demand for labor power in businesses and households in the receiving countries. Furthermore, efficiently functioning networks exist that organize irregular migration and employment. Nevertheless, governments must continue to work to reduce irregular immigration. Their possibilities for achieving this goal have not yet been systematically exploited.

Recommendations for European Policy Makers

What recommendations can be derived from the above discussion for European policy makers?

General Recommendations for Action

1. Define goals with greater clarity and realism. The theme of irregular immigration is a highly sensitive one politically. There is almost no other issue that is so easily misused by populist politicians, or one that can so severely damage the legitimacy of a government when it appears incapable of developing effective policies to combat it. The preconditions for public acceptance of a government's actions are clarity and realism—both in defining the problem and in the political measures employed to confront it. In democratic countries that are integrated into the global economy, irregular immigration, irregular residency, and irregular employment cannot be prevented. It is thus not helpful to propagate the idea of "perfect" solutions. Governments should instead solicit support from their electorate for a realistic policy aimed at transforming irregular migration as much as possible into regular migration, and they should make clear the economic and demographic advantages of controlled migration.

2. Strengthen efforts toward a comprehensive approach. Irregular immigration cannot be reduced through isolated measures and not within national frameworks alone. The "Global Approach to Migration" proposed by the EU Commission and adopted by the EU members' heads of state and government in December 2005 was intended to be developed further. The reforms already decided upon in the areas of asylum policy, labor migration, external dimensions, border control, and fundamental rights should be put into practice as quickly as possible. The EU states cannot do without functioning border controls, but they should make equally diligent efforts to design pragmatic projects for fighting the causes of migration, particularly through income-generating development projects in the countries of origin and the transit countries. There is a wealth of knowledge in this area in the EU, where many member states have already carried out successful development projects. These experiences have to be evaluated more systematically than has been done so far and tested for their applicability to irregular migration. In general, these tasks can only be carried out in close cooperation with the other member states. On the national level, close interdepartmental cooperation is needed among government actors in the areas of domestic, foreign, economic, development, and security policy.

3. Defend human rights more systematically. The human rights of irregular migrants are not a secondary matter. Human rights violations—in the form of both political persecution and repression, and through the destruction of a person's economic livelihood—should be considered one of the most important underlying causes of irregular migration. Prevention of migration for these reasons thus includes measures combating human rights violations in the countries where they occur, as well as political and military measures to stabilize potential countries of origin. Human rights questions should be taken more strongly into consideration in dealing with irregular migrants in Europe. This should be done not only by fighting human trafficking but also by improving access to asylum procedures. The asylum law reforms of recent years have drastically restricted access to asylum procedures, as seen in the low numbers of asylum applicants in the EU, which bear no relation to the size of refugee flows worldwide. Also in the case of expulsions and deportations, human rights issues must be given far more respect. Human rights are not divisible, and the EU countries can only plausibly demand compliance from the countries of origin when they themselves work actively to guarantee that human rights are respected.

Specific Recommendations for Action

1. Promote legal immigration. To reduce irregular immigration, the member states should develop and coordinate new programs to promote legal labor migration. The EU countries have a structural and, in some areas, a growing need for both skilled and low-skilled labor, only some of which can be filled by the domestic labor market. At the same time, up to now,

adequate channels for legal and managed immigration are lacking. This constitutes a significant pull factor for irregular immigrants. Thus, member states should set up programs for permanent as well as for temporary migrants. To avoid the failures of the past, these programs should meet at least three basic requirements: First, they should be comprehensive and combine labor market, security, development, and foreign policy aspects. Isolated and sectoral approaches are often ineffective and have unintended consequences. Second, member states should refrain from bilateral arrangements. The new programs should be arranged on a multilateral basis. Otherwise they would only foster the fragmentation of the European labor markets, run against the needs of the Single Market, and thus foster opportunities for irregular labor. Third, the new programs should be transparent, effective and should be developed (and evaluated) in regular parliamentary processes, fully involving the European and the national parliaments and civil society. Lacking legitimacy would be a serious obstacle for a comprehensive and sustainable migration policy.

2. Build and test mobility partnerships. The EU governments should also substantiate the initiatives for circular migration introduced in 2006 by the then French Minister of the Interior, Nicolas Sarkozy, and his German colleague Wolfgang Schäuble. Nevertheless, the goals connected with this concept remain to be defined. It must be determined how this initiative will be handled in practice, and concrete projects still need to be developed and implemented. Together with providing support for circular migration, the EU Commission has suggested negotiating mobility partnerships. The governments should pursue this approach, because agreement can only be reached with the countries of origin and transit countries on the advantages and disadvantages of migration programs *(brain drain, brain gain, brain circulation)*, on the different interests that they have in such programs, and on the mechanisms to avoid undesired effects through close and cooperative dialogue. In this framework, discussions could also take place on the rights and duties of the countries of origin and receiving countries. For example, one could consider providing migrants with professional qualifications prior to their departure and enabling them to attain further qualification during their stay, and discuss the conditions for their return and aspects of reintegration support. Such partnerships should be tested in a significant number of pilot projects.

3. Strengthen refugee protection. Discussion is currently underway in the EU on the details of the second phase of a Common European Asylum System. The Commission submitted a Green Paper on this subject designed to inject new energy to the debate on the future of this system. The governments should advocate for the continued development of a European asylum policy, but should also encourage the EU to take stock of the current state of its refugee protection. The question of whether the EU is still contributing substantially to maintaining the system for international refugees given the current levels of refugee immigration should be discussed on this occasion.

4. Expand repatriation support. Effective repatriation programs require a cooperative understanding between the countries of origin and transit countries. In addition, such programs have to be adequately funded, since otherwise, the results will be short-lived and bandwagon effects may result. The governments should intensify other efforts to develop integrated repatriation programs, which are admittedly difficult to conceptualize because of the numerous actors involved in the country of origin and receiving country. In the field of repatriation support as well, integrated pilot projects should be developed in coordination with the European partners, and tested for their effectiveness.

5. Improve the statistical data and other knowledge bases. The data available on the causes, levels, and effects of irregular migration are inadequate in all of the EU member states. This complicates the development of political strategies and makes it easier to misuse data for populist purposes. The governments should obligate the various national data collection agencies to engage in regular exchange and to ensure that they provide compiled data to the professional community in research data banks. Furthermore, they should work to improve the European data situation by promoting the simplification of definitions and survey methods.

Abbreviations

AKI	Programme on Intercultural Conflicts and Social Integration (WZB)
APC	Asia-Pacific Consultations
Apec	Asia-Pacific Economic Cooperation
Asean	Association of South-East Asian Nations
AU	African Union
CIRA	Comprehensive Immigration Reform Act
CIREFI	Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration
COMESA	Common Market for Eastern and Southern Africa
DHS	U.S. Department of Homeland Security
ECOWAS	Economic Community of West African States
ECRE	European Council on Refugees and Exiles
efms	European Forum for Migration Studies
EMN	European Migration Network
GRC	Geneva Refugee Convention
GIGA	German Institute of Global and Area Studies (Hamburg)
CCI	Common Consular Instructions
ICMPD	International Centre for Migration Policy Development (Vienna)
ICONET	Information and Coordination Network for Member States' Migration Management Services
ILO	International Labour Office (Geneva)
IOM	International Organization for Migration
Mercosur	Mercado Común del Sur (Common Market of the South)
MPI	Migration Policy Institute (Washington, D.C.)
NAFTA	North American Free Trade Agreement
NBER	National Bureau of Economic Research (Cambridge, Mass.)
OAS	Organization of American States
OCHA	Office for the Coordination of Humanitarian Affairs
OECD	Organization for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
PERCO	Platform for European Red Cross Cooperation on Refugees, Asylum Seekers and Migrants
PICUM	Platform for International Cooperation on Undocumented Migrants
SAARC	South Asian Association for Regional Cooperation
SADC	Southern African Development Community
SOPEMI	Système d'Observation Permanente des Migrations
UBS	Union Bank of Switzerland
UN	United Nations
UNFPA	United Nations Population Fund (New York)
UNHCR	United Nations High Commissioner for Refugees
UNITAR	United Nations Institute for Training and Research (Geneva)
UNPD	United Nations Population Division
WZB	Wissenschaftszentrum Berlin für Sozialforschung (Social Science Research Center Berlin)