



IMMIGRATION POLICY IN THE BALTIC STATES

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EU Migration Policy

Debates about immigration issues and the future of the European Union have become increasingly important on the political agenda in recent times. In the early 1970s, an oil supply crisis led several European countries to halt or at least limit labour migration, and the reunification of families became the chief reason for subsequent immigration.¹ The situation has changed substantially, however, because Europeans are gradually arriving at the conclusion that they will have to renew labour migration. Rights of family reunification, management of legal migration and control over illegal migration – all of these are once again important issues on the European agenda.

Immigration policies in the EU are full of ambiguity, because they depend both on factors of the global economy and on socio-political factors which relate to the national interests of the EU's member states. In a broader sense, the situation is also dictated by internal conflicts in terms of the continent's political values. The development of the EU's immigration policy, therefore, has involved certain steps forward which, in large part, have been dictated by the challenges of the EU's external environment, as well as by the globalised economic environment of the contemporary world. At the same time, however, there have been significant retreats in the process. Political decisions have been taken on the basis of national interests and domestic socio-political factors in the various member states. Trends in this regard emanate from three approaches to EU migration policy – the national approach, the intergovernmental approach, and the supranational approach. These approaches overlap in EU law, and they mark out the ambiguities of the process. EU migration policy depends on the external global environment, and it has everything to do with the EU's foreign policy ambitions in the international arena.

Processes of illegal immigration depend very much on the way in which legal migration is handled. Illegal migration, indeed, is subordinated to legal migration, and the process is also influenced by geopolitical considerations. In the area of illegal migration, technical co-operation among law enforcement institutions is of primary importance. Legal migration, by contrast, is a political decision, one which has to do with the relevant country's visions and forecasts as to its future development. For this reason, the main focus in this paper is on legal migration. Illegal migration is mentioned, however, because there are significant EU initiatives in this area, too.

Latvia, as an EU member state, has extensive opportunities to become involved in the shaping of EU migration policy. First, however, it is important for Latvia to define its national interests in the EU, so that its positions on migration issues can be consistent and, therefore, easier to defend and explain. Latvian choices are limited by the fact that there are no plans related to immigration policy at the level of executive institutions and overall government policy in Latvia. There is a lack of co-operation with professional associations, the business environment and labour unions. Five government ministries are involved in immigration policy in one way or another, but only in 2007 will the first serious study of the qualitative and quantitative aspects of the labour market and illegal

¹ Cholewinski, R. "Family Reunification and Conditions Placed on Family Members: Dismantling a Fundamental Human Right", *European Journal of Migration and Law*, No. 4, 2002, p. 272.

employment be completed. This research is being conducted in collaboration with the EU Social Fund.

At the same time, Latvia has fundamental advantages in comparison to the countries of Western Europe which have been forced to deal with the consequences of their previous immigration policies. Latvia is not a target country for immigrants at this time, so it can plan national policies in a timely way, thinking about how these policies can be linked to EU trends. In the context of public integration, too, the nationality policies left behind by the former Soviet Union have created experience which may well relate to the potential immigrants in the future. Latvia can take an active position at the European level, because EU regulations in the area of migration are only now beginning to develop with greater velocity.

1. European values and the challenges of immigration

The challenges of globalisation, the pressures of the external economic environment and the large communities of migrants – all of these have significantly changed the EU's role in the context of migration. Relevant issues are becoming more and more important on the EU agenda. Migration policy at one time was essentially the bailiwick of individual member states, but pan-European policy is increasingly coming to the fore at this time. Despite progress over the last 10 years, however, there have been substantial limitations on the effective management of migration issues at the EU level.

Both the stimuli and the limitations of migration policy have to do with a conflict between European values on the one hand and the diverse interests of EU member states on the other. Traditional values such as nationalism and the welfare state often conflict with concepts such as human rights, liberalism, and the values of individualism when migration is the issue. Progress and limitations are also seen in EU legislation which seeks to determine the Union's migration policies. Traditional ideas about the sovereignty of nations and controls over national boundaries are collapsing under this policy. Changes in one member state affect other member states. Mobility and the freedom of movement within certain parts of the EU create problems in terms of interior affairs and justice – areas in which comparatively greater power still rests with member states, not the EU's supranational structures. Values such as security come up against values such as freedom. There are really no modern countries which are completely monoethnic. Increasing human mobility and development related to that mobility lead people to stop thinking that migrants are dangerous. The fundamental EU idea of the free movement of individuals, in fact, stands in contradiction to the traditional idea of nation states.

European values are also increasingly being influenced by the development of the consumer society. New value systems are appearing at the everyday level of Europeans. The diversity of European identity has become a much-debated topic. People have

various senses of belonging (to the state, to a nationality, a religious denomination, a profession, a lifestyle, a family, etc.).²

The value of the welfare state is very important in relation to migration policies in Europe. Europeans have special ideas about the forms, manifestations and importance of welfare in human lives. Welfare has always been declared to be a positive value, one which allows people to live lives of full value. Europe has historically been dominated by the view that very unevenly distributed welfare is to proper welfare. This assumption, to be sure, has been far from reality at times, but “ideal Europeans” will not feel happy if they are privately rich, but all around them there is nothing but poverty.³ This perception is an important prerequisite for the culture of human rights which prevails in Europe.

From the perspective of how values are perceived in Western Europe, a welfare state helps people. It guarantees social and cultural survival, replacing income with social aid, unemployment support payments or early pensions. If the market does not ensure sufficient income from work, the state ensures sufficient income on its own. Over the course of time, this has created a situation in which social support policies no longer promote economic initiative to undertake risk and to compete with others.

Welfare in Western Europe has become a problem exacerbated both by the collapse of the Iron Curtain and by the opening up of China. Fully 28% of humanity suddenly flooded into the Western market system. Integration of the “Asian tiger economies” proved to be quite difficult in the 1970s and 1980s. Integration of these economies provided profits to most countries engaged in the global trading system, but it also created vast problems for the West because of intensively diminishing pressure on the salaries of unqualified labour. Financial capital and direct investments have flowed from West to East, Western economies have been forced to specialise in highly qualified and capital-intensive manufacturing which creates fewer jobs, and unqualified immigrants have been making their way toward the West.

2. The future of the EU in the area of immigration

Scenarios as to the future of the EU in the area of immigration must be analysed in the context of the diverse approaches which member states and EU institutions take toward this issue. There are three major approaches to immigration policy in the EU – the national, the intergovernmental and the supranational approach. All three approaches have been put to the test, and the development of EU policy in this regard depends on the dominant approach. The development of European policy indicates that all three approaches are in place as migration issues are being handled. Most often, however, the intergovernmental approach is used.

² Franck, T.J. *The Empowered Self: Law and Society in the Age of Individualism*. Oxford: Oxford University Press (1999).

³ Ijabs, I. “Vērtības veido Eiropu: pārskats par Eiropas identitātes aksioloģisko dimensiju” (Values Shape Europe: A Review of the Axiological Dimension of European Identity), SAK, 2006.

The **national approach** is based on emotional and cultural perceptions and on sentiments of a national identity. The approach is based on the idea that EU member states shape their own national policies, and not all countries are obliged to allow aliens to cross their borders. EU policy has developed considerably, but this approach has been quite powerful irrespective of the level of EU integration. The national approach is seen, for instance, in those EU member states which have closed their labour markets to people from newly admitted EU member states. Others insist that the focus of attention in migration policy must be exclusively on illegal migration. Supporters of the national approach feel that investments in the countries of origin of migrants will eventually reduce the negative socio-political consequences of migration. France, Germany, Austria and the Netherlands are all supporters of this particular approach. The national approach is also seen in EU legislation. In the area of immigration, member states have extensive rights to define their own criteria, doing so on the basis of their own national interests.

Many Europeans think that the flow of immigrants must be limited even though birth rates on the continent are very low, and there are increasing concerns about a lack of workers. “Europe cannot accept everyone who believes this to be El Dorado,” says French Interior Minister and leading presidential candidate Nicolas Sarkozy.⁴ The EU commissioner for external affairs, Benita Ferrero-Waldner, told the Moroccan newspaper *Le Matin* that the flow of political and economic refugees could be reduced if people’s lives were improved in Africa: “We must not concentrate the discussion only on security issues. We must not ignore the fundamental causes of the migration movement – poverty and insecurity,” she said.⁵ These statements clearly reflect the national approach in the shaping of EU policy. Policies that are based on the national approach emanate from traditional values which are of key importance of domestic balance in the various member states.

The **intergovernmental approach**, meanwhile, is based on compromises which can be agreed by member state governments so as to ensure the proper functioning of EU interests. Pragmatism and functionality are the keywords here. Immigration policies in the EU, according to this approach, are based exclusively on that upon which all parties can agree at a specific moment in time. The Hague Programme is an example of this approach, because its policy directions are vast and diverse.⁶ The intergovernmental approach usually seeks the middle ground among various political offers. Sometimes it can do nothing but seek the lowest common denominator in terms of that upon which all participants in the specific debate can agree. The main problem, of course, is that problems often develop far more swiftly than policies do. These are reactive and cumbersome policies, and their effectiveness suffers as a result of this.

EU policy since the late 1990s has largely been based on the principles of the intergovernmental approach. Immigration is an ongoing element of the future of

⁴ Reuters, BNS news agencies. “Eiropa nespēj vienoties par imigrācijas politiku” (Europe Unable to Reach Agreement on Immigration Policy), 3 July 2006.

⁵ *Ibid.*

⁶ Council of the European Union. Council and Commission Action Plan Implementing the Hague Programme on Strengthening Freedom, Security and Justice in the European Union, 2005.

European society. If the flow of immigrants to the EU is managed properly and well, then member states can extract significant economic, cultural and other benefits from the process. This helps to facilitate various processes in Europe, and it strengthens the European role in the world. Effective migration management in the European Union, in other words, serves everyone's interests.⁷

Key aspects of managing migration include not just the fight against illegal migration, including the process of human trafficking, but also the successful integration of legal migrants. In the EU as a whole, it is important to make sure that member states preserve and develop societies in which newly arrived persons feel comfortable, ones in which there is mutual understanding and acceptance. Segregation and discrimination cause discomfort in one part of society, pushing policies back toward the national approach. France provides us with an example of the types of internal conflicts which can emerge as a result of this.

The future of the EU in the field of migration depends on two fundamental scenarios in which the interests of economic development either dominate value conflicts or are subordinated to those conflicts. The outer world can significantly influence the pace at which migration policies are developed. The development of the EU depends in part on how member states, in dealing with economic issues, manage to control legal migration, on the way in which citizens of third countries are integrated so as to reduce the threat of social discrimination, on how shifts in demographic situations are managed so that there can be increased reliance on the local labour force, and on the extent to which scientific technologies and innovations are brought to bear in pursuit of economic progress.

The **supranational approach** is an economically rational (mercantile) reaction to the demand in Europe for workers. This approach ignores the domestic policies and identities of member states. The approach is based on the EU's macroeconomic needs and on international competition. The supranational approach is the result of how the external environment and the process of globalisation have affected the EU.

Among politicians who defend this idea, Belgian Prime Minister Guy Verhofstadt is a star. He believes that an integrated and federal "United States of Europe" could become a powerful force in the globalised world, that this would facilitate economic development in Europe, and that it would allow Europe to fight more effectively against organised crime. Verhofstadt has analysed the worries of EU citizens at this time and pointed first and foremost to concerns about globalisation and international crime. This, he has written, must not lead to a call for "less Europe."⁸

Pointing to public opinion surveys conducted by the European Commission's Eurobarometer organisation, Verhofstadt has argued that "people do not want less Europe, they want a different Europe." The Belgian politician feels that the concerns of

⁷ *Ibid.*

⁸ LETA news agency – EUOBSERVER. "Gijs Verhofstads: 'Eiropas Savienotās Valstis varētu kļūt par ietekmīgu spēku pasaulē'" (Guy Verhofstadt: 'United States of Europe' Could Become Major Force in World), 2 December 2005.

citizens can be addressed through a more deeply integrated Europe, one which could be a power in the globalised world so as to stimulate the European economy, ensure better economic co-ordination, and fight against organised crime, as well. Verhofstadt has called for a “social and economic government of Europe”, one that would set minimal and maximal standards on issues such as flexibility in the labour market, retirement age, worker protection, etc.⁹

Similar ideas have been expressed by the International Organisation for Migration. “The EU must open its doors more widely to immigration if it wishes to improve its economy,” says the IOM executive director, Brunson McKinley.¹⁰ The lack of legal immigration opportunities to countries in the EU which are suffering from an aging population “has a deleterious effect on economic growth in Europe,” he adds. “If the only thing that you do is introduce increasingly effective control systems [against illegal immigrants] while, at the same time, not opening up channels for legal immigration in places where that is necessary, you will find yourself in difficulties. [...] Without migration, you will not be able to fill important jobs and maintain your economic activities.” McKinley particularly points to such sectors as child care and care for senior citizens. McKinley has said that he is not criticising the EU’s attack against illegal immigration, but he does feel that the Union must draft policies related to economic migration. The IOM director argues that the EU could establish unified quotas for categories of workers such as builders. In other categories, supply and demand could be regulated by the market. McKinley speaks positively of the European Commission’s efforts to launch debates about the matter. The Commission wants to approve special rules to attract highly qualified employees from outside the Union and to make it easier for migrants to keep seasonal jobs.¹¹

3. Situation analysis and risk factors

The need for immigration is largely due to economic issues which are based on the EU’s macroeconomic trends. Nearly 40% of economic growth in the world over the next 15 years will occur in China and India (27% and 12% respectively), according to a recent study by the Economist Intelligence Unit (EIU). It forecasts that China’s economy will catch up to the US economy by 2020, and the share of the Asian economy in global GDP, when calculated on the basis of purchasing power parity, will have increased from 35% in 2006 to 43% in 2020. The EIU also forecasts economic growth in the USA of nearly 3% a year, while the EU, according to the researchers, should experience growth of approximately 2.1% per year.¹²

Over the next few years the EU economy will also grow through the process of territorial expansion. The Union may grow to more than 30 countries, but average income levels in the enlarged EU in the year 2010 will be just at 56% of the US level. Analysts also say that countries with low costs will maintain their wage advantages in the global labour market. The average wage in China is just 5% of the US and EU level at this time, but by

⁹ *Ibid.*

¹⁰ Reuters, BNS news agencies. “Eiropa nespēj...”, *op. cit.*

¹¹ *Ibid.*

¹² Cited in *The Economist*, 9 December 2005.

2020 it will rise to 15% of that level. This means that labour-intensive manufacturing will continue to be moved to those countries with lower labour costs, but the EIU says that fears of the disappearance of industries in the West are premature.¹³

Welfare in Europe is also hindered by shadow economies, which represent around 16% of the EU's overall economy.¹⁴ Illegal migration supports illegal employment and discrimination. Without integration, immigrants from the periphery are subject to exploitation. Discrimination facilitates alienation among immigration, and this can seriously threaten social environment, security and political systems. Insufficient integration and excessive discrimination create an ideological basis for radical political actors in the left and the right wing, and that can threaten overall security.

It is predicted that between 2010 and 2030, the number of people of working age in the 25 countries which were member states until the beginning of 2007 will decline by 20 million. The European Commission adds that after 2025, immigration will no longer compensate for the natural decline in population numbers. Last year the total number of immigrants was 1.85 million – 80% of total population growth in the EU.¹⁵

The European Commission has also predicted that by 2020, the EU will lack 20.8 million people of working age – 6.8% of the total population. The Commission has warned that the population of the EU will decline from 469.5 million in 2050 to 468.7 million in 2030. In the United States, by comparison, population numbers are expected to increase by 25.6% between 2000 and 2025. “These demographic changes will significantly affect our wealth, standard of living and generational relationships. Modern Europe has never experienced economic growth without increased birth rates,” says a European Commission report.¹⁶

Substantial numbers of immigrants entered Europe between 1989 and 1998. Each year some 1.2 million people arrive legally in the EU, and they are joined by perhaps 500,000 illegal migrants. For many European countries, this influx of migrants in the 1990s was quite a shock. *The Economist* cites Greece as an example of this. A census in 2001 found that the number of residents had increased by a full million (the total population of Greece is 11 million). Only 40,000 of these people were the result of natural growth rates. This movement of people certainly creates benefits, and not for the migrants alone. *The Economist* has concluded that “immigrants, unlike local residents, are prepared to move to locations where there is a lack of labour, thus relieving the situation in places where this is a problem.”¹⁷

The EU receives approximately 1.5 million immigrants a year at this time. Europe, indeed, is the most popular destination for émigrés, among whom 32.1% want to travel to the continent, while 23.4% choose the United States. It appears, however, that America

¹³ *Ibid.*

¹⁴ Eurostat. Survey on EU Development, November 2005.

¹⁵ International Organisation for Migration. World Migration 2005.

¹⁶ European Commission Report on the Demographic Situation in the EU, 2005.

¹⁷ *The Economist*, 2-8 November 2002, p. 11.

is becoming more popular. The number of immigrants in the USA increased by 48% between 1990 and 2004, while the increase in Europe during the same time was 15.8%. UN calculations indicate that by 2050, some two million people each year will try to move from impoverished countries to wealthy ones. It is expected that the United States will receive 1.26 million of these migrants, Europe will be the destination for 650,000, and Australia and New Zealand will receive 90,000. Within Europe, 352,000 migrants will arrive in Western Europe, 145,000 will end up in Southern Europe, and 156,000 will have Scandinavia as their destination.¹⁸

Despite rational ideas about the economic advantages of immigration, the fact is that it creates social, ethnic and political problems in Europe. These have to do both with ethnic relations and with the identity of multicultural societies. In some Western European countries, generations of immigrants have largely been ignored as members of society. Segregation of communities of immigrants has led to alienation in society, and in political this is increasingly manifested through the activities of radical political groups. Intolerance toward immigrants has increased in many parts of Europe. Radically right-wing parties have achieved certain success in the Netherlands, Austria, Denmark, France, the eastern sections of Germany, Slovakia, and elsewhere. In all cases, their activism is closely linked to the effects of migration on ethnic relations. These issues have become particularly fraught since the international terrorist acts which have occurred since 2000 and the steps which have been taken in response to those.

Great Britain received hundreds of thousands of immigrants from Eastern Europe during the first two years after EU enlargement in 2004, and that is a country in which there have been increasing debates about the need to put the brakes on this influx of guest workers. Public opinion surveys call for much stricter immigration policies, and this is an issue which has become particularly important since it became clear that Bulgaria and Romania would join the EU at the beginning of 2007.

The British government insists that the guest workers promote economic development, but the British people are more likely to worry about the negative consequences of immigration. Immigrants are accused of pushing poorly qualified local residents out of the labour market, for instance. Local government officials in Britain warn that the influx of immigrants has made it hard to ensure public services for local residents. Local governments find that they must spend increasing sums of money on hospitals and schools. Greater numbers of English language teachers must be hired, for example, to teach the children of émigrés. *The Sunday Times* published a survey which showed that 77% of respondents would like strict limits as to how many immigrants are allowed to enter Great Britain each year.¹⁹

The extreme right wing of European politics always engages in racism and in attempts to use immigration for political purposes. Parties and movements of this kind include Lega Nord in Italy, Vlaams Blok in Belgium, the National Front of Jean Marie Le Pen in

¹⁸ International Organisation for Migration. World Migration 2005.

¹⁹ World Economic Forum. Wagstyl, S. (ed.), Eastern Europe, Financial Times, United Kingdom. Financial Times International Media Group, 7 May 2006.

France, etc. These movements are joined together by a dislike of immigrants and by efforts to simplify policies which are aimed at controlling such people.

Aging populations and increasingly open borders in Europe have increased racial segregation. Centre-left and centre-right parties have tried to ignore these problems in the vain hope that they will resolve themselves. The fact is that there have been two contradictory trends in many European countries and in the EU in the last several years. Intolerance is on the rise vis-à-vis immigrants and various minorities – Asians, Africans, the Roma, or all immigrants. In reaction to this, some countries such as Ireland and Great Britain have introduced stricter rules of naturalisation and citizenship. On the other hand, some countries and international institutions (the United Nations, the Council of Europe, the International Labour Organisation) are seeking new legal and public mechanisms to reduce trends of intolerance. Public opinion surveys suggest that many European voters feel threatened and unprotected.²⁰ People believe that the European social model has exchanged lower economic growth for greater social protections and less in the way of risk. It is clear what these people want – less immigration, a harsher attack against crime, greater economic opportunities, but also greater protection against economic risks and international competition.²¹

4. Regulation of immigration in the EU

The European Union was established with the goal of promoting internal migration among European countries so as to prevent labour shortages in certain sectors of the economy. The initial right to free movement, in other words, was based exclusively on economic considerations, and the process affected economically active citizens – working people, service providers and businesspeople. Migration within the EU, however, was not particularly extensive, because the citizens of developed countries saw little or no reason to move to another country. The right to free movement of young people, particularly students, was not harmonised throughout the EU. At the same time, migration from countries outside the EU was always significant in absolute numbers.

External migration appeared on the European Union's agenda in 1985, when agreement was reached on the introduction of mutual consultations concerning migration policies related to people from non-member countries.²² Some member states appealed the decision before the European Court of Justice, arguing that the Communities did not have any competence in migration issues. The court ruled against the petitioners, stating that Article 137 of the Treaty establishing the European Community (Article 118 before approval of the Amsterdam Treaty) created the disputed competence because of the fact that migration policies vis-à-vis non-member countries had an effect on the social policies of the European Community.²³ Since 1985, in other words, there have been

²⁰ "The End of Europe: Special Report", *Newsweek*, 3 May 2004.

²¹ *Ibid.*

²² 85/381/EEC: Commission Decision of 8 July 1985 setting up a prior communication and consultation procedure on migration policies in relation to non-member countries. OJ, L 217, 14 August 1985, pp. 25-26.

²³ 281, 283-285 and 287/85, Federal Republic of Germany and others v. Commission [1987].

ongoing conflicts in the European Union between those who try to protect sovereignty which should permit almost absolute freedom with respect to rules that are related to foreigners, and those supporting the need to create exceptions to this freedom of action in pursuit to the ability of the “European project” to function at all.²⁴

The Schengen Treaty offers a vivid illustration of these conflicts. The treaty emerged from disagreements among member states. The so-called core states of the EU – France, Germany, Belgium, Luxembourg and the Netherlands – decided to establish a common space without borders in 1985. An agreement on introducing the treaty’s requirements followed in 1990.²⁵ Another five years passed before all EU member states except for Great Britain and Ireland acceded to the treaty.

Even as the Schengen Treaty was being developed, there were also changes in other EU processes related to the free movement of individuals. In 1990, the European Commission issued three major directives to address the right of free movement of students, pensioners and people who can support themselves.²⁶

In 1992, the concept of EU citizenship was instituted in the Maastricht Treaty. The concept of citizenship did not have any specific content at first, and this is seen as an evolutionary, not a revolutionary concept. According to Joseph Weiler, a specialist in law, “[the concept of EU citizenship] will change not only because the understanding of state and nation is changing, but also, perhaps, because we are changing our understanding about ourselves and our identity.”²⁷ The Maastricht Treaty also established the so-called Third Pillar, which speaks to *inter alia* co-operation among member states in the area of migration. The pillar allows member states to take unanimous decisions on joint activities and to conclude international treaties.

Amendments to the Amsterdam Treaty were the next key impulse for the further development of migration law in the EU. The amendments stated that the section of the EU treaty which spoke to common policies in the area of immigration, refugee status and visas was to be moved from the Third Pillar to the First Pillar – the European Community. The Community was given the right to issue regulations concerning legal and illegal migration, border crossing, refugees and asylum seekers.²⁸ This helped to integrate the Schengen Treaty into the *acquis communautaire*, and migration policies became an EU issue.

²⁴ For a general review of EU migration law and issues related to same, see Guild, E. “The Legal Elements of European Identity: EU Citizenship and Migration Law.” Kluwer Law International, 2004.

²⁵ The norms of the Schengen Treaty and the *acquis communautaire* will not be reviewed separately in this paper. For more detailed analysis, see Groenendijk, K., Guild, E. and P. Minderhoud. “In Search of Europe’s Borders”, Kluwer Law International, 2003. For a review of EU migration law, see Guild, E. “The Legal Elements...”, *op. cit.*

²⁶ Directives 90/364, 90/365 and 93/96.

²⁷ Weiler, J. “Introduction to European Citizenship – Identity and Differentity”. In La Torre, M. (ed.). *European Citizenship: An Institutional Challenge*, pp. 13-24, p. 2.

²⁸ For a full list, see

http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_2006/scoreboard_en.htm. Last viewed 29 August 2006.

It was decided that steps related to migration were to be taken within five years after approval of the Amsterdam Treaty. Decisions on secondary acts required unanimous decisions by the European Council after consultations with the European Parliament. Qualified majority voting was approved only in relation to the visa regime (Articles 67.2 and 67.3 of the Treaty establishing the European Community), and a limited procedure on joint decisions was defined in Article 67.4 of the treaty. The five-year term was not applied to any decisions related to the rights of refugees, long-term residents and their family members (Article 63.2(b), 63.3(a) and 63.4 of the treaty) Since the Nice Treaty, with a few exceptions, all decisions must be taken on the basis of Article 251 of the Treaty establishing the European Community, which speaks to joint decision procedures. Despite this liberalisation of the decision-making process, the role of the courts in migration issues remained limited. Article 68 of the Treaty establishing the European Community says that only the highest-level courts in member states can ask the Court of the European Community for a prejudicial ruling. Alternatively, the European Council, the European Commission or a member state can dispute an act that has been approved.

Among other things, member states rejected a viewpoint that had been debated even before the Amsterdam Treaty was approved – that citizens of non-member states who had lived in the EU for five years must be given EU citizenship. Instead, member states argued that the status of the citizens of non-member states must be strengthened. This strategy from the European Commission was defined in the Tampere Programme which was adopted in 1999. It said that citizens of non-member states would receive additional rights even as the status of EU citizenship was strengthened. The main goal was to achieve so-called “near-equality” between EU citizens and those of non-member states.

After the Tampere meeting, the European Commission began to work on legal acts in all areas of immigration and asylum rights. A special “scoreboard” was established.²⁹ The Commission did effective work, but the European Council hindered several of its initiatives. This conflict grew harsher and harsher until a meeting of the European Council in Seville in 2002, when representatives of conservative member states took the upper hand, and the development of immigration rights basically ground to a halt. This was also seen in national legislation. Several countries amended their immigration laws substantially – Italy, Great Britain, the Netherlands, Germany, Spain, Greece and Portugal at first, and other countries afterward. The threat of international terrorism after the terrorist acts of September 11, 2001, also had a major effect on proceedings in this area.³⁰

A new compromise has been established on the basis of the Hague Programme, which speaks to the strengthening of freedom, security and justice in the European Union between 2005 and 2009. This serves as the foundation for further development in the area of migration. The new programme is a continuation of the Tampere Programme of 1999. The political goal is to ensure co-ordination among member states vis-à-vis issues of migration and the integration of legal migrants. The requirements of the programme

²⁹ *Ibid.*

³⁰ See Guild, E. *The Legal Elements...*, *op. cit.*, pp. 168-170.

are specified in an action plan which was approved by the European Commission and then, on June 2, 2005, by the European Council. A series of documents have been prepared in the context of this process.³¹ This means a *de facto* return to the Tampere position, because economic considerations at the European level have taken the upper hand over conservative and nationalist ideas.

Migration policies in the EU have been incrementally liberal so far, with rises and falls. The policies have never included any final goal which would allow the policy process to be completed in Europe. That is largely because migration policies largely remain national issues. One of the fundamental principles of international law is that no country is obliged to admit the citizens of other countries into its territory. It is only recently that international human rights principles have begun to provide exceptions to that principle. Here it can be argued that the EU has also introduced a special procedure vis-à-vis the citizens of non-member states who are resident in the EU.

5. The content of immigration law

In the area of **legal** and **illegal migration**, the European Commission has issued a whole series of communications, announcements, strategies and studies.³² The Commission is trying to fulfil the functions that were entrusted to it in the Treaty establishing the European Community while simultaneously monitoring the cautious reactions of member states. This means that the documents which have been prepared by the Commission are often quite chaotic. It is hard to trace the way in which they were developed so that a general view of the situation in the *acquis communautaire* can be established. It can be said that the starting point for Community policy is the declaration by the European Commission that there will be a rapid shrinkage in the EU's labour force after the year 2010. The Commission has stated that between 2010 and 2030, the EU will lose approximately 20 million workers.³³

The Commission has asked for an open and co-ordinated procedure in dealing with migration issues so as to define common goals at the European level. This co-operation relates to issues such as control over migration, the rights and integration of people from other countries, a common asylum policy, and co-operation with the countries of origin of migrants from outside the EU.³⁴

³¹ These deal with strategies related to basic rights and citizenship, refugee rights and immigration, integration, administration of borders, the fight against terrorism and organized crime, co-operation among legal institutions in civil and criminal cases, as well as co-operation among police agencies. A full list can be found on the "Scoreboard" page and at http://ec.europa.eu/justice_home/fsj/immigration/fsj_immigration_intro_en.htm. Last viewed 29 August 2006.

³² See the relevant sub-sections at <http://europa.eu/scadplus/leg/en/s1700.htm>. Last viewed 10 September 2006.

³³ Green Paper on an EU Approach to Managing Economic Migration, COM (2004) 811.

³⁴ Communication from the Commission to the Council and the European Parliament on an open method of co-ordination for the Community immigration policy, COM (2001) 387 final. A summary of this document can be found at <http://europa.eu/scadplus/leg/en/lvb/133155.htm>. Last viewed 10 September 2006.

First of all, the principle of “Community preference” will be in place when it comes to legal migration. Advantage in the field of employment will be given to EU citizens and to citizens of other countries who are permanent residents of the member states and are a part of the legal labour force. The Commission has recommended that the next group could be made up of citizens of other countries who are not permanent residents in the EU but are looking for work there.³⁵ When it comes to the further involvement of people from other countries in the EU labour market, it is important to engage in a new debate about the Commission’s proposals vis-à-vis a Council directive on rules concerning the entry of people from other countries into the EU and their residency rights therein if their aim is to find paid jobs or to engage in the activities of a self-employed person.³⁶ The Council gave only first reading consideration to that proposal at one time, and nothing further has happened with it since then. The Commission’s initiatives in the area of legal migration speak to long-term and multiple entry visas for economic migrants, as well as the establishment of a unified work permit for all of the EU’s member states. There are also plans to issue special permits to seasonal workers from non-EU countries. These would allow such people to spend a certain amount of time in the EU each year, and they would be issued for a five-year period.

The Council has decided to implement a procedure of mutual information vis-à-vis steps which member states have taken in relation to refugee rights and migration.³⁷ This initiative represents a continuation of an initial decision on information exchange back in 1985, and the aim is to ensure that no individual member states take decisions which could have an effect on other member states. This is a reaction to Spain’s decision to legalise its migrants in 2005 – something which was harshly criticised by Germany and the Netherlands.

Second, one of the most important aspects of the migration issue is the integration of people from other countries. At a meeting of the European Council at Saloniki in June 2003, it was decided that work must begin on joint principles related to integration policy. The Commission has prepared a special programme to promote integration.³⁸ The programme is based on the Hague Programme, the conclusions presented by the Council on Judicial and Internal Affairs on November 19, 2004, and the existing principles on integration. The Commission has stressed basic EU values, the process of mutual acceptance among migrants and EU citizens, the importance of education and knowledge of the language, history and institutions of the country of residence, etc., thus expanding the traditional understanding of integration. It has particularly emphasised, for instance, the need to eliminate discrimination in the area of employment, ensuring access to institutions, services and goods and guaranteeing the participation of immigrants in democratic processes and integration policies. The Commission has also planned to publish a handbook on integration which will speak to information exchange and

³⁵ Green Paper, *op. cit.*

³⁶ COM 2001) 386 OJ C 332 E 27 November 2001.

³⁷ Communication COM 2005) 480, 10 October 2005.

³⁸ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of Regions of 1 September 2005. “A Common Agenda for Integration, Framework for the Integration of Third Country Nationals in the European Union”. COM 2005) 389 final.

guidelines for active integration policy.³⁹ References to integration processes and rules which are mandatory for third-country citizens can be found in all new directives that have been approved in the context of Chapter IV of the Treaty of the European Community. Member states retain freedom of action in demanding that people from other countries merge into the relevant society by learning the national language, culture and history. The EU, however, can also demand that member states avoid any discriminatory norms vis-à-vis people from other countries in the labour market.

Third, the central issue related to border crossings, visas and illegal migration is the Schengen Information System, which has been delayed for technological reasons. Also important are the countries which are still planning to join the Schengen regime. When it comes to border guard facilities, the FRONTEX agency for co-operation in managing external borders has been in place since 2005. Its job is not to monitor borders, but instead to provide co-ordination and risk management.⁴⁰ This will make it possible to mobilise EU member state forces to strengthen border control processes when crises occur.

A great deal of work has been done to form a common system of asylum. Since 1999, the Commission has issued 11 communications on various aspects of asylum and refugee issues. Four directives and three regulations have been adopted.⁴¹ These documents speak to harmonisation of the way in which refugee status is granted, specification of the responsible country, and minimal standards related to those who seek asylum. The plan is to complete work on this common system by the year 2010.

The struggle against illegal migration is an important aspect of EU policy, all the more so because there are no border controls among the Schengen countries. Illegal migration, therefore, affects nearly all of the EU's member states. In 2001, the Commission distributed recommendations on how to fight against illegal migration.⁴² In 2005, the Commission submitted a packet of draft directives to the Council and Parliament with respect to the fight against illegal migration, and these were drafted on the basis of the initial proposals, as well as the Hague Programme.⁴³ It must be said that there is greater unanimity among member states with respect to the battle against illegal migration, complete with expulsion and security procedures, than there is in the area of legal migration and asylum policy.⁴⁴ It can be predicted, therefore, that strict criteria in this sector will be introduced quite quickly. In addition, the Commission and Council are also

³⁹ See Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on immigration, integration and employment, COM (2003) 336 final. See also Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of Regions – First Annual Report on Migration and Integration, COM (2004) 508.

⁴⁰ Chiarrà, F. and B. Nascimbene. "EU Political Trends". In Casareo, V. (ed.). The Eleventh Italian Report on Migration 2005. Monza, Italy: Polimetrica International Scientific Publisher, p. 69.

⁴¹ See http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm.

⁴² Communication on a common policy concerning illegal immigration COM (2001) 672, 15 November 2001.

⁴³ COM 2005) 391, 1 September 2005.

⁴⁴ Chiarrà, F. and B. Nascimbene, *op. cit.*, p. 74.

working on various aspects of voluntary repatriation of illegal migrants, as well as issues related to human trafficking.

Fourth and finally, the EU is also planning to activate co-operation with other countries, particularly in terms of developmental co-operation. This will involve issues such as human rights, institutional issues of good governance, migration, asylum rights, terrorism, organised crime and management of borders.⁴⁵ Particular attention in this regard is devoted to the EU's neighbour policy, as well as to the countries of North Africa.⁴⁶ The Council's new policy on international agreements says that each agreement must make reference to a process of return. EU policy vis-à-vis other countries, therefore, is dual. It speaks to developmental co-operation to improve living conditions in those countries so as to reduce the flow of illegal migrants, but it also refers to the need for countries to accept the return of illegal migrants. This leads to guarantees as to further development of controlled migration policies.

This brief review does not list all acts and initiatives, but it does demonstrate the thorough approach which the EU is taking toward migration issues, looking also at general trends in this area. At the EU level, it is clearly understood that migration is necessary, but far greater unanimity among member states is seen in the area of illegal, as opposed to legal migration. In the latter area, it takes longer to reach agreement on positions and specific documents. As the EU forms its internal space, it must remember that migration policies vis-à-vis other countries must also be unified. The situation right now is one in which it is impossible to avoid crises which affect just a few countries, because the member states are operating on the basis of the principle of "nesting dishes". This, in turn, demands that sensitive aspects of migration be transferred to the EU's competence.

When it comes to the **rights of people from third countries**, there must be identification of the instruments which have a direct effect both on their rights and on the indirect opportunities which they can enjoy. The first opportunity to gain rights is to become a citizen in an EU member state. In the *Micheletti* case, for instance, the court ruled that it is of key importance for the relevant country to recognise the individual as a citizen.⁴⁷ Citizenship in another country cannot be disputed even if the person has never lived in the EU and does not have any links with his or her country of citizenship. The *Micheletti* case was one in which someone who held both Italian and Argentine citizenship won the rights of EU citizenship. Micheletti was a doctor who travelled from Argentina to Spain to launch his practice.

Once someone is an EU citizen, family members receive the right of residency. Here we can refer to the *Chen* case,⁴⁸ in which a Chinese couple living in London decided that their daughter would be born in Ireland, in which the absolute *ius soli* principle was in

⁴⁵ COM 2005) 309, 1 September 2005 and COM 2005) 491, 12 October 2005.

⁴⁶ Communications concerning "Action priorities to answer immigration challenges. First action taken after the Hampton Court Meeting": COM 2005) 621, 30 November 2005.

⁴⁷ Case C-369/90, *Micheletti* (1992).

⁴⁸ Case C-2002/02, *Chen and others* (2004).

place at that time. The baby automatically became a citizen of Ireland and the EU. The daughter's EU citizenship, in turn, meant that her parents had the right of residency in the EU. Similarly, the case called *R. and Baumbast*⁴⁹ allowed a US citizen to gain the right of residency in Great Britain. She was divorced from an EU citizen and was raising his children, who were also EU citizens.

The right of the family members of EU citizens to live in the EU will improve thanks to Directive 2004/38/EC, "on the right of citizens of the Union to move and reside freely within the Member States." Implementation of the directive's requirements ended on April 26, 2006.⁵⁰ The European Court of Justice has heard several cases related to citizens of non-member states who are family members of EU Citizens. The court has based its rulings on Article 8 of the European Convention of Human Rights to produce a liberal interpretation of the relevant requirements.⁵¹ The process of integration in Europe has entered a new phase right now, and migration is based on citizenship, not economic activity. Family members of EU citizens are gaining more distinct status. Basically, the directive confirms the rulings of the European Court of Justice when it comes to the rights of people from third countries.

Another opportunity for people from countries which are not EU member states to achieve legal residency in the EU is for them to be employed by a service provider from an EU member state or some other country.⁵² This is short-term residency which depends on the specific situation with the individual's employment, but the fact is that such people may continue to live in the EU, whether legally or illegally. One must also mention the rights of the citizens of non-member state countries which are stated in the EU's association agreements. The new rules of the EU speak to at least some efforts to harmonise the process, but in certain cases more far-reaching international agreements will be in place. It is hard to identify all of the possible cases, but it is clear that Turkey's agreement with the EU ensures a more favourable regime for the citizens of Turkey than that which is identified in the standards of the new directive – and that is partly thanks to the decisions of the relevant Association Council.⁵³

As a result of amendments to the Amsterdam Treaty, the Council has so far approved four fundamentally important directives with reference to third country nationals and their status and rights. The two which are most all-encompassing are Directive 2003/86/EC on the right of family reunification (implemented as of October 3, 2005), and

⁴⁹ Case 413/99, *R. and Baumbast* (2002).

⁵⁰ OJ L, 158, 30 April 2004, p. 77. The directive amends Regulation 1612/68 and repeals directives 64/221/EEC, 68/36/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

⁵¹ See, e.g., Case C-370/90, *Surinder Singh* (1992), C-60/00, *Mary Carpenter* (2002), C-109/01, *Akrich* (2003).

⁵² C-113/89, *Rush Portuguesa Lda* (1990), C-43/93, *Vander Elst* (1994).

⁵³ Here we must remember the progressive interpretations of the European Court of Justice vis-à-vis partnership agreements. See C-265/03, *Simmutenkov* (2005). For a discussion of how the Turkish agreement is to be interpreted vis-à-vis the new directives, see Groenendijk, K. "Citizens and Third Country Nationals: Differential Treatment or Discrimination?" In Carlier, J-Y. and E. Guild (eds.). *The Future of Free Movement of Persons in the EU*. Bruylant (2006), pp. 79-103.

2003/109/EC on the status of third country nationals who are long-term residents (January 23, 2006).⁵⁴ The directives speak to the status of people who do not want to become citizens of an EU member state either because the laws of their home country do not permit this or because it would make it more difficult for them to return to their country of origin for a shorter or longer period of time. The directives will also make it possible for such people to move freely in the EU, albeit with limitations. This is something which was not even guaranteed by association agreements. Finally, family reunification is now defined as a right in and of itself, not as an exception to migration rules in the context of human rights.

Directive 2003/109/EC speaks the process which is defined in the Tampere Programme – bringing the status of non-member state citizens closer to that of EU citizens. The directive was approved after a great deal of compromise, and several of its norms allow member states to act quite freely. Before non-nationals can receive their status, they must satisfy a series of requirements which have been formulated quite generally – stable and regular income which is sufficient to avoid having to use social aid; health insurance; an appropriate residence; valid documents and registered and regular residency in the member state for at least the previous five years. The right of member states to demand that third country nationals observe national rules related to integration is among the most controversial aspects of the directive. The norm is so general that member states have *carte blanche* rights in this particular regard.⁵⁵ The directive also does not include so-called “standstill clauses” which demand that member states must not worsen the situation of third country residents. From the perspective of material rights, the central element of the directive is Article 11, which speaks to equal attitudes toward non-member state citizens and member state citizens in areas such as access to the labour market, work conditions, availability of education, recognition of diplomas and qualifications, social assistance, etc. The directive also speaks to those cases in which third country citizens have the right of movement in the EU.

In this sense the directive observes the “Community preference” principle, which says that member states give preference to EU citizens and others who already reside in the country, only then allowing non-member state citizens to arrive from other EU member states. The directive allows third country nationals to access the labour market in the entire EU, but the fact is that those opportunities are quite circumscribed. It is only in the area of social security that everyone’s rights are the same. This is the result of Regulation 859/2003, which offers the same social security advantages to third country residents as to EU citizens – rights defined in Regulations 1408/71 and 574/72. Non-member state citizens also are affected by two non-discrimination directives – 2004/43/EC⁵⁶ and 2000/78/EC.⁵⁷ The effectiveness with which the requirements of these

⁵⁴ Directive 2003/109/EC is published in *Official Journal*, L 016, 23 January 2004, pp. 44-5, and it has been in force since the date of publication in all EU member states except the UK, Ireland and Denmark.

⁵⁵ Halleskov, L. “The Long-Term Residents Directive: A Fulfilment of the Tampere Objective of Near Equality?”, *European Journal of Migration and Law*, No. 7, 2005, p. 186.

⁵⁶ Council Directive 2004/43/EC, which introduces equal attitudes vis-à-vis individuals irrespective of race or ethnicity, 29 June 2006, OJ L 180, 19 July 2000, pp. 22-26.

⁵⁷ Council Directive 2000/78/EC, which defines a system related to equal attitudes in the fields of employment and professions, 27 November 2000, OJ L 303, 2 December 2000, pp. 16-22.

directives are introduced depends in large part on how certain articles in the documents are interpreted. Also of importance are relations between member states on the one hand and other organisations such as the International Labour Organisation and the Council of Europe on the other. In certain cases, standards related to specific rights are higher in those organisations than in the EU.

Directive 2003/86 liberalises and makes clearer the process of family reunification while also strengthening the duty of third country nationals to observe integration rules or procedures.⁵⁸ The directive applies to those non-member state citizens who have received residency permits in the EU which are valid for one or more years, provided that they have the potential of receiving a permanent residency permit and that their family members are citizens of other countries. This means that member states can issue residency permits for periods such as nine months, thus excluding some non-member state nations from the requirements of the directive. Family members are spouses and minor children, including children who have been adopted. In spite of the fact that member states have quite a bit of freedom in how all of these rules are applied, the European Court of Justice recently ruled that the directive is fully in line with human rights and that in implementing it, member states must take into account such human rights instruments as the European Convention on Human Rights, the Convention on Children's Rights, and the EU Charter of Fundamental Rights.⁵⁹ In accordance with the directive, the maximum amount of time which a member state can define before family reunification is permitted is two years. A non-member state national who asks for family reunification must prove that he or she can support the family – health insurance and stable and regular income.⁶⁰ Member states can refuse the entry of family members who threaten public safety, order or health, but they cannot automatically do so just because someone is on the Schengen countries' list of undesirables. The European Court of Justice has ruled that even if someone is on that list, the relevant member state must reassess the level of threat.⁶¹ The directive, *inter alia*, ensures the family's rights to education, employment, entrepreneurship, additional training and retraining.

There are also several directives which have recently been adopted with respect to specific sectors. There is one which applies specifically to scientists – 2005/71/EC.⁶² The directive makes it easier for non-member state citizens to enter the EU for the purposes of scientific research. This directive is closely linked to the goals of the Lisbon Strategy, which says that by 2010, the European economy must be the most competitive and knowledge-based economy in the world.

⁵⁸ See Articles 3, 4, 12 and 15 of the Preamble, Sections 1 and 5 of Article 4, and Section 2 of Article 7. For a more detailed review, see Groenendijk, K., "Family Reunification...", *op. cit.*

⁵⁹ Case C-540/03, *Parliament v. Council*, 27 June 2006.

⁶⁰ For details about this, see John, A. "Family Reunification for Migrants and Refugees: A Forgotten Human Right?" See http://www.fd.uc.pt/hrc/working_papers/arturojohn.pdf.

⁶¹ C-157/03, *Commission v. Spain*, 9 November 2004.

⁶² Council Directive 2005/71/EC, specifically devised for the admission of citizens from third countries for scientific research purposes, 10 October 2005, OJ L 289, 3 November 2005, p. 0015. There are also two recommendations – 2005/761/EC and 2005/762/EC which speak to short-term visas for researchers who wish to work in the European Union. The recommendations basically indicate that the norms of the directive should be implemented right away.

Council Directive 2004/114/EC, which was approved on December 13, 2004, speaks to the admission of non-member state residents for the purposes of studies, student exchanges, internships or unpaid apprenticeships, or volunteer work.⁶³ This directive applies only to those students who do not qualify under the terms of other directives. Students must have valid documents, parental permission if they are minors, health insurance and enough money for tuition. They must not threaten public security, public order or public health. This is a directive which seeks to harmonise rules, but relevant doctrine criticises the approach which is based on specific sectors and limitations. Doctrine also criticises the fact that family members are not allowed to join the students who apply under the terms of the directive.⁶⁴

These four directives represent an important step toward harmonising the rights and status of non-member state nationals in all member states and in granting them additional rights. There are several problems which must be noted, however. First of all, the directives do not use the same terms as those which apply to the rights of EU citizens. Member states can apply various rules to each right, which suggests that the goal of the Tampere Programme – to approximate the rights of third country nationals to those of EU citizens – has only been achieved in part. Second, the Achilles' heel of the directives is that there are integration-related requirements which member states may apply. Assuming that many non-member state nationals do not apply for citizenship in EU member states specifically because of these detailed and strict rules, the same situation may exist with respect to the status of permanent residency if similarly strict requirements are levelled. Third, the effective implementation of the directives will depend on how strictly the process is monitored by the relevant EU institutions. The minimal role of the European Court of Justice is a problem here. The Commission has drafted amendments to Article 68 of the Treaty to establish the European Community to say that when it comes to Chapter IV of that treaty, any national court can seek a prejudicial ruling from the European Court of Justice. Remembering the role of the court in establishing the system of EU law during the early phase of European integration, we can say that these amendments would be a fundamental prerequisite for the effectiveness of migration rights in the EU.

⁶³ OJ L 375, 23 December 2004, pp. 0012-0018.

⁶⁴ For detailed analysis, see Peers, S. "Key Legislative Developments on Migration in the European Union", *European Journal of Migration and Law*, No. 7, 2005, pp. 87-118.

LATVIA

Latvian immigration policy in comparison with other EU countries is strict and conservative. The main goal of Latvian immigration policy since beginning of 90ties has been protection of national labour market. This policy has been effective because obviously the national labour market is protected and now one of the most important problems for Latvian business is the shortage of the labour force. In Latvia foreigners represent approximately 33 thousand or 1.4% of the total population. Is it time to change Latvian immigration policy in the context of EU developments? There is no simple answer but several assumptions should be taken into account. Strategic goal is to reach the EU average living standards in 10-15 years. It means Latvia will need very dynamic economic growth in the nearest future. The shortage of labour force might slow down economic development and achieving the goals.

Latvia as many EU countries is experiencing negative natural increases in the native population. Experts in Latvia recently predicted that the country's population could drop by as much as a half by 2050. Latvia has Europe's lowest birth rates. In 5-7 years labour market will face the consequences of the demographic crisis of the middle of 90 ties. This is another problem for Latvian business future. Latvian labour market has a lot of internal problems – hidden, illegal and undeclared employment which promotes the shadow economy. Its size is approximately 20%. Meanwhile Latvian labour market has problem of social discrimination which is one of the reasons why so many Latvians already have left this country. The immigration itself will not be a solution. Public opinion is against changes of immigration policy. According to the Eurostat Latvia has one of the most negative public opinions regarding immigration. Up to 75% considers that Latvia does not need any changes. It is common among Latvians, Russians, citizens and non-citizens.

Choosing the strategies of immigration policy there always will be certain risks and opportunities. Latvia has advantage to plan immigration policy addressing the key problems not to react to the immigration process itself. In the EU debate there is popular topic about promotion of legal immigration and its correlation with social integration. Latvia in 1991 had a challenge to deal with more than 700 000 residents representing Soviet labour force in Latvia. Overall the social integration process even if it has not been perfect allowed to avoid the ethnic violence, development of extreme and radical organizations so promoting democratic and balanced policy. Probably this process might be Latvian contribution to the European debate.

After having joined the European Union, living standards in Latvia will rise and income and price differentials will decrease, leading to a slow down in outward migration. The country might also become more attractive for immigrants. Migration patterns are already changing. Central and Eastern European countries – Poland, Hungary, the Czech Republic, and Slovenia – have already begun turning from mere emigration countries to countries of emigration, transit, and immigration at the same time. The same will apply for Latvia because geographical proximity, family ties, and compatriot networks will be the crucial factors making the Baltic States a popular destination. For the most part

according to surveys, Latvia is unprepared for such an influx.

Currently, Latvia does not have a large number of immigrants. As the population ages but the birthrate remains low, in the near future Latvia will have to rely on immigrants to sustain economic growth. On the other hand, there are other factors determining critical attitudes towards immigration – mainly social integration and security issues. Underlying tensions between "traditional" Europeans and immigrants over cultural differences have led governments to encourage "cultural integration" rather than multiculturalism. EU states including Latvia will have to address concerns such as these on the part of their native citizens if they are to encourage the immigration that will keep their countries economically viable. The Latvian case might be even more complicated because the government already has problems with the implementation of the social integration programme for the Russian speaking population.

1. General information on immigration process in Latvia

The number of foreigners who have entered Latvia since joining the EU has not changed significantly – it has risen only by approximately 1,000 permits. The tendencies are the same in comparison with statistics from 2003 and 2005 when numbers increased by 836 persons within two years. Within a year the number of foreigners who received residence permits in Latvia was in total 3,000. Most often residence permits have been issued in cases of family reunification, study, and work but permanent residence permits. For instance, the number of employed foreigners in Latvia in 2005 in comparison with 2004 has risen by 54 per cent.

During period 1 May 2003 to 30 April 2004, 5,286 persons received a permanent residence permit and 5,469 received a temporary residence permit. After joining the EU, 5,874 permanent and 6,328 temporary residence permits have been issued. The number of visas issued has steadily decreased. Thus, during the period 1 May 2002 to 30 April 2003, 146,044 visas were issued. After joining EU, this number dropped to 131,106.

2. Identified problems in Latvian labour policy

In order to reduce social discrimination, it is important to strengthen labour inspectorates to facilitate their effectiveness. It is necessary to introduce a differentiated sanction system, i.e., differentiation of individual penalties – by analysing the scope and frequency of an infringement, assessing the possible losses from such infringement. At the same time, a labour inspectorate should act not only as a repressive authority that uncovers infringements and imposes a penalty for such infringements, but also as an institution that consults employers and employees.

In labour legislation, corresponding changes in tax policy would also help to solve the situation, because currently each LVL added to an employee's wage costs twice as much to the business due to the tax system. At the same time, norms of labour legislation require changes related to employee obligations, duties and rights. Employers need state support for investments in improving the quality and qualification of human resources, which the liberalisation of the current Labour Law could promote.

A greater number of new jobs should be created by implementing a strategy that is based on the reduction of the costs of business activities and the creation of a flexible labour market. It is necessary to eliminate the main obstacles that hinder the establishment, operation and growth of new businesses in order to promote investment and creation of new jobs. The business environment should be improved by reducing bureaucratic restrictions in order to stimulate more individual economic initiatives. It is necessary to review tax policy, reduce administrative barriers, as well as facilitate support to small and medium-sized business (through EU Structural Funds, ensuring free consultations, for example).

An encouraging attitude toward individuals, or groups thereof, who wish to start a business should be promoted. In comparison to other EU member states, the process of starting a business in Latvia is more complicated, which is why administrative barriers, tax policy, lack of support impedes the persons who start up small or medium-sized businesses, as well as the self-employed persons.

It is in the interests of businesses and employers to plan a long-term labour policy. In conditions where there is a shortage of employees in the labour market, it is vital to search for new economic sectors and promote the re-orientation of businesses in order to increase labour productivity and added value. In this area, it is also important to facilitate the domestic mobility of persons, goods and services within Latvia. For businessmen, it is important to promote special informative support programmes that are geared toward the exchange and popularisation of business experience, for example, the so-called mentoring programmes.

Active civic society and the development of social dialogue, especially at the local government level, are important factors in ensuring an even development of Latvia's regions and local governments. A successful co-operation of employees, employers and the executive branch of a local government facilitates a predictable development of business environment. Social dialogue is a way to reduce social discrimination which is a significant factor that motivates emigration.

The protection of labour rights and employee interests in Latvia is on a relatively low level. It is important to develop the influence of trade unions, especially in relations with employers (so far, in Latvia, trade union activities are associated with demands against the state). Trade unions have opportunities to engage themselves more effectively in the improvement of wages and working environment. It is vital to promote the practice of collective labour agreements, defending employee interests and rights. The Employers' Confederation of Latvia should encourage legal operation of employers and promote high labour culture in the employer-employee relations.

3. Illegal employment in Latvia

Any assessment of aggregate employment trends must take into account the possible extent of hidden employment and hidden unemployment (or "under-employment"). Estimates by Latvia's Central Statistics Bureau put the informal economy at 16 per cent of Latvia's GDP, while Latvia's Finance Ministry has estimated the level of hidden

employment to be 14-20 per cent. However, labour force surveys, based on interviews with a sample of the population, are more likely to identify various forms of marginal employment than is the case with other sources of employment statistics such as administrative data or surveys of firms. Hidden unemployment occurs in enterprises that are stagnating or operating below capacity, forcing employees to work shortened working weeks or forcing employees to take unpaid leave in the case of production stoppages.

In Latvia, illegally employed persons are considered to be inhabitants who have not formalized their legal relations in writing (labour contract not signed, social insurance contributions and personal income tax not ensured) and aliens who work in Latvia without work permits. Undeclared employment is a more extensive concept that includes non-payment of taxes, remuneration paid “in envelopes”, non-payment of compensation for overtime and work carried out at night. At present, the notions of “illegal” and “undeclared” employment are used interchangeably because contraventions in regard to work without labour contracts and negligence of wage regulations are counted together.

According to information from the State Border Guard, most workers arriving from third countries are employed in construction, many illegally. Illegal employment also exists in childcare as well as in entertainment and sports. In 2005, the State Border Guard caught only 21 workers who were employed illegally, mainly from the Russian Federation (10). In comparison, during the first two months of 2006, 209 workers in 108 enterprises were caught working without a contract. The estimated number of illegal workers is higher.

One of the most negative tendencies is an increase of illegal employment in the Republic of Latvia since it has joined the EU. Illegal employment negatively affects both the economic development of the Republic of Latvia and the social protection and safety of each inhabitant. Therefore the struggle against it is one of the SLI's priorities.

According to the official data of SLI Data from 2005 shows that during the last year illegal employment cases were disclosed in every fifth enterprise inspected by the SLI.

In 2005 the State Border Guard and the State Labour Inspectorate intensified controls on illegal employment. The Latvian State Labour Inspectorate employed 121 inspectors. In 2005 their detected 936 illegally employed persons. During the first four months of this year, already 536 persons without an employment contract have been detected.

In 2006, the SLI plans to conduct 4,500 inspections in enterprises with a heightened risk of illegal employment, such as building, wholesale, and retail companies. During the first five months of the year 2006, the SLI in cooperation with the State Border Guard inspected 68 enterprises and disclosed 66 infringements when employees were employed without written employment contracts. In total, during the first five months of the year 2006, the SLI has inspected 1,626 enterprises in which 695 employees had no legal labour relations. The most problematic economic sectors in Latvia are forestry, construction, and services (including trade, cosmetic services, and public transport services).

According to official information, illegal employment of third country nationals in Latvia is not a significant problem on the political agenda. In comparison with other EU Member states immigration numbers in Latvia are low. On the one hand, this can be explained by a restrictive immigration policy defined by national legislation to protect the national labour market. On the other hand, the social assistance system in Latvia is not

attractive for third country nationals. According to official information and data from the Latvian Employers' Confederation, the level of illegal employment of third country nationals is very low. However, the level of hidden employment and informal economy is rather high. Research shows that hidden employment basically concerns the local residents of Latvia. National legislation has not been sufficient to limit hidden employment and the lack of administrative capacity is an important obstacle for effective employment policy. Thus the problems in the Latvian labour market have a certain potential for raising the issue of illegal employment of third country nationals in future.

4. Latvia's internal and external choice

As an EU member state, Latvia has vast opportunities to take part in the development of EU immigration policy. Theoretically, there are two basic choices – either Latvia opposes efforts to increase legal migration in the EU, or it supports that process and takes part in its management. Latvia's positions vis-à-vis the further development of EU legislation will be based on that particular choice.

On the one hand, Latvia's foreign policy position for the period between 2006 and 2010 and a document which defines Latvia's basic principles, goals, priorities and activities in terms of EU membership from 2007 until 2013 both say that Latvia supports the goals of the Hague Programme.⁶⁵ This means closer co-operation in internal and judicial affairs. The documents state that it is in Latvia's interests to make an investment in the EU's legal migration policy, because Latvia "wishes to prevent any disintegration in EU policy." On the other hand, the Justice Ministry is "cautious in its evaluation of the goals of the Hague Programme and wishes to review them." The Latvian Foreign Ministry has issued a document called "The Most Important Issues for Latvia During the Finnish Presidency of the EU", and in it the ministry says that Latvia "is cautious vis-à-vis proposals about the transfer of qualified majority votes to interior and justice affairs." Latvia has looked at ways to improve the effectiveness of decisions making in the Council, and it proposes that in reviewing the Hague Programme, realistically achievable and politically motivated goals should be defined.⁶⁶ This means that Latvia has not defined its interests in the area of migration when it comes to EU policy, and so it is offering inconsistent and contradictory views.

A lack of co-ordination among the relevant institutions is one reason why Latvia has problems with planning legal immigration policy and becoming involved in the development of EU policy. Immigration policies are handled by five different government ministries, and that has much to do with the lack of co-ordination. One example of how inter-ministerial co-operation is less than effective is the issue of the roots of immigration and integration in EU member states. As was noted before, the approach of EU member states to immigration is very closely linked to issues of integration in society. That is why the European Commission has prepared its annual "Report on Migration and Integration", taking member state interests into account.⁶⁷

⁶⁵ See www.mfa.gov.lv for the Foreign Ministry's foreign policy positions.

⁶⁶ See www.tm.gov.lv for the Justice Ministry's views on the Hague Programme.

⁶⁷ <http://www.politika.lv/index.php?f=1011>, SEC (2006), 892, 30 June 2006.

Latvia is the only member state which did not take part in the preparation of that report, and that is not insignificant. This indicates that no government institution in Latvia has reacted to the need to analyse immigration and integration issues in the EU.

Latvia's government has consistently defend the need for strict immigration policies, but given the EU directive on the statue of third country nationals, the state has not issued strict regulations in the social sphere or the area of integration. Latvian law is quite liberal, in fact, if compared to laws in other EU member states.

Latvia's activities in terms of EU policy are also influenced by objective factors. Even though Latvia regained its independence in 1991, the first qualitative and quantitative studies of the labour market, mobility, illegal employment and other immigration-related issues to be conducted at the national level and with the help of the EU Social Fund will be available only in 2007. It is also true, however, that Latvia has significant advantages in comparison to Western European countries in this regard. Western European member states are forced to deal with the consequences of former migration policies. Latvia, by contrast, is not a destination for immigrants, and that makes it possible for Latvia to develop policy in a timely way and in the context of EU trends. Latvia has experience from the Soviet period in terms of public integration, and that can be used in relation to potential immigrants in the future.

If Latvia's interests at the EU level are to be consistent and defensible, it is important to make internal choices about migration policy. Latvia's choices are based on various strategic documents which speak to the need to achieve the average standard of living in the EU in the medium term. The length of this period differs in various studies and forecasts, but this is a point of reference at this time for development of the country. This also applies to the national economy and to various aspects of employment.

An open economy is important in Latvia if the EU level is to be achieved at some point, and so far it has ensured rapid growth. Latvia exports products to more than 80 countries on six continents, and exports of goods and services represent nearly one-half of GDP.⁶⁸ This is one of the highest proportions in the EU, and it means that Latvia's economy is very open indeed. Latvia's economy is also open in the context of financial markets. This makes it easier to receive foreign loans for investment projects, and that has promoted economic growth. Latvia has been open to foreign direct investments – foreign-held properties and foreign investments in the national economy.⁶⁹ The ongoing inflow of foreign capital shows that Latvia's economy is attractive to investors. Latvia is well integrated in the international flow of goods and services and capital, but it has not yet become integrated in the fourth of the EU's so-called four freedoms – the movement of people.

If the structure of manufacturing in Latvia remains unchanged, GDP in Latvia could increase by approximately 2.6% per year even if the availability of capital and employment does not change. Bank forecasts in Latvia indicate that the labour supply is

⁶⁸ Central Statistical Board, 2005.

⁶⁹ LETA-EPI data.

going to shrink, and if increased capital does not compensate for this, the economy will shrink. The most optimistic forecast from the Hansabanka bank is that the labour force will shrink very slowly over the next five years – expansion of 1% in 2006, but then shrinkage of 0.1% in 2007 and 0.7% in 2010.⁷⁰

This forecast is based on the assumption that local residents will become more actively involved in the labour market and that some 40,000 economically active people will emigrate from Latvia by 2010. Capital volumes could theoretically increase to a sufficient degree to neutralise the effects of this shrinkage in the labour force, but the truth is that emigration numbers may be higher. The Bank of Latvia, for instance, has argued that the first wave of emigration is not yet over.⁷¹ Over the next 10 years, according to the central bank, 200,000 economically active people will leave. Capital increases of any level would not compensate for this shock to the availability of labour. Calculations based on manufacturing functions show that GDP would drop by 12% in comparison to a situation in which there is no emigration at all. Competition over workers has increased between Latvia and other countries, but also among various sectors of the economy within Latvia. According to research conducted by businesspeople and banks, the administrative framework for immigration at this time is out of line with the market situation. This, according to various studies, creates greater macroeconomic risks.⁷²

The deficit in the labour force can significantly hinder Latvia's ability to achieve the average EU standard of living. Unemployment indicators are dropping in Latvia, labour costs are rising, and the availability of labour is shrinking. Latvia's rapid economic growth is largely driven by enhanced labour force productivity. Average productivity in 2005 was at approximately 48% of the figure in the EU 25. Assuming that the manufacturing function retains structural stability and the number of employed people does not change, we can calculate that the labour force productivity levels of Latvia and the EU 25 will even out in 15 or 16 years (with the EU 25 figure increasing by an average of 2% a year). A rapid decline in labour availability can threaten macroeconomic stability and productivity convergence with the EU 25.⁷³ This means that national management of immigration processes, Latvia will not achieve its strategic goal of achieving the average standard of living in the EU.

Despite the increased birth rate in Latvia over the last several years, depopulation is continuing. Over the next five to seven years, people born in the 1990s will enter the labour market, and at that time the fertility rate was very low. Latvia will face a serious labour shortage. It is expected that the greatest loss will be experienced in terms of the number of working age residents – 15% fewer than last year. By 2020, Latvia will have approximately 1.6 million residents aged 15 to 74.⁷⁴

⁷⁰ “Vai Latvijai darbaspēka imigrācija?” (Labour Force Immigration for Latvia?), Hansabanka analytical discussions, 12 June 2006.

⁷¹ Bank of Latvia research, 12 April 2006.

⁷² “Vai Latvijai...”, *op. cit.*

⁷³ *Ibid.*

⁷⁴ Central Statistical Board, Latvian Statistical Annual, 2005.

International credit ratings agency Standard & Poor's is calling on Latvia to conduct reforms so as to deal with the aging of the population and the effect which this will have on the country's fiscal situation. Otherwise, S&P warns, the country's credit rating could be lowered. In a 2005 report, the agency says that global aging is a problem which will affect Latvia, too. The proportion of middle-aged people in Latvia could increase from 39.5% in 2005 to 50.5% in 2050. The proportion of people aged 65+ could increase from 16.5% now to 26.1% by 2050. The proportion of working-age people could decline from 69% to 59%, and overall population losses are also forecast. The population last year was around 2.3 million, but by 2050 it might drop to just 1.9 million. Standard & Poor's indicates that changes in the age structure of society can have various effects on the country.⁷⁵

Without reforms in Latvia, pensions will be equal to 8.2% of GDP in 2005, as opposed to 6.4% at this time, and health care will cost 6.2% of GDP as opposed to 5.2% right now. Expenditures related to the aging of the population could increase from 12.3% of GDP to 16.5% of GDP in 2050. Standard & Poor's predicts that in that case national budget spending will increase to 46% of GDP. Government debt might increase to 128% of GDP in 2050, and the budget deficit could be equal to 10.8% of GDP. A deterioration in the fiscal situation could mean a lower credit rating for Latvia – the “A-” level which exists at this time would not be appropriate in the forecast situation.⁷⁶ All of this suggests that the aging population will be added to the labour force shortage as an obstacle against achieving the average EU standard of living.

Businesspeople in Latvia are increasingly worried about the labour shortage. This is a particularly significant problem in construction, retailing and health care. Demand outstrips supply in all of these areas, and this is a problem which can have a very deleterious effect on regional development. Even the local governments in Latvia's largest towns and cities cannot find labour resources for their economic projects.⁷⁷

The Latexpo exhibition company interviewed 13 personnel selection companies and 32 employers in Latvia and found that there is a shortage in Latvia of well-paid jobs, but also of qualified workers. The professions in which there is the greatest demand for workers include retailing, construction and public accommodations, according to the survey of employers.⁷⁸ Fully 40% of food production companies had experienced labour shortages during the preceding year, according to a study run by the Latvian Federation of Food Companies to consider the situation with workers and specialists and their professional training. Seeking to deal with the labour deficit, companies in Latvia are increasingly talking about importing workers from the East, from the CIS. The European Association of Chambers of Commerce and Industry found this in a survey. The Latvian

⁷⁵ “Standard & Poor's aicina Latviju veikt reformas” (Standard & Poor's Calls for Reforms in Latvia), LETA news agency, 7 July 2006.

⁷⁶ *Ibid.*

⁷⁷ Latvian Institute of International Affairs. “Latvijas imigrācijas politika: problēmas un perspektīvas” (Latvian Immigration Policy: Problems and Prospects), 2006.

⁷⁸ The survey was published 17 October 2005.

Chamber of Commerce and Industry surveyed 412 companies in all of Latvia's administrative districts – 229 manufacturing companies and 183 service providers.⁷⁹

“If we are to satisfy all of our contractual obligations, we need to hire another 100 people right now. We'll be forced to bring them in from Belarus, Ukraine and Moldova,” says Jānis Lanciers, president of the PBLC construction firm. The same problem is indicated by Daiļrade Koks, one of the leading wood processing companies in Latvia. Its personnel director, Jānis Lasmanis: “In future, we may find ourselves in a situation where life itself forces us to do so.”

“There's a lack of specialists at all levels,” says Ojārs Bite, board chairman of the OK building materials firm, in talking about the construction sector. Employees often seem to have the proper education and experience, but when they get to work, it turns out that the quality of their work is very poor, says Bite.⁸⁰

The labour shortage also has a negative effect on regional development projects. Even Latvia's largest local governments (those in Rīga, Daugavpils and Liepāja) lack local labour resources. The future of Rīga's development programme is not good, say specialists from the Rīga City Council Welfare Department. The city's population is aging, the proportion of people of working age is diminishing, and there will not be sufficient numbers of newborns to compensate for the overall aging process.⁸¹

5. Latvia's opportunities

Latvia, unlike other countries in Eastern Europe, is not a destination for immigrants, even though there is much potential for greater migration in the direction of the EU in the countries of the CIS. This is because of Latvia's comparatively low level of social welfare, as well as its strict immigration policies.

Even though the Latvian economy is increasingly suffering from labour shortages, immigration policy at this time ensures that the importation of guest workers is often too expensive and complicated for businesses. Existing immigration policies are supported by the majority of Latvia's population, and people are quite negative about the idea of guest workers from other countries in Latvia. Indeed, Latvians have the most negative approach toward migrants among people in all EU member states.⁸² Moreover, these critical positions are taken both by ethnic Latvians and by others who live in Latvia. This is a consequence of Soviet-era migration policies. People are insecure about their identity, and they fear competition.

The ability of companies in Latvia to enhance productivity and to create greater added value per employee is by no means exhausted, because at this point it is at just 40 to 50% of the average EU level. Modern technologies and better work organisation would make

⁷⁹ The survey was published 23 October 2005.

⁸⁰ The two statements come from Latvian Institute of International Affairs. “Latvijas...”, *op. cit.*

⁸¹ *Ibid.*

⁸² *Ibid.*

it possible to reduce the need for human resources and to produce more while allowing employees to earn more, too. Businesspeople say that they cannot ensure the rapid increase in productivity that is demanded by Latvia's economic situation on their own, and so they are investing great hopes in money from the EU's Structural Funds. Asked about further technological potential, businesspeople have different views. People in the forest industry, for instance, think that productivity can be boosted by 30 to 50%, while representatives of retailing and the service sector are sceptical about the possibility of any significant improvements in productivity.⁸³

Latvian companies are trying to adapt to the situation in the labour market and the labour shortages which exist. They are doing different things – establishing subsidiaries abroad, moving manufacturing facilities from Riga to other parts of the country, and promoting domestic labour mobility in Latvia to support business development. Still, as noted, companies are increasingly thinking about hiring workers from abroad. The illegal labour market appears if there is insufficient labour supply for economic development and immigration policies are too strict. Companies are encouraged to hire illegal workers from abroad. It has been suggested that some 40% of people who work in the ever-expanding construction sector are illegal, and the state loses LVL 100 million a year in unpaid taxes. Workers come from Belarus and Ukraine. Government policies in opposition to illegal employment have been ineffective because of a shortage of administrative resources and capacity, as well as because of poor information exchange and ineffective systems of punishment for those who violate the law.

Immigration policy determines the way in which a government manages issues related to the movement of individuals. The policy depends on the factors and goals of economic development, the local labour environment, the prevailing demographic situation, as well as public reaction vis-à-vis issues related to immigration – i.e., the likelihood that integration will take place. In today's globalised world, processes of integration are closely linked to international policy and external environments. This is particularly important to small countries.

The information which has been collected during the course of this research project enables a review of the existing situation and the modelling of several scenarios for future immigration policies in Latvia. There are various possibilities here, and the process depends on policy goals and economic interests. Each option has certain advantages, shortcomings and risks, and all of these must be taken into account when policies are analysed. There are quite a few different options here, but one can define three major approaches toward migration policy planning in Latvia.

The conservative approach is based on the idea that existing immigration policies in Latvia should be preserved, not changed. This means that rules in the law on immigration as to the import of workers would not be changed, and the policy would be implemented as has been the case so far – the guest worker must be paid at least the average monthly wage in the month before taxes are paid, a monthly state fee of LVL 35

⁸³ Paper presented by Elīna Egle, general director of the Latvian Confederation of Employers, Ministry of Foreign Affairs, 18 January 2006.

must be paid, an additional LVL 3 to 5 must be paid for documents, and LVL 70 to 170 must be paid for the temporary residency permit. The employer must prove that there are no specialists in Latvia who could do the work – authorisation to import a worker is acceptable only if that is the case.

This approach is aimed at increasing the proportion of economic active residents in Latvia, at increasing salaries, and enhancing labour productivity and/or at changing the qualifications of the knowledge force while gradually moving to a more knowledge-intensive economy. Strict immigration policies encourage businesses to use more modern equipment and technologies so as to reduce employment numbers while improving productivity. The conservative approach also helps to improve the way in which work is organised. In the construction industry, for instance, there is lots that can be done to improve the way in which work takes place on building lots. According to the Latvian Builders Association, construction workers spend five to six hours doing per day doing productive work, while abroad the level is between 6.8 and 7.2 hours a day.

Strict immigration policies are a prerequisite for conditions that would encourage émigrés to return to Latvia. People who work in construction and other industries in Sweden and Ireland have obtained new knowledge, and they will be very valuable employees when they return to Latvia, but only if the government works with businesspeople to promote that return. Current immigration policy also encourages internal migration processes, helping companies to attract workers from rural regions and to make more thorough use of domestic labour force reserves. Among those Latvian residents who are between 15 and 74 years old, only 57.8% hold jobs, while in other countries of the world, the percentage is close to two-thirds. In the Rēzekne and Ludza districts of Latvia, unemployment at this writing is above 25%, and 37,000 people in Latvia have told researchers that they have lost all hope about the possibility of finding work.⁸⁴ The tense situation in the labour market creates difficulties for businesspeople but it helps to heal society by helping to improve the lives of those whose services would be rejected by companies under other circumstances – differently abled people, pensioners and former prisoners, among others. The conservative approach also helps businesses to deal with the labour force deficit within the context of the EU, without importing workers from countries which are not EU member states. It is in the interests of Latvian businesses to maintain the open labour market for new EU member states.

Latvia's labour market is not competitive at the Baltic level, because it is far easier to import guest workers into Lithuania and Estonia, and the process is cheaper for businesses. This is an important problem in terms of attracting investments, and there is reduced interest among foreign capital providers in the Latvian economy. When the labour force departs for other European Union member states, that places pressure on employers in Latvia. In some sectors they must provide sufficiently competitive salaries to compete with employers in other countries. Rapid increases in wages reduce Latvia's competitiveness in attracting investments, however. If higher wages are not accompanied by enhanced productivity, Latvian businesses can lose competitiveness in the market.

⁸⁴ Latvian Institute of International Affairs, "Latvijas imigrācijas...", *op. cit.*

The liberal approach is aimed at amending the law on immigration to make it easier for guest workers to access the Latvian labour market in line with the interests of businesspeople and businesses. The liberal approach seeks the withdrawal of the demand that the guest worker must be paid at least the average wage in the state during the month before the payment of taxes. The state fee of LVL 35 would be reduced or rejected altogether.

Importing workers would help to preserve economic growth for a longer period of time. Latvia's rapid economic growth depends on capital, productivity and the labour force. When there are shortages of workers, it becomes necessary to find guest workers in line with the needs of the economy. Use of guest workers would allow businesses to maintain prices and costs, thus maintaining higher competitiveness in the domestic and the foreign market. A liberal immigration policy would reduce differences between Latvia's labour market and that in neighbouring countries – something that would be of key importance in attracting investments. The involvement of guest workers in Latvia's economy would also reduce the negative effects of the country's demographic crisis and the mass emigration of its residents on the national economy and on social policy. Making it easier for people to immigrate legally – that would also reduce losses to the national budget which are caused by illegal immigration at this time. Businesses would be less interested in the risk of hiring illegally imported workers. Guest workers from the CIS would find it comparatively easier to adapt to the Latvian environment – short distances, no language barriers.

Import of workers would not encourage businesspeople to develop their businesses through investments in technologies related to the knowledge-based economy. Liberal immigration policies would not make it possible to enhance the productivity of local workers more rapidly, and it would not promote higher wages for workers. This, in turn, could encourage even greater emigration. Employers who use guest workers would not be encouraged to make more thorough use of Latvia's internal labour resources (people in peripheral regions, young people, groups of residents with poor social protections, etc.).

A liberal immigration policy would also not encourage businesspeople to look for people who have emigrated from Latvia and who have higher demands vis-à-vis the domestic labour market. The use of guest workers would also not stimulate socially responsible employment policies which are based on social dialogue and guarantees of social and labour rights. Increased immigration would create various economic and social problems. Not all employers will be ready to use legal workers, because then they have to pay all of their taxes. Guest workers can be denied social guarantees, too. If the number of people entering from other EU member states were to increase rapidly, Latvia would have to apply the rights which the EU has defined vis-à-vis family members of those who enter the country. This would create an additional burden on the country's social budget. Latvia must not forget about EU law which applies to non-nationals. Furthermore, many people in Latvia have a negative attitude toward greater numbers of guest workers. This is rooted in people's experience with Soviet-era industrialisation,

when Latvian identity was threatened. Competition is also a concern. It is also true that Latvia has not designed any integration programme for those who arrive in the country.

An incrementally liberal approach is based on the idea that over the next five to seven years – the period when Latvia's labour market will be most intensively affected by the demographic crisis of the 1990s – immigration policy should be liberalised in a gradual way. Policy would not change in the immediate future, and work would be done to improve the labour market in Latvia, to make more complete use of internal resources, to implement socially responsible employment policies, and to ensure that the state's policies vis-à-vis illegal immigration and labour become far more effective. Once that is accomplished, there would be gradual changes in the law on immigration to ensure that guest workers can enter certain sectors of the labour market. In future, the guest workers would be a component of further economic development.

Declining population numbers and aging populations have created a shortage of labour in the EU labour market. Since 1999, the EU has used the aforementioned incrementally liberal approach to promote legal migration while instituting new requirements for integration of societies at the same time. In this context, Latvia's interests would be well served by implementation of the EU's Hague Programme and by introducing EU work permits that would be valid in all EU member states, thus increasing Europe's attractiveness in the eyes of highly qualified workers. It is also of key importance to regulate residency and work permits for seasonal workers from non-member state nations. There must be rules as to the ability of such people to work in the EU for a certain number of months each year. Work permits could be issued for five years.

Gradual policy changes would promote the more complete use of internal resources, the implementation of socially responsible employment policies, and further opposition against illegal migration and employment. The existing immigration policy creates circumstances which encourage émigré workers to come back home. In future, imports of workers could help to preserve growth in those economic sectors in which there is higher added value to work. Economic growth in Latvia depends on capital, productivity and qualified workers. A liberal immigration policy in certain sectors would reduce the differences between Latvia's labour market and that in its neighbouring countries. This would be of importance in attracting investments.

Liberalisation of immigration depends on too many prerequisites, and their establishment requires time, political interest and business loyalty. This can reduce economic growth and competitiveness. Increased immigration can create various economic and social problems, because not all employers will wish to use legal workers. That allows them not to pay taxes and to deny social guarantees to guest workers. If the number of people from other EU member states were to increase rapidly, Latvia would have to apply EU rights to family members, and this would place greater burdens on the social budget. Latvia also needs to obey EU laws vis-à-vis the citizens of third countries. People in Latvia are not prepared for a new wave of immigration. They remember the industrialisation which took place in the Soviet Union, and this creates fears about threats

against identity and concerns about competition. It is also true that Latvia does not have an integration programme for newly arrived people.

6. Media topics

Emphasis must be laid on raising productivity, not drawing inexpensive labor force from abroad - Kalvitis

RIGA, Feb 14 (LETA) - Emphasis must be laid on introduction of new technologies and raising productivity, not drawing inexpensive labor force from abroad, believes Prime Minister Aigars Kalvitis (People's Party). Kalvitis stressed at the National Trilateral Cooperation Council's meeting today that it would be of crucial importance to further development of Latvia whether the production pace may be preserved and accelerated, also whether productivity can be increased.

"We cannot become a cheap workforce country," Kalvitis stressed. Kalvitis said that, by raising salaries, Latvia is already at the point where productivity must be raised so that the country remains competitive on global markets. Commenting on a possible influx of labor from the new European Union member states, Romania and Bulgaria, Kalvitis stressed that Latvia would stick to the EU policy and not introduce any particular restrictions on workers from these two countries. At the same time, there is not much inexpensive labor force in these countries, neither in Latvia's neighbor countries, and this may become a problem in the future for the entire EU, Kalvitis said.

Latvians emigrate to Ireland due to low wages and poor quality of life in Latvia

RIGA, Jan 19 (LETA) - Although low wages is the main reason for workforce migration from Latvia to Ireland, Latvia's residents are also concerned about quality of life and relationships in society in general. Such conclusions were made by the the Commission of Strategic Analysis, established by President Vaira Vike-Freiberga in 2004, after a study of reasons why Latvia's residents leave the country, and why they want to return. According to the Economy Ministry's data, most Latvia's guest workers abroad work in Ireland, Great Britain and Germany. In all, about 5 percent of Latvia's active workforce have left the country, which is considered typical of the new European Union member states. According to official data, about 50,000 people have left Latvia to work abroad, of these 15,000-20,000 went to Ireland. According to conclusions of the study, Latvia should consider its economic and social development, strive to improve welfare, business environment and education system, strengthen links with Latvian emigrants, introduce changes in laws that regulate naturalization, and others to ensure that Latvians who have left the country return.

Latvia to face most dramatic decrease in population among EU states

LUXEMBOURG, April 8 (LETA) - By 2050, the total population of the European Union (EU) will decrease by 1.5% from 456.8 million in early 2004 to 449.8 million in 2050, but the largest decline is expected to be observed in Latvia, according to a report,

released by "Eurostat," the European statistics office. Between 2004 and 2050, the population of Latvia will decrease by 19.2% - from 2.3 million to 1.8 million, most dramatic decrease in percentages among the EU members. According to "Eurostat," until 2025 the total population of the EU is expected to increase by 2.9% to 470.1 million on January 1, 2025, however, this will be mainly due to net migration, since total deaths in the EU will outnumber total births from 2010. The effect of net migration will no longer outweigh the natural decrease after 2025, when the population will start to decline gradually and in 2050 it will be 20 million less than in 2025 and 13 million down from 2004. Overall until 2050, the population of 25 EU members will decrease by 1.5%, including a 0.4% increase for the 15 veteran EU states and a 11.7% decrease for the ten new member states. In the period between 2004 and 2050, the largest declines are expected to be observed in most of the new member states: Latvia (-19.2%), Estonia (-16.6%), Lithuania (-16.4%), the Czech Republic (-12.9%), Hungary and Slovakia (both -11.9%), and Poland (-11.8%).

Population of Latvia decreased by 13,300 people last year

RIGA, May 3 (LETA) - At the beginning of 2007, the population of Latvia was 2.281 million which is 13,300 people less than at the beginning of 2006, according to data from the Central Statistical Bureau. Due to natural movement (the number of deaths exceeding births), there has been a population decrease of 10,800, but excess of emigration over immigration resulted in a population drop of 2,500 people. In 2006, the number of registered marriages increased by 16.5 percent to 14,616, however, the number of divorces increased also (7,249 divorces registered). The number of registered marriages per 1,000 people was the highest in the past 14 years. In 2006, the average age of people getting married increased. If 40 percent of men and 50 percent of women registered their first marriage between the ages of 20 to 24 years in 2000, only 28 percent of newly married men and 41 percent of women were in this age in 2006. Also, 60 percent of grooms and 46 percent of brides were between the ages of 25 to 34.

In 2006, the number of newborns was 22,300 or 767 children more than in 2005. The birth rate per 1,000 residents increased by 4.2 percent. The birthrate per 1,000 residents - 9.7 children - was the highest indicator in the last 13 years. 51.7 percent of the newborns were the first children born in their families (51.2 percent in 2005). The proportion of second children amongst all newborns in 2006 was 32.1 percent, compared to 32 percent in 2005. In 2006, the number of deaths in Latvia was 33,100 or 321 more than in 2005.

A positive trend is being observed in the fall of infant mortality. The number of infants deceased during the first year of their lives per 1,000 live births - 7.6 deaths - is the lowest figure in the last 60 years. In comparison with 2005, the infant mortality rate has decreased by 2.6 percent. As result of long-term migration, the population in Latvia decreased by 2,451 people which is the highest indicator since 2002. In 2006, 2,801 people arrived from other countries to live in Latvia whilst 5,252 people left Latvia to live in other countries. The population of Riga was 722,000 at the beginning of the year. The population of the city decreased by 5,100 people last year.

LITHUANIA

As a former republic of the Soviet Union, having gained independency only 16 years ago, Lithuania shares historic specifics with many other new Member States of the European Union. This history to a large extent also influenced the development of national migration policy as well as factual emigration and immigration.

As the next big step Lithuania faced the accession to the European Union which had a paramount impact on legal, practical and factual migration flows to and from Lithuania. Last but not least Lithuania's geographical situation must be taken into account when analyzing its policy on migration. As a Member State of the European Union with external borders Lithuania had to take big efforts in a relatively short period of time to secure its borders, thereby facing the specific issue of Kaliningrad region being a Russian enclave in need of access to the main land Russia via Lithuanian territory. Further Lithuania is not on one of the main routes of immigration to the European Union.

These briefly mentioned parameters are key milestones which dominated and still dominate Lithuania's approach towards migration policy. Taking this background into account this chapter gives a historical overview about the evolution of migration flows, information on demographical data of Lithuania and the development of Lithuania's migration legislation.

1. Evolution of migration flows in the Republic of Lithuania

Lithuania restored its independency in 1991. Starting from this time migration flows to and from Lithuania can be analyzed. The collapse of the Soviet Union meant also more possibilities for citizens of the former Soviet Union to migrate. Although more than 14 thousand foreigners arrived to Lithuania in 1990 (mainly from former Soviet republics), this number each year became smaller: 11.828 in 1991; 6.640 in 1992 and 2.536 in 1997. During the last five years the average of newcomers was about 5.300 and this number was stable during these years. However, at the same time Lithuania also faced huge flows of emigration from its territory: already in 1990 emigrated 23.592 citizens; 22.503 in 1991; 31.972 in 1992. After abolishment of the Law on emigration and the implementation of the free movement of persons principle, there are no precise numbers on emigration from Lithuania any more, as only persons who officially registered their leave could be counted. Nevertheless, it is presumed that from 1990 till 2005 more than 300.000 citizens left Lithuania⁸⁵. During these years the migration saldo in Lithuania was negative (-2,6). According to the Department of Statistics Lithuania dominated with these numbers among other EU Member States⁸⁶. At the beginning of 2006, the estimated population of Lithuania was 3,403.300 persons, i.e. 22.000 less than at the beginning of 2005. Over the recent six years, this number decreased by 108.8 thousand: due to natural decrease – by 59.3 thousand (54.5 per cent), due to negative net migration – by 49.5

⁸⁵ Department of Statistics under the Government of the Republic of Lithuania, Demographic Yearbook 2005, ISSN 1392-9984, p. 172

⁸⁶ Ibid, p. 169

thousand (45.5 per cent). The main ethnic group⁸⁷ in Lithuania is of Lithuanian origin (2,907,293), followed by the group of Polish origin (234,989), and the group of Russian origin (219,789). Further significant ethnic communities in Lithuania are of Belarussian, Ukrainian, Jew, Tatar and Latvian origin.

2. Lithuanian experience on re-immigration issues

Approximately 90 000 have immigrated over the past 16 years and the majority of them have been Lithuanians or these are repatriates. There have been changes in the structure of the repatriates. In the early periods of transition the people coming back were basically people from the former Soviet Union, people forced to live in the former Soviet Union and then coming back to Lithuania. Now the return of economic migrants is gaining momentum but apparently that is the economic emigration.

One of the biggest challenges is to refocus the policy concerning repatriation. In the early 1990's the policy was focusing on encouraging the repatriation from the former Soviet Union – meaning specific regions and specific people willing to come back and just don't having the means to come back. However at the turn of the millenium there was evolving the turn to the west and to look at the economic migrants who have moved to Western Europe and the USA over the past 5 or 10 years. And in fact just quite recently one resolution passed by the Parliament indicated that the economic migration is the single biggest non-military threat to the Lithuanina society. So economic migration and management of the economic migration recently has begun one of the top political issues. Since 2004 it has been years for preparing strategies.

The first package includes managing the institutional zoo – economic emigration and then repatriation as a horizontal policy in the sense that a number of ministries as government departments and agencies are responsible for this policy. The question at stake is how to make all of them work together and work in the same direction. The intention is to coordinate the implementation of the policy by establishing an interministerial steering group which would be responsible for the overall coordination of the repatriation policies.

The second package includes reduction information shortages. This is basic information and promotion campaigns aimed at economic migrants and at the top locals basically Ireland and the UK that includes various job fairs. Just in fact one ended yesterday and caused big discussions in Lithuanian press. Another issue is establishment of consultation and information centres in Dublin and London in order to promote the repatriation, inform about the possibilities that exist in the labour market and in particular to provide assistance in dealing with all the legal and administrative barriers that are there for people who want to move back to the country.

⁸⁷ Data of the Population Census of 6 April, 2001

Third policy package is intended to strengthen the communities of the emigrants and this basically includes financing of broadcasts to the emigrant community, financing/providing some support to the emigrants media.

The fourth policy is economic incentives to study in Lithuanian universities. Although that's quite an old policy in contrast to other ones. Approximately 1000 students come to study in Lithuanian universities and they've got scholarships for doing that. However it's a weird policy in the sense that most of the students are actually from neighbouring regions of Belarus and Poland.

Last but not least is still a programme, still under discussion, however there is an intention to finance from the structural funds the brain-gain programmes from the 2007 - 2013 programme period. The whole idea is to finance between 100 - 200 projects that would be implemented in Lithuania, by projects I mean science, research and innovation projects that would be implemented in Lithuania. However the support to the project would only be conditional upon the fact that the project should involve a person who has lived abroad for a longer period than one year. This could include a Lithuanian national or researchers and researchers from other countries. So in this sense this is expected to attract, to implement the brain-gain programmes.

Is this effective and is this enough? If one would think about the ideal type of policy for encouraging repatriation, encouraging reemigration, it should consist of at least two elements. One element would be promotion and information and other support to the people who are considering to come back. The other crucial element is making sure that there are jobs that the people can come back to. And speaking in the language of the Lisbon agenda we are quite good at creating more jobs, however Lithuania is quite slow at creating better jobs. It's quite doubtful whether without having high quality jobs all these promotion and information campaigns and other support would have a long lasting and sustainable impact.

3. Development of the migration legislation

The first legal acts regulating the legal status of foreigners in the independent Lithuania were:

- The Emigration Law from 1992. The Law regulated the procedure for emigration of Lithuanian citizens as well as foreigners legally residing in Lithuania. According to this legal act emigrants needed a special permission for emigration granted by the competent authorities. This Law was valid in Lithuania until 6 June 2000, when it was abolished by the Seimas (Parliament) of the Republic of Lithuania. Since this time Lithuanian citizen or foreigners legally residing in the country do not require anymore a permission to leave Lithuania.
- The status of foreigners arriving to reside in Lithuania was regulated by the Immigration Law from 1993. This Law provided that Seimas of the Republic of Lithuania following the proposal from the Government had to approve immigration quota for each year as well as the categories of foreigners which

had a right to immigrate to Lithuania. Usually there was permitted to immigrate for spouses, parents, children and siblings of Lithuanian citizens and spouses of foreigners permanently residing in Lithuania. Immigration quota varied from 2500 foreigners in 1993 to 1500 foreigners in 1999. The Immigration Law was valid in Lithuania until July 1999.

- The Law on the Legal Status of Aliens was adopted in 1991 and regulated the arrival, departure and residence of aliens in the Republic of Lithuania. This Law was of significant importance for the newly independent states as it for the first time provided with definitions such as: foreigner, stateless person, residence permit in Lithuania, visa, etc. The Law also provided cases when foreigners could be detained in the Republic of Lithuania, basic rules on work of foreigners in Lithuania and grounds for deportation. The Law was in force until 1999 July.

A completely new approach to migration issues was set up in the **Law on the Legal Status of Foreigners** which was adopted in December 1998 and came into force in July 1999. This Law abolished the immigration quota and provided rules for arrival and departure of foreigners which were common for all aliens. Nevertheless following the harmonization of Lithuanian legislation with the EU legal acts in the field of migration a number of shortcomings and gaps of this Law were identified. Therefore in the Ministry of Internal Affairs a working group was established which, together with the assistance of EU and international organizations` experts, drafted the new **Law on the Legal Status of Aliens** (further – Aliens Law). This Law was adopted in April 2004 and came into force just before Lithuania`s accession to the EU (April 30, 2004). The new Aliens Law replaced the Law on the Legal Status of Aliens from 1998 and the Law on the Refugee Status from 1995. The Law regulates all issues related to foreigners in Lithuania: arrival to the state, residence, issuing of visa, residence permits, work, granting of asylum, grounds for social integration, legal status of the EU citizens, issues of detention and deportation, administrative and court procedures related to appeals, etc. The Law also determines the bodies responsible for drafting and adoption of by-laws (Ministry of Internal Affairs, Ministry of Foreign Affairs, Ministry of Social Security and Labour and others)⁸⁸.

4. Institutional Framework

The main institution responsible for the implementation of migration policy in the Republic of Lithuania is the Migration Department under the Ministry of Internal Affairs. This institution is responsible for issuing of residence permits⁸⁹. The Migration Department does not have territorial units but is centrally organized. The territorial migration offices are under the direct supervision of the Police Department under the Ministry of the Internal Affairs however fulfilling the tasks related to migration issues and functionally are dependent from the Migration Department.

Other important institutions involved in the migration management in the Republic of Lithuania are:

⁸⁸ The list of by-laws which are relevant to the research is provided in I.2.1.

⁸⁹ The procedure of the issuance of residence permits is presented in section III.5 of this document

- Ministry of Interior (the Migration Department; the State Border Guard Service (participates in the implementation of state control over migration), the Police Department (exercises control over and coordinates activities of subordinate police institutions, provides guidance and instructions to them));
- Ministry of Social Security and Labour and its institutions – responsible for the issuance of working permits and regulating questions related to working migration, social questions related to the residence of aliens in Lithuania;
- Ministry of Foreign Affairs (Consular Department and Embassies/consular representations abroad) – responsible for the collection of documents for the issuance of residence permits in the Republic of Lithuania, as well as for issuing visas for applicants who received a positive decision on residence;
- Ministry of Education – responsible for the regulation of questions related to the studies of aliens in Lithuania.

5. Information on migration flows⁹⁰.

In 2005⁹¹ 5.557 decisions on issuance of temporary residence permits were adopted (5.059 – in 2004; 6.018 – in 2003; 6.274 – in 2002; 6.091 – in 2001). During the last 5 years the main ground for immigration to the Republic of Lithuania was the ground of family reunification: 40,6% (2.257 decisions) from the total number of decisions were adopted on this ground in 2005 (40,06% (2.027) in 2004; 40,1% (2.414) in 2003; 38% (2.382) in 2002; 38,4 (2.342) in 2001). The second main ground for immigration to Lithuania was “intention to engage in lawful activities in the Republic of Lithuania”: 23% (1.281) of decisions in 2005 (13,7% (694) in 2004; 17% (1.026) in 2003; 18% (1.130) in 2002; 24,9% (1.518) in 2001). Working migration composed only 12,5% (697) from the total number of decisions in 2005 (15,3% (777) in 2004; 7,9% (475) in 2003; 6,1% (386) in 2002; 9,07% (553) in 2001). A similar number of decisions was adopted on the grounds of education: 12,5% (698) in 2005 (14% (707) in 2004; 10,6% (641) in 2003; 9,6% (602) in 2002; 10,8% (661) in 2001).

In 2005 only 15 decisions were adopted on the non-issuance of residence permits. According to the Department of Statistics under the Government of the Republic of Lithuania 15.571 citizens of Lithuania emigrated to foreign countries in 2005⁹². As it was mentioned before at the moment calculating the number of emigrants per 1.000 of population, this indicator is negative (-2,6).

As it was already mentioned Lithuania at the moment is not a target country for migrant-workers (according to the data provided by the Migration Department, in the year of 2005 the working migration constituted 12,5 % (697 aliens) from the number of foreigners granted residence permit for the first time). This and also comparatively low numbers of migrants and especially migrant workers differentiates the situation in Lithuania from the

⁹⁰ Statistical data from the Migration Annual 2005 (<http://www.migracija.lt/MD/metrastis2005.htm>)

⁹¹ There is no official data on immigration for the year 2006 yet available.

⁹² Department of Statistics under the Government of the Republic of Lithuania, Demographic Yearbook 2005, ISSN 1392-9984, p. 172

majority of other EU Member States. The reason why Lithuania is not as attractive for migrant workers as other EU countries should be analyzed especially taking into account the number of Lithuanian citizens leaving Lithuania⁹³. Already now the Lithuanian Labour Exchange, the Lithuanian Confederation of Industrials and other institutions inform that the offer of labour power is constantly decreasing in Lithuania. Prognosis made by the Lithuanian Labour Exchange for 2007 say that there will not be enough workers who are able to compete in the labour exchange to fill free working places⁹⁴. The demand of labour force will exceed the offer of labour force which will strengthen competition on labour force both in quantity and quality. All these indicators allow the conclusion that legal and administrative procedures in the field of working migration should be adapted to the current situation taking specifically the actual needs of Lithuania into account. However it has to be noticed that the Government of the Republic of Lithuania and other institutions are more concerned on the return of emigrants from Lithuania back while migration conditions at the same time remain rather strict.

Based on the research made the main comments on immigration conditions would be:

Working migration:

- there should be envisaged a possibility to issue residence permit for potential job seekers⁹⁵ according to their qualification and Lithuanian labour exchange realities (that would also bring legal and administrative procedures in line with the purposes and the aims of the International Convention on the Protection of the Rights of All Migrants Workers and Members of their Families). At the moment according to the Aliens Law working permission and residence permit are issued for a specific job (not only for the first time of issuance of residence permit. This condition is valid as long as foreigner applies for temporary residence permit on the ground of work in Lithuania). If the working contract is terminated, both residence permit and working permit are revoked;
- one single administrative procedure for working permits and residence permits has to be established. The Aliens Law provides a possibility that applications for working permit and residence permit **may be** submitted at the same time, although they are examined by different institutions, grounds for refusal are different, differ time limits for examination and appeal procedure. All these reasons make procedures on working migration long and complicating. Such complicating procedures may have a significant negative effect on potential investors as well as working migrants and makes Lithuania not competeable with other countries;
- issuance of working permits should differ for different professions and qualifications. For example, if in general there is established that there is a lack of certain workers in Lithuania issuance of working permits for this category of foreigners has to be simplified;

⁹³ See also part I.1.1. of this document

⁹⁴ Prognosis of the Lithuanian Labour Exchange of needs of Lithuanian Labour Market in 2007, http://www.ldb.lt/LDB_Site/index.htm

⁹⁵ Para 28 of the European Parliament resolution on an EU approach to managing economic migration (COM(2004)0811-20052059(INI))

- Different types of employment may be introduced in the legal acts, such as working/residence permit for seasonal workers and other temporarily employed specialists could get a possibility to get working permit and residence permit within short and effective procedure.

General remarks:

- Lithuanian legal acts and administrative practice should envisage provision on integration of foreigners in Lithuania. The Lithuanian Aliens Law has some norms on integration on foreigners establishing that the Republic of Lithuania provides for alien holders of residence permits, conditions for integration into political, social, economical and cultural life of the state in accordance with the procedure established by the laws. However state support for integration is available only for foreigners granted protection in Lithuania. There is no strategy or other programmes on state policy for integration of foreigners. This in addition makes it difficult to implement provisions on family reunification in respect with the ability of foreigners to have founded perspectives to get a permanent residence permit in Lithuania, and is not in full conformity with the provisions of the EU family reunification directive;
- Clear and effective return policy should be defined and cooperation with countries of origin and other third states developed;
- Lithuanian Aliens Law has provisions for unaccompanied minors providing that this category of migrants requires specific protection, however other vulnerable groups of migrants are not defined. Specific provisions protecting such groups as women migrants with dependent children should be envisaged.

The experience shows that restrictive state policy in the field of legal migration does not necessarily provide effective prevention from abusing the legal migration routes and from illegal migration in general. Such situation rather creates possibilities for development of organized criminal structures related to trafficking in human beings and smuggling⁹⁶. Thus legal acts providing possibilities for regular migration should be more liberal and transparent both on EU and national levels especially in countries where labour force of migrants is needed and where migration flows are relatively low. Specific situation of Lithuania additionally shows that abusing of migration legislation is not common phenomenon: in 2005 only 15 decisions on refusing issue or replacement of residence permit were adopted which constitutes 0,3 % from the number of positive decisions.

Impact on immigration of the national, regional and local conditions

As it was mentioned before, decisions on the residence permits are made by the central institution – the Migration Department, decisions on working permits – by the Lithuanian Labour Exchange. Nevertheless, migration – primarily the working migration – is influenced by regional and local conditions.

The Lithuanian Labour Exchange in its reports concludes that the biggest numbers of working permits are issued in the biggest cities of Lithuania as well in the regions with big industrial enterprises. The majority of foreigners⁹⁷ are working in the industrial (55 %), transport (14 %), services (14 %) and construction (14 %) fields. The most popular

⁹⁶ see, for example, Report of experts group on trafficking in human beings to European Commission, 2004

⁹⁷ Lithuanian Labour Exchange Information on issuance of working permits to foreigners in 2005.

professions and qualifications of foreigners granted working permits were ship hulls assemblers, international transportations drivers, manual electric welders, cooks (China, Turkey, Armenia, Philippines), engineers of chemical engineering, oil refinery and aviation, bricklayers. It has to be noticed that these professions in general correspond to the most demanding professions in the Lithuanian labour market.

The biggest working migration in 2005 was from Ukraine (31 %), Byelorussia (29 %), Russia (12 %), Romania (11 %) and China (7 %). This tendency proves extended cooperation of Lithuanian enterprises especially in the industrial fields with third countries. The biggest amount of cooperation agreements are concluded in the field of construction and ship construction (navigation) with Russia, Ukraine and Byelorussia.

The tendency of employment migrants in the industrial and construction fields also influences the situation that in Lithuanian market are employed 95% of male migrants and only 5% - female migrants. 70% of migrants are between 25 and 44 years old.

The number of temporary working persons (temporary sent workers) is relatively big. In the year of 2005 768 foreigners worked under a working contract (55 %) and 621 foreigners (45%) were temporarily sent to work. One of the reasons for such division can be the fact that the procedure for the issuance of working permits for such foreigners is shorter (within one month from receiving the documents in the territorial labour exchange).

6. Media topics.

Kirkilas concerned whether EURES bureaus operating at labor exchanges encourage emigration indeed

Vilnius, June 18 (ELTA) - Prime Minister Gediminas Kirkilas assigned Social and Labor Minister Vilija Blinkeviciute to find out on what basis and how EURES bureaus are operating at Lithuanian labor exchanges in different towns of the country. The head of the Government asked the minister to find out whether migration is being organized at the Labor Exchange instead of helping people to find jobs in Lithuania. Kirkilas became concerned with this issue in the light of the articles in press claiming that the EURES bureaus coordinated by the European Commission operating at the departments of the Lithuanian Labor Exchange encourage migration helping residents to depart for work abroad. Meanwhile, the Government is creating plans on possible ways to return emigrants and holding informational fairs encouraging emigrants to return and work in Lithuania. The activities of the EURES bureaus are only partially financed by the European Commission - major part of the finances is allocated from the Lithuanian budget. Staff of the EURES network assure that they are not encouraging any emigration and not only assisting Lithuanians in finding jobs abroad but also helping Lithuanian employers to find suitable specialists in other EU member states.

Number of Lithuanian emigrants fell twice in 2006

Vilnius, June 29 (ELTA) - The number of Lithuanians who emigrated last year fell twice since 2005. Dalia Ambrozaitiene, deputy head of the Statistics Department, states that during the first year of the EU membership (2004), the number of emigrants grew 1.4

times in Lithuania and totaled 32,500. Number of emigrants rocketed in 2005 and stood at 48,100. In 2006, the number of emigrants dropped 2 times from 2005 and one-third from 2003. The survey of the Statistis Department shows that two out of three Lithuanian emigrants declare their departure.

In 2006, more than half of emigrants (70 percent) left Lithuania for other European Union member states: United Kingdom (26 percent), Ireland (20 percent), Germany (9 percent), Spain (6 percent). There are also Lithuanians emigrating to the United States of America (14 percent), Russia (7 percent) and Belarus (6 percent). Most of emigrants are young people. In 2006, one-fifth of all the Lithuanians who left for some foreign country were aged 25-29, while 60-year-olds and elder people made up only 4 percent of all the emigrants.

It is noteworthy that the number of educated emigrants is increasing, yet the majority of emigrants had no job in Lithuania. The reasons for emigration are also changing with the time. In 2006, more than half of emigrants (63 percent) left Lithuania searching for an opportunity to find job abroad. Two years ago, such people accounted for 82 percent. Recently, more and more Lithuanians go abroad due to family-related circumstances. Fortunately, the number of emigrants returning to Lithuania is also rising. Last year, 7,700 people immigrated to Lithuania, which is 14 percent more than in 2005.

Lithuanian government approves draft strategy on regulation of economic migration

VILNIUS, April 27 (LETA) - The Lithuanian Cabinet has approved a draft strategy on regulation of economic migration. According to the government, the proposed draft strategy seeks to ensure that, with rapid economic growth, Lithuania has sufficient workforce and that negative migration effects be avoided, thus economic migrants being encouraged to return. "Unfortunately, at the moment Lithuania is the first in the European Union in terms of number of emigrants per 1,000 residents. Better working conditions and increased income constitute the main motives that encourage people to move to other countries. Lithuania is very concerned about the decrease in the number of residents and the scope of emigration, because this means a decrease in intellectual potential, loss of investments in people, the risk of a slowdown in technological progress as well as science and economic development, and the lack of workforce in certain sectors of economy," said Minister of Social Security and Labor Vilija Blinkeviciute. The proposed draft economic migration regulation strategy involves the following goals:

- to draft long-term measures for regulating economic migration (a methodology for monitoring, analyzing, and forecasting the economic migration process and conditions of the Lithuanians abroad);
- to regulate factors promoting economic migration in order to ensure balance between supply and demand in the job market;
- to maintain close links with Lithuanian economic migrants and to cooperate with Lithuanian organizations operating abroad;

- to employ workers from third countries, while taking into consideration flows of national workforce returning from emigration, and, at the same time, giving priority to the EU citizens;
- to ensure an effective inter-institutional cooperation in the sphere of economic migration.

The strategy measures will be prepared and implemented by almost all ministries as well as many other public institutions and bodies. Involvement of social partners and municipalities will be encouraged. It is planned that the Ministry of Social Security and Labor will coordinate the implementation of measures and present its report to the Lithuanian government annually by May 1. The strategy is to be implemented during 2007-2012.

Lithuanian emigration highest in European Union

Vilnius, Mar 15 (ELTA) - On January 1, 2006, Lithuania had a population of 3.4 million people, 22,100 fewer residents compared to the beginning of 2005. Emigration is one of the main reasons for this decrease in population. According to the Lithuanian Department of Statistics, the Lithuanian population decreased by 13,300 people because the birthrate in the country is lower than the death rate. Meanwhile, negative migration balance (15,600 people emigrated and 6,800 people immigrated to Lithuania) caused a decrease in the population of 8,800 people.

In 2005, 15,600 people emigrated from Lithuania. The largest share of Lithuanians went to the United Kingdom (4,200), Ireland (2,100), the U.S.A. (2,000), Germany (1,500), Russia (1,100), and Spain (800). Over 334,000 Lithuanians have emigrated since 1990. In 1990-1993 the largest number of emigrants went to Russia, Belarus, Ukraine, and other former Soviet countries, and in 1994 the direction changed to the West.

Dalia Ambrozaitiene, deputy director of the Lithuanian Department of Statistics, told ELTA that 8,000 women and 7,600 men emigrated from Lithuania in the previous year. The people leaving the country are mainly of working age. In 2005, 6,800 people immigrated to Lithuania, an increase of 22.3 percent compared to 2004. Most people immigrated from the United Kingdom (1,200), Russia (900), Germany (700), U.S.A. (600), and Belarus (600). Men constituted 56.3 percent of all immigrants. Most immigrants (85 percent) were of working age (15-59 years). According to preliminary data provided by the European Statistics Office Eurostat, migration balance per 1,000 residents was negative only in five EU member states in 2005: Lithuania (-2.6), the Netherlands (-1.2), Latvia (-0.5), Estonia (-0.3), and Poland (-0.3).

Lithuanian population down 22,100 in 2005

Vilnius, Jan 30 (ELTA) - The population is steadily decreasing in Lithuania. According to preliminary data, 3,403,200 people lived in Lithuania in the beginning of 2006, a decrease of 22,100 from the beginning of 2005. Depopulation was mainly influenced by a negative natural change of 13,000 and negative migration. The difference between the number of those people who immigrated into Lithuania and those who emigrated was

9,100. The age structure in Lithuania is also changing. The percentage of children (age 0-14) is decreasing due to the low birth rate, while the portion of elderly people (age 60 and higher) is constantly growing. Currently the portion of children is 15 percent lower than the number of elderly residents. Every sixth man and every fourth woman is 60 years of age or older, reports the Lithuanian Department of Statistics.

In 2005 almost 150 more babies were born than in the previous year. For each 100 girls, 104 boys were born. Last year the most popular names for girls were Gabija, Kamile, Emilija, and Gabriele, and boys were mainly named Lukas, Matas, Nojus, and Mantas. Since 2,200 more people died last year compared to the previous year, the death rate (number of deaths per 1,000 residents) grew 6.7 percent. In 2005, 640 more couples married compared to the previous year and 200 more pairs divorced.

The number of those residents who left abroad permanently or for a period longer than six months increased from 15,200 in 2004 to 15,800 people in 2005. Lithuanians mainly left for Great Britain (4,400 residents), Ireland (2,100), the U.S.A. (2,000), Germany (1,500), Russia (1,100), and Spain (800). In the previous year, 6,700 people arrived for either permanent or temporary residence in Lithuania, 1,100 more people compared to 2004. Foreigners mainly arrived from Great Britain (1,200 people), Russia (900), Germany (700), and the U.S.A. (600).

Government and parties encouraged to consider immigration problems

Vilnius, Dec 19 (ELTA) - Romualdas Ozolas, the chairman of the non-parliamentary Center Party and the signatory of the Independence Act is encouraging the government and parties to thoroughly consider the problems of immigration. In his opinion, national principles and policies should be agreed upon and consolidated by a political agreement of the parties and the passage of corresponding legislation. At a press conference in the Seimas on December 16, Ozolas stressed that immigration policy "is unclearly and indefinitely formed in the offices of officials under pressure from interest groups, not according to the lasting national interests but according to the present day needs".

According to Ozolas, the shortage of workers in Lithuania has been brought about by uncontrolled emigration, which in turn has been caused by low incomes that do not meet the needs of the majority of citizens. "It has now been proposed to substitute the Lithuanians working abroad with immigrants. Such a policy is destructive. The older members of the European Union have already demonstrated that. Their mistakes should not be repeated, and Lithuania should act more sensibly," said Ozolas.

In his opinion, our country should firstly stop the emigration of workers and bring back the Lithuanians working abroad, and then bring in foreign laborers needed for the development of the economy only in exceptional cases. Ozolas said that the idea that migration is difficult to control is not worth serious criticism because the principles of immigration are both clear and uncomplicated. He thinks that only verified political refugees should be allowed to settle permanently in Lithuania and only on the condition

that they learn the Lithuanian language, pass Lithuanian history and culture tests, and take an oath of loyalty to Lithuania.

According to Ozolas, economic immigrants should be admitted for a clear and precisely limited period of time, at the expiry of which the employer would inform the worker about the termination of the employment contract and would collaborate with the country by either extending the contract or deporting those who do not wish to leave the country. "Employers should take legal responsibility for the departure of economic immigrants," said Ozolas. MP Rimantas Smetona, who belongs to the mixed group of parliamentarians, stressed at the press conference that at the beginning of this year 32,613 foreigners with permission to reside temporarily or permanently lived in Lithuania. "Seventy percent of those people are not citizens of the European Union. This shows grave immigration trends," said Smetona. According to information provided by the parliamentarian, the National Employment Exchange received applications to hire 1,697 foreigners in January-October.

M Kirkilas met with representatives of Lithuanian community in London

London/Vilnius, May 21 (ELTA) - Having arrived at the London airport, Prime Minister of Lithuania Gediminas Kirkilas first and foremost went to the parish of St. Kazimieras where he met with the representatives of the Lithuanian community. At the meeting, Kirkilas underlined that the maintenance of ties with Lithuanians living abroad and the preservation of Lithuanian identity of emigrants has been among the priority tasks of his Government. The Government will seek to attract as many as possible Lithuanians who gained some experience in the Western Europe to come back home. The Government leader also informed the Lithuanians that the strategy for managing economic migration has already been prepared. At present, the long-term strategy of state relations with Lithuanians living abroad is being drafted.

Kirkilas confirmed that the Government was aware of the difficulties relating to the access to consular services in London. The Government has already allotted certain amount of funds for the acquisition of a new building for the Lithuanian embassy, therefore in 2008 adequate services should be provided to Lithuanians living in Great Britain. With regard to dual citizenship, the prime minister said that a working group was set up and the Migration Department, under the order of the Government, has been drawing up amendments to the citizenship law. The prime minister of Lithuania also introduced the activities and challenges of the minority Government. Kirkilas noted that Lithuania remained one of the most rapidly developing countries in the European Union.

Most important task is to attract emigrants back home – Vaitiekunas

Sigulda, May 18 (ELTA) - According to Foreign Minister Petras Vaitiekunas, the main question which we have to answer today when speaking about the development of human resources under the conditions of labor force migration is how we could attract the citizens who have emigrated or have intentions to emigrate, cut economic emigration and

reduce its negative impact as well as to foster return immigration. "A drop in population and scope of emigration are raising considerable concern for Lithuania as this means the decrease in Lithuania's intellectual potential, loss of investments to people, the threat of slow-down in technological progress and scientific and economic development as well as the lack of labor force in certain economic sectors," the minister stated at the conference "Development of Human Resources Under Conditions of Labor Force Migration" held by the Baltic Assembly in Sigulda (Latvia) on Friday.

In a separate meeting in Sigulda, foreign ministers of Lithuania, Latvia and Estonia discussed energy projects of the Baltic states and Poland, also the priorities and prospects of regional cooperation between the Baltic Council of Ministers and the Council of the Baltic Sea States. The ministers also touched upon the issues relating to the EU-Russian relations and the EU agenda. When discussing on the European neighborhood policy, foreign ministers of the three Baltic states stressed the role of the support provided by the international community to the development of civil societies and democracy in EU eastern neighbors. The head of Lithuania's diplomacy also invited his Latvian and Estonian ministers to attend the meeting of the "New Group of Georgia's Friends" to take place in Vilnius on September 13-14.

ESTONIA

Estonia is not advertising itself as a country on immigration. In fact the EU enlargement and Estonia joining the EU in 2004 has changed the demographic situation of the working age population. Due to the low salaries public officials like policemen, firemen or border guards are quitting and looking for employment in the neighbouring countries but also in those Member States that allowed the free movement of for the new member states. Therefore Estonians mostly go to Finland, Norway, Sweden but also Ireland and UK. The possibility to use EURES and help of the official employment office to take up short term employment in Ireland like in the turkey factory before the Christmas or policemen going to private security companies. Estonian bus drivers in Helsinki or Wales are the common and ongoing trend. At the same time the immigration to Estonia for the purposes of employment from other EU states is not happening. The main reason is the low salaries, difficulties to integrate, learn the language.

When the average salary of a policeman is around 500 Euros and he can get at least 2000 Euros in Finland on the construction work it is obvious what are the pull factors of the emigration. It takes only 1,5 hour by fast boat to Helsinki. So the workers can come home easily for the weekend. It is not clear how many Estonian citizens are working abroad but different sources give numbers like 30 000.⁹⁸

According to the public poll conducted in 2006 by Saar Poll the main problems of non-Estonians and reasons to leave Estonia are economical. Additionally the unsatisfactory social policy, lack of Estonian citizenship and Estonian language, bad or unsatisfactory medical services and the feeling of being second class person are other reasons mentioned.⁹⁹ Only 5% of non-Estonians have thought about to move to Russia or other countries within the 10 years. The citizens of other countries are thinking about moving more than the other groups. Stateless people think less about moving somewhere else. The non-Estonians are more interested to move to another EU member states than to the previous Soviet Union Counties. In fact it is 3 times higher. 17% want to move to other EU member state. This is less considered by Russian citizens.¹⁰⁰

1. Immigration policy

EU member state nationals can move freely to Estonia. The European Union Citizenship Act applies. Also the family members of the EU citizens have a right to enjoy the free movement if an EU citizen decides to settle. Third country nationals residence is regulated by Aliens Act art 12¹ which gives the grounds for the residence rights. TCN can apply for a residence permit on the basis of:

- 1) studies
- 2) work
- 3) family reunification (spouse, child, ascending dependant family members,

⁹⁸ Tööandjate keskliit.

⁹⁹ Mitte eestlaste migratsiooni aruanne 2006, Saar Poll, www.migfond.ee

¹⁰⁰ Ibid pg. 42

4) international agreement

Several changes have been made to the Aliens Act, which were mostly because of the need to harmonize the EU legislation.

Estonian migration policy has been restrictive since the re-independence was gained. In 2006 the new law called Act Giving International Protection for Aliens was introduced. Since the year 2007 Estonian Migration Fond is facilitating the voluntary return of persons who have applied for asylum or other type of international protection. The project is funded by European Refugee Fond.¹⁰¹

The number of asylum seekers is still small in 2006 there were 7 persons applying for asylum. Non of the applicants was recognized as a refugee one person got the extension of its residence permit on the basis of international protection.¹⁰² There was one asylum application submitted at the border in 2006 other 6 were submitted inside the country.

From July 2006 Estonia has a new law called Act Granting International Protection fro Aliens (AGIPA). The previous Refugee Act became invalid. New terms and protection possibilities were introduced by AGIPA. It brought several amendments and new concepts like subsidiary protection and temporary protection possibilities. There is a option to apply for the residence permit on the basis of family reunification, study, work, international agreement or international protection.

Family reunification of a recognized refugee or a person in need of other type of international protection was also introduced. New development derived from the EU directive is the right for employment of an asylum seeker after one year of submission of an application.

Aliens Act regulates the immigration of workers, students and family members. There is a distinguished treatment between family members of the EU citizen and family members of the Estonian citizen or TCN. Most favorable rules are applied towards the family members of the EU citizen regulated by the European Union Citizen Act. The family member of the Estonian citizen or TCN are treated in the same way regulated by the Aliens Act.

The recent study¹⁰³ done by Migration Foundation says that in 2006 there were 4370 new temporary residence permits granted, 8898 permits were extended. 2316 was for the family reunification, 745 for employment, 7 for business reasons, 391 for study reasons, 65 persons got the residence permit as they had enough legal income for staying and 9744 residence permits were granted according to the foreign agreement clause.

¹⁰¹ Rahvusvahelise kaitset taotlenud isikud aidatakse turvaliselt ja väärikalt kodumaale tagasi
<http://www.migfond.ee/ee/uudised.php?action=view&id=37>

¹⁰² www.vastuvotukeskus.ee , 06.06.2007

¹⁰³ 2006 policy report Estonian migration and asylum policy, Estonian Migration Foundation, Tallinn 2007

2. Immigration policy advantages and problems

Estonia has a rigid immigration policy and the migratory flows have been regulated by quota. It is 0.05% from the number of permanent inhabitants. The aim of the quota is to protect Estonian inhabitants rights and interests. From 2002 the family reunification cases are not considered to be fallen under the quota system and since then the quota has not been reached.

Estonian immigration policy is formulated by bottom up method. The legislative drafts are written in the ministries and in its subordinate institutions like Citizen and Migration Board, Border Guards Board etc. Each time the change of the legislative act is introduced the explanatory note is prepared. The advantage of this kind of policy formulation is that the officials dealing with everyday problems can suggest amendments that will help to solve the legislative constrains. Disadvantage might be the lack of political control although the amendments will be passed by the Parliament.

In 2006 there have been many changes in the legislation due to the need of harmonization of the EU norms which is creating legal uncertainty. There are still some EU norms to be transposed so the migration legislation is in constant change. The very strict rules and long procedures of granting work permits to the third country nationals has created a situation where there is a lack of work force. The unemployment in 2006 was 6% which basically means that there is not enough qualified workers on the work market and the employers do not find employees they need.¹⁰⁴ Estonian citizens are enjoying the free movement of EU and tend to go to work and study abroad mainly because of higher salaries and to get experiences.

The recent study done by Tööandjate Keskkliit (Trade Union) showed that apart from higher salaries the Estonians think that the working conditions and the attitude towards workers is better abroad than in Estonia.¹⁰⁵ In 2006 the Minister of Population Urve Palo¹⁰⁶ announced that some changes will be made to the migration control rules in order to facilitate the labor migration. The time of the review of the residence permit application for employment should be decreased. If the skilled worker is offered 1,24 times higher salary than the average is on that position the work permit and residence permit should be granted.¹⁰⁷

The temporary employment should be made more easier. The employers can register the worker for a short period of time and the foreign worker does not need to go to the CMB any more. There is no need to get the approval of the minister with the signature to employ a foreigner and the immigration quota should be increased to 0,1 % of the number of inhabitants of Estonia which is approximately 1300 persons per year. The employers want to import approximately 1500 persons per year.

¹⁰⁴ Roots, L., Töömigratsioon ei ole midagi hirmsat., Päevaleht 23.10.2006

¹⁰⁵ Kriis, T., Tööandjate Keskkliidu president

¹⁰⁶ Koorits Vahur, Tööjõu ajutine maaletoomine muutub oluliselt lihtsamaks, *Postimees* 13.06.2006

¹⁰⁷ <http://www.ettk.ee/et/uudised/2007/05/item24009>

The functioning, calculation and operation of the immigration quota: although there were proposals to establish a quantitative restriction of 1% of population (around 1500)¹⁰⁸, the section 6(1) of the 1993 Aliens Act established the fixed annual immigration quota as follows (yearly around 700 persons): “*The annual immigration quota is the quota for aliens immigrating to Estonia which shall not exceed 0.05 per cent of the permanent population of Estonia annually. The immigration quota shall be established by the Government of the Republic. Within the limits of the immigration quota, the Minister of Internal Affairs may, by a ruling, establish a distribution of the immigration quota according to the grounds for application for the residence permit and the basis for issuing the residence permit, and the annual schedule. Persons who have the right to settle in Estonia outside of the immigration quota or to whom the immigration quota does not apply are not included in calculating fulfilment of the immigration quota*”. As to the groups, it provides for the following exceptions: 1) ethnic Estonians who have the right to settle following the Constitution (see above), 2) the spouse of an Estonian citizen or of an alien who resides in Estonia on the basis of a residence permit to whom a residence permit is issued on the basis of subsection 12 (2) i.e studies, 3) a minor child, adult child, parent, grandparent or ward of an Estonian citizen or of an alien who resides in Estonia on the basis of a residence permit to whom a residence permit is issued on the basis of clause 12(1)(3) (change introduced in 2002), 4) citizens of the United States of America and Japan (it used to have Canada and EU/EEA nationals as well, but first was changed due to non-reciprocity in visa waiver and second due to being regulated with a separate act since EU membership), 5) specific persons in the national interests for economic, educational, scientific or cultural development - the Minister of Internal Affairs may exempt from quota requirement, on a reasoned proposal of the Minister of Economic Affairs and Communications, Minister of Finance, Minister of Culture or Minister of Education and Research, 6) persons who apply for residence permit for studies (section 12²(4)). Although not unique in itself, the quota actually works rather differently than quotas in some other countries, as it is supposed to constitute the absolute ceiling for admission per annum and is not a “desirable quota” based on estimations of a need. It is noteworthy that even though the EU rules on family reunification¹⁰⁹ specifically allow for applying the quota principle even to family reunification, Estonian Supreme Court has declared application of this to be unconstitutional for violating the principle of family unity¹¹⁰ as proclaimed in Constitution and therefore this is not applied since 1999 (as a ground for refusing to issue a residence permit). Nevertheless, although exceptions have been provided, the principle remains that the application will be refused once the quota will be full (section 12(8) of the *Aliens Act*; in practice, if situation allows – for example the end of the year – the application can be transferred or proceedings can be prolonged so that it would be possible to get a residence permit from next year’s quota¹¹¹). It is noteworthy that since removal of family members from the quota requirement and

¹⁰⁸ Interview with ex-director of the Citizenship- and Migration Board Mr Andres Kollist for the magazine Luup. Reproduced here: http://www.lichr.ee/est/artiklid/kodakondsusameti_endine_peadirek.htm

¹⁰⁹ Article Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12–18).

¹¹⁰ Riiigikohtu halduskolleegiumi 18. mai 2000. a kohtuotsus (nr [3-3-1-11-00](#)) [Valentina Ušakova kassatsioonkaebuse läbivaatamine elamisloa taotlemisel sisserände piirarvu kohaldamise asjas](#) (RT III 2000, 14, 149).

¹¹¹ Interview with Martin Karro, Head of Aliens Documentation Department, Citizenship and Migration Board (hereinafter referred as “Interview with MK”).

providing for a short term registration, the quota has not been achieved and there has been no real need to distribute it according to sectors¹¹² (which may be partly due to other avenues being available). Although the family reunification directive provides for in-kind quantitative restriction in Article 8 second sentence (providing for a waiting period if the quota is full), Estonian quota system has not used a waiting period in the letter of the law i.e. if the quota was full, the application was simply supposed to be rejected. As there are no scientific studies conducted, to the author's knowledge, on the practicality and necessity of exactly such a quota (size, exemptions etc) and on the real needs as regards the number of migrants (numerical, sectorial etc) arising from demographic and economic dynamics and challenges, the immigration quota remains the holy cow of Estonian immigration law. As Estonian demographic perspective looks quite dark, all reform efforts in that sector should actually start from looking into and studying this issue first. In addition to that, more involvement of local authorities and social partners in defining the needs of particular localities and industry should be considered in decision-making and institutionally the issue of a quota should be given either to the Minister of Economics and Communication or to the Ministry of Social Affairs, rather than in the Ministry of Interior as today. Labor market needs should also be considered as part of the social dialogues taking place in between state, entrepreneurs and trade unions.

3. The key problems of immigration policy

The number of foreign labor can increase in coming years because of the demographical changes in the society (negative natural growth, low birth rate, rapid ageing of the population, emigration of skilled young workers). Definitely arrival of new migrants creates a problem of integration that also has to be tackled. The state integration plan 2001- 2007 was still mainly concerned about the integration of so called "old migrants" (Russian minority, etc). The new State Integration Plan draft is taking account also new migrants including refugees and asylum seekers.

The study in the field of health sector labor market showed that the labor policy should be focused towards push factors like low salaries, working conditions, working environment and life quality, development etc)

The Estonian society is generally hostile towards migrants. There has been some things done to decrease the hostility although the institution Mitteeestlaste Integratsiooni Sihtasutus¹¹³ (further MEIS, www.meis.ee) was created already in 31st of March 1998. One of the main tasks of the foundation is to facilitate the integration of foreigners into Estonian society. MEIS is mainly working with the NGOs national minority groups.

In 2006 Jaan Tõnissoni Instituut made a public poll in order to assess the knowledge and attitude of the Estonian populations towards immigrants, asylum seekers, refugees and immigration as general. The results of the poll are interesting. Only 4% of persons told that they somehow know the refugee issue. Most of the persons have never seen a asylum seeker or refugee and does not know their problems.¹¹⁴

¹¹² Ibid.

¹¹³ Integration Foundation of non Estonians

¹¹⁴ www.jti.ee

The public poll ordered by Estonian Migration Foundation in 2006 showed that long term residents and third country nationals staying in Estonia do not want to emigrate. Estonian Migration Foundation helps persons to move from Estonia to other countries and 35 000 EEK is paid to facilitate the return. Estonians get similar support to move back to Estonia.¹¹⁵

Businesses have interests and also the Minister of Population Urve Palo has said that the immigration on the working purposes should be made more liberal. The administrative constrains should be abolished. The main news is that the salaries paid to the foreign workers should be fixed and should be equal to the general Estonian salaries in order to maintain the current labour supply demand. Estonian labor demand is higher than the supply at the moment. The unemployment rate is 4,9%.¹¹⁶ The main debate in the media and society in 2006 in migration issues was labor immigration and emigration. Because lot of people have moved to work into other EU countries Estonia is lacking intrastate labor. The opinions are different. Some favor massive external labor forces up to the total closure for external employees. The political parities generally supported in 2006 the labor immigration if the new workers and their family members will not depend from the social security and social care system. Opposition parities stand against the mass influx of labor immigration and support only the highly qualified specialist migration. The employers would like to have simplified procedures for labor immigration. The government institutions (Ministry of Social Affairs, Labor Office) and labor organizations support the better usage of local workers and risk groups (handicapped, unemployed, elderly people and other persons out of the current labor market). Only qualified workers can be admitted. The Labor Organization agrees that only those specialized workers should be let in who can not be trained in Estonia and before the foreigner is employed all local inhabitants who wish to take the position should get the chance. Where the external labor is inevitable the control over it should be maintained also for how long time and how much will be allowed. The equal treatment and their social guarantees are not debated at the moment.¹¹⁷

The prime minister Andrus Ansip (Reformierakond) has said that Estonia should not import workers but should invest in increasing productivity because it is twice as low as in Sweden or Finland. First we need to use these resources. To import labor is a big enticement but lots of problems will arrive together with immigrants. (*Võrumaa Teataja*, 12.Sept 2006) It shows clarely that even in the case of labor shortage the immigration is not promoted and not supported at the government level.

Edgar Savisaar (Keskerakond) who was at that time the Minister of Economics and Communication said that in a short time perspective the labor immigration will benefit Estonian companies and economy in the long run massive employment of foreig workes will bring addition to social problems also nationalistic problems. We cannot wait, the salaries must increase because of the emigration we have. The rapid increase of salaries also goes along with IMF recomendations to speed up the inflation when Estonia is still

¹¹⁵ www.migfond.ee

¹¹⁶ Postimees, 03.08.2006, <http://www.postimees.ee/180906/lisad/euro/211682.php>

¹¹⁷ <http://www.ettk.ee/et/uudised/2007/06/item24059>

maintaining own currency kroon, because after joining EU we are more dependant in the macro economical level than we are today. (Eesti Päevaleht, 16 Sept. 2006). 118

The Ministry of Economics and Communication formulated a working group (28.08.2006) that had to discuss the short term labor migration from the third countries and to simplify the procedures for recruitment and immigration of these migrants. In 2006 there were no concrete recommendations made to the Government.119

4. Media topics.

Ten times more Estonians went to work abroad than came to Estonia from EU in 2004

TALLINN, January 7 (LETA) - Over ten times less EU citizens came to work in Estonia last year than went from Estonia to officially work in the expanded EU, Äripäev writes. An EU citizen who lives in Estonia based on a residence permit doesn't have to apply for a separate working permit. Citizenship and migration board says that residence permits were issued to EU citizens last year for working in 450 cases, for entrepreneurship in 149 cases and for other reasons, like studying, in 944 cases. The 1,543 residence permits issued to EU citizens in Estonia is around the same number that went from Estonia to work in Ireland alone after May 1 last year when the EU expanded.

The state institutions however, cannot estimate the total number of Estonians who went to work in the EU last year since the data isn't complete yet and a part of people work there unofficially, without having registered themselves. Social ministry said that the majority of analyses evaluating the migration potential of the new EU member states estimated that up to 4% of population would emigrate. In case of Estonia that would mean around 55,000 people.

While 1,575 Estonian residents had registered in Ireland from May to November last year to work there, in UK the number from May to September was 1,340. Finnish labour market ministry data indicates that 3,163 Estonian residents received a working permit in Finland from January to April last year, and 1,441 from May to November. There are no figures from Sweden but Swedish officials have said that influx of workforce from Estonia hasn't increased considerably since Estonia joined the EU.

Estonian social ministry said that as far as Finland is concerned, it is likely that the number of Estonians who have gone to work there after May 1 has increased and the fact that the number of working permits issued has dropped so much refers to the fact that the majority of people use the possibilities of free movement of services in the EU and employees are sent to work in Finland as part of Estonian companies doing subcontract work for Finnish companies. Companies also use the possibility of sending rental workers to another EU country a lot.

¹¹⁸ EMV III väikesemahuline uurimus Kolmandate riikide kõrgelt kvalifitseeritud töötajate riiki sisenemise ja riigis viibimise tingimused EL-is, Eesti Migratsioonifond, 2006

¹¹⁹ *Ibid*

Estonians will number over a million in 50 years too

TALLINN, March 20 (LETA) - The UN population forecast expects Estonia to have 1.12 million inhabitants in the middle of this century, which is by 200,000 less than now but much more than the 700,000 people forecast in 1999, Postimees writes. According to the UN forecast, by 2050 the number of births will increase, death rate of infants and newborns will decrease and the average lifespan will increase. There will be 33% of people over the age of 60 while the 1999 forecast expected there to be 38% of them. Currently there are 21.6%.

Population scientist Kalev Katus said that the earlier UN forecast was misleading because the Russian military and their families who left Estonia in the first half of 1990s, were classified as expatriates. The forecast was based on a presumption that the exodus will continue in the same amount. Katus said though that while the old forecast was too pessimistic, the new one is too optimistic. "Several indicators like immigration and improvement of people's health are exaggerated," said Katus, adding that this may be based on the assumption that Estonia would catch up with wealthier European states.

Katus said that the decrease of population figures is inevitable and the forecast that the number of births per woman would grow from the current 1.4 to 1.8 is exaggerated. He said that it would be a good result but it is certain that the birth rates would grow for another 1.5 years and will stop then because by then women who postponed having kids in 1990s have given birth. Population minister Paul-Eerik Rummo however said that the UN forecast could have been even more optimistic as it doesn't reflect the increased birth rate and longer average lifespan of recent years. The UN forecasts that in 2015, there will be 1.3 mln inhabitants in Estonia, like now, in 2025 there will be 1.25 and in 2050, 1.12 mln people. The average age of people is now 38.9 years, in the middle of the century, 45.2 years. The average lifespan will increase from 71.4 to 79 years.

Elcoteq brings a hundred Hungarian workers to Estonia

TALLINN, May 18 (LETA) – A couple of days ago, 50 Hungarians arrived to work in the Tallinn plant of the Elcoteq electronics concern and next week, a similar amount will arrive, Äripäev writes. Elcoteq's communications manager said that Hungarians come to Estonia to study production that will soon be relocated to the Hungarian plant but the production volume in the Tallinn plant will also increase in the near future and it isn't easy to find a hundred workers from here in just a few weeks. Such exchange of workers between countries is not a new phenomenon for Elcoteq but earlier, a smaller amount of workers has been exchanged.

While in the EU, workers can be moved for short or long-term, without major problems, the Estonian government has been rather rigid in allowing workforce from third states to

the country. At Thursday's government press conference, economy minister Juhan Parts promised however that the bureaucracy on bringing workers from third states to Estonia will be reduced. "Procedures that would enable to bring workers here from third countries are senselessly time-consuming and complicated," said Parts but stressed that the immigration policies will not be liberalised. Parts stressed that it is important to facilitate allowing qualified workforce to Estonia. This means that a minimum wages level has to be set that a company has to pay a foreign employee. "It cannot be lower than the Estonian average wage," said Parts.

The Hungarians who arrive in Elcoteq get their usual Hungarian wages plus business trip compensations. Elcoteq has around 2,900 employees in Estonia. A new civil servant will soon take office in the bureau of the minister of ethnic affairs the tasks of whom will concern the co-ordination of return of ethnic Estonians to the country. The bureau of the minister of ethnic affairs undertook for the first time the issue of re-immigration of Estonians seven years ago, when Katrin Saks was the minister. Now the issue was entered concretely into the new coalition agreement. The head of the Integration Foundation Tanel Mätlik noted that the foundation that has foremost dealt with the return of Russians living in Estonia to their homeland since 1992 has increasingly been organising the matters involving the return of Estonians. Mätlik noted that last year 40 persons received a financial benefit allowing them to return to the country and 108 persons were paid a benefit to leave the country. (Eesti Päevaleht)

The European Commission delegation that visited Estonia stunned the local governmental officials as the former claimed that peripheral regions that have fallen on the brink of poverty and the differences in the standard of living in different regions are a threat to Estonia's economic success. The head of the Estonia's, Finnish and Ireland's unit of the European Commission's directorate on regional development Alain Roggeri noted that business activities and jobs must not be only brought to Tallinn as there are several regions in Estonia where people are still widely unemployed. Roggeri estimated that another great problem in Estonia's economic development is the strict immigration policy that prevents new workers from arriving into the country. (Postimees)

While employers wish that import of foreign labour was simplified fast, the state and the trade unions consider it important to include local employees and analyse whom and how much Estonia actually needs. Baltic Ship Repairs Plant would employ immediately many more Ukrainian workers in addition to the 150 they already have if the law and work visas system wasn't so bureaucratic. BLRT Group personnel director Heinart Puhkim said that the current immigration quota allows just 600 people a year to Estonia, which is a tiny figure, considering that 60,000 people have left in the last ten years, says Puhkim. (Postimees).

Interest of Estonian business towards foreign labour decreases

TALLINN, May 25 (LETA) - During the past year, the interest of entrepreneurs to bring foreign labour to Estonia from third states has decreased more than by two times as it might take more than six months to receive a work and residence permit, Äripäev writes.

The director general of the Labour Board Tiina Ormisson noted that the companies mostly want to employ a person right away, not wait for a year. "They give up the idea," she resumed. In order to employ a person from third states, the company has to organise a public contest that lasts at least two months, then submit an application to Labour Board, which will decide whether to give the permit or not. After that, matters will have to be solved with the Citizenship and Migration Board which has to decide in the course of 6 months where to issue a residence permit for the duration of the work or not.

Skype Estonia manager Sten Tamkivi said that six months is way too long for the company, explaining how almost every day the dream of some third country citizen to work in Skype fails. "CV looks good, and then you see that the person has Pakistani citizenship," said Tamkivi. "It is worth while starting the process only in case of especially major stars." Skype has 28 foreigners working in it, 8 of whom are from third countries, and 4 of them are trainees who have come via students organisations and return home after the traineeship ends.

Minister of ethnic affairs Paul-Eerik Rummo admitted that he knows of one company that has complained about the procedure of receiving a residence and work permit being too lengthy and complicated, but he considers the system of the Aliens Act to work well enough. "There haven't been that many applications," said Rummo, referring to the fact that according to the Aliens Act, the immigration quota is 0.05% of population or less than 700 people. "This quota hasn't been fulfilled so far. In fear of cultural clashes, this number is not worth mentioning." Rummo said that mostly, people who come to work in Estonia temporarily, return to their homeland after the work ends and won't stay here. The Baltic Ship Repairs Plant received only in April the permit to hire 50 foreign workers, although applied to hire 100 Ukrainian welders in August last year already. The plant's personnel director Heinart Puhkim admitted then that such slow proceedings have caused major problems for the company. "Orders exist and contracts have been concluded but we haven't been able to invite the men necessary for the work to Estonia," he said.

Estonian population number falls considerably – study

TALLINN, March 6 (LETA) - An Eurostat study indicates that Estonia's population figure will fall by 17% by the year 2051, Eesti Päevaleht writes. While there were 1,351,000 residents in Estonia in 2004, the Eurostat forecasts that in 2051 there will be 229,000 persons less living in Estonia. The Eurostat report noted that the population will be decreasing in European Union as a whole and as sharp decrease in the number of residents as in Estonia is expected to happen in other Eastern European countries as well. The only country in Europe that will witness a faster decrease in population figures than Estonia is Latvia, the daily writes. The other general and clear tendency is aging of population: while in 2004, there was one non-active person over the age of 65 years per four working age people, by 2050 there will be one non-active person per every two working people. The number of people over the age of 80 will triple.

Tartu University sociology and social policy department researcher Mare Ainsaar said that the prognosis is based on the assumption that the role of the immigration in the forming of the population will be relatively small and the decrease will be mostly due to the negative birth rate.

CONCLUSIONS

The integration policies of the three Baltic countries, Latvia, Lithuania and Estonia, have been marked by the same problem - how to bring emigrated compatriots back to their homeland.

Antanas Petrauskas, deputy director of Lithuania's Department of National Minorities and Lithuanians Living Abroad under the Government, said that the Baltic states are united by the problem in their integration affairs. He said that reasons for migration were identical in all the three Baltic countries, and similar were also the ways how these countries could achieve that emigrated compatriots return back to their homeland.

Estonian Minister of Population and Ethnic Affairs, Urve Palo, agreed, saying that the question of re-emigration was relatively new in the Baltic region and that it worried everyone - both the society as well as politicians. Estonia had recently started work on the development of its re-emigration policy, whereas Latvia and Lithuania were planning to bring up the issue of granting double citizenship.

Special Assignments Minister for Social Integration Oskars Kastens told that Integration Secretariat had drawn up a report on how to attract the Latvian émigrés back to Latvia, and said that the Secretariat will propose granting double citizenship to children of Latvian parents who were born abroad. A task force led by Kastens has developed a report on necessary actions to be taken by the government in order to encourage return of emigrated Latvians. The report has been sent to several ministries for their resolutions.

The Baltic Assembly conference:

- acknowledges that free movement of labour from the new EU member states, including the Baltic States, is an issue related to EU's basic freedoms and also a social, economic and political issue which creates changes in the structure of the national labour force, causes the drain of highly qualified workers, depletes the labour force in certain spheres of the national economy and facilitates the rapid growth of salaries, which sometimes is not conducive to labour efficiency, creates social tensions and threatens the sustainability of the social welfare system in our countries;
- emphasises that, first of all, it is particularly essential for each country to work out timely and sustainable solutions in forming migration policy and to coordinate cooperation of institutions involved in solving the problems related to migration policy;
- encourages strengthening international cooperation in dealing with migration issues by sharing information and carrying out in the Baltic, Nordic and Benelux countries specific tasks aimed at sustainable development, as well as by taking advantage of benefits offered by free movement of labour.

- urges that relations with diasporas in their destination countries be maintained and strengthened in order to retain ties with potential reemigrants;
- supports initiatives in promoting the return of people to their native country and their reintegration into the local labour market;
- stresses that it is particularly essential for member states to implement a balanced regional development policy aimed at developing entrepreneurship, infrastructure and the transportation system, as well as to promote labour mobility within the country;
- notes that a more flexible application of vocational and higher education would make it possible to respond more adequately to the needs and demands of the labour market;
- recommends that greater attention be paid to the problems faced by certain groups of inhabitants – young and pre-pension age persons – for whom systemic unemployment problems are the most painful.

- acknowledges that increasing labour force efficiency is one of the main guarantors for balanced development and rapid increase of the welfare level in any country and urges that EU funds be purposefully invested in developing human resources and increasing their efficiency;
- supports closer cooperation between researchers and the private sector in order to strengthen a knowledge-based and innovative economy and urges the governments to promote businesses which offer new products and services with high added value;
- emphasises that growing opportunities to work via the Internet, a rapid increase of available information and other conditions characteristic of the modern era necessitate the countries to constantly expand and raise human potential, as well as to diversify skills and abilities by studying and developing oneself throughout one's active life, i.e., to ensure appropriate lifelong learning opportunities;
- calls on the countries of the Baltic region to determine which changes are necessary for dynamic transformation of the education system in order to meet labour market needs, as well as to develop

RETURN MIGRATION (REEMIGRATION)

Basic information about main questions related to reemigration issue.

Current situation and the importance of the issue:

Since Latvia joined the EU, a big number of its inhabitants have left the country to work in other EU member states, mainly the United Kingdom and Ireland. According to a research about geographical mobility of workforce carried out by the University of Latvia, about 86,000 inhabitants work outside Latvia. At the same time Latvia starts facing a lack of labour force. Latvian labour market is strictly protected from third countries' citizens and therefore immigration flow is small. It is also related to considerably smaller wages in the Baltic state. A lack of workforce is more severe in some specific areas such as construction business and services. Prices and wages in these sectors it becomes again attractive to work in homeland.

One way how to diminish the lack of workforce is to promote return migration of those, who have left the country. A very important aspect of reemigration is reintegration of people in the domestic labour force. It is even more important to promote reemigration without any hesitation, because Latvia approaches so called demographic pit. In mid 1990 there was a big decline of birth. If in years 1986 and 1987 42,000 of children were born each year, starting with early 1991, soon after the country regained its independence, it has declined all the time. In 1991 35,000 were born, but in 1998 demographic pit was at the lowest level -- only 18,400 children were born. The tendency has reminded negative and the country faces natural decrease of people due to low birth rates also today.

Tendencies of emigration:

Emigration of workforce is one of the most acute issues in Latvia. Though people started leaving the country already in 1990ties, the biggest wave of emigration happened soon after joining the EU, when new legal opportunities of free movement of workforce took place. The United Kingdom, Ireland and Sweden were three countries of the old EU member states, which opened their labour market for a workforce for the EU newcomers. In 2006 others – Spain, Portugal, Finland and Greece - also opened their markets.

Main reasons for emigration are following:

- Difference in wages;
- Difference in work conditions;
- Social security and stability in the old EU member states;
- Better opportunities of education, including lifelong and career education;
- The so called effect of opened doors – more and more member states open their labour markets for workers from the new member states;
- Insufficient mobility of workforce in Latvia, insufficiently developed entrepreneurship, infrastructure and transport system in regions;
- Lack of labour supply and demand forecasts, which lead to lack of an effective education programmes, especially in professional schools.

Sociological pools show that many of those, who have stayed in Latvia, also consider a possibility to work abroad. According to a pool carried out by the research centre SKDS in December 2005¹²⁰ 139 000-207 000 of Latvian inhabitants in age group of 15 - 74 said there is a big possibility they would go to work abroad in the nearest future. Of course,

¹²⁰ "Sabiedrības attieksme pret darbaspēka migrāciju – Latvijas iedzīvotāju aptauja", SKDS, 2005.gada decembris

the research does not show that people have an exact plan of emigration, it rather suggest a general mood and attitudes in the current situation.

According to pessimistic scenario in a research of the Latvian national bank, in forthcoming ten years about 200,000 could leave Latvia. If the scenario becomes true, Latvia would also face a strong decline in production.¹²¹

Negative aspects of emigration:

- 1) Lack of workforce in specific professions and economic sectors;
- 2) Rise of wages, but not of productivity;
- 3) Negative changes of the age structure;
- 4) Unbalanced regional development;
- 5) endangered sustainability of a social system;
- 6) decline of quality for services and goods;
- 7) *brain drain* and loss of money invested in human resources money;
- 8) loss of qualifications of emigrants, who fill unskilled jobs.

Positive aspects of emigration:

- 1) increase of employment and rise of quality of life;
- 2) stimulation of domestic labour market, especially such groups as students, young mothers, handicapped, people in pre-retirement age;
- 3) a part of emigrants' earnings return to Latvia with remittances;
- 4) skills, experience, new knowledge and contacts can be effectively used in Latvian business;
- 5) Emigration has forced local employers to improve work conditions and to invest in human resources.

Other Baltic states also face emigration. In Lithuania it has reached even higher numbers; it is assessed that at least 300,000 people have left the country. Emigration in Estonia has mainly influenced specific professional groups, for example, doctors and nurses.

Theoretical framework:

Reemigration has been widely discussed in theoretical literature, especially in last decades since developed countries are competing for qualitative workforce

¹²¹ "Vai Latvijai nepieciešama darbaspēka imigrācija", M.Kazāks, L.Kūle, L.Strašuna. Hansabanka, 2006

worldwide.^{122, 123} Latvian welfare and integration ministries are also carrying out special programmes to promote return migration. But the issue of reintegration of those, who return to their homelands, is still under researched. In many cases it is related to lack of statistical information, because return migrants have not been seen as a separate group so far.

The US research on the issue show that about 20 percent of emigrants return to their homeland, while in Europe it reaches about 30 percent.^{124, 125}

In the economic perspective a special attention has been drawn to a rise of human and social capital for those who used to work abroad and later returned.¹²⁶ Though, more interdisciplinary research pay attentions to reintegration aspects after people have returned to their countries. Longitudinal research in Europe and the US show that return migrants tend to have lower employment than those who stayed in the country despite gain in human capital.^{127, 128}

RISING OF PRODUCTIVITY

Basic information regarding the main questions of the productivity rise.

Current situation and the importance of the issue:

The rise of productivity is not sufficient in the Baltic states; for example, in Latvia it is two times lower compare to the average level of productivity in the EU member states. According to the EUROSTAT GDP in Purchasing Power Standards index, a worker in Latvia in one hour can produce goods and services, which makes just one third of value produced in the old EU member states¹²⁹.

It makes the rising of productivity one of the most crucial issues for the further development. The Baltic states should redefine its economies from low skilled and cheap

¹²² Korner H., Mehrlander U. (1986) New migration policies in europe : the return of labor migrants. International Migration Review. Vol. 20, No2, 672-675

¹²³ Castles S. (1986) The Guest – Worker in Western Europe International Migration Review. Vol.20, No.4, 761-778

¹²⁴ Dustmann, C. (1996). Return Migration: The European Experience. *Economic Policy*, 22, 213-250.

¹²⁵ International Organization for Migration (2006). Return Migration: Policies and Practices in Europe. IOM, Geneva, 15.

¹²⁶ Barrett, A. & O'Connell, P. J. (2001). Is There a Wage Premium for Returning Irish Migrants? *Economic and Social Review*, 32, 1-21.

Coulon, A. de & Piracha, M. (2005). Self-selection and the Performance of Return Migrants: The Source Country Perspective. *Journal of Population Economics*, 18, 779-807.

¹²⁷ Muschkin, C. G. (1993). Consequences of Return Migrant Status for Employment in Puerto Rico. International Migration Review, 27, 79-102.

¹²⁸ Jan Saarela and Fjalar Finnäs Return migrant status and employment: findings from longitudinal population register, Åbo Akademi University, Finland. 2007. Elektroniski pieejams http://www.vasa.abo.fi/users/jsaarela/manuscripts/return_v8.pdf (last accessed 03.04.2007)

¹²⁹ (EUROSTAT. Labour productivity per hour worked. GDP in Purchasing Power Standards (PPS) per hour worked relative to EU–15 (EU–15 = 100). Pieejams: <http://epp.eurostat.ec.europa.eu/>)

labour market, which produces goods and services with low added value to an innovative, knowledge based economy.

In some economic fields such as agriculture and wood processing it is still possible to compete with cheaper labour force, although it becomes more and more difficult taking into account current speed of rise of expenses.

The entrepreneurs, wherever it is possible, should use technologies instead of manual labour, while employers should use more effective management methods. The entrepreneurs should invest more in technologies, research and development (R&D). In 2004 Latvia was investing in R&D just 0.42% of the gross domestic product (GDP), in Estonia it was 1 %, but in Lithuania – 0.76%, while the average level was 1.86% of the GDP in the EU 25. The positive feature is a stable tendency to invest more year by year and a big part of the financial resources are available through the EU funds.¹³⁰

In Latvia and Estonia (in relatively less extent in Lithuania) one of the macroeconomic problems are related to high inflation. The rise of productivity is a very important tool to curb the inflation, because rise of consumer prices and wages only increases inflation, because the productivity does not go up.

The unused potential of the productivity in the Latvian economy is not fully known and more research should be carried out in this area. Nevertheless it is possible to access that in such fields as wood processing it can be remarkable. Though it is not only related to a lack of use of technologies, but also lapses in education of workers.

Alfs Vanags, an economist of the Baltic international centre of economic and political studies (BICEPS) believes that Latvian entrepreneurs have invested less in the education of workers compare with businessmen the old EU member states. Another problem lies in the lack of so called entrepreneurial culture in Latvia; there are just 23 companies per thousand of inhabitants in Latvia. It is the lowest number in the whole EU.

Promotion of employment and issues of education:

The analysis of the domestic labour market shows that Latvia has relatively poor results in terms of employment compare with other EU states. It does not comply with the aims determined in the Lisbon strategy. In November 2006 there were 69,705 registered unemployed people and even more are unregistered unemployed or underemployed people. Though, unemployment has a tendency to decline, there still are considerable potential in the domestic labour market. At the same time there were more that 16 thousands vacancies registered by the State employment agency.

A big part of the unemployed lack skills and experience to fill those vacancies; many among the unemployed have just a basic education, while the other biggest group has a

¹³⁰ (EUROSTAT. Gross domestic expenditure on R&D (GERD). Pieejams: <http://epp.eurostat.ec.europa.eu/>)

secondary education -- 22,9% and 26% respectively. Another worrying trend is a tendency of so called drop outs – students, who do not complete basic education.

The ineffective education system is a problem not only for the government but for all the society and it should be improved immediately, not in the undetermined future. Latvia and all Baltic states need better schools, more professional and better motivated teachers at all levels of education system.

It also must be taken into account that changes in education system do not provide immediate result; they would bring positive results in the mid term perspective, in ten to fifteen years. Governments should solve those problems entrepreneurs are not able to do entirely by themselves. For example, government could help to make tax system more favourable for those employers, who invest in their workers.

It is also important to understand that many indicators of the human capital cannot be measured with statistical methods and investment in human resources can give results after a decade or even later.