



# **MIGRATION, THE ROLE OF SOUTH-EAST EUROPE**

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## **Abstract**

Although, as a term, migration is not yet a recognized term of general international law, but rather a notion that derives from different fields of international law, such as refugee law and the law of migrant workers. This paper was written with the object and purpose of presenting the history of migration in Europe, with a special emphasis on South-East Europe (SEE). The evolution of migration, migration crises, as well as the statistic of migration flows for the past years will further be presented in this paper. European states, particularly the measures, cooperation instruments and regional migration policies in South-East Europe will be elaborated.

Furthermore, you will find in this paper the role that SEE countries play in the migration crises that appeared in Europe on the past years, and are still present, as well as International Organizations' approach, instruments and policies towards the issue of migrants. Statistics, books, international documents or instruments relevant to migration will be presented in this research paper.

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## Introduction

Migration represents the process of human mobility. Although, as a term, migration is not yet a recognized term of general international law, but rather a notion that derives from different fields of international law, such as refugee law and the law of migrant workers. The complicated subject of migration comprises of a large number of dimensions and it has to be understood as a process including economic, political, sociological and legal aspects.

The causes of migration can be divided into two main categories: a) the dimension of security, concerning persons threatened by natural disasters, internal or international conflicts, threats to individual safety, or persecution; and b) the dimension of economy linked to a poor economic situation of a State, region, or an individual.<sup>1</sup> In a globalizing world, the issue of migration is of growing importance. However, migration has also been a familiar issue throughout the history of mankind. Persons leave their home country and migrate to another country for various reasons. If they want to improve their economic situation, the persons move as migrant workers,<sup>2</sup> or in a general economic context. If the persons move out of fear for their personal security or out of fear of persecution, the problems of migration can be intertwined with the problems of refugees.<sup>3</sup> Migration as an issue of high complexity, in which economic, political, sociological, and legal aspects needs to be taken into account, for the first time was debated on a high-level dialogue in 2006, when United Nations General Assembly (UNGA), precisely UNGA Secretary General submitted his report on International Migration and Development to the UNGA, there for the first time, migration as a general concept or issue was becoming increasingly important.<sup>4</sup> This high level dialogue became the starting point of a process of dialogue on an informal and voluntary basis, under the framework of the Global forum on Migration and Development.

Nowadays, but even throughout history, nearly all countries in the world are, or have been affected by migration, either as origin countries, transitory, or destination countries. Migrants are persons who leave their country of origin or the country of habitual residence, to remain either temporarily or permanently in another country with the possible consequence of establishment. From a legal point of view, migration within a State is to be treated differently from inter-State migration. Migration within a State is usually the subject of municipal law (immigration), migration from one State to another, concerning persons eventually crossing one or more

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<sup>1</sup> Dieter Kugelmann, Migration, Max Planck Encyclopedia of Public International Law, March 2009.

<sup>2</sup> Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (International Labour Organisation [ILO]) ILO Convention No 143, 1120 UNTS 323, Part II Equality of Opportunity and Treatment, Art.11; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (United Nations [UN]) 2220 UNTS 3, UN Doc A/RES/45/158, Annex, UN Reg No I-39481, Part I Scope and Definitions, Art.2, (1).

<sup>3</sup> Convention relating to the Status of Refugees (United Nations [UN]) 189 UNTS 137, UN Reg No I-2545, [1954] ATS 5, Cmnd 9171, Ch.I General Provisions, Art.1, A, (2).

<sup>4</sup> Summary of the High-level Dialogue on International Migration and Development, UN Doc. A/61/515, 13 October 2006.

transitory States, is an international problem and can be the subject of international law (emigration).<sup>5</sup> Migration, as stated above has a number of effects on a society or a country, including economic, political, social, cultural and even demographic consequences, and in order to control and guide this process, States national, regional and international, as well as international organizations engagement is needed.

### **United Nations and International Organizations Work on Migration**

Migration and specific problems of migration were always part of the United Nations (UN) activities dealing with the protection of human rights or the refugees. As a general subject migration became part of the UN agenda in the New Millennium Declaration.<sup>6</sup> Furthermore as a reaction to the growing importance of international migration in December 2003, a group of 19 states encouraged by the United Nations Secretary-General (UNSG) set up the Global Commission on International Migration (GCIM),<sup>7</sup> whose goal was to review government and other migration expertise, policy approaches and best practice in all region, as well as conducting research and exploring migration interlink ages with specific areas, such as development, demography, trade, international cooperation, etc.<sup>8</sup> The GCIM ended its work on 5 October, when it presented its report on *“Migration in an interconnected world: new directions for action”*,<sup>9</sup> the report showed that there were 191 million migrants worldwide, comprising about 115 million migrants in developed countries, and 75 million migrants in developing countries.<sup>10</sup> After GCIM report, the High Level Dialogue on Migration Development took part with the main focus on human rights of migrants, their economic and social development.<sup>11</sup>

With the aim of bringing together heads of relevant agencies to promote the wider application of the international and regional instruments relevant, and relating to migration, and to encourage the adoption of more coherent, comprehensive, and better coordinated approaches to the issue of international migration, it was created the Global Migration Group (GMG).<sup>12</sup> GMG consist of 22 organization, including: international Labor Organization (ILO), International Organization for Migration (IOM), World Bank, United Nations Development Program (UNDP), etc.

Transforming our World: The 2030 Agenda for Sustainable Development of United Nations is to be mentioned, knowing the situation which the world is living, including migration issues, it maintains a significant number of references on migration issues. It promotes fundamental human rights, empowerment, inclusion and education of particularly forced displaced people.<sup>13</sup> All countries and all stakeholders, acting in collaborative partnership, will implement this plan.<sup>14</sup>

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<sup>5</sup> Dieter Kugelmann, Migration, Max Planck Encyclopedia of Public International Law, March 2009.

<sup>6</sup> United Nations General Assembly, United Nations Millennium Declaration, A/55/L.2, 8 September 2000.

<sup>7</sup> Global Commission on International Migration.

<sup>8</sup> Ibid.

<sup>9</sup> Migration in an interconnected world: new directions for action, The Global Commission on International Migration, October 2005.

<sup>10</sup> Ibid.

<sup>11</sup> General Assembly Resolution A/61/424/Add.2, December 2006.

<sup>12</sup> Global Migration Group.

<sup>13</sup> Transforming our World: The 2030 Agenda for Sustainable Development, United Nations, A/RES/70/1, ¶14.

As for the European Union, which although it was not consolidated as an international organization by that time, it still derives from the Treaty on Establishing the European Community, Article 61-69 of which provided policies related to immigration and freedom of movement of persons.<sup>15</sup> After the EU creation, European Council (EC) took all the necessary steps to enact the fundamental instruments on migration and asylum seekers.

## **European Migration**

Globalization has brought a new challenge to Europe: migration. It comes through various channels. First, there is unskilled migration. The poor of the world are knocking on the door of the rich. Fortress Europe still stands, but at its borders from the east and the south there is illegal immigration of unknown size. A second channel is migration of the most skilled among the labor force, Human Capital is the ultimate resource of the twenty-first century, and all developed societies face a large and growing excess demand for skilled labor, which is not satisfied by the local labor force and educational system. Europe contrary to North America, Australia and, New Zealand, has no position in the international labor market for highly skilled people.<sup>16</sup> Trade is the third source of labor imports. If people do not move or are not allowed to move, trade may take the place of labor imports. For instance, cheap labor is embodied in imports of goods, and this threatens home production and low-skilled workers in particular.<sup>17</sup> During the past years, Europe has been facing a new and unexpected flow of migration, the conflict in Syria happens to be by far the main and the biggest resource of migration, the ongoing violence in Iraq and Afghanistan, abuses in Eritrea are also leading people to look for new lives elsewhere, as well as poverty in Kosovo

## **Where are migrants going**

Although, not all of those arriving to Europe are choosing to claim asylum, yet many do. Germany received the highest number of asylum seekers, a number of around 1 million asylum seekers are being sheltered in Germany. Hungary moved into second place for asylum applications, as more migrants made the journey overland through Greece and the Western Balkans. The International Organization for Migration (IOM) states that more than 1.011.700 migrants arrived by sea in 2015 and another number of almost 34.900 arrived by land.

This journey to Europe can be very dangerous, and as a result a big number of migrants were reported to have died trying to cross to Europe in 2015. EU Commission stated that not EU country can or should be left alone to address the huge migratory pressures.<sup>18</sup>

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<sup>14</sup> Ibid. Preamble.

<sup>15</sup> Treaty on European Union and the Treaty Establishing the European Community, EU, 2002.

<sup>16</sup> Klaus F. Zimmerman, European Migration, Oxford University Press, 2005.

<sup>17</sup> Ibid.

<sup>18</sup> European Commission, statement.

## **The Impact and Role of South-east European Countries in Recent Migration Crises**

On the southern shore of the Mediterranean, something that had been simmering for years, surprised everyone and erupted into the Arab Spring where masses, who had been deprived of their rights, stood up to authoritarian regimes.<sup>19</sup> The uprising prompted further waves of destabilization and also migration towards the shores of nearby Mediterranean and Middle Eastern states to the north. What in its beginnings was a legitimate desire for the democratization of society, has become a conflict between various fractions in several states where central governments evidently have no absolute control over their own territories. The result of these conflicts is millions of displaced persons, both within and outside of those countries. Simultaneously, “international migration has moved to the top of the international security agenda. Increasingly, policy-makers in the United States, Europe, and around the world are making links between migration policy and national security.”<sup>20</sup> Everyone understands what ‘failed states’ imply for global security, and when large sections of their populations are trying to get into Europe, we need to analyze all the challenges posed by the situation. This is especially important if the situation in Afghanistan, Syria and Libya is becoming more extreme, rather than stabilizing, and when individuals and small groups can represent a significant security risk. The overland migration route to Europe (alongside the standard route over the Mediterranean) was well used in 2015, primarily across Greece and then through south-east Europe towards Germany, which is the main destination for a large number of migrants. The goal of this article is to address certain current issues and outline how countries in south-east Europe are reacting and how those countries have coped with not having a unified EU policy on the subject.

Due to the evident lack of a common European Union policy towards the challenge of the great migrant influx every member country, and not just those on migrant routes, has decided on independent measures with, at least at the outset, no cooperation and coordination with neighboring countries. The countries of south-east Europe (including Greece which is a Schengen Member State) have found themselves completely unprepared to face the enormous influx of migrants of many categories; from refugees, asylum seekers and economic migrants, to those wishing to avoid registration while entering EU territory because they used to be members of various military units in the war-affected areas. The Director of Europol Rob Wainwright stated, in January 2015, the assumption that between three to five thousand European citizens are fighting in ISIL’s ranks and that they are a definite threat.<sup>21</sup> During the investigation of the terrorist attack in Paris the misuse of refugee and migrant routes through south-east European countries, for the purpose of hiding identity and undetected entry, has been confirmed. In his 2016 statement, Wainwright pointed out that up to 5,000 jihadists trained in the Middle East

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<sup>19</sup> Filip Dragović, *The Impact and Role of South-East European Countries in Recent Migration Crises*.

<sup>20</sup> Fiona B. Adamson. “Crossing Borders: International Migration and National Security,” *International Security*, Vol. 31, No. 1, Summer 2006, pp. 165–199

<sup>21</sup> UK Parliament, Home Affairs Committee, Oral evidence: Counter-terrorism in Europe, HC 933, Tuesday 13 January 2015. Online available at:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/counterterrorism-in-europe/oral/17575.html> .

could be at large in Europe. “Europe is currently facing the highest terror threat in more than 10 years. We can expect ISIL or other religious terror groups to stage an attack somewhere in Europe with the aim of achieving mass casualties among the civilian population.” But he played down fears terrorists are using the migrant crisis to enter Europe posing as asylum seekers. “There is no concrete evidence terrorists are systematically using the flow of refugees to infiltrate Europe.”<sup>22</sup> Additionally it is important to point out that illegal migration, regardless of whether it is individual, overseen by organized crime groups or of potential terrorists, implies a sequence of criminal actions connected to the act of illegal border crossing like: forgery and document theft; various frauds; coercion and abuse; various customs infringements; people, children and organ trafficking; corruption of civil servants. Macedonia, Serbia and partly Croatia (an EU Member but not part of the Schengen area) have found themselves in the situation that, due to the lack of a European response to the migrant crisis, they have had to resolve a problem for which they lacked the capacity. Migrant registration has been done only partially, which is evident from the available statistical data. A lot fewer people have entered Macedonia than Serbia, and many more have entered Croatia and Hungary than have entered Serbia, which points to the inaccuracy of data.<sup>23</sup> Every country on a transit route has reacted differently and has different views on the issue of large numbers of migrants in transit. Greece has not reacted in the way that other countries expected it to, Macedonia and Serbia have partially securitized the issue, and Hungary and Slovenia have done so completely. At the same time, Croatia has approached the problem from a humanitarian perspective, refusing to securitize. As time passes, the countries on transit routes, after starting with non-cooperation and distrust, are coordinating and accelerating the process of migrant transit through their territories towards desired destinations in Western Europe. The latest decisions, made at the end of February 2016, speak of reducing the number of migrants who will be allowed to enter Western Europe and accordingly transit through south-east European countries, putting all of these countries, as well as the migrants themselves, in a new and challenging position. Migrants from war-threatened countries who are already on their way do not understand the new restrictive decisions and will almost certainly, under any circumstances, try to get to their desired destination, a large number of them most probably trying to cross illegally; through smuggling, illegal border crossing or similar methods. Consequently, the migrants and transit countries in south-east Europe will surely face new security challenges, while the existing ones are yet to be resolved. This will constitute a great security risk for all.<sup>24</sup>

### **2015-2020 Strategy for South-eastern Europe, Eastern Europe and Central Asia**

Since its establishment in 1951, the International Organization for Migration (IOM) has been working to ensure the orderly and humane management of migration for the benefit of all by providing services and advice to governments and migrants. IOM’s scope of activities,

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<sup>22</sup> Justin Huggler. “EU police chief warns that 5,000 jihadists returned from Middle East – and new attack is likely,” The Telegraph, 2016. Online available at: <http://news.nationalpost.com/news/world/eu-police-chief-warns-that-5000-jihadists-returned-from-training-in-middle-east-and-new-attack-is-likely>.

<sup>23</sup> Filip Dragović, the Impact and Role of South-East European Countries in Recent Migration Crises.

<sup>24</sup> Ibid.

membership and field presence have continuously expanded, as human mobility grew and diversified over the past 60-plus years, and its significance for States, societies and individuals dramatically increased. Today, IOM is the leading international agency working with governments, International Organizations (IOs), civil society and migrants themselves on a comprehensive range of migration issues.<sup>25</sup>

IOM has been active in South-Eastern Europe, Eastern Europe and Central Asia from the early 1990s, when it established presence in most of the countries in the region to help governments address the highly complex mix of migration and displacement challenges which had emerged following the major political changes of that period. As the migration trends in the region continue evolving, IOM remains committed to providing comprehensive support to governments in refining their policies, frameworks and practical mechanisms for migration management at national and multilateral levels, and ensuring protection and assistance to migrants in need. After more than 20 years of working in the region, IOM is now better positioned to do so than ever before. It has a large footprint in the region with offices in 19 out of the 20 SEECA countries and territories and a vast variety of activities covering the full range of migration management issues. With a few exceptions, the States in SEECA are IOM members or observers.<sup>26</sup>

Lately there has been created this strategic plan to be followed by the South-East European Countries, where migration trends, flows and control of migration takes a very important part of it. The document identifies 12 key trends observed in the region over the last 20 years that are expected to shape the regional migratory landscape in the years to come. The highlighted trends concern the directions, key driving forces, composition, modes and types of migration flows in the region. Carried out primarily on the basis of recently released and publicly available international data on migration, the analysis had to be substantiated, however, by anecdotal evidence from national surveys, thematic studies and expert opinions from IOM regional specialists, as existing data on migration at the regional and global levels are insufficient.<sup>27</sup> The identified migration trends present both challenges and opportunities to the region's governments, societies and migrants. While some relevant issues are highlighted in this publication, these challenges and their implications for policy and practice are outlined in greater detail in the 2015–2020 IOM Strategy for South-Eastern Europe, Eastern Europe and Central Asia.

## **Situation Today**

Southeast European countries have been affected by migration either as transitory country, meaning that people are using their geographical position to pass through them, or as destination countries accommodating refugees. Generally, no reliable statistics can be found available on flows or stock of irregular migrants, the well-being, as well as the extent of access to services,

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<sup>25</sup> 2015 – 2020 Strategy for South-Eastern Europe, Eastern Europe and Central Asia, International Organization for Migration (IOM), 2014.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

such as education and health of irregular migrants. Changes in policies and national laws can transfer irregular migration into regular migration, and vice-versa. The status of migrants can change during their stay and journey in the country of transit/destination, which makes the situation difficult to have a clear picture of irregular migration. By this day, Montenegro, as regards irregular migration challenges, shows that the total number of international migrants residing in the country or region is about 71 thousands whereas in Albania this total amounts to 52.5 thousand. With regards to Macedonia the total number of migrants in the year of 2017 was evaluated to be 131 thousand, in Serbia 801.9 thousand and in Bosnia and Herzegovina a total of 37.1 thousand migrants arrived during 2017.<sup>28</sup>

## **Conclusions**

The huge migration pressure from people fleeing from conflicts, war or poverty, with the hope of finding protection and better living conditions in the developed countries of Europe has shown that migration instruments and policies of the European Union cannot respond and properly control the current challenges. Furthermore, certain Member States and countries on transit routes in south-east Europe do not have a common cooperation platform but rather approach the problem pragmatically and opportunistically according to their own policies, beliefs and capabilities, of their governments seeking to strengthen their own position. When the migration pressure began in 2015, the countries on transit routes neither cooperated nor exchanged data, but over time they have begun to cooperate and are functioning better and more efficiently. As a result migrants' waiting and suffering has lessened, overall costs are lower and data is being exchanged, which in turn raises the level of security. There is space for further improvement in cooperation but, without a unified policy of the key institutions in Brussels, all of the above will be nothing more than a group of individual attempts, and not a global solution to a challenge the magnitude of which no individual country can respond to.

The security situation in the Middle East and in other countries in conflict indicates that the migration crisis will not end soon and that countries of transit and destination must develop a long-term plan to address all issues, whether related to security or humanitarian problems.

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<sup>28</sup> Ibid.

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