

MIGRATION TEXTBOOK



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International Centre for
Migration Policy Development



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MIGRATION TEXTBOOK

International Centre for Migration Policy Development (ICMPD)

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Foreword


We live in an age of migration. A greater number of people than at any other time in the era of nation states live outside the borders of their (or their parents') country of birth. This age of migration is characterised by voluntary as well as forced mobility, legal as well as irregular movement, regional as well as transcontinental migratory patterns.

International migration is a multifaceted phenomenon influenced by a variety of factors and causes. Conflict, instability, economic imbalances, globalisation, demographic developments, demand and supply of labour, new means of communication, and the increasing effects of climate change prompt ever larger segments of the world population to cross international borders in search of refuge, a better future, or fulfilment of personal aspirations in the near or far abroad.

Migration is not only a very complex subject, it is also a highly contested one. It connects people and links communities, countries and continents. It provides opportunities, but it also poses challenges. It is shaped by powerful drivers, a myriad of actors and interests, and objectives that are diverse and at times conflicting. Migration brings us together, but sometimes it drive us apart.

Like all other state institutions governing migration, the State Migration Service of the Republic of Azerbaijan must meet high expectations – and apply the highest professional standards in doing so. Trained and well-educated staff are perhaps the most essential part of well-developed institutional capacity.

The purpose of this textbook, developed in the framework of the EU-funded MOBILAZE 2 project, is to support precisely this priority. Its eleven chapters gather together the analysis of a wide range of internationally recognised experts, who draw on their vast experience and know-how to provide information and insight on fundamental theoretical concepts and the state of international research, while illuminating the background of the related political debate, migration diplomacy and international cooperation.



While this textbook aims to provide a detailed picture of the respective thematic areas, it also seeks to promote holistic understanding of the migration subject in its entirety. A general overview and detailed know-how are the two elements which form strong institutional knowledge, and I hereby sincerely thank all our authors for their work, for the exceptional quality of their contributions and, indeed, for their willingness to support this common goal so readily.

I also wish to express my gratitude to the European Union for its support for the MOBILAZE 2 project; my ICMPD colleagues, for their dedicated work; and, most importantly, all colleagues from the State Migration Service of the Republic of Azerbaijan, whose continued support and strong engagement has guided our joint efforts towards an excellent result.

I am firmly convinced and truly hope that you will find this textbook a timely and useful tool for your further work in the area of national and international migration governance.

Michael Spindelegger

Director General, ICMPD

Acronyms

ADEPT	Africa-Europe Diaspora Development Platform
ASAN	Azerbaijan Service and Assessment Network
ATUC	Azerbaijan Trade Unions Confederation
BP	British Petroleum
BAFIA	Bureau for Aliens and Foreign Immigrants Affairs
CIS	Commonwealth of Independent States
CISAN	Centre for Research on North America
CRC	Convention on the Rights of Child
CAT	Convention Against Torture
CoE	Council of Europe
CEAS	Common European Asylum System
DEMIG POLICY	Determinants of International Migration Policy Project
DIDPs	Development-Included Displaced Persons
EEA	European Economic Area
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EFTA	European Free Trade Association
EMN	European Migration Network
ENIGMMA	The “Sustaining Migration Management in Georgia” project
EU	European Union
EURODAC	European Asylum Dactyloscopy Database
EASO	European Asylum Support Office
EUAA	European Union Asylum Agency
EECA	Eastern Europe Central Asia

EAEU	Eurasian Economic Union
Frontex	European Border and Coast Guard Agency
GCM	Global Compact for Migration
GCR	Global Compact for Refugees
GDP	Gross Domestic Product
GRFDT	Global Research Forum on Diaspora and Transnationalism
HIV	Human Immunodeficiency Virus
IAMAS	Interagency Automated Information-Retrieval System “Entry-Exit and Registration”
ICMPD	International Centre for Migration Policy Development
ICCPR	International Covenant on Civil and Political Rights
IDP	Internally Displaced Person
ILO	International Labour Organisation
IMI	International Migration Institute
IMPALA	International Migration Policy and Law Analysis Project
IMPIC	Immigration Policies in Comparison Project
IOM	International Organisation for Migration
IRO	International Refugee Organisation
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ISIS	Islamic State of Iraq and the Levant
IHIO	Iran Health Insurance Organisation
ID	Identification
LFS	Labour Force Survey
LMO	Literacy Movement Organization
MFA	Ministry of Foreign Affairs
MoH	Ministry of Health
MIA	Ministry of Internal Affairs

MIGOF	IOM's Migration Governance Framework
MIPEX	Migrant Integration Policy Index
MLSPP	Ministry of Labour and Social Protection of Population
MOBILAZE	"Support to the Implementation of the Mobility Partnership with Azerbaijan" (EU-funded project implemented by ICMPD, MOBILAZE 2 runs from 2021 to 2024)
MoJ	Ministry of Justice
MRA	Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia
MS	Member States
MSE	Ministry of Science and Education
NELM	New Economics of Labour Migration
NGO	Non-Governmental Organisation
NATO	North Atlantic Treaty Organisation
OECD	Organisation for Economic Co-operation and Development
OAU	The Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa
OSCE	Organisation for Security and Co-operation in Europe
OHCHR	Office of the United Nations High Commissioner for Human Rights
PMM	Presidency Migration Management
QEE	Quality Initiative in Eastern Europe
RESTART	Reintegration Support to Azerbaijani Returnees
SADC	Southern African Development Community
SBS	State Border Service
SDG	Sustainable Development Goals
SMS	State Migration Service
SSC	State Statistics Committee
SIAMA	Integrated Automated System "Migration and Asylum"



THB	Trafficking in Human Beings
TVTO	Technical and Vocational Training Organisation
UAE	United Arab Emirates
UNCMW	UN Committee on Migrant Workers
UMIS	Unified Migration Information System
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNDOC	United Nations Office on Drugs and Crime
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
UNSD	United Nations Statistics Division
UNDESA	United Nations Department of Economic and Social Affairs
UNWTO	United Nations World Tourism Organisation
USD	United States Dollars
US	United States
UNTOC	United Nations Convention Against Transnational Organised Crime
WTO	World Trade Organisation
WWII	World War 2

Chapter 1

Introduction

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Migration is a complex, multifaceted phenomenon that has shaped the course of human history. It has been a driving force behind the development of societies, the spread of cultures, and the formation of states. People migrate for a variety of reasons, with economic opportunities, political instability, environmental disasters, and various personal preferences high among them.

The present migration textbook provides a comprehensive overview of the migration field, exploring its historical roots, current trends, and future prospects. It covers a wide range of issues from across the migration spectrum, including the causes and consequences of migration, the experiences of migrants, the social and economic impacts of migration on sending and receiving countries, and the policies governing migration.

In developing this textbook, the two project partners – the State Migration Service of Azerbaijan (SMS) and the International Centre for Migration Policy Development (ICMPD) – agreed on several fundamental principles. Among these agreed principles, it was established that the textbook should:

- ◆ Avoid merely translating into the Azerbaijani context the numerous existing studies on migration, but rather ***create a textbook which would reflect Azerbaijan-related views on migration;***

- ◆ **Present different perspectives on the multidisciplinary and interdisciplinary phenomenon of migration**, facilitating the reader in forming their own views and conclusions;
- ◆ Help to establish, develop and maintain **cooperation among Azerbaijani and international migration experts** through the process of producing a thoroughly collaborative work – hopefully spurring future collaborative research initiatives on migration issues.

The present textbook is thus the result of the joint work subsequently undertaken by Azerbaijani and international experts, including those representing the SMS and ICMPD. Throughout this textbook, the authors draw upon a range of case studies from Azerbaijan, its neighbourhood, and other parts of the world to illustrate the key themes and issues under study. The textbook also provides critical analysis of prominent debates and points of contention surrounding current migration discourse, highlighting the different perspectives and interests in play.

The format of the textbook has been carefully designed to provide structured material and insight for all migration stakeholders, while prominently featuring the Azerbaijani context. Following the present **Chapter 1: Introduction**, this textbook comprises a total of **10 Chapters**.

Chapters 2-4 presents general issues in the migration field, centred by analysis of various theoretical approaches. It provides concise and accessible insight into migration theory and acts a frame for the more topic-specific chapters.

Chapter 2: Cross-Cutting Approach to Migration, written by *Martin Hofmann (ICMPD)*, charts in detail the interdisciplinarity of migration and those aspects which one needs to consider when discussing the migration field (and why it is important to do so). Continuing the provision of a theoretical underpinning for the content of Part II, the textbook presents **Chapter 3: Typologies of Migration and Migrants** by *Aygul Abbaszade (SMS)*, introducing the main definitions related to migration; and **Chapter 4: Overview of Theories of Migration** by *Violeta Wagner (ICMPD)*, examining from a theoretical perspective the causes and consequences of migration, including various push factors.

Chapters 5-11 moves from the more general, theoretical focus of Part I to providing structured material and insight into specific issues and trends currently of central consideration in the migration field.

Chapter 5: Migration Data and Migration Data Management begins this part of the textbook, setting out the links between data and migration, in particular how to collect, analyse, and manage actionable data. This chapter is written by *Anne Herm, Michel Poulain and Konul Jaffarova (academic experts from Estonia, Belgium and Azerbaijan)*. Integral to any discussion of the migration field, in **Chapter 6: Legal Aspects of Migration** *Olga Gulina (academic expert from Russia)* accounts for the evolving nature and use of legal tools in the field. Her contribution is followed by that of *Fuad Chiragov (academic expert from Azerbaijan)*, who in **Chapter 7: Migration and National Security** addresses these two increasingly interconnected phenomena.

Chapter 8: Migration Governance covers multiple migration-related issues in the realm of international relations, including whole-of-government approaches and migration and public administration. It is written by *Nargiz Uzeir-Hajieva (academic expert from Azerbaijan)*. **Chapter 9: Migration Management in Azerbaijan** is written by *Azer Allahveranov (NGO representative from Azerbaijan)* and *Aygul Abbaszade (SMS)* and provides a useful overview of Azerbaijan's migration policies, main legal and policy frameworks, legislative documents and government stakeholders. **Chapter 10: Migrant Integration** addresses what has become a crucial topic for Azerbaijan, and is written by *Martin Hofmann (ICMPD)* and *Lamiya Rzayeva-Ahmadli (ICMPD)*. The textbook concludes with **Chapter 11: Overview of Migration Policy in Azerbaijan's Neighbourhood**, analysing the migration management situation in various states across Azerbaijan's wider region. It is written by *Violeta Wagner (ICMPD)*.

ICMPD expresses its gratitude to each of the authors who have contributed to this textbook. Their display and concise delivery of expertise are commended and the present work stands as an embodiment of their highly attuned expertise and astute insight, obtained through countless hours of dedicated endeavour.

Special thanks also go to the "Support to the Implementation of the Mobility Partnership with Azerbaijan" (MOBILAZE 2) project team, namely, Aida Hasanova, Aynur Ismayilova, Saltanat Mammadova, Xenia Pilipenko and Lamiya Rzayeva-

Ahmadli, for their committed work, as well as to Konul Jaffarova (long-term project expert), who reviewed the content of this textbook.

ICMPD extends particular thanks to Aygul Abbaszade and Elmar Mursaliyev from the SMS, for their thorough support in further content review and adaptation of the original inputs.

Last, but by no means least, ICMPD hereby acknowledges the support of the dedicated team of professional translators, editors and designers whom have contributed to the content and technical finalisation of the present textbook. Their stellar work in helping to guide this document through the lengthy publication process is commended.

The EU-funded MOBILAZE 2 project served as an umbrella framework for the development of this textbook. In line with the stated aim of the project itself, this textbook brings together various strands to prime the reader in the field of migration, its current impact on multiple aspects of our lives and its prospects for shaping our future.

This textbook is designed to be accessible to policymakers and practitioners working in migration-related areas, but also for students and researchers from a variety of disciplines, including sociology, anthropology, legal and political sciences, geography, and economics.

Our hope is that this textbook will serve as a valuable resource for all who seek to understand the complexities and dynamics of migration in today's world.

Chapter 2

The Interdisciplinary Nature of Migration Studies

Martin Hofmann

Principal Advisor, ICMPD

Introduction

In early 2015, a short message appeared online and in various newspapers: the history of migration of humans from Africa to Eurasia had become much clearer. Archaeological findings in Israel had confirmed that the first migratory movements out of Africa must have taken place some 55,000 years ago, about 40,000 years before humans began practicing herding or agriculture, or building cities and empires.¹ Whilst the discovery was labelled the “missing link between Africa and Europe”, it also showed that migration, i.e. movement of humans from one habitat to another, was and is a phenomenon of all times and far older than human civilisation.

However, it remains unclear what drove those early movers to migrate: *Was it environmental change? Conflict with other groups of humans or species? The notion that there were better opportunities out there? Or was it a sense of discovery, the curiosity of human nature?* These remain the questions that

1 Djelti, S., ‘The Evolution of the Human Migration Determinants’, Draft paper, 2017, p. 5. https://www.researchgate.net/publication/320427737_The_Evolution_of_the_Human_Migration_Determinants_1_Draft_paper/link/59e4dc150f7e9b0e1aa87acd/download

drive policymakers, researchers and analysts today when looking to understand why people migrate, and how; and in which ways these movements could be influenced for the benefit of all parties involved.

When we jump to the present and take a look at modern-day China, for example, we might discover that many of the principle questions concerning migration have remained, but are now accompanied by new questions. China is urbanising at a rapid pace. In 2000, nearly two-thirds of Chinese residents lived in rural areas. Today, this figure is less than 40%.² In 2030, China's cities will be home to almost 1 billion people, or about 70% of the national population (compared with 61% today).³ In a short period of time, some 500 million Chinese have moved, or are in the process of moving, from rural areas to urban areas, a population shift that in numerical terms is unique in human history.

Although defined as “internal migrations”, these movements pose a myriad of challenges for education, health and labour market systems, public investment, the housing market, technical infrastructure, public transport, the energy and environmental sector, the political system and the social and cultural traditions and patterns that undergo significant changes and require a new fabric for the organisation of society. Again, the questions are: *How do people move, and why? What impacts do their movements have? How can they be influenced?*

Urbanisation has become the defining phenomenon of our time. For Azerbaijan, it is estimated that many people move to the capital Baku or other urban areas each year. Baku's population has almost doubled over the past thirty years, from 1.3 million to 2.4 million – and is expected to reach 2.8 million by 2035.⁴ Economic opportunities, the availability of well-paid jobs and education opportunities are considered the three main driving factors for these internal migrations.

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- 2 United Nations Department of Economic and Social Affairs (UN DESA), Population Division, *World Urbanization Prospects: The 2018 Revision*, 2019. <https://population.un.org/wup/publications/Files/WUP2018-Report.pdf>
 - 3 World Bank; Development Research Center of the State Council, the People's Republic of China, *Urban China: Toward Efficient, Inclusive, and Sustainable Urbanization*, World Bank, Washington, D.C., 2014. <https://openknowledge.worldbank.org/handle/10986/18865>
 - 4 UN DESA, Population Division. *World Population Prospects 2019: Data Booklet*, 2019. <https://worldpopulationreview.com/world-cities/baku-population>

Since economic activities and the majority of higher educational institutions tend to be concentrated in capital cities and other metropolitan regions, urban areas develop into main destinations of internal migrants, and 24% of Azerbaijan's population now live in the capital. Again, many questions arise: *Is this trend solely beneficial for Azerbaijan's economic and social development, or could it also be detrimental? Where should the state invest: in rural areas to increase prospects for the remaining population, or in urban areas where people move to? How can public services be kept effective when the demographic imbalances and needs of urban and rural regions grow?*

When we examine the examples above for answers to the questions we pose, we can think of a broad number of academic disciplines, sub-disciplines and professions – and their respective methods – that would help us to understand what shaped and shapes migrations, how people move and why, and how we can intervene more successfully in migration. Let us try to name these disciplines: anthropology; archaeology; area studies; cultural and ethnic studies; demography; education; economics; environmental studies; family science; gender and sexuality studies; geography and urban studies; journalism; law; media studies and communication; medicine; political science; psychology; public administration; public policy; social work; sociology, statistics; and systems science.

However, the abovementioned fields will only help us to *understand certain aspects* of migration, none of them – if taken separately – will be able to *explain the phenomenon as a whole*. Migration is “part of the human condition” and “human beings have always been migratory”.⁵ However, the nature of migration has undergone substantial changes during the past decades; changes that found their expression into theory building and the further development of existing conceptual frameworks aimed at explaining the ever-changing nature of migration.

While migration research and analysis have progressed tremendously over the past five decades, the conclusion that “migration is too diverse and multifaceted to be explained by a single theory” remains valid.⁶ Each concrete issue related to

5 Lane, M., ‘Myths about migration: historical and philosophical perspectives’, History and Policy, Policy Papers, 2006.

6 Arango, J., ‘Theories of International Migration’, in *International Migration in the New Millennium: Global Movement and Settlement*, Joly, D. (ed.), Routledge, Abingdon, 2004, pp. 15-35, pgs. 15, 22.

migration poses concrete questions, which require a mix of methodologies and specific knowledge provided by the various fields mentioned above. This also requires that any analysis of migration and its various manifestations maintain an approach that goes beyond any single discipline. Migration studies will always require a “multidisciplinary” or “interdisciplinary” approach.

To briefly illustrate this point, let us look at, for example, the concept of the “migration profile”, which became very popular in the 2010s. This is a document which describes the migration situation in a given country. Quantitative data and statistical analyses are prominent tools for analysing related processes, and so statisticians will have to be closely involved in producing and interpreting the statistics on migration flows, migrant stocks and population census data that feature in a migration profile.

However, statistics is but one of the fields which will need to be drawn upon to gain a clear understanding of the country’s situation and produce a useful and *actionable* migration profile, i.e. an accurate and well-rounded snapshot of the state of migration for that country. Indeed, its production will necessitate the inclusion of a wide range of sources and fields, and their successful navigation and harmonisation for the purpose at hand.

For their part, economists can explain the causes and impacts of migration on issues such as migrant remittances, wage differentials, the labour market and economic growth, but this by itself will also not suffice for a clear understanding of migration. As important as these aspects might be, humans are not driven solely by economic considerations. Personal, psychological and social factors may be equally or more important, depending on the situation.

Migration is embedded in social contexts and when looking at the migrants themselves, their experiences and reasons, one has to make use of anthropological, historical, psychological and sociological perspectives. Developments on immigration and immigrant integration are also regularly viewed from communication, media and cultural perspectives, bringing into play the academic disciplines specialised on these issues. Then, the focus can shift to transnational processes where geography and legal frameworks can be analysed, as well as the impact of diasporic movements, which shifts the focus more toward migration and development. Migration can also be studied through

the lens of the academic disciplines of health, education, public policy, regional studies, gender, ethnography, linguistics and technology.

Divided into a myriad of facets, the assessment of migration in general – and migrants in particular – will lead us through all walks of life and refer us to a number of academic disciplines. Intrinsically interwoven into different disciplines, migration should be studied in its entirety with the help of these different disciplines, and their methodologies and state of the art.

2.1 Interdisciplinarity in Migration Research

In her 1990 book *Interdisciplinarity: History, Theory, & Practice*, Julie Klein provided the first comprehensive study of the modern concept of “interdisciplinarity”. Spanning the social sciences, natural sciences, humanities, and professions, her study provided a synthesis of existing scholarship on interdisciplinary research, education and health care. Klein argued that whether the context is a need for short-ranged instrumentality or the aim of long-range reconceptualisation of the way we know and learn, interdisciplinarity is the only means for solving problems and answering questions that cannot be satisfactorily addressed using singular methods or approaches.

In exploring what precisely this means, it is useful here to turn to the definition set out in Allen Repko’s 2008 *Interdisciplinary Research*, still hailed as one of the most comprehensive and systematic presentations of the interdisciplinary research process and the theory informing it:

“Interdisciplinary studies is a process of answering a question, solving a problem, or addressing a topic that is too broad or complex to be dealt with adequately by a single discipline, and draws on the disciplines with the goal of integrating their insights to construct a more comprehensive understanding.”

Thus, “interdisciplinarity” approaches an issue “from a range of disciplinary perspectives” and integrates “the contributions of the various disciplines” to

7 Repko, A.F., *Interdisciplinary Research. Process and Theory*, Sage Publications, New York, 2008, p. 16.

provide “a holistic or systemic outcome”.⁸ Interdisciplinarity involves researchers, students, and teachers in the goals of connecting and integrating several academic schools of thought, professions, or technologies – along with their specific perspectives – in the pursuit of a common task. It may be applied where the subject is felt to have been neglected or even misrepresented in the traditional disciplinary structure of research institutions such as, for example, women’s studies or areas of ethnic studies.

The adjective “interdisciplinary” is most often used in educational circles when researchers from two or more disciplines pool their approaches and modify them so that they are better suited to the task at hand. This includes cases of team-taught courses, where students are required to understand a given subject in terms of multiple traditional disciplines; for example, the subject of land use may appear differently when examined by different disciplines, such as biology, chemistry, economics, geography, and politics.

Although both “interdisciplinary” and “interdisciplinarity” are frequently viewed as twentieth century terms, the concept has historical antecedents, dating back to Ancient Greek philosophy. In recent years, many interdisciplinary programmes have been introduced, based on the widely shared conviction that traditional disciplines are unable (or underequipped) to address important current issues with existing research methods and tools. For example, social science disciplines such as anthropology and sociology paid little attention to the social analysis of technology throughout most of the twentieth century. As a result, many social scientists with an interest in technology have joined science and technology studies programmes, which are typically staffed by scholars drawn from numerous different disciplines.

Interdisciplinarity may also arise from new research developments, such as nanotechnology, which cannot be addressed without combining the approaches of two or more disciplines. Other examples include quantum information processing, an amalgamation of quantum physics and computer science, and bioinformatics, which combines molecular biology with computer science. Sustainable development

8 Lyall, C. et al., ‘Departure Point: Our approach to interdisciplinarity’, in *Interdisciplinary Research Journeys: Practical Strategies for Capturing Creativity*, Lyall, C. et al., Bloomsbury Academic, London, 2011, pp. 7-24. <http://dx.doi.org/10.5040/9781849661782.ch-002>

from a research perspective, as another example, deals with problems requiring analysis and synthesis across economic, social and environmental spheres; often an integration of multiple social and natural science disciplines.

“*Interdisciplinarity*”, however, is more than “*multidisciplinarity*”, with the latter involving more than one discipline in answering a common question but without integrating the different disciplines and their methods into one joint approach. Thus, in a multidisciplinary setting each discipline makes a separate contribution, but their insights are brought together without resulting in a global answer to the question at hand.

Applied to the case of migration profiles mentioned above, multidisciplinary would imply that one section of the profile deals solely with the statistical data on immigration, emigration and population, while another section analyses the traditional factors to describe the economic situation of the country in question (e.g. GDP, growth, investment, trade, labour market, fiscal situation, etc.). In this way, the resulting separate sections would give an idea of how migratory and economic aspects might be interrelated, but would not provide sound facts on such inter-linkage.

However, decision-makers need exact details on such inter-linkages if they are to develop functioning policy responses. Migration studies and economics need to be integrated with each other to construct a more comprehensive understanding. Migration studies could, for instance, investigate the motives of potential migrants in terms of individual goals, family aspirations or migrant decision-making processes. For its part, economics could place these findings in the context of wage differentials and the labour market situation between countries, and develop an economic model to measure the actual quantitative impact of these various factors on emigration and immigration. Given migration’s inherent complexity, well-designed interdisciplinary approaches regularly provide deeper insights and at times surprising results.

Political scientist Eiko Thielemann, for instance, developed a number of hypotheses on asylum destination choice for a study on the effectiveness of government policies to control migration.⁹ Included in his model, which he

9 Thielemann, E.R., ‘The Effectiveness of Governments’ Attempts to Control Unwanted Migration’, in *Immigration and the Transformation of Europe*, Parsons, C.A. and T.A. Smeeding (eds.), Cambridge University Press, Cambridge, 2006, pp. 442-471.

applied to 20 Organisation for Economic Co-operation and Development (OECD) countries, were economic factors, geographic factors, “reputation” of country of destination factors, migrant network factors, and policy factors. In applying this model by using actual migration and economic statistics, Thielemann made several highly useful and actionable findings: offering greater employment opportunities has an impact; historical ties and established networks are highly relevant; the chances of obtaining a residence status and the “reputation” as a “liberal country” are important; geographic proximity or distance are of lesser importance; and the general effect of policy measures is, as a rule, less significant than economic and historical or network factors.

From a truly interdisciplinary perspective, Thielemann concluded that the most powerful explanatory factors for choosing a destination country are the existence of migrant networks, employment opportunities, the prospects for receiving a residency status and the general perception of whether the country is “liberal” and open-minded. Thus, he also set the scene for potentially more successful policy interventions.

2.2 Interdisciplinarity and Migration Actors

Whereas the previous section outlined the importance of interdisciplinarity for research on migration, it is equally important for migration policy (formation, development, decision-making and implementation). The steering, control and management of migration depends on the existence *of* and good cooperation *between* a large number of actors and stakeholders.

Let us imagine a university, its faculty of physics and the subject of nuclear energy. The dean of the faculty is about to send out an invitation to students abroad to join its MSc programme; there are also vacancies for new professors.¹⁰ Indeed, most observers agree that universities with an international faculty and students from abroad perform better than local universities without an international orientation. In this case, the following questions arise: *Which authorities would have to be involved in the decision-making on bringing in*

10 Most observers agree that universities with faculty members and students from abroad perform better than local universities without an international orientation.

faculty and students from abroad? Is the university independent in this regard and can the board invite any student or scholar it considers desirable? Should the Ministry of Education be involved? And the Ministry of Health, as students also fall ill and require medical treatment. Are visa to be issued without further ado, or is a risk screening recommendable? Nuclear energy is also a sensitive subject with broader strategic and security implications for state, so the Ministry of the Interior and the security services would also have a keen interest in who is admitted, and for which reasons.

Hence, the immigration of students and faculty members is unlikely to involve solely the Ministry of Education and the university itself, but also a host of other authorities.

Now let us imagine another example, where the Ministry of Economy of Azerbaijan proposes the creation of an investment hub in the country, and that foreigners who set up businesses there will receive certain privileges: exemption from income tax, permanent residency (for themselves and their families), developed infrastructure, the right to bring in foreign labour force, etc.

Imagine that this proposal implies increasing the wealth of Azerbaijan and improving the financial well-being of its citizens. *Who would participate in the decision-making and implementation process?* Even though it may seem that economic growth might be the most important aspect in such decisions, *What about aspects like social cohesion and security?* Assuring investors of residence permits, for families and foreign labour force, might raise concerns among the local public regarding higher prices for goods and services, rising costs for housing and negative impacts on local social relations. *How is the media going to portray the role of immigrants to the community?*

Moreover, immigration may touch upon security-related issues. *What is the source of capital brought in?* Then, assuming the security matters are decided, there come further questions: *Where will the investor and foreign employees make health and welfare contributions? Who will set standards of employment, if any, for foreign labour force?* The Ministry of Labour, Social and Health Affairs is now called upon to deal with such issues related to labour rights. Once foreigners come, it might be decided that they are entitled to bring their families as well; subsequent questions may then arise as to whether there are suitable schools for

the children that come and who the appropriate authority is to check the level of their education. Again, the Ministry of Education is needed.

Hence, as in the previous example, the immigration of investors will not simply involve the Ministry of Economy, but also other Azerbaijani authorities.

Each of the questions laid out above are closely linked to the role and function of the modern state. Ours is a world where nation states constitute autonomous geopolitical entities with defined territories, national jurisdictions and the ability to enter into international relations. The nation state has been defined as a “form of political organisation which is based on a population nominally sharing a distinctive national identity and territory, governed by unitary bureaucracy”.¹¹ There is little evidence to suggest that this form of entity will disappear in the near term. If not as *the* key actor in international affairs, the nation state as a “territorially-based political organisation” is set to remain as one of the key actors in this arena.

International migration takes place between nation states but, as the above examples succinctly show, nation states are not “monolithic blocks”. They consist of a large number of groups and stakeholders with varying interests, stakes and responsibilities, in general and in terms of migration, represented by a number of political actors and state authorities.

A modern society and its political systems are shaped by a broad variety of actors, with the main actors representing the *trias politica*: the legislative, the executive and the judiciary power. Apart from the three Montesquieu main powers, many other societal and political actors, such as employers, trade unions, religious institutions, NGOs, journalists, and, not least, academia, play an active and decisive role in society and politics. Obviously, their interests, short and long-term objectives, and work methods do not always coincide with those of the administration. However, the functioning of the modern state and society cannot rest solely on the three main powers but instead must rely on all actors – even in cases where there is no legal obligation to involve them.

11 Gamlen, A. and K. Marsh (eds.), *Migration and Global Governance*, The International Library of Studies on Migration, Elgar Research, 2011, xv.

Moreover, acceptance, appreciation and trust in society are key prerequisites for legitimating any state policy. Decision-making in the case of migration depends on the attitudes, involvement and – most importantly – knowledge of each of the actors mentioned above. Interaction, exchange of views and cross-fertilisation are of great importance.

Migration governance benefits in particular from standing dialogue and exchange between the policy and academic spheres. Migration policy-making can draw on research findings in developing solutions that reflect the systematic and structured analysis of the realities of migration. For their part, state authorities benefit when academia better understand the parameters of policy-making and implementation.

Debates on migration more often than not involve (the evocation of) emotion, feelings and fears. Therefore, actors tend to place an emphasis on public perception and sentiment rather than on facts or long-term interests. Facts can influence the political debate, change attitudes and address “migration myths”, but only when they are available in formats that can be used by decision and opinion makers. Closer ties between authorities and academia are a precondition for establishing those facts which are relevant in the political debate, and for developing ways to communicate them to the media and the public.¹²

As a truly cross-cutting issue, migration governance also requires both multidisciplinary and interdisciplinary approaches. Subsequently, there is a need to not only involve a broad number of societal actors but also all those institutions and entities that hold formal responsibilities in regard to migration. These include ministries of the interior, foreign affairs, economy, and social protection, as well as their respective agencies.

12 International Centre for Migration Policy Development (ICMPD), *Fostering Cooperation between Academia and Government in the Field of Migration*, Policy Brief, 2012, p. 3. <https://www.icmpd.org/file/download/48171/file/Fostering%2520Cooperation%2520between%2520Academia%2520and%2520Government%2520in%2520the%2520Field%2520of%2520Migration%2520.pdf>

2.3 Interdisciplinarity and Government-Academia Cooperation on Migration

According to the United Nations definition, “international migrants” are defined as persons who intentionally move their regular place of residence across a state border, whilst “permanent migration” refers to the act undertaken by persons whom have been outside their home country for a period of more than one year. More short-term movement comes under the term “temporary migration” and refers to persons whom are outside their home country for a period of between three and twelve months.¹³

Mere mobility of persons is not sufficient, it must be based on a permanent spatial change of the centre of life. International migration includes migration of refugees, displaced persons, uprooted people and economic migrants”¹⁴.

The modern understanding of international migration is a product of the 19th century and is closely linked to the emergence of the nation state and implementation of the nation state principle of unity of state territory and people. Without clearly defined nationality and equally clearly defined national borders, there would be no international migration as such. This also explains why the phenomenon started to attract so much political and academic attention during the 20th century.

Referring to movements of people across borders in their 2009 textbook on migration, Castles and Miller state that it is not the phenomenon itself, but rather its “global scope, centrality to domestic and international politics and enormous economic and social consequence”¹⁵ that has reinvigorated migration in the modern world. There is almost no community around the globe which has not experienced some type of migration. Of course, the impact has been different (depending on the size, structures or drivers of migration) and this naturally shapes perceptions as well as policy response.

13 UN DESA, Statistics Division, *Recommendations on Statistics of International Migration*, Statistical Papers, Series M , No. 58, Rev. 1, 1998. http://unstats.un.org/unsd/publication/SeriesM/SeriesM_58rev1E.pdf

14 IOM, *Glossary on Migration*, 2019. https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf

15 de Haas, H., Castles, S. and M.J. Miller, *The Age of Migration: International Population Movements in the Modern World*, Basingstoke, 4th edition, Palgrave Macmillan, London, 2009, p. 3.

According to the *World Migration Report 2020* from the International Organization for Migration (IOM), the estimated global total of 281 million international migrants represented around 3.6% of world population in 2020; a share among the world population that is fairly stable since the 1960s.¹⁶ Somewhat surprising, however, is the fact that the reasons driving the remaining 96.4% of world population to *not* migrate are seldom discussed.

Also, scholars have not managed to answer the question why the majority of the world population opts to stay home. Moreover, whilst the media most frequently covers so-called “South-North migration”, available data indicate that the majority of movements takes place *within* regions, not between them. It should also be noted that, linked to the rapid development of transport and communication infrastructure, an increasing number of people do not migrate permanently but rather do so temporarily, often by means of circular migration.

Now that the modes of migration are changing and the international community seems to have accepted that migration is here to stay, there is greater need for better migration management and governance, and for understanding causes and analysing results. Since migration encompasses a myriad of aspects of individual lives, economic factors and issues of social organisation, it is a field where research and analysis will naturally have to rely on a broad number of different disciplines.

Migration studies is “naturally ripe” for interdisciplinary thinking; and in studying migration “multidisciplinarity with a multimethods approach should be a basic premise”.¹⁷ This is even more apparent considering the nature and the understanding of international migration have changed over the past few decades.

In his paper “Towards a New Map of European Migration”, Russel King noted significant changes in migration types, patterns and motivations leading to “new geographies and typologies of international migration”. These changes have

16 IOM, *IOM World Migration Report 2020*, 2019. <https://worldmigrationreport.iom.int/wmr-2020-interactive/>

17 Favell, A., ‘Rebooting Migration Theory. Interdisciplinarity, Globality, and Postdisciplinarity in Migration Studies’ in *Migration Theory: Talking Across Disciplines*, Brettell, C.B. and J.F. Hollifield (eds.), 2nd edition, Routledge, Abingdon, 2007, pp. 259-278, p. 260.

important implications for defining and studying migration and call for a more “integrated approach to migration studies”.¹⁸

In this regard, King defines four main priorities for the field of migration studies:

- ◆ Follow an integrated interdisciplinary approach, which recognises paradigmatic plurality and the value of mixed methodologies;
- ◆ Focus on comparisons between countries, the various migrant groups, and across time;
- ◆ Address migration at both the micro-level (individual) and the macro-level, and understand it in the context of societies and within social process in countries of origin and destination;
- ◆ Better document and measure migrations and improve the quality of migration data and statistics.¹⁹

According to King, successful fulfilment of these four priorities would produce data that allows full observation and understanding of migration in all its manifestations. Thus, the combined knowledge of the various disciplines form the basis for interdisciplinary data gathering and analysis, which in turn allow monitoring of migration that aligns with the needs of policymakers and the various actors.

Sound and relevant migration-related data also provide the basis for targeted analysis of migration realities and possible areas for migration policy intervention. Analysis goes further than monitoring; it examines data and information over longer time periods and undertakes in-depth interpretation of observed trends. It is not about the mere observation of statistical data but about the linking between different data sets and additional qualitative information that can be gathered by various means and methods.

In-depth research will be necessary to fully understand the findings of monitoring and analysis of subjects under question. Research not only analyses data but poses principle questions regarding social realities, developments and inter-

18 King, R., ‘Towards a New Map of European Migration’, *International Journal of Population Geography*, Vol. 8, No. 2, 2002, pp. 89-106, p. 90. doi:10.1002/ijpg.246.

19 Ibid., p. 101.

linkages. Whereas monitoring and analysis help to answer the question *What is going on in a certain area?*, research should answer the questions *How and why it is going on?*, which is a precondition for functioning policy-making in the area of migration.

As noted in the other sections, to answer these questions and develop such policies, interdisciplinary approaches in migration studies will be a necessity, and interdisciplinary, inter-agency and inter-stakeholder settings in policy-making and implementation will be a precondition for better migration policy.

2.4 Disciplines relevant to Migration

The introduction to this chapter mentioned disciplines and professions which are relevant for migration researchers, students and professionals working in the migration area. This textbook provides detailed insight into the most significant of these fields for migration, the importance of which are briefly summarised below, alongside some of the areas in which heightened understanding is required:

- ◆ **Demography and Migration:** demographic prognoses and ageing; replacement rates; departure and entry; population growth and migration balance; age structures; educational attainments, etc.;
- ◆ **History of Migration:** individual and general migration patterns; historical ties between countries; past emigration and immigration events; and past experience with migration policy interventions – to learn from history;
- ◆ **Political Sciences and Migration:** the political role of the state on a general scale; the process of political decision-making; the relationship between the public and the political system; the emergence of new political topics and parties; the political position of citizens and non-citizens, etc.;
- ◆ **Law and Migration:** the legal possibilities and limitations for policymakers to steer migration on basis of national and international obligations; the legal implications of the introduction of specific measures and instruments; the specificities of labour law, human rights law, international public law, international asylum law, etc.;

- ◆ **Economics and Migration:** the complex interrelations of economic factors that cause migration and the multitude of economic impacts migration has on sending and receiving countries, migrants and their families, but also on populations in countries of destination: GDP, GDP growth and GDP per capita; wage differentials and fluctuation of salaries; dual labour markets; employment and unemployment; gain and loss of human capital; remittance; fluctuation of salaries; inflation and the value of respective currency, etc. Linked to economics is the field of development studies, beneficial to understanding the impacts of outflow and inflow on human, social, economic and cultural development in sending and receiving countries; the impacts of brain drain and brain gain; the role of diasporas and transnationalism, etc.;
- ◆ **Sociology and Migration:** the impact of departure and arrival on social relationships and institutions; on social composition of the society; on shared beliefs and values; the understanding of a common culture, social stability and social change; but also on the functioning of social networks and communities, etc.;
- ◆ **Psychology and Migration:** the motives and choices of individuals engaging or not engaging in migration; the impact of migration on the psyche of the individual and social groups; the emergence of pro- and anti-immigrant attitudes and resentment; the consequences of absence of family members, etc.;
- ◆ **Statistics on Migration:** the figures and facts necessary to analyse migration and understand how we can interpret them.

2.5 Case Studies and Homework Assignment

This chapter has discussed the issue of interdisciplinarity of migration on different levels and in different areas. Below is presented a practical (and fictional) case study of one Ms. T., which discusses the impact of her migration on different micro and macro levels.

Ms T. is a primary school teacher from town K in country G. Life for Ms. T. is difficult. Her salary is rather low, her husband has been looking for a job for quite some time, her children attend primary school, and her mother is in need of expensive medical aid. Based on various accounts of migration experiences, she decides to try her luck elsewhere, preferably in country H, as a housekeeper or a domestic worker. Her personal “migratory movement” has an impact on a variety of levels, each of which are presented in the boxes below.

After analysis of the impact of Ms. T.’s migration, brainstorm and discuss which disciplines could be called upon to shed light on the events described at the micro and macro level.

CASE STUDY 1

The Impact of the Migration of Ms. T. at the Micro Level



In her home country, G, Ms. T. obtains a tourist visa at the embassy of country H, because she knows that there is no way to go to country H legally as a labour migrant. She enters country H as a tourist, but immediately starts looking for a job as a domestic worker. After a few days, she finds a job as a domestic worker with a nice family. The pay is decent, but Ms. T. is neither registered with the immigration nor health, welfare or tax authorities.

After a few weeks, Ms. T. is able to send money back home. However, after a six-month stay in H, the authorities start an intense immigration control campaign with the aim of returning all persons illegally present in the country to their home countries. At the same time, they offer to regularise the stay of those irregular immigrants who can present a valid work contract. Ms. T.’s employer agrees to sign a work contract and consequently she is granted a residence and work permit. Now Ms. T. is eligible for social security and health benefits. Even more importantly, she is also eligible to bring her family to live with her.

Alas, since Ms. T.’s salary is still too low to support the whole family in country H, it is decided that they should stay in country G until she has built up a higher level of earnings. Back in G, it is not going at all well for Ms. T.’s family. Her husband has not found a job and becoming more and more depressed. It is mainly the grandmother who takes care of the children.

At the school where Ms. T. previously worked, a young teacher has taken her place and performs her job well. Ms. T.'s oldest son wants to follow his mother to country H – either to work or to study, but Ms. T. urges him to finish school and to leave G later on, when he has some savings built up.

A significant proportion of the money Ms. T. sends home is used to purchase her mother's medication, who is already doing a lot better. However, the medication is quite expensive and can be obtained best on the black market or by bribing someone in the distribution chain. The remainder of Ms. T.'s remittances has been spent on a new television, a refrigerator and internationally fancied clothing for the children.

CASE STUDY 2

The Impact of the Migration of Ms. T. at the Macro Level

Brain drain from country G continues unabated. Most young and well-qualified professionals try to leave the country and are ready to work below their qualification level – and in the informal sector. Many of G's best and brightest go to country H.

Country H is getting more and more concerned about the loss in income tax and welfare contributions due to large-scale informal employment (of mainly migrants from abroad). Moreover, the public is becoming increasingly critical of this type of immigration and fears displacement in the job and housing markets.

The Government of country H is well aware of the significant demand for foreign labour. It decides to follow a two-pronged approach: strict immigration and labour market controls with the aim of returning illegal migrants and a regularisation programme for illegal immigrants who can obtain a formal work contract. The regularisation programme is implemented and considered quite a success.

In country G, there are ever more concerns about the increasing number of school dropouts. Many blame the educational system for being detached from labour market requirements. The phenomenon of “families left behind” has become widespread and the negative social implications of migration are high on the public debate agenda.

The World Bank estimates that the annual amount of remittances to G has reached an all-time high. Many families are doing a lot better financially than in the past and are able to put aside some savings. However, critics suggest that too much of this money is spent on importing expensive consumer goods instead of investing in domestic production. Inflation rises steadily in country G and average wages hardly suffice to cover living expenses. Older citizens of G without relatives living abroad find it especially hard to afford essentials such as medication and medical treatment. The last local clothes manufacturer in town K has shut down due to a lack of customers.

2.6 Discussion Questions

Using what you have learned in this chapter as a basis, discuss and argue:

1. *Are migration studies interdisciplinary or multidisciplinary, and why?*
2. *What other disciplines, studies and professions are important when developing a comprehensive and evidence-based migration policy?*
3. *Why is it important to understand the interdisciplinary nature of migration?*
4. *What should be done in Azerbaijan in order to integrate migration aspects into other disciplines and vice-versa at:*
 - a. *University level (preparing migration specialists)?;*
 - b. *Policy-making level (deciding on migration legislation)?;*
 - c. *Society level (informing/educating the population on migration and legal pathways)?*
5. *It was discussed in this chapter how migration researchers can benefit from studying other disciplines, What other disciplines (e.g. economics, demography, history, human geography, etc.) could gain from migration studies?*

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Chapter 3

Typologies of Migration and Migrants

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Introduction

In today's globalised world, many people are on the move, for a multitude of reasons. Migration breaks down the boundaries traditionally governing cultures, ethnic groups, and languages, contributing to increased diversity, variety, and revitalisation of culture and economy. However, migration is also viewed by some as a challenge, or even a threat.

The United Nations (UN) *World Migration Report 2022* estimated that around 281 million people lived outside their countries of birth in 2020, representing 3.6% of the global population.²⁰ However, the report also acknowledges that the great majority of people move within their own country or origin (CoO), without crossing international borders.²¹ The number of migration movements has been on the rise, with a slight increase in the absolute numbers for international migration seen in recent years. However, while the relative share of migrants in the world population has also increased, it has done so only very moderately

20 McAuliffe, M. and A. Triandafyllidou (eds.), *World Migration Report 2022*, IOM, 2021. Available at: <https://publications.iom.int/books/world-migration-report-2022>.

21 Ibid.

(Table 1), an aspect which is often overlooked, in an era where the spectre of migration is writ large in the discourse.

Table 1. International migrants and registered refugees (1970-2020)

Year	Number of international migrants	Migrants as a % of world population	Registered refugees
1970	84 460 125	2.3	2 464 730
1975	90 368 010	2.2	3 529 434
1980	101 983 149	2.3	8 454 917
1985	113 206 691	2.3	11 864 046
1990	152 986 157	2.9	17 395 914
1995	161 289 976	2.8	14 895 916
2000	173 230 585	2.8	12 129 079
2005	191 446 828	2.9	8 661 293
2010	220 983 187	3.2	10 548 835
2015	247 958 644	3.4	16 110 276
2020	280 598 105	3.6	20 661 846

Source: McAuliffe, M. and A. Triandafyllidou (eds.), *World Migration Report 2022*, IOM. Available at: <https://publications.iom.int/books/world-migration-report-2022>; UNHCR, *Refugee Data Finder*, Available at: <https://www.unhcr.org/refugee-statistics>. Accessed on 01.08.2022.

Although employment is the most common reason for international migration, some leave because they are forced to do so – compelled by war, conflict and/or other factors. Although these people, including refugees and internally displaced persons (IDPs), only make up a relatively small proportion of all migrants, their number has risen sharply in recent years and currently stands at a record high. According to the United Nations High Commissioner for Refugees (UNHCR), there were more than 89.3 million people forcibly displaced people worldwide

in 2021.²² These people may have left their places of residence because they are being persecuted or exposed to situations of serious violence. Among them are counted over 53.2 million IDPs, 21.3 million refugees,²³ and 4.6 million asylum seekers. Children account for 41% of all forcibly displaced people, yet comprise only 30% of world population.

3.1 Defining migration and migrants

In a general sense, migration refers to the movement and mobility of people, across or within state borders, for any reason. As there is no universally agreed definition of “migration” or “migrant”, various definitions are used for legal, administrative, research, and statistical purposes. One widely accepted definitions is provided in the 1998 United Nations Department of Economic and Social Affairs (UN DESA) *Recommendations on Statistics of International Migration*, which defines an “international migrant” as “any person who changes his or her country of usual residence”, and a “long-term migrant” as one who moves to another country for at least a year, and a “short-term migrant” as one who moves to another country for at least three months.²⁴ The United Nations Statistics Division (UNSD), under the guidance of the United Nations Expert Group on Migration Statistics, has initiated revisions of the 1998 UN DESA *Recommendations*.²⁵

However, according to the definition of the International Organization for Migration (IOM), a “migrant” is:

“[A] person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. The term includes several well-defined legal categories of people, such as migrant workers; persons whose

22 UNHCR, *Global Trends: Forced Displacement in 2021*, 2022. Available at: <https://www.unhcr.org/media/global-trends-report-2021>.

23 This number does not include 5.8 million Palestine refugees under the UNRWA mandate.

24 UN DESA, *Recommendations on Statistics of International Migration*, Statistical Papers Series M, No. 58, Rev. 1, 1998. Available at: <https://www.migrationdataportal.org/resource/recommendations-statistics-international-migration-revision-1>.

25 UNSD, Expert Group on Migration Statistics - Expert Group on Migration Statistics. Available at: <https://web.archive.org/web/20220712014032/https://unstats.un.org/unsd/demographic-social/migration-expert-group>.

particular types of movements are legally defined, such as smuggled migrants; as well as those whose status or means of movement are not specifically defined under international law, such as international students”.²⁶

According to the United Nations High Commissioner for Refugees (UNHCR), refugees and asylum seekers form a specific group, given that these people leave their homes due to serious threats to their lives and freedom. Unlike the term “migrant”, the “refugee” is defined legally and internationally. The 1951 UN Refugee Convention Relating to the Status of Refugees defines a refugee as:

“[S]omeone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”²⁷

UNHCR warns that it is risky to confuse refugees with other migrant groups. While other groups affected by migration change countries for economic or social reasons, to improve their quality of life, refugees are, by definition, forced to do so to save their lives or preserve their freedom.

Despite the legally defined terms related above, the distinction between a migrant and a refugee is often obscure in many cases, and not all people who fall under the definition of one are necessarily excluded from the other. The line becomes further blurred when a person moves for multiple reasons, such as wanting to escape poverty, to find work or better opportunities and due to an insecure situation in their CoO. In this case, it can be argued that the person may become a refugee even if their original intention was not to flee persecution or conflict; motives for migration can be quite intertwined, not serving solely one purpose.

It is also important to differentiate between the term “mobility” and “migration”. Human mobility comprises all types of movement outside of the usual place of residence. While being a subset of mobility, migration involves the change of residence across administrative borders. Tourism, family visits, and business-

26 IOM, *Glossary on Migration*, International Migration Law, No. 34, 2019. Available at: https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf.

27 UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, Vol. 189, p. 137. Available at: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en.

related mobility do not typically qualify as migration, irrespective of the space and time elements implied.²⁸

3.2 Typologies of migration

Migration is as old as human history. However, migration in the 20th and 21st centuries has been defined by a unique complexity and prevalence, which has evolved in tangent with increasing globalisation and new transportation and communication technologies. Helping to untangle the various strands of the migration phenomenon and situate the following chapters of this textbook, Chapter 3 thus provides definitions on international migration and its patterns.

Chapter 3 focuses on the main forms of migration and the various categories of migrants, covering the core elements involved in each case. In this regard, this chapter presents an examination of migration and migrants in terms of distance and destination, duration of stay, compliance with legal procedures, and the aspiration to migrate.

3.2.1 Migration and distance

As migration can be interpreted as a process of movement accompanied by the crossing of an administrative or political border, it can also be defined based on the extent of the boundaries it remains within. If the migration occurs within the borders of a national territory, it can be referred to as “internal migration” (or, less commonly, “intra-country migration”). If the migration involves crossing an international border, but remains within a continent, it can be defined as “interstate migration” (or “regional migration”), while if the migration takes place between continents, it can be termed “intercontinental migration” (or “interregional migration”). The latter two phenomena are usually defined collectively as “international migration”.

28 de Haas, H., Castles, S. and M. J. Miller, *The Age of Migration: International Population Movements in the Modern World*, Sixth edition, London, Red Globe Press, 2020, p. 23. Available at: <https://www.guilford.com/books/The-Age-of-Migration/Haas-Castles-Miller/9781462542895>.

3.2.1.1 Internal migration

Most migrant moves within the territory of their own state, without crossing international borders.²⁹ Compared to international migration, internal migration is much more difficult to measure and study and, therefore, to manage. A conservative estimate from the United Nations Development Programme (UNDP) puts the number of internal migrants at approximately 740 million worldwide.³⁰

Internal migration is largely spurred by economic or social reasons, but political, security and climate-related factors can also increase internal population movement. Population movement from underdeveloped areas to more developed areas, or from agricultural areas to industrialised areas, can be explained by economic and educational factors. However, in some cases, such movements may also be accompanied by reasons related to climate change.

Such migration can take the form of permanent relocation, but it can also comprise a temporary change of location, mainly limited to the duration of employment and/or study undertaken at the destination location. Various social factors can also cause significant population rearrangement, either permanently or temporarily. Some of the main drivers of internal migration are described in detail below.

3.2.1.1.1 Urbanisation

The term “urbanisation” is one of the most frequently used when discussing settlement, the precise definition of which is not straightforward. The most commonly used definition of the term “urban” is linked to minimum population or population density, while some states use employment in the non-agricultural sector to indicate an urban setting.

Urbanisation refers to an increase in the number and proportion of cities and city dwellers. Rural areas, especially in less developed countries, are often poorly

29 Skeldon, R., *International migration, internal migration, mobility and urbanization: Towards more integrated approaches*, IOM, Migration Research Series, No. 53, 2018. https://publications.iom.int/system/files/pdf/mrs_53.pdf.

30 UNDP, *Human Development Report 2009. Overcoming barriers: Human mobility and development*, 2009. Available at: <https://hdr.undp.org/content/human-development-report-2009>.

connected to supply and infrastructure. These areas may be characterised by harsh living conditions, compared to life in the city, with many perceiving that they will have better opportunities and a more fulfilling life in the city. Urbanisation is increasing in many states worldwide – in 2020 approx. 56% of the world population lived in an urban area, and this trend is expected to continue. By 2050, the urban population is projected to be more than double its current size, with approx. 7 out of 10 people in the world living in cities.³¹

To prevent overcrowding in cities, as well as to re-establish traditional agriculture, many states put in place policies to control internal migration and eliminate “rural exodus”. A prominent example in this regard is China’s *hukou* system, a household registration system which divides the population into rural and urban classes. Introduced in 1958 and still in effect today, the *hukou* is a legal document containing the personal information of each citizen, including indication of whether they belong to the rural or urban residency. Some have criticised the *hukou* system as impeding the free movement of labour, leading to unutilised expertise, and contributing to economic loss and social segregation. In response to such criticisms, the Government of China recently introduced reforms to the *hukou* system.³²

Population growth and rural-to-urban migration are the main factors influencing urbanisation. However, international migration can also contribute to an increase in the urban population, as most international migrants tend to stay in urban areas.³³

3.2.1.1.2 Deurbanisation

The term “deurbanisation” (or “counter-urbanisation”) refers to a social and demographic process in which large numbers of people move from urban areas to rural areas. While there has been a major shift towards city life in low-income

31 World Bank, Urban Development, Topics. Available at: <https://www.worldbank.org/en/topic/urbandevelopment/overview>. Accessed on 01.08.2022.

32 Jaramillo, E., Center for Strategic and International Studies, ‘China’s Hukou Reform in 2022: Do They Mean it this Time?’, Blogs, 20 April 2022. Available at: <https://www.csis.org/blogs/new-perspectives-asia/chinas-hukou-reform-2022-do-they-mean-it-time-0>.

33 IOM, *World Migration Report 2015. Migrants and Cities: New Partnerships to Manage Mobility*, Geneva, IOM, 2015. Available at: <https://publications.iom.int/books/world-migration-report-2015-migrants-and-cities-new-partnerships-manage-mobility>.

countries as rural populations move to urban areas in search of work, in many high-income countries, the trend is in fact reversing.³⁴

During the deurbanisation process, the centre of gravity of population growth shifts toward rural areas. As a result, the population size of many crowded, polluted metropolitan regions (big cities and their suburbs) declines, with a corresponding increase in the population size of attractive, “unspoiled” areas. The unpleasant aspects of city life, such as noise and air pollution, congestion, and often poor public safety are among the core push factors for internal migration. In the countryside and villages, the natural environment generally tends to be attractive, the level of pollution lower, and public safety better, which serve as pull factors for some. However, the extent of such mobility is still rather limited.

3.2.2 International migration

“International migration”, denoting movement across an international border and a change of residence, can be temporary, long-term (lasting at least one year in duration), or permanent. In the case of temporary migration, the discourse distinguishes short-term stay abroad (e.g. for work or study purposes) from long-term stay abroad, typically involving longer-term employment (or driven by family reunification or other reasons). Permanent international migration is referred to as “emigration” with no intention to return to the CoO for permanent stay.

3.2.2.1 Emigration

“Emigration” occurs when a person leaves their state to settle in another state. The right to emigrate is enshrined in Part 2 of Article 13 of the Universal Declaration of Human Rights: “Everyone has the right to leave any country, including his own,

34 Adamiak, C., Pitkänen, K. and O. Lehtonen, ‘Seasonal residence and counterurbanization: the role of second homes in population redistribution in Finland’, *GeoJournal*, Vol. 82, 2017, pp. 1035-1050. Available at: <https://doi.org/10.1007/s10708-016-9727-x>.

and to return to his country”.³⁵ The top CoOs of emigrants worldwide are India (18 million), Mexico (11 million), the Russian Federation (10.8 million), China (10 million), and Syria (8 million, mainly as refugees).³⁶

Emigration can present challenges for emigrants’ countries of origin, which may contribute to a decrease in the size of the working population, causing loss of knowledge and talents. Emigration occurs for various reasons, including prevailing political, economic, and social conditions in the CoO, which push individuals to leave to fulfil their needs and seek better opportunities elsewhere.

Emigration can cause positive and negative effects on migrants’ countries of origin.

Among the positive effects of emigration are:

- ◆ *Remittance income.* Monies sent back to the CoO can stimulate growth. In many large migrant-sending countries, the proportion of remittances in the overall gross domestic product is quite high, which improves the purchasing power of the people who receive them, enabling them to invest in their health, education, businesses, etc. Remittances also stimulate some specific economic sectors, such as construction. Seen from a transnational perspective, emigrants may stay connected with their country of origin, visit often, and possibly invest in the country, spurring poverty reduction and an increase in social and economic progress and potential;
- ◆ *Decreased unemployment rate.* Emigration need not be viewed negatively or only as “brain drain” or “brawn drain” depleting CoOs of highly qualified or skilled labourers (discussed further below). Emigration can also be seen from the perspective of countries of origin alleviating their labour market challenges, in cases where the local market cannot absorb workers, with jobseekers moving to countries of destination that are willing to take these workers in;

35 UN General Assembly, Universal Declaration of Human Rights, 217 A (III), 10 December 1948. Available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/043/88/PDF/NR004388.pdf?OpenElement>.

36 McAuliffe and Triandafyllidou (eds.), *World Migration Report 2022*.

- ◆ *Increased wage levels.* When labour supply decreases due to emigration, those workers who remain in the local labour force can, due to the increased scarcity of labour, seek better working conditions, including increased remuneration.

Some negative effects of emigration:

- ◆ *Brain drain.* This phenomenon is said to occur when qualified and skilled individuals emigrate to another state, often due to a perceived lack of adequate conditions and opportunities to develop their career in the local market. Workers thus leave their country of origin in search of better jobs or development opportunities, attracted by perceived better conditions elsewhere;
- ◆ *Loss of economically active population.* Most of those who migrate are people of working age aiming to find better job opportunities in the country of destination. This leads to less labour power being immediately available in the country of origin, which has typically invested resources in the education, training and personal development of those who leave, and longer-term affects, such as alteration of the demographic makeup and reduced ability to fund public programmes (e.g. health care and pensions for elderly populations);
- ◆ *Family breakdown and children left behind.* Disintegration of families may occur, leading to emotional and personal problems, due to the damage caused by the physical separation of family members. This dynamic may be particularly damaging for (the development of) children who are left behind by one or both parents.

3.2.2.2 Immigration

“Immigration” occurs when a person enters a foreign country to live, leaving their country of origin for the purpose of residing in that state. In this way, every migrant is seen as an emigrant, from the perspective of their country of origin, with the same migrant understood as an immigrant from the perspective of the receiving country.

Although specific laws govern immigration and emigration, immigration is usually more strictly controlled by host countries that want to regulate who is allowed to migrate to their territories. The top destination countries for migrants are the United States of America (USA) (51 million), Germany (16 million), Saudi Arabia (13 million), the Russian Federation (12 million), and the United Kingdom (9 million).³⁷

As in the case of emigration, immigration can be temporary or permanent in nature. Immigration is interpreted as being temporary in nature when a person arrives in the destination country with the intention of not staying on the national territory in the long term; for example, when a person migrates for the purposes of studying in the destination country, with the end of the study period seeing them return to their CoO. Permanent immigration is characterised as occurring when a person enters another state with the intention of staying in that state in the long term (e.g. securing fixed employment or reuniting with family).

Immigration has positively and negatively effects on countries of destination, especially in terms of economic.

Some positive economic effects of immigration:

- ◆ *Expanded labour supply.* The more people that are available on the labour market, the more jobs can be filled. Migrants play an important role in both fast-growing and declining sectors of the economy, by boosting the working-age population and filling gaps. Migrants also often fill jobs which tend to not go unfilled by local workers (such as positions requiring only lower skill levels, positions with hazardous working conditions, etc.);
- ◆ *Increased consumption.* Migrants increase local demand, as they consume and invest in the local economy, and this can, in turn, increase labour demand to produce local goods and services;
- ◆ *Innovative sectors of work.* With the arrival of immigrants, different jobs are created, and people with different cultures can offer knowledge from both sides, often with very positive results. Entrepreneurship among migrants tends to be higher than among the local population for various

37 Ibid.

reasons, including lack of recognition of their qualifications, difficulties accessing the local labour market (e.g. because they lack proficiency in the local language). Thus, migrants are more often forced to adopt innovative approaches to make a living.

Some negative economic effects of immigration:

- ◆ *Informal economy.* In some situations (mainly due to lack of legal status in the receiving country), migrants are employed in the so-called “informal economy” (or “shadow economy”), often working in unregulated, insecure and precarious jobs. Certain (precarious) industrial sectors are large employers of migrants – for example, construction and domestic work;
- ◆ *Anti-migrant sentiment.* In both Europe and the USA, fears of terrorism and violence have been exploited by anti-immigrant nationalist political movements, which increases the marginal public perception of the risk of terrorism by migrants. These fears are in turn often heavily exploited by far-right and populist movements and parties.

3.2.3 Migration duration

The duration of stay is one of the distinguishing characteristics of migration. Based on the length of absence from the country of origin and duration of stay in the country of destination, the intention of mobility and migration processes differ. Although there is no universally accepted distinction between the concepts of “permanent migration” and “temporary migration” in migration terminology, “permanent migration” generally is indicated as occurring in cases where the migrant moves with the intention of undertaking a permanent change of usual residence, while in the case of “temporary mobility”, the migrant intends to return to their CoO (or another state).

Moreover, permanent migration implies an intention for the movement to achieve a lasting effect, whereas repeat movements and seasonality are the main

elements of temporary mobility.³⁸ Temporary migration can often ultimately turn into permanent migration, in cases where the status and intentions of the migrant change (e.g. a temporary residence permit is used as the basis for applying for a permanent residence permit, or a short-term employment contract leads to a long-term employment contract).

3.2.3.1 Temporary migration

In the European Migration Network (EMN) *Asylum and Migration Glossary*, temporary migration is defined as “migration for a specific motivation and/or purpose with the intention that afterward there will be a return to the country of origin or onward movement.”³⁹ In the European Union (EU) context, this terminology corresponds to, inter alia, circular migration and/or seasonal workers. Temporary migrants are accepted by host countries for exchanges and visits related to religion or culture, employment, education, travel, or commerce. In terms of employment, host countries offer temporary labour migration programmes, often termed “guest workers” programmes, to fill labour market gaps without granting the right to permanent settlement.⁴⁰

3.2.3.1.1 Tourism and migration

In defining “short-term migration”, the UN *Recommendations on Statistics of International Migration* exclude the movement to a destination country for the purposes of recreation, holiday, visits to friends or relatives, business, medical treatment, or religious pilgrimage, and to qualify as migration, sets a minimum stay in the destination country of three months. According to the United

38 Bell, M. J. and G. J. Ward, 2000, ‘Comparing Temporary Mobility with Permanent Migration’, *Tourism Geographies*, Vol. 2, No. 1, 2000, pp. 97-107. Available at: <https://doi.org/10.1080/146166800363466>.

39 EMN, *EMN Asylum and Migration Glossary*, June 2023. Available at: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en.

40 Costa, D. and P. Martin, *Temporary labor migration programs: Governance, migrant worker rights, and recommendations for the U.N. Global Compact for Migration*, Report, 1 August 2018. Available at: <https://www.epi.org/publication/temporary-labor-migration-programs-governance-migrant-worker-rights-and-recommendations-for-the-u-n-global-compact-for-migration/#epi-toc-24>.

Nations World Tourism Organization (UNWTO), tourism entails the movement of people to countries or places outside of their usual environment for personal or business/professional purposes. Those who undertake such movements are defined as “visitors”. Generally, a person is classified as a (same-)day “visitor” if their trip does not include an overnight stay, and a “tourist” if it does include an overnight stay. The purpose of their trip can be business, leisure, or personal reasons, without the presence of any intention to procure employment with a resident entity in the country or place visited.

The interrelationships between tourist flows and migratory flows are increasingly complex and intensive. Flows stimulate each other reciprocally, and tourists become more involved in tourist places visited – places which also figure in the plans of migrants seeking to move to more developed regions.

“Mobility” cannot be reduced to migratory movements and tourism is not migration, even if the expression “tourist migration” is sometimes used. The tourist temporarily leaves his/her usual place of residence, while the migrant changes their place of residence to live in another country for an extended period of time. Tourism is one of the components of mobility, but not migration in the defined sense, so it should not be included in migratory flow analysis. International tourists cross borders like international migrants, but the intentions with which they do so are not the same.

Globalisation, individualisation, and international mobility opportunities have given rise to an increasingly common form of migration termed “lifestyle migration”. Lifestyle migration has been broadly defined as the movement of people from one place to another for the purpose of improving one’s quality of life. This type of migration often involves long-distance travel and is often motivated by a desire for a better quality of life, such as access to amenities or resources that may not be easily accessible in the migrant’s CoO.

People who take part in lifestyle migration, for instance, retirees, may choose to move for more clement weather, better access to health care, or a variety of other reasons. In some cases, lifestyle migrants may look for a more relaxed or slower-paced lifestyle, or quieter, more rural living. Some lifestyle migrants may also choose to move in search of affordable housing, or to start a business. While lifestyle migration shares the same motivation to travel as exhibited in tourism, it

is not limited by the defined time constraint.⁴¹

3.2.3.1.2 Seasonal migration

A frequent type of temporary migration is “seasonal migration”, in which the employment of the migrant is dependent on seasonal conditions and is undertaken only during a certain part, or certain parts, of the year. Seasonal migration typically involves the movement of people to undertake employment in industrial sectors, such as agriculture and tourism.

The international movement of migrant agricultural and horticultural workers has historically been controlled by seasonal foreign worker programmes, run by designated government agencies with the intention of granting temporary visas to migrant workers during the planting and harvesting seasons. Such seasonal labour migration is typically regulated through bilateral agreements between different states; for instance, those seasonal migrant workers who come to work in the EU agricultural sector are primarily citizens of Eastern European states, employed in Western and Southern Europe, under individual agreements between the non-EU sending state and the EU receiving state.⁴²

3.2.3.1.3 Circular migration

The EMN describes “circular migration” as “a repetition of legal migration by the same person between two or more countries”.⁴³ This type of migration is receiving ever greater levels of attention. The basic concept underlying circular migration is that migrants are attracted to countries of destination that are experiencing labour shortage, where they are expected to work for a limited period of time, returning to their home countries thereafter. In this way, the countries of destination hope to benefit from the fruits of work undertaken by migrants while limiting and controlling international migration flows.

41 Ibrahim, Z. and R. Tremblay, “Lifestyle Migration and the Quest for a Life-long Vacation”, *Téoros*, Vol. 36, No. 2, 2017. Available at: <http://journals.openedition.org/teoros/3074>.

42 ILO, *Seasonal Migrant Workers’ Schemes: Rethinking Fundamental Principles and Mechanisms in light of COVID-19*, ILO Brief, May 2020. Available at: https://www.ilo.org/global/topics/labour-migration/publications/WCMS_745481/lang-en/index.htm.

43 EMN, *Temporary and Circular Migration: empirical evidence, current policy practice and future options in EU Member States*, Luxembourg, EU, October 2011. Available at: <https://op.europa.eu/pt/publication-detail/-/publication/f20ccc9d-44c5-4bf2-8072-51b8c8409b39>.

The concept of circular migration, which has been part of EU political discourse for several years, did not emerge from a novel approach and was already present in the Federal Republic of Germany “guest worker” schemes of the 1950s, 1960s, and 1970s. In times of economic upswing, many foreign workers were taken on temporarily, and with the intention that they would return to their CoOs after the end of their term of employment. In some cases, a rotation principle was already being applied, allowing employees to work in the Federal Republic of Germany for several periods.

Some positive effects of circular migration:

- ◆ Labour shortages in destination countries are reduced;
- ◆ It is unlikely to lead to permanent residence;
- ◆ Remittances stimulate economic development in CoOs;
- ◆ Less “brain drain” occurs and the transfer of know-how (“brain circulation”) is supported;
- ◆ Circular migrants benefit from their mobility.

Some negative aspects of circular migration:

- ◆ Legal restrictions make irregular migration and stay extension more likely;
- ◆ Restrictions reduce labour migration in favour of family reunification and other forms of migration which are not economically motivated;
- ◆ Continuous emigration can lead to negative labour market effects in CoOs;
- ◆ Circular migrants are more likely to get “stuck” in lower-skilled employment and to fall victim to discrimination and exploitation.⁴⁴

3.2.3.2 Permanent migration

As noted, the main distinguishing factor of “permanent migration” is the migrant’s intention to permanently change his/her place of residence and the absence of plans to return to their CoO (or another state). However, the initial intention to

44 Kodra, M., ‘Circular Migration and Triple Benefits: The Case of Albanian Migrants to Italy’, *Mediterranean Journal of Social Sciences*, Vol. 12, No. 4, July 2021. Available at: <https://www.richtmann.org/journal/index.php/mjss/article/view/12528>.

take up permanent residence in the host country may change in some cases, with the migrant subsequently intending to take up solely temporary residence. Compared to temporary migration, permanent migration involves a higher social, cultural, and political cost for both countries of destination and countries of origin. While permanent migration is associated with brain drain from CoOs, it also brings integration challenges and contradictory public perceptions on the migration management of the destination country.

3.2.3.2.1 Long-term migration

According to the common definitions in place, if a person moves to a country other than that of his/her usual residence for at least one year (12 months), the country of destination effectively becomes his/her new country of usual residence. From the perspective of the country of departure, the person will be viewed as a long-term emigrant, and from that of the country of arrival, the person will be viewed as a long-term immigrant.⁴⁵

“Long-term migration” and permanent migration are often understood as quasi-synonyms. The Organization for Economic Co-operation and Development (OECD) defines permanent migration as:

“[R]egulated movements of foreigners considered to be settling in the country from the perspective of the destination country. They cover regulated movements of foreigners, as well as free movement migration”.⁴⁶

3.2.3.2.2 Naturalisation

Citizenship (sometimes referred to as “nationality”) is the main factor determining the rules and procedures around international migration management. Through citizenship, a government applies various regulations on entry to and exit from its national territory. While citizenship is mainly granted on the basis of descent or birth on the national territory, it can also be granted via “naturalisation”. Through the naturalisation process, migrants gain access to voting rights, a guarantee of

⁴⁵ UN DESA, *Recommendations on Statistics*.

⁴⁶ OECD, Permanent immigrant inflows. Available at: <https://doi.org/10.1787/443b6567-en>. Accessed on 18.08.2022.

permanent residence, and other social and economic benefits offered by the host country.

To become a naturalised citizen, in most states, the individual must legally reside on the national territory for a specific period, exhibit competency in the national language, and make a declaration of loyalty. Some states also apply accelerated naturalisation for certain categories of migrants, on the basis of marriage, adoption of/by a citizen, or investment. Naturalisation policies differ according to the willingness of the state to adopt foreign populations under their jurisdiction and integrate migrants into the local society.

Naturalisation is also connected to the question of dual or multiple citizenship, which can be acquired by birth and through naturalisation. Approaches to dual citizenship vary across the world, with, for example, dual citizenship being allowed (e.g. Türkiye), not recognised (e.g. Azerbaijan), or expressly prohibited (e.g. India).

3.2.3.2.3 Diaspora

The term “diaspora” (also known as “expatriates”, or sometimes “transnational communities”)⁴⁷ refers to population dispersed across more than one territory and having a durable and salient relationship (consisting of a set of claims, practices, and/or loyalties) to a common origin, identity, or homeland.⁴⁸

In Greek, “diaspora” means “dispersion” and was first used to describe Jews exiled from Israel.⁴⁹ It was later applied to other communities that left their homeland to settle elsewhere. Assessment of aspects related to diaspora groups often proves challenging, not least because there is no consensus on the definition of “diaspora”.

47 Migration Data Portal, Diasporas, Migration & development. Available at: <https://www.migrationdataportal.org/themes/diasporas>. Accessed on 01.08.2022.

48 Bartram, D., Poros, M. V. and P. Monforte, *Key Concepts in Migration*, Los Angeles, Sage, 2014. Available at: https://books.google.pt/books/about/Key_Concepts_in_Migration.html?id=A_BhAwAAQBAJ.

49 Elazar, D. J., ‘Land, State and Diaspora in the History of the Jewish Polity’, *Jewish Political Studies Review*, Vol. 3, No. 1/2, 1991, pp. 3-31. Available at: <http://www.jstor.org/stable/25834195>.

IOM defines diaspora as “migrants or descendants of migrants whose identity and sense of belonging, whether real or symbolic, have been shaped by their migratory experience and background”. These persons are thus interpreted as maintaining links with their homelands, and to each other, based on a shared sense of history, identity, or mutual experiences in the destination country.⁵⁰

Definitions of “diaspora” may include first-generation migrants and their foreign-born children, as long as they maintain some link to their parents’ CoO (or perceived origin, identity or homeland). These links, whether cultural, linguistic, historical, religious, or affective, comprise the elements that distinguish diaspora groups from other communities.

In general, diasporas possess all (or most) of the following characteristics:

- ◆ They migrate from a country of origin in search of work, to do business, or to escape conflict or persecution, on a voluntarily basis or forced to do so;
- ◆ They preserve an idealised collective memory about the ancestral home;
- ◆ They maintain a continuous connection with their country of origin;
- ◆ They have a strong group consciousness that is maintained over time;
- ◆ They have a sense of friendship with members of the diaspora in other states.⁵¹

Diasporas may be involved in the politics of their CoOs and in some cases also influence the foreign policy of their country of residence. Cuban exiles and the pro-Israel lobby in the USA are prominent examples of this phenomenon, influencing foreign policy of the USA toward Cuba and Israel respectively. The diaspora often plays an important role in stimulating the development benefits which migration can bring, and, through remittance, comprise a valuable aid in the fight against poverty.

Diaspora engagement policies include traditional consular services for nationals abroad and programmes within national ministries which focus, for example, on health, welfare, labour, education, economics development, culture, or religion. Several states, including Azerbaijan, have government agencies dedicated

50 IOM, *Glossary on migration*.

51 Migration Data Portal, Diasporas.

exclusively to diaspora relations. Moreover, to strengthen ties with the diaspora, some governments apply a simplified procedure for diaspora members to settle in their ancestral homeland, such as the “Blue Card” issued by the Government of Türkiye.

3.2.3.4 Migrant integration

There is no single definition of “migrant integration”. While the various definitions share similarities, they tend to be context or state specific. According to IOM, migrant integration is a “two-way process of mutual adaptation between migrants and the societies in which they live, whereby migrants are incorporated into the social, economic, cultural and political life of the receiving community”.⁵²

Integration is the ability of immigrants to achieve the same socio-economic results as people born in the host country, while taking into account their particular characteristics. The migrant integration process comprises five main dimensions: economic, housing, linguistic, social, and cultural integration.

Migrant integration was preceded by the notion of “assimilation”, a process whereby immigrants become more similar to the local population, in terms of cultural and social characteristics. Since the 1970s, some governments have shifted from assimilation to integration.⁵³ The ultimate aim of assimilation is the reduction or elimination of cultural differences in the migrant population, compared to the existing population. The USA has traditionally relied on the assimilation of migrants, while European states have come to focus more on mutual integration.⁵⁴ The details of the different approaches are discussed elsewhere in this textbook, alongside those of “multiculturalism”, another model of immigrant (and non-immigrant minority groups’) integration, whereby immigrants (and minorities) are encouraged to equally participate in all spheres of society, including religion, language, and culture.

52 IOM, *Glossary on Migration*.

53 de Haas, Castles and Miller, *The Age of Migration*, p. 326.

54 Macleod, C., ‘The Changing Concepts around Immigrant Integration’, Migration Policy Institute, Feature, 17 September 2021. Available at: <https://www.migrationpolicy.org/article/changing-concepts-immigrant-integration>.

Migration in itself does not eliminate the interconnection of the migrants with their countries of origin. Migrants often maintain connections with their home countries while building new connections in the destination countries and establish multicultural lifestyles and identities.⁵⁵ Categorised as “transnational migrants” or “transmigrants”, even though they emigrate and become a part of another community, such migrants may maintain strong links with their origin country in terms of family, economics, religion and politics.⁵⁶

3.2.3.5 Migration as an aspiration

Within the definitions of migration in use, a distinction between “voluntary migration” and “forced migration” is also often present. In the case of voluntary migration, the migrant leaves their home with a preferred migration outcome in mind, based on various factors (such as the perception of better job opportunities being available in the place of destination) – although, in practice, their options are often severely limited. Forced migration, on the other hand, is primarily the result of coercive factors (such as persecution, war, or starvation), whereby the migrant flees some form of violation of their basic human rights. In some cases, both pull and push factors may be present, with many migrants, for example, moving for economic reasons and fleeing human rights violations in the same movement.⁵⁷

3.2.3.6 Voluntary migration

In popular discourse on migration, most people perceive migrants as free agents, with the ability to choose when they leave, where they go, and how long they stay at the destination, which has a significant impact on their life experiences.

55 Pries, L., *Transnational Migration: New Challenges for Nation States and New Opportunities for Regional and Global Development*, Center for International Relations, Reports & Analyses 1/06, 2006. Available at: <http://pdc.ceu.hu/archive/00004803>.

56 Fouron, G. and N. Glick Schiller, ‘All in the Family: Gender, Transnational Migration, and the Nation-State, Identities’, *Global Studies in Culture and Power*, Vol. 7, No. 4, 2001, pp. 539-582. Available at: <https://doi.org/10.1080/1070289X.2001.9962678>.

57 UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, 2019, para. 63. Available at: <https://www.unhcr.org/fr-fr/en/media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967>.

Migrants who do possess a measure of control over these aspects represent the classic voluntary migrant.

However, based on the reasons driving the decision to migrate, migration flows are typically classified into different categories, with migration for employment, study, or family reunification purposes accounting for the large share of movements. However, migration undertaken for the purposes of doing business (e.g. investment or entrepreneurship) in another state or spending retirement years (e.g. migration of retirees to more favourable climates or states perceived as offering better economic conditions) are also included in the categories of migration.

3.2.3.6.1 Labour migration

As the primary reason for migration, “labour migration” (also referred to as “economic migration”) is motivated by economic factors. IOM defines labour migration as the “movement of persons from one State to another, or within their own country of residence, for employment”, covering both internal and international migration. However, the International Labor Organization (ILO) uses a broader, “international labour migration” definition, referring to three categories; international migrants whom are already employed, international migrants whom are seeking employment in the destination country, and international migrants whom have returned to the destination country.⁵⁸ According to ILO estimates, migrant workers constitute 5% of the global labour force; in 2019, there were 169 million international migrant workers worldwide, and this number continues to rise.⁵⁹

In most cases, migrants leave their homeland in search of a secure income and greater well-being. Women account for nearly half of all migrant workers, with their share continuing to increase over time. Labour migration contributes to the economic and social development of both the country of origin and the country of destination. Migration enables the transfer of money, assets, knowledge, and

58 ILO, *Guidelines concerning statistics of international labour Migration*, 2018. Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_648922.pdf.

59 Ibid., *ILO Global Estimates on International Migrant Workers: Results and Methodology*, Third edition, Geneva, ILO, 2021. Available at: https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_808935.pdf.

ideas. However, migrating often means not only leaving, but also returning, and knowledge, capital, connections, experience, and exposure gained abroad can potentially support the development of CoOs.

The relationship between migration and skills development is complex. Migration can be a means of quickly and efficiently meeting labour supply and demand needs, stimulating innovation and development in countries of origin and destination, as well as transferring or updating skillsets.

In the simplest terms, skilled labour migration is the movement and migration of highly educated and trained labour force across borders. Low-skilled migration typically refers to the movement across borders of people with fewer formal qualifications, people working in jobs that do not require such qualifications, or people working in low-wage positions (regardless of their educational background). Global economic disparities often lead many skilled workers to leave their homeland and not return. This “brain drain” can hinder development in the country of origin and represent a major problem for many sending states, particularly in the health sector.

3.2.3.6.2 Student migration

“Student migration” is the movement of people across an international border, away from their habitual place of residence to undertake a programme of study.⁶⁰ Spurred by globalisation, the internationalisation of higher education has greatly increased and become a market-oriented activity. Alongside the rapid rise in the number of students seeking and pursuing higher education abroad, many now consider studying abroad as a stepping stone to obtaining permanent residency in the destination country. The contribution which foreign students provide, both culturally and economically, to the host country has encouraged key stakeholders to implement further initiatives to facilitate their arrival and integration, including major changes in immigration and visa policies and procedures.

60 IOM, *Glossary on Migration*.

3.2.3.6.3 Family migration

Factors related to family are among the main drivers of migration. “Family migration” refers to the migration of people due to new or established family ties, encompassing several subcategories: reunification with a family member who previously migrated; family members accompanying the main migrant; marriage between an immigrant and a national; marriage between an immigrant and a foreigner living outside their CoO; and international adoption.

Family reunification is an accepted reason for immigration in most states, in cases where one or more family members are present in the state, allowing multiple family members, or only one certain family member, to immigrate to that state. Family reunification laws attempt to balance a family’s right to live together and the state’s right to control immigration, and these laws differ greatly from state to state.

A subcategory of family reunification is “marital immigration”, whereby a spouse immigrates into their spouse’s state of residence. Marriage immigration can occur prior to marriage, falling into a special category, or it can occur after marriage, falling under family reunification law. Some states allow family reunification for unmarried spouses, if they can prove an ongoing close relationship that has lasted for a set minimum period of time.

Family reunification has a large influence on “chain migration” throughout the world. The *EMN Glossary* defines chain migration as “the practice where those who have settled on a family reunification basis can themselves sponsor further family members, consistent with European Convention on Human Rights (ECHR) obligations”.⁶¹ However, the process can also be influenced by the migration of an individual not only within a family, but within a community, through migrant networks.⁶²

61 EMN, *EMN Asylum and Migration Glossary*.

62 Eurenus, A-M., ‘A family affair: Evidence of chain migration during the mass emigration from the county of Halland in Sweden to the United States in the 1890s’, *Population Studies*, Vol. 74, No. 1, 2020, pp. 103-118. Available at: <https://doi.org/10.1080/00324728.2018.1559945>.

3.2.3.7 Forced migration

According to IOM, “forced migration” (also referred to as “forced displacement”), is an involuntary, coerced, and suffered migratory movement, caused by various factors, but which involves the use of force, compulsion or coercion.⁶³ The IOM definition includes a footnote which states that the term does not imply an international legal concept, and has been used to describe the movement of refugees, internally displaced persons, and, in some cases, migrants whom fall victim to trafficking in human beings (THB). This section also covers the migration of unaccompanied minors, which, by their nature, are related to other causes of forced migration.

3.2.3.7.1 Refugees

According to UNHCR data, there are 21.3 million refugees and 4.6 million asylum seekers (for more data in the regard, please refer to the Chapter 6 of this textbook). These numbers exclude 5.8 million Palestine refugees, who are under the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), and 6.1 million Venezuelan migrants, asylum seekers, and migrants abroad, who are coordinated by the Interagency Coordination Platform for Refugees and Migrants (R4V).⁶⁴

The 1951 Convention Related to the Status of Refugees prohibits expulsion and forced return of a person who holds refugee status. Article 33 of the Convention states:

“[N]o Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”⁶⁵

⁶³ IOM, *Glossary on Migration*.

⁶⁴ UNHCR, *Global Trends*.

⁶⁵ *Ibid.*

This “non-refoulement” international law principle indicates that no person can be expelled or forcibly returned to a place where his/her life or freedom is in danger. Prohibition of non-refoulement is also elaborated upon in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:

“[N]o State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”.⁶⁶

3.2.3.7.2 Unaccompanied minors – forced migrants

According to the United Nations Children’s Fund (UNICEF), by the end of 2021, some 36.5 million children were displaced from their homes.⁶⁷ Although some children travel with their parents or other legal guardians, migrant children often must travel alone, facing numerous challenges during transit, at the destination, and upon return. According to the Convention on the Rights of the Child (CRC), a child is “every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier”,⁶⁸ and excludes any type of discrimination in this regard, including pertaining to citizenship and migration status.

General Comment 6⁶⁹ on the Treatment of Unaccompanied and Separated Children outside their Country of Origin defines “unaccompanied children” or “unaccompanied minors” as children whom have become separated from both parents and other relatives and whom are not under the care of an adult whom, by law or custom, is responsible for their care, while “separated children” refers to children whom have become separated from both parents, or their previous

66 UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, Vol. 1465, p. 85. Available at: <https://www.refworld.org/docid/3ae6b3a94.html>.

67 UNICEF, Migrant and displaced children, Programme. Available at: <https://www.unicef.org/migrant-refugee-internally-displaced-children>.

68 UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, Vol. 1577, p. 3. Available at: <https://www.refworld.org/docid/3ae6b38f0.html>.

69 The UN Committee on the Rights of the Child produces General Comments to explain the rights contained in the CRC and its Optional Protocols, and to provide authoritative guidance with respect to particular issues. Migration-related issues are covered in CRC General Comments No. 6, 22 and 23.

legal or customary primary caregiver, but not necessarily from other relatives. These children, therefore, may include children accompanied by other adult family members.⁷⁰

Unaccompanied children are recognised as the most vulnerable migrant population, as they may be forced into child labour and/or early marriage, exposed to aggravated smuggling, subjected to human trafficking, and put at risk of violence and exploitation, during the migration process and/or in the destination country.

3.2.3.7.3 Environmental migrants

There is no legal or internationally accepted definition for migrants who move due to environmental factors. IOM defines “environmental migrants” as:

“[P]ersons or groups of persons who, predominantly for reasons of sudden or progressive change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes or choose to do so, either temporarily or permanently, and who move either within their country or abroad”.⁷¹

Besides the abovementioned term, various legal and academic sources refer to these migrants as “environmental refugees”, “climate refugees”, or “eco migrants”.

According to the Internal Displacement Monitoring Centre, as of the end of 2021, there were 5.9 million persons internally displaced due to natural disasters. The highest number of IDPs due to natural disasters were recorded in Afghanistan (1.4 million), China (943,000), the Philippines (700,000), Ethiopia (579,000), and

70 UN Committee on the Rights of the Child, General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, CRC/GC/2005/6, 1 September 2005. Available at: <https://www.refworld.org/docid/42dd174b4.html>.

71 IOM, *Discussion Note: Migration and the Environment*, Ninety-Fourth Session of the IOM Council, MC/INF/288, 1 November 2007. https://environmentalmigration.iom.int/sites/g/files/tmzbd1411/files/MC_INF_288.pdf.

South Sudan (527,000).⁷² However, data remains limited, as environmental and climate change are not specified as a reason for humanitarian migration.

Changes in the environment (e.g. drought, desertification, flooding, rising sea levels) comprise a main driver of migration – alongside economic, political or social factors. Increasingly, these changes in the environment are attributed to climate change. In many cases of environmental migration, a clear demarcation between voluntary and involuntary migration is difficult to establish – especially where drivers such as droughts make it difficult for people to meet their daily needs and whom therefore decide to leave their place of origin. This movement often places into question the legal status of these persons, in particular, as regards to whether they are eligible to receive international protection.

Environmental migration can become a security risk in countries of origin, transit, and destination, in the short, medium, and long term. The complex interactions between environmental changes and other socio-economic factors further exacerbate the situation. In environmental migrants' CoOs, the main concern is typically the increasing scarcity of resources. Insidious or sudden environmental changes such as a reduction in the availability of drinking water, soil degradation, increasing desertification, or the loss of territory increase competition for resources may produce a broad array of effects.

Distribution conflicts or violent clashes over resources are occurring with greater frequency in many regions worldwide, with many choosing to leave their home, or forced to do so, because of prevailing circumstances. Others affected by such factors remain in their home country as internal migrants. Given this complex dynamic, the step toward migration cannot be explained solely by environmental drivers.

72 Internal Displacement Monitoring Centre (IDMC), Norwegian Refugee Council (NRC), 2022 *Global Report on Internal Displacement*, May 2022. Available at: <https://www.internal-displacement.org/global-report/grid2022>.

3.2.3.7.4 Trafficking in human beings

“Trafficking in human beings” is defined by the United Nations as:

“[R]ecruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”⁷³

THB occurs where people are placed in situations of exploitation against their will (i.e. through deception, coercion, or threats), from which they cannot free themselves. However, for THB to be in evidence, three elements must occur together:

- ◆ Action: Recruiting, transporting, harbouring, or taking of people;
- ◆ Means: Threat or use of force, kidnapping, fraud, deception, abuse of power, or the exploitation of a special helplessness;
- ◆ Exploitation: Exploitation for prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of bodily organs.

The number of cases of THB uncovered worldwide has been rising steadily for over a decade. In 2018, approx. 50,000 cases of THB were recorded, across 148 states worldwide. According to the United Nations Office on Drugs and Crime (UNODC) *Global Report on Trafficking in Persons 2020*, women and girls were involved in 65% of the cases uncovered, and are mostly victims of sexual exploitation, while boys and men are mostly involved in forced labour.⁷⁴ According to the report, while sexual exploitation (50%) and forced labour (38%) are the primary forms

73 UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000. Available at: <https://www.refworld.org/docid/4720706c0.html>.

74 UNODC, *Global Report on Trafficking in Persons 2020*, UNODC Research, 2020. Available at: https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP_2020_15jan_web.pdf.

of exploitation, persons subjected to THB are also forced into criminal activities, such as begging, forced marriages and removal of organs, etc.⁷⁵

Worldwide, 169 states are assessed as having legislation in place that criminalises trafficking in persons broadly in line with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (known as Palermo Protocol). In the Azerbaijani context, according to Article 144 of the Criminal Code of the Republic of Azerbaijan, the practice is punishable by imprisonment for a period of 5 to 10 years.

There is a close link between THB and migration, although not all of those whom are subjected to THB are migrants, as a case of THB need not include the crossing of an international border. Among the main drivers of THB are economic imbalances between countries of origin and destination and social inequality within countries of origin. Those affected often decide to migrate to secure their livelihood and that of their families, or to develop new livelihood prospects.

In target countries, the demand for cheap labour in the various sectors concerned, such as prostitution, construction, and care work in private households, encourages THB and labour exploitation. Restrictive immigration policies and laws also prevent many from undertaking regular migration, while a lack of or only insecure residence status makes migrants potentially more vulnerable and exploitable.

Migration status is a core vulnerability that can be used to entrap migrants, with the person's lack of authorisation to work or remain in the state used to lure or keep them in a THB situation and conduct further exploitation. In most world regions, migrants account for a sizable portion of survivors of THB uncovered: 65% in Western and Southern Europe, 60% in the Middle East, 55% in East Asia and the Pacific, 50% in Central and South-Eastern Europe, and 25% in North America. Even labour migrants whom have moved via a regular channel may be at risk of being taken advantage of, as, in some cases, they may not be aware of their labour rights.⁷⁶

75 Ibid.

76 Ibid.

3.2.4 Legal status and migration

The issue of compliance with legal procedure is becoming more prominent in international migration as governments apply more effective and stricter migration regulations and procedures. States have the sovereign right to set the terms for migrants' entry and stay on their national territory. In terms of compliance with legal procedures, migration is divided into "regular migration" and "irregular migration" (some states use the term "illegal migration", with human rights organisations calling for use of more humanising terms, such as "migrants in an irregular situation").

3.2.4.1 Regular migration

"Regular migration" is the situation where people undertake travel in line with the legal procedures in place (in the state from which they depart, any state(s) they transit through en route, and the state in which their place of destination is located). The migrant is expected to be eligible to complete the migration process according to the criteria set out in the respective national laws, based upon their reasons for migration, and to have the necessary documentation to prove their regular status during their stay.

3.2.4.1.1 Visa

A "visa" is an endorsement proving a state's confirmation that entry, exit, or transit of the endorsed non-national to, from, or through its national territory is permitted. The procedure and the requirements for issuing a visa are specified in national law. This electronic or paper document is issued by the diplomatic or consular services of the state concerned, authorising the holder to conduct their movement for the reason and period of time indicated in the document.

Some states have signed agreements with other states allowing visa-free entry into their territory for tourism or business-related reasons (for defined periods). While the types of visas issued vary from state to state, and may bear different names, they generally include student visas, tourist visas, worker visas, marriage visas, visitor visas, business travel visas, and medical visas.⁷⁷

⁷⁷ IOM, *Glossary on Migration*.

3.2.4.1.2 Residence permit

A “residence permit” is issued by the competent authorities of the state concerned, proving the holder’s right to legal residence on the territory of that state for a given period or time. It can take the form of a sticker affixed to a valid passport or a separate card.

The residence permit also allows the holder, throughout its period of validity, to leave and enter the respective territory without the need to apply for a visa. However, it is important to note that in some states, this permit can be cancelled automatically should the holder spend more than six months outside the territory concerned.

3.2.4.1.3 Work permit

A “work permit” is an electronic or paper document issued by the competent national authority permitting the holder to legally work on the respective territory for a given duration, and often in a given function and/or for a predefined employer.

The majority of work permits are tied to an employer. Thus, the employer and the employee are required to respect the obligations relating to this work permit. In many states, it is necessary to finalise the immigration procedure once the migrant arrives on the national territory (obtaining the work permit and the residence permit), before they are able to start working legally.

3.2.4.2 Irregular migration

“Irregular migration” occurs when a person enters, stays, or works in a state of which they are not a citizen or legal resident, thereby violating its immigration laws and regulations. While many irregular migrants are migrant workers, those who migrate to join family members or for lifestyle reasons may also find themselves in an irregular situation.

Migrants often arrive in a state legally, but overstay the time period for which their visa is valid and/or engage in economic activities without proper

authorisation. Asylum seekers whose applications for asylum are rejected by the national authority may also fall into an irregular situation. There are no reliable statistics on the number of irregular migrants worldwide, due to the inherent challenges faced in reaching members of this group and including them in the official numbers.

3.2.4.2.1 Migrant smuggling

“Migrant smuggling” is a transnational crime that threatens the sovereignty of states and puts the security and well-being of migrants at risk. The Protocol against the Smuggling of Migrants by Land, Sea, and Air, supplementing the United Nations Convention against Transnational Organized Crime defines migrant smuggling as “the procurement, to obtain, directly or indirectly, a financial or other material benefits, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”.⁷⁸

The crime of smuggling of migrants is typically undertaken for the large financial rewards which may be gained and the perception that offenders run only a small risk of being punished for their crime. Smugglers frequently work as members of well-organised, global networks and offer dangerous and illegal services to needy people.

This crime is frequently characterised by violence, abuse, and exploitation. Many migrants drown at sea, go thirsty in the desert, or suffocate in shipping containers. Those whom have little prospects of migrating legally, such as those fleeing poverty, natural disaster, conflict, persecution, or a lack of economic and education prospects, are often preyed upon by smugglers.

The crime of migrant smuggling may be characterised by:

- ◆ Facilitation of the illegal entry of a person to another state;
- ◆ Creation or supply of a falsified or forged identity document;

78 UN General Assembly, Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000. Available at: <https://www.refworld.org/docid/479dee062.html>.

- ◆ Authorisation, by illegal means, of the permanent stay of a non-national or non-resident.

Migrant smuggling is a global issue and is criminalised in most states. In the Azerbaijani context, Article 318-1 of the Criminal Code of the Republic of Azerbaijan defines the legislative ground for the punishment of organisers of migrant smuggling. The Code states that organisation of illegal migration (illegal entry, stay, transit, and/or departure of any person) will be punishable by a fine, corrective action, or imprisonment of up to three years.⁷⁹ The crime will be punished more severely in the case that is committed by an organised group, by government official, repeatedly, or in a way which endangers human life.⁸⁰

It is also important to differentiate between “migrant smuggling” and “trafficking in human beings”. Although these acts are related, the smuggling of migrants involves the migrant giving their consent to the act – often despite the appalling conditions in which the act is to take place (in small boats, refrigerated trucks, hidden cavities of vehicles, etc.) and the risks involved.

However, in the case of trafficking in human beings, the person who is trafficked does not give their consent to the act. Indeed, even in cases where such consent is given, it is considered irrelevant and invalid, as it has been obtained under circumstances that limit the will of the person giving their consent, such as abuse of power, violence, coercion or deception.⁸¹

3.2.4.2.2 Migration detention

“Migration detention” refers to the government practice of detaining migrants, including potential asylum seekers, for administrative purposes and, generally, to establish their identity, facilitate a migratory or protection application or claim, or carry out their removal from the territory of the respective state. International standards establish that immigration detention be used only as a last resort and only when reasonable, necessary, and proportionate to a legitimate government

79 Government of the Republic of Azerbaijan, Criminal Code of the Republic of Azerbaijan, 30 December 1999. Available at: <https://e-qanun.az/framework/46947> (in Azerbaijani).

80 Ibid.

81 UNODC, Human trafficking and migrant smuggling. Available at: <https://www.unodc.org/e4j/en/secondary/human-trafficking-and-migrant-smuggling.html>.

purpose. A legitimate purpose for the detention of migrants is the same as a legitimate purpose for the detention of any other person: when the person presents a risk of flight from future judicial or administrative proceedings or a danger to themselves or public safety.

In all cases, migration detention should only be used after alternatives to detention have been explored for each individual case. Instead of migration detention, international human rights organisations recommend states to use alternatives for migrants and asylum seekers, applied with respect for their human rights, and deemed more effective and economical. Alternatives to detention include any legislation, policy, or practice (formal or informal) which ensures that those detained are not detained for reasons relating to their migration status.⁸² The most commonly used alternatives include home curfews, electronic tagging and/or tracking, conditional release, release on bail/bond or other surety, and community-based supervised release or case management.

3.2.4.2.3 Return

The final element of migration involves the “return” of the migrant to his/her country of origin. Return migration takes two main forms: “voluntary return” and “involuntary return” (also known as “forced return”).

IOM breaks voluntary return into three categories:

- ◆ Spontaneous return – voluntary and independent return of migrant;
- ◆ Assisted voluntary return and reintegration (AVRR) – return of migrants within assisted voluntary return programmes, often carried out by international or civil society organisations or by host country authorities;
- ◆ Voluntary humanitarian return (VHR) – assisted voluntary return in the context of humanitarian situations, such as stranded or detained migrants.⁸³

82 Sampson, R. et al., *There are alternatives: a handbook for preventing unnecessary immigration detention (revised)*, International Detention Coalition, Melbourne, International Detention Coalition, 2015. Available at: <https://idcoalition.org/publication/there-are-alternatives-revised-edition>.

83 Migration Data Portal, Return Migration. Available at: <https://www.migrationdataportal.org/themes/return-migration>. Accessed on 19.08.2022.

Involuntary or forced return is the act of returning a person against their will, to their country of origin, a place of transit, or a third country that agrees to receive them. It is generally carried out based on an administrative or judicial act or decision. In connection with forced return, terms such as “expulsion”, “deportation”, “removal” and “refoulement” are used (without a shared definition among states). The IOM *Glossary on Migration* indicates discrepancies in the usage of the terms “expulsion” and “deportation” in national and international law. There is a clear tendency to use the term “expulsion” to refer to the legal order to leave the territory of a state, and “removal” or “deportation” to refer to the actual implementation of such an order, in cases where the person concerned does not (often cannot) follow it voluntarily.⁸⁴ The term “refoulement” is used in the context of the refusal of entry as a violation of the *non-refoulement* principle.

Moreover, as an instrument for returning migrants to their CoOs or third countries, readmission agreements are signed between destination and origin countries. A readmission agreement formalises the process of identifying those subject to a removal order and ensures that they will be readmitted quickly and safely by the receiving state. To this end, it defines the methods and procedure for identification, the procedure for establishing valid travel documents, and the procedure for readmission.

Some migration actors believe that return can only be considered voluntary if migrants still have the possibility of remaining legally in the host country. According to this view, when a migrant is legally obliged to leave the host country and decides to leave on their own, their return should be qualified as forced, compulsory, or accepted.

Other actors hold the view that voluntary return should be understood in a broader sense, namely, that even in the absence of legal possibilities to remain in a host country, migrants can express their will, provided that other conditions are fulfilled. More specifically, for IOM, in the context of AVRR, voluntariness is presumed to exist where two conditions are met: a) freedom of choice is present, characterised by the absence of physical or psychological pressure to participate in an AVRR programme; and b) an informed decision is made, which presupposes the existence of current, objective and reliable information on which to base the decision.⁸⁵

84 IOM, *Glossary on Migration*.

85 IOM, *A Framework for Assisted Voluntary Return and Reintegration*, 2018. Available at: <https://publications.iom.int/books/framework-assisted-voluntary-return-and-reintegration>.

3.3 Case examples

CASE EXAMPLE 1

Migration processes in Azerbaijan

During the collapse of the Soviet Union and the early years of independence, Azerbaijan faced occupation of its territories by Armenia, resulting in hundreds of thousands of people leaving their home areas and moving to other regions of Azerbaijan. Due to mass deportation, large numbers of ethnic Azerbaijanis who had been residing in Armenia also arrived in Azerbaijan during this time period.

As a result of the occupation and difficult economic conditions in Azerbaijan, many people from rural regions moved to larger cities in search of work, while others migrated to neighbouring states, mainly the Russian Federation and Türkiye. The economic development and the stability achieved after the ceasefire agreement with Armenia influenced migration processes in Azerbaijan. The growth of transnational oil and gas projects, in particular, increased local demand for high-skilled foreign labour force. Moreover, as the economy of Azerbaijan recovered and eclipsed previous levels, many Azerbaijanis living abroad returned to the national territory. Liberation of occupied territories has also enabled displaced people to return to their home areas.

Given the context described above, discuss the main types and motivations of migration in Azerbaijan during the past four decades.

CASE EXAMPLE 2

Types of migrants

Christoph, aged 22, lived in a small village in the southern region of Country A. He had been providing for his sister, Darlene, aged 15 years, since the death of their parents.

The economic situation in Country A has become more difficult after periods of sustained drought and many people working in agriculture have been unable sustain their livelihood. Due to the limited supply of available water sources, there are occasional clashes between various ethnic groups in Country A and the Government of A is unable to prevent the conflict.

Christoph heard that there were employment opportunities in Country B, but that Country B maintains a strict migration policy and he would stand little chance of obtaining a visa. One day, Marcos approached Christoph and offered him help to organise his travel to Country B and find a job there. Christoph was reluctant to accept the offer, but he thought that Darlene could obtain a better education in Country B. Marcos assures them that they will be safely transported to Country B and in return for US\$1,000.

Christoph and his sister set sail on a boat alongside other undocumented people. When they reach Country B, Marcos's associate gathers everyone's passport, ostensibly to finalise administrative procedures, but he does not ultimately return them to the owners. Christoph and Darlene are separated, with Christoph forced to work on a farm, earning only daily meal tickets (which can be exchanged in a local shop for food). Christoph later learns that his sister was found by the government authorities in Country B and is living in a shelter for orphaned children.

Discuss the types of migrants mentioned in this case and their specific rights.

3.4 Discussion questions

Based on the content of Chapter 3, discuss:

1. *Why is it difficult to define migration and its categories?*
2. *What are the push and pull factors of international migration?*
3. *What are the most common types of migration?*
4. *How does seasonal migration impact local economies?*
5. *How do diaspora communities form, and what are impact do they have?*

3.5 Recommended reading

IOM, *Glossary on Migration*, International Migration Law, No. 34, 2019. Available at: https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf.

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Chapter 4

Overview of the Main Migration Theories

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Introduction

Why does one need to discuss migration theories – or theories in general – in this textbook? The answer to this question lies in the complexity of migration and its interdisciplinary nature. We need to understand *why people migrate*, because this understanding is central to the development of migration policy, legislative and administrative measures directed toward regulation of migration processes on the national, regional and global level.

However, it is impossible to provide a simple answer to the question *Why does migration occur?* If we were to try to collect the characteristics of the overall migration process, and to accumulate empirical evidences to prove our hypothesis, we would need to split the above question into many further sub questions, inter alia: *Who are the migrants? What are their characteristics? Do they stay abroad or return? What do they do abroad? How long do they stay abroad? Why did they migrate to this specific country? How do they leave their country? Is their migration voluntary or forced?*

This list of questions can be continued further. Migration theories step in here to answer these questions. Each migration theory deals with one or several of these questions or phenomena, because there is no single comprehensive theory of migration which covers all its aspects and manifestations.

According to the Oxford English Dictionary, a theory is a formal set of ideas that is intended to explain why something happens or exists, especially one based on general principles independent of the thing to be explained.⁸⁶ A theory should typically include:

- ◆ “Something” which needs to be explained: a tangible event that has occurred or occurs or a question, hypothesis or an idea which has not yet been proven;
- ◆ Description, explanation and characteristics of the event or process to be explained;
- ◆ Empirical evidence which logically supports the explanation – general principles which are independent from the question or hypothesis.

For *migration* theories, each of the related scientific disciplines is interested in different questions, different types and forms of migration. Furthermore, scholars also seek to analyse migration on the micro, meso and macro level, aiming to explain:

- ◆ Behaviour and decisions of migrants (individuals) (micro level), families, households, communities (meso level), including those left behind by migrants;
- ◆ Political, social, economic, geographical and other circumstances which shape migration flows (macro level).⁸⁷

86 Oxford Learner's Dictionary (n.d.), 'theory'. <https://www.oxfordlearnersdictionaries.com/definition/english/theory?q=theory>

87 Brettell, C.B. and J.F. Hollifield, *Migration Theory: Talking across Disciplines*, 2nd edition, 2007, p. 9; Hagen-Zanker, J., 'Why do people migrate? A review of the theoretical literature', Maastricht Graduate School of Governance, 2008, p. 5.

The table below illustrates how specific research questions relate to different disciplines studied by migration experts. While the list is not exhaustive, it does give an idea of the multidisciplinary nature of migration theories, and reflect the diversity of theories of migration.

Table 1. Migration theories across disciplines⁸⁸

Discipline	Research Question	Level of Analysis	Main Theories	Sample Hypothesis
Anthropology	<i>How does migration affect cultural change?</i>	Micro Level: Individuals Meso Level: Households, Communities	Transnationalism (see sub-chapter 3.4.)	Social networks help maintain cultural difference
Demography	<i>How does migration affect population change?</i>	Macro Level: Country Population Meso Level: Communities	Rational Choice (push-pull), Neoclassical Economics (see sub-chapter 2)	Migration has a major impact on population size, but a small impact on age structure
Economics	<i>What explains the propensity to migrate and its effect?</i>	Micro Level: Individuals	Rational-choice (push-pull), Neoclassical Economics, Dual Labour Market (see sub-chapters 2 & 5)	All other conditions being equal, migration occurs from regions with low wages and high unemployment to regions with higher wages and lower unemployment

88 Brettell, C.B and J.F. Hollifield, *Migration Theory*, op. cit., p. 4.

Discipline	Research Question	Level of Analysis	Main Theories	Sample Hypothesis
Geography	<i>What explains the spatial patterns of migration?</i>	Macro, Meso & Micro Level	Rational Choice, Social Networks & Transnationalism (see sub-chapters 2 & 3)	Migration decisions depend on social networks and residential patterns
Law	<i>How does the legal system influence migration?</i>	Macro Level: Political & Legal System Micro and Meso Level: Individuals & Groups	Institutional Theory (see sub-chapter 3.3.), Rational Choice (see sub-chapter 2)	Rights incentive structures for migration and inclusion
Political Science	<i>Why do states face challenges controlling migration?</i>	Macro Level: Political Systems & International Relations	Institutional Theory (see sub-chapter 3.3.)	States might be captured by pro-immigrant interests
Sociology	<i>What explains inclusion and exclusion of migrant groups in receiving societies?</i>	Macro Level: Ethnic Groups Meso Level: Social Groups & Networks	Institutional & Social Networks (see sub-chapters 3.3. & 3.1.)	Inclusion of migrants in the receiving society varies with social and human capital

Explaining migration by using migration theories provides a tool to identify a particular problem and design appropriate measures to either deal with the consequences or alert actors to similar situations in future. This also means that the more we understand how the migration processes work, the more we can assess or even forecast future migration flows and their consequences on different levels, as well as design or adjust legal, institutional, political, social, economic and other frameworks related to migration. Migration theories also facilitate and guide empirical migration-related research which, in turn, supports policy and decisions made in development of evidence-based migration policy.

4.1 A Brief History of Migration Theories

While migration is as old as mankind, academic researchers and scholars started to develop migration theories only relatively recently. The body of migration theory literature refers to Ernst Georg Ravenstein, a German geographer, as one of the earliest pioneers in this area. Although Ravenstein based his 1889 'Laws of Migration'⁸⁹ on empirical migration data, the collection of observations analysed was still quite far from fully fledged migration theories as we know them today.⁹⁰ Other early migration theories explained migration mainly on the macro level; it was only in the second half of the 20th century that scholars started to analyse individual motivations to migrate linking macro and micro approaches to migration theories.⁹¹

The introduction to this chapter established that scholars of different disciplines apply different theories on migration, while researching the questions related to the specifics of one or another field. However, considering the multidisciplinary nature of migration, the theories used are often linked and analysed in conjunction. In addition, some of the theories address the causes of migration while some focus on migration perpetuations.⁹²

A great deal has been written on theories of migration in recent decades, and this trend is likely to continue. The following sub-chapters provide an overview of the main theories of migration mentioned by the majority of leading authors in the field. Interested readers may also refer to the Bibliography and the Recommended Literature sections for further and deeper analysis of the subject.

89 Ravenstein, E.G., 'The Laws of Migration', *Journal of the Royal Statistical Society*, Vol. 52, No. 2, 1889, pp. 241-305. <https://doi.org/10.2307/2979333>

90 Brettell, C.B and J.F. Hollifield, *Migration Theory*, op. cit., p. 4.

91 Ibid, pp. 4-5.

92 King, R., 'Theories and Typologies of Migration: an Overview and a Primer', Willy Brandt Series of Working Papers in International Migration and Ethnic Relations 3/12, 2012, p. 28, Malmö: Malmö University.

4.2 Rational Choice Theories: Push-Pull Models and the Neoclassical Approach

4.2.1 Push-Pull Models of Migration

In a celebrated article that has shaped contemporary thinking about migration, sociologist Everett Lee⁹³ laid down a theory that explains migration as the outcome of two complementary sets of factors:

- ◆ Detrimental factors in the area of origin that make life hard and unpleasant for the individual in question – “push factors” (e.g. poverty, unemployment, low social status, insecurity, etc.);
- ◆ Desirable factors present in the area of destination that the individual perceives as a positive contribution to his or her well-being – “pull factors” (e.g. better job perspectives, education system, political freedom, etc.).

Between these two spheres, there is a set of obstacles that has to be overcome if the migration decision is to be followed through upon. These “intervening obstacles” include the cost of travel, the situation of family members left behind, a potentially insecure future after arrival in the destination country. This set of factors increases the financial, social, emotional and other costs of migration and works against both push and pull factors. In this way, the decision to migrate for a given individual is based on a comparison of the total value of the set of relevant factors in the area of origin (including the push factors) with the value of the set of relevant factors in the area of destination (including the pull factors), taking into consideration the intervening variables.

Accordingly, this micro-level interpretation of push-pull theory has generalised the idea of push and pull factors to the macro context in which migration takes place. Thus, for instance, a high rate of unemployment in a country of origin has been widely identified as an economic push factor, while higher wage rates in countries of destination are almost universally viewed as economic pull factors.

93 Lee, E.S., ‘A Theory of Migration’, *Demography Journal*, Vol. 3, 1996, pp. 47-57.

4.2.2 The Neoclassical Approach

The so-called “Neoclassical Explanation” identifies economic reasons as the main cause of migration. In its macroeconomic variant, the neoclassical theory of migration postulates that people migrate from low-wage areas to high-wage areas, taking into account the costs of movement and the probabilities of employment (Sjaarstad 1962, Harris and Todaro 1970, Todaro 1976).⁹⁴ In its microeconomic variants (for example, the “human capital theory of migration”), migrants are seen as rational actors consciously choosing to migrate to wherever they can be most productive given their skills (Borjas 1989, Massey et al. 1993).⁹⁵ Further developments of the approach have combined the micro perspective of individual decision-making and the macro perspective of structural determinants to explain the intensification of international migration in the second part of the 20th century.

Individuals try to maximise their “personal utility” by moving to places where the award for their labour is expected to be higher than in countries or regions of origin, while responding to demand for foreign labour in the receiving societies for corresponding jobs (Piore 1979, Portes 1995).⁹⁶ At the heart of these neoclassical approaches lies an understanding of international migration as the result of wage disparities between countries, mirroring income and welfare inequalities.

4.2.3 Critique of the Push-Pull and Neoclassical Theories

Many scholars recognised push-pull models and the neoclassical approach as valuable in understanding the nature of migration. However, these theories were

94 Sjaarstad, L.A., ‘The costs and returns of human migration’, *Journal of Political Economy*, Vol. 70 No. 5, 1962, pp. 80-93; Harris, J.R. and M.P. Todaro, ‘Migration, unemployment and development: a two sector model’, *American Economic Review*, Vol. 60, 1970, pp. 126-142; Todaro, M.P., *Internal migration in developing countries*, International Labour Office, Geneva, 1976.

95 Borjas G.J., ‘Economic Theory and International Migration’, *International Migration Review*, Vol. 23, No. 3, 1989, pp. 457-485; Massey, D.S. et al. ‘Theories of international migration: a review and appraisal’, *Population and Development Review*, Vol. 19, No. 3, 1993, pp. 431-466.

96 Piore, M.J., *Birds of Passage: Migrant Labor and Industrial Societies*, Cambridge University Press, New York, 1979; Portes, A., ‘Economic Sociology and the Sociology of Immigration: A Conceptual Overview’, in *The Economic Sociology of Immigration. Essays on Networks, Ethnicity, and Entrepreneurship*, Portes, A. (ed.), Sage Publications, New York, 1995, pp. 1-41.

equally criticised for applying a limited, oversimplistic, or to some extent even idealistic, analytical framework.

While the neoclassical explanation based its outlook on the assumption that individuals act upon rational choice (and generally are able to make the cost and benefit calculations), it paid less attention to possible practical and psychological constraints rooted in the individuals' social environment⁹⁷ that would limit the impact of rationality on individual choices. These constraints obviously exist, since in contrast to prevailing differences in income, wages and levels of welfare between countries, only a comparatively small number of people actually migrate – a phenomenon also referred to as “the immobility paradox”.⁹⁸ This fact can only be partly explained by restrictive entry policies, as even in cases where migration is theoretically non-restricted, for instance, within the European Union, the actual volume of migration flows is fairly limited, taking into account the existing migration potential.

Factors that limit migration include more than solely economically motivated considerations. These factors range from a lack of sound information on prospects in countries of destination or a lack of financial means to initiate migration, to considerations of a more psychological or sociological nature (e.g. potential migrants are “too firmly rooted in the villages, towns or neighbourhoods where they live”⁹⁹). While this strand of migration theory supports the main hypothesis of the neoclassical approach that the decision to migrate is primarily economically motivated, it also argues that economic reasoning alone is not sufficient to comprehensively explain the phenomenon.

In reality, the individual decision to migrate can be based on a variety of reasons. Economic and political motivations, as well as reasons bound to the social and family situation, might go hand in hand when an individual decides to leave their home country. However, the explanatory power of both push-pull and neoclassical models fail when providing insight into these social, economic and political processes.

97 Portes, A., ‘Economic Sociology’, op. cit., p. 3

98 Malmberg, G., ‘Time and Space in International Migration’, in *International Migration, Immobility and Development. Multidisciplinary Perspectives*, Hammar, T. et al. (eds.), Berg Publishers, Oxford, 1997, pp.21-48, p. 21.

99 Ibid.

It is often argued that boosting development in the poorest may reduce migration; however, most migrants do not move from the poorest to the wealthiest countries. Generally, countries with less advanced economies (such as several countries in Sub-Saharan Africa) tend to see lower levels of emigration than middle income countries (such as Mexico, Morocco, Türkiye and the Philippines) and high income countries.¹⁰⁰

Finally, the neoclassical theory claims that migration from regions with lower wages and higher unemployment rates to regions with higher wages and lower unemployment rates will, in the long run, lead to equilibrium (i.e. the wages and employment rates in both regions will become similar as a result of migration). Such a hypothesis is criticised for its idealistic nature and not taking into account the various other factors influencing the economic growth of a country and individual migration decision-making.

4.3 Social Networks, Institutional and Transnationalism Theories

4.3.1 Social/Migration Networks

“Few things, if any, are as characteristic of the contemporary way of looking into migration as the central attention accorded to migration networks.”¹⁰¹

The emergence and existence of migrant networks is ranked among the most important explanatory factors of migration today. In a simplified form, the contemporary nature of migration could be perceived as a form of “chain migration”, with migrant networks having a multiplier effect, triggering migrants to move “because others with whom they are connected have migrated before”.¹⁰²

100 de Haas, H., ‘What drives human migration?’, 2013. <http://heindehaas.blogspot.co.at/2013/12/what-drives-human-migration.html>

101 Arango, J., ‘Theories of International Migration’, in *International Migration in the New Millennium. Global Movement and Settlement*, Joly, D. (ed.), Routledge, Abingdon, 2004, pp. 15-35, p. 27,

102 Ibid, p. 28.

Massey et al. (1996) define migrant networks as “sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship, and shared community origin”.¹⁰³ Such networks can contribute to reducing the “social, economic, and emotional costs”¹⁰⁴ borne by the individual migrant. Network connections can therefore be considered a form of social capital that people can draw upon to gain information as well as material and psychological support, facilitating both their migration projects and the adaptation process (Portes 1995).

It is generally acknowledged that the importance of being able to rely on the support of migrant networks has increased significantly in recent years, during which time entering receiving countries has become increasingly difficult. The development of social networks which extend “over long physical distances”¹⁰⁵ may also explain the “continuation of migration independently from the causes that had led to the initial movement.”¹⁰⁶ The fact that immigration from former source countries of labour migration to Europe (e.g. Türkiye) continued after the receiving European countries stopped labour recruitment and “guest worker programmes” in the 1970s might serve as an example of the important role of migrant networks, and of their capability to support newcomers even when their entry is no longer supported by state policies.¹⁰⁷

From the migrants’ perspective, the choice of destination is primarily determined by the desire to reach a country that they perceive as offering favourable conditions and which thus would serve their underlying migration goals. To identify and access such countries, migrants depend to a large extent on assistance provided by others, in regard to both the journey to and stay in the country of destination.

103 Massey, D.S. et al., ‘Theories of International Migration: A Review and Appraisal’, in *Theories of Migration*, Cohen, R. (ed.), Edward Elgar, Cheltenham, 1996, pp. 157-181, p. 198,

104 Light, I. and P. Bhachu (eds.), *Migration Networks and Immigrant Entrepreneurship*, Transaction, New Brunswick, 1993.

105 Portes, A., *Globalization from Below: The Rise of Transnational Communities*, Princeton University Press, Princeton, 1997, p. 8.

106 Arango, J., ‘Theories of International Migration’, op. cit., p. 28.

107 Castles, S. and S. Loughna, ‘Trends in Asylum Migration to Industrialized Countries, 1990–2001’, Paper for United Nations University-World Institute for Development Economic Research, Conference on Poverty, International Migration and Asylum, Helsinki, 27-28 September 2002, Draft, 22 August 2002, p. 2.

In reality, it proves very difficult for migrants to obtain by themselves reliable information regarding major aspects of their journey, particularly when they plan to migrate irregularly. The use of migrant network information (including social media, various groups, etc.) is one way of compensating for the lack of certainty and reliable information on major aspects of migration. However, while migrants often assume that with this information they can make a relatively safe migration decision,¹⁰⁸ abuse of these networks (by traffickers, for instance) should not be underestimated.

Moreover, migrant networks (relatives, friends, other migrants encountered *en route*) play a crucial role in several ways. It is these networks that can above all provide the information needed to carry out a migration project, to mobilise the financial resources for migration, etc.¹⁰⁹ The networks can provide the necessary support (e.g. accommodation, income opportunities, health care, etc.)¹¹⁰ during travel and after arrival, with the latter of particular importance for undocumented migrants.

4.3.2 Institutional Theory of Migration

Some scholars characterise the so-called “institutional theory of migration” as another dimension of social networks. According to this theory, as soon as international migration begins, private institutions – transport companies, humanitarian organisations and even smugglers – provide services to migrants on their way to their final destination. This process is caused by an imbalance between the large number of people seeking entry to destination countries and the limited number of immigration opportunities offered by those countries.¹¹¹

108 Pedersen, P.J., Pytlikova, M. and N. Smith, *Selection or Network Effects? Migration Flows in 27 OECD Countries, 1990 – 2000*, Institute for the Study of Labor, IZA DP No. 1104, April 2004, p. 2.

109 Crisp, J. ‘Policy challenges of the new diasporas: migrant networks and their impact on asylum flows and regimes’, WPTC-99-05, 1999, p. 6

110 Jordan, B. and F. Düvell, *Irregular migration: the dilemmas of transnational mobility*, Edward Elgar, Cheltenham, 2002, p. 150.

111 Massey, D.S., ‘Why International Migration Occur? A Theoretical Synthesis’, in *The Handbook of International Migration: The American Experience*, Hirschmann, C., Kasinitz, P. and J. DeWind (eds.), pp. 34-52, p. 44.

As a consequence of this imbalance, institutions or organisations emerge to bridge the gap in a legal (e.g. non-profit humanitarian organisations, consultancies, employment agencies, transport companies, etc.) or illegal (e.g. migrant smugglers) way. It is important to note that the institutional theory seeks to explain the actual process of migration (i.e. how it occurs) rather than dealing with the causes of migration.

4.3.3 Transnationalism

One of the more recent approaches in migration theory, which explicitly builds on the increasing mobility of people in the age of globalisation, is the theoretical concept of “transnationalism”.¹¹² This approach highlights that the development of international transportation systems has decreased transportation costs, while the acceleration of money and information transfer has “led to the growth of populations socially, culturally, and physically anchored *at multiple sites*, often characterised by a high mobility both between the state of origin and the state of residence”.¹¹³

Transnationalism could be defined as the “process by which immigrants forge and sustain multi-stranded social relations that link together their societies of origin and settlement”.¹¹⁴ With this approach, scholars of migration try to explain why – contrary to what was predicted in the 1970s – “international migration did not slacken, with ever greater numbers of migrants and refugees drawn from an ever-increasing range of sending countries seeking entry to an ever-widening range of countries of reception”.¹¹⁵ On the contrary, in response to the globalisation process, individuals started to create “communities that sit astride political borders” and that, in a very real sense, are “neither here nor there” but in both places simultaneously.¹¹⁶

112 Glick-Schiller, N., Basch, L. and C. Blanc-Szanton, *Transnationalism: A New Analytic Framework for Understanding Migration in Migration, Diasporas and Transnationalism*, Vertovec, S. and R. Cohen (eds.), The International Library of Studies on Migration, Edward Elgar, Cheltenham, 1999, pp. 28-49.

113 See Nyiri, P., ‘The ‘New Migrant’: state and market constructions of modernity and patriotism’, January 2004, p. 5.

114 Portes, A., *Globalization from Below*, op. cit., p. 4.

115 Grillo, R.D., ‘Transnational Migration and Multiculturalism in Europe’, Working paper series (University of Oxford. Transnational Communities : an ESRC Research Programme) Working paper series, WPTC-01-08, April 2001, p. 7.

116 Portes, A., *Globalization from Below*, op. cit., p. 3.

While the existence of transnational ties and relationships is not novel, proponents of the concept claim that in recent years and decades a significantly increased number of migrants have established “social fields that cross geographic, cultural, and political borders”, and that subsequently “transnationalism has reached particular intensity at a global scale at the end of the 20th century”.¹¹⁷ In this new “age of migration” (de Haas, Castles and Miller 2003), migrants retain significant, continuing ties with their countries of origin.¹¹⁸

Put simply, “transnationalism” could be defined as “living in two societies at the same time”, maintaining two homes and moving between them. This, for instance, might take place in the form of circular labour migration. Migrants enter a country, work for a certain amount of time, be it legally or irregularly, and afterwards return to their home country for a certain period of time, before travelling again. However, even in the case of long-term migration, easy access to means of communication and transport enables migrants to keep close ties with their relatives or communities back home. Migration might then be seen as a distinct form of division of labour within a family or community. Certain members of a family or community travel abroad to make money while keeping close ties to those who remain at home.

The media plays an important role in the establishment and sustainability of transnational communities. The emergence of transnational media and rapid development in communication technologies has fostered the dissemination of information on desired lifestyles and consumption aspirations, making this information accessible to people even in more remote areas of developing countries.

By augmenting the gap between local realities and imported consumption aspirations, this process simultaneously pre-socialises future immigrants on what to expect of their lives abroad, and increases their drive to move. “Paradoxically, the process does not so much affect the very poor in peripheral societies, as working and middle-class sectors who are frequently the most exposed to marketing messages and cultural symbols beamed from the centres.”¹¹⁹

117 Grillo, R.D. ‘Transnational Migration’, op. cit., p. 8.

118 de Haas, H., Castles, S. and M.J. Miller, *The Age of Migration: International Population Movements in the Modern World*, 5th edition, Macmillan, Basingstoke, 2014.

119 Portes, A., *Globalization from Below*, op. cit., p. 6.

Taken together, modern transportation and communication technologies have facilitated contact and exchange among common people on a scale incommensurate with what could be done a century earlier. While not everyone has been affected by these developments, given the large and growing economic, political, and cultural incentives to do so, more migrants and their home country counterparts take advantage of the new opportunities and become involved in transnational activities. “Once the process begins, it can become cumulative so that, at a given point, it can turn into ‘the thing to do’ not only among the pioneers, but even among those initially reluctant to follow this path.”¹²⁰

After an immigrant group has established itself in a host country, the roles of migrants and members of their home community might shift again, with migrants taking over the responsibility of financially supporting those who remain at home. This also applies to forced migrants, whom often continue to care for the financial and material needs of family members in their homeland. However, these migrants as many others might hardly fit into the category of “transnational migrants”. In the case of forced and irregular migration, the possibilities to: move back and forth between countries of transit or destination and countries of origin; actively engage in the social, political or cultural life of the home communities; and even communicate with their home communities are fairly limited. The reality of the situation is that many forced or irregular migrants find themselves living in “a state of limbo” rather than in “a state of transnationalism”.¹²¹

Indeed, even temporary labour migrants should not necessarily be referred to as “transnational migrants”; nor permanent migrants who retain only loose contacts with their countries of origin.¹²² Furthermore, transnationalism does not necessarily undermine the ability of migrants to integrate into the receiving society, but rather fosters multiple identities among migrants who are still linked to the country of origin, while simultaneously being engaged in the country of destination.¹²³

120 Ibid, p. 18.

121 Papadopoulou, A., ‘Smuggling into Europe: Transit Migrants in Greece’, *Journal of Refugee Studies*, Vol. 17, No 2, 2004, pp. 167-184, pp. 177-178.

122 de Haas, H., Castles, S. and M.J. Miller, *The Age of Migration*, op. cit., pp. 41-43.

123 Ibid.

4.4 The New Economics of Labour Migration

This approach emphasises the sending side of international migration and the process of decision-making on the part of the migrant. The so-called “new economics of labour migration” (NELM) (Stark 1991, Stark and Taylor 1991) have been celebrated for drawing attention to a new set of genuine motivations for migration that does not depend on differentials in income, wages, or unemployment rates.¹²⁴ Similar to the neoclassical approach to migration, this reasoning rests on the assumption that the decision to migrate is based upon “rational choice”, but further develops the concept by defining the family as the key player and decision-making unit and introduces additional factors in the decision to migrate (e.g. risk aversion, distribution of income/wealth as feelings of relative deprivation).

Thus, the decision to migrate is conceptualised as not being taken by individuals but by families or households acting collectively to maximise expected income (or to diversify sources of income) and minimise risks – such as the risks of unemployment, loss of income, or crop failures by realising “economies of scale” as well as “economies of scope”, thereby maximising family income and thus leaving everybody in the family better off. Under this view, migration can be an ingenious strategy to overcome market failures and price distortions (e.g. in credit or insurance markets).

The goal of diversifying risk, the attempt to switch to new technologies in the absence of sufficient capital, concern over one’s relative ranking in the income distribution and other factors all constitute valid and sufficient motivations for migrating. The NELM further stresses the importance of emigrants maintaining ties to their countries and regions of origin or affiliation (e.g. the significance of remittances). This reading also generally pays more attention to the social context in which migrants are embedded and continue to be bound to following emigration.

The NELM theory has been criticised for not taking into account other factors influencing labour migration, with opponents highlighting that migration cannot

124 Stark, O., *The Migration of Labor*, Blackwell, Cambridge, MA, 1991; Stark, O. and J.E. Taylor, ‘Migration Incentives, Migration Types: The Role of Relative Deprivation’, *The Economic Journal*, Vol. 101, No. 408, Sep. 1991, pp. 1163-1179.

be explained by income differences alone. For households, issues such as social security, income risks and inequality might be important migration determinants. Moreover, intra-household conflicts of interests (e.g. related to age or gender) should not be obscured when applying the NELM.¹²⁵

4.5 Dual Labour Market Theory

“Contrary to widespread perceptions, immigrants come to the wealthier nations less because they want to than because they are needed.”¹²⁶

The so-called “dual (segmented) labour market theory” as applied to migration (e.g. Piore 1979)¹²⁷ focuses on the *receiving side* of migration, arguing that international migration is mainly caused by a permanent demand for labour that results from specific characteristics of labour markets in economically highly developed societies.

Thus, international migration responds to the needs of modern economies. Advanced economies display a dichotomy favouring unstable employment through the coexistence of a capital-intensive primary sector and a labour-intensive secondary sector.¹²⁸ Labour migration helps to fill existing gaps, namely general labour shortages, low-end positions in the job hierarchy, and labour shortages in the secondary segment with labour-intensive, low-skilled and low-paying jobs.¹²⁹ Under this view, international migration serves and perpetuates the demand for cheap labour in advanced economies, because employers can avoid wage increases for low-paying (and therefore unattractive) jobs by actively recruiting and subsequently importing “cheap labour”.

Economic globalisation does not only create opportunities for highly qualified labour, it also generates opportunities for poorly qualified and unskilled labour. This has been especially true in the service industries, where a wide range of

125 de Haas, H., Castles, S. and M.J. Miller, *The Age of Migration*, op. cit., p. 39.

126 Portes, A., *Globalization from Below*, op. cit., p. 5.

127 Piore, M.J., *Birds of Passage*, op. cit.

128 IOM, *World Migration 2003, An Overview of International Migration*, 2003, p. 13.

129 Jennissen, R. ‘Economic determinants of international net migration in Europe’, EPC 2001 Population Conference, Helsinki, Finland 7-9 June 2001, p. 3.

job opportunities have evolved which require no special training or qualification, while at the same time social status and salaries connected with these jobs become less attractive to the domestic labour force.¹³⁰ The resident population has little or no motivation to accept the offer of low wages, unstable labour conditions and limited career prospects. Thus employers turn to immigrants to satisfy shortfalls in this segment of the labour market.

Due to the restrictive immigration and labour market policies imposed by most states with advanced economies, existing vacancies cannot always be filled via legal immigration. Regarding potential employees, there exists a nearly inexhaustible manpower potential on the international level. The wage and purchasing power differentials between the industrial and developing countries turn even the lowest wages in high-income countries into an incentive for migrants to overcome all migration barriers.

More empirical attempts in migration research, as well as in crafting migration theory, note the close connection between migration and the informal economy as “immigrants are overrepresented in those unregulated activities”.¹³¹ The findings of related empirical studies¹³² support both the hypothesis that there is strong demand for cheap labour in advanced societies and that migrants are well aware of such earning possibilities. It also supports the hypothesis that even the most restrictive types of immigration control policies ultimately fail in their stated objectives – to prevent new immigration or migrant access to the (informal) labour market.¹³³

Informal labour markets are highly segmented. Access to job opportunities is mainly open in the following sectors: domestic work (household service, nursery, cleaning, renovation), construction, trade, catering, tourism, crop harvesting and

130 Arango, J., op.cit., p. 24.

131 Portes, A., op.cit., p. 30.

132 See, among many related studies: Elwert, G., ‘Unternehmerische Illegale. Ziele und Organisationen eines unterschätzten Typs illegaler Einwanderer’ (Entrepreneurial Illegals. Goals and organisation of an underestimated type of illegal immigrants) in *IMIS Beiträge Heft 19/2002*, Vorstand des Instituts für Migrationsforschung und Interkulturelle Studien (IMIS) an der Universität Osnabrück, Osnabrück, 2002.

133 Kraler, A. and I. Stacher, ‘Austria – Migration and Asylum Patterns and Policies in the 19th and 20th Century’, *International Migration, Problems – Prospects – Policies*, Historische Sozialkunde/Special Issue 2002, p. 63.

other seasonal work, peddling, “professional” begging, etc. Certain sectors of the informal labour market may often be controlled by specific ethnic groups.¹³⁴ Cut off from access to the legal labour market and limited to potential job opportunities in specific economic sectors of the informal labour market, irregular migrants in particular run the risk of total failure in pursuit of their initial migration goals.

Notwithstanding this risk, and the fact that migrants engaging in illicit work risk punishment and/or deportation, the economic benefits of working illegally seem to outweigh all possible disadvantages. Jahn and Straubhaar (1998) put it thus:

“[I]f the utility difference between host and receiving society is large enough, for some people the net present value of migration minus regular transaction and transportation costs of moving minus the expected risk of being caught and punished remains positive.”¹³⁵

4.6 Cumulative Causation Theory

Cumulative causation theory focuses on meso-level (families, households, communities) analysis. It shows how migration sustains itself and becomes an increasingly common practice. As others follow the example of migration, this also might cumulatively affect communities in entire regions, depleting human capital, especially when one considers that migration tends to draw more educated, active, skilled, productive and motivated people.¹³⁶ In this way, migration becomes part of the wider local and social culture, and as a widespread social practice becomes ever more accessible to all levels of the population.

This process is often a result of decreasing demands for labour in regions of origin due to new, less labour-intensive agricultural production methods. Once set in motion, migration can change the local income distribution by way of remittance

134 See Lederer, H.W. und A. Nickel, *Illegale Ausländerbeschäftigung in der Bundesrepublik Deutschland* (Illegal Employment of Foreigners in the Federal Republic of Germany), FES Library, Bonn, 2000.

135 See Andreas, J. and T. Straubhaar, ‘A Survey on the Economics of Illegal Migration’, Working Paper: Managing Migration in the 21st Century, Comparative Immigration and Integration Program, Institute on Global Conflict and Cooperation, Winter Workshop, University of California, San Diego, February 19-20 1998.

136 Massey, D.S., ‘Why International Migration’, pp. 46-47.

and fuelling of social and economic change. This again heightens the notion that migration leads to high returns, which in turn fuels even further migration and constitutes cumulative causes for ever-increasing mobility.¹³⁷

However, it should be noted that migration normally does not continue without end, even if it goes through a cumulative period. After a certain period, migration networks become saturated, labour scarcity in source countries increases, migration potential becomes very low. At this stage, migration might start to decrease, which makes the overall migration curve appear as an inverted U-shape.¹³⁸

4.7 New Trends in Migration Theory

The age of globalisation has seen an unprecedented number of businesses operating on a global scale, with a corresponding partial weakening of the nation state and more porous borders, and citizens worldwide becoming more mobile. This shift has led to new approaches in migration theories that aim to understand migration under the conditions of globalisation. Interestingly, even the widespread lockdowns during the Coronavirus pandemic only temporarily affected migration patterns, and thus migration theories.

4.7.1 Global Migration Systems

Researchers such as Kritz, Lim and Zlotnik et al.¹³⁹ have introduced the term “migration systems”¹⁴⁰ to international migration research, placing international migration within a larger frame of movements and *networks*, while acknowledging the highly complex nature of migration movements, transcending the binaries of outward and return migration – where flows and counter-flows between sending

137 Hagen-Zanker, J., ‘Why do people’, op. cit., p. 18.

138 Ibid.

139 Kritz, M., Lean Lim, L. and H. Zlotnik (eds.), *International Migration Systems: A Global Approach*, Clarendon Press, Oxford, 1992.

140 In the classic paper Mabogunje, A.L., ‘Systems approach to a theory of rural-urban migration’, in *Geographical Analysis*, Vol. 2, No. 1, 1970, pp. 1-18, Mabogunje was the first to introduce a systems approach to the study of migration, focusing on internal migration processes in developing countries.

and receiving countries contribute to the formation of a *migration system*. Such systems are characterised by relatively intense exchanges of goods, capital and people (Massey 1993) and generally include a core receiving region, which may be a country or group of countries, and a set of specific sending countries linked to it by unusually large flows of emigrants (Zlotnik 1992).¹⁴¹

These systems might evolve and undergo substantial changes over time in continuous response to both the dynamics inherent to migration processes and other external forces and conditions. The transformation of the international economic and political order underway, the growing scale of transnational activities of governments, corporations, private organisations and other institutions, and the ongoing evolvement and transformation of migrant networks all contribute to the growth of migration systems and shape their appearance.

A very similar line has been taken by anthropologists advocating for a more “cultural” approach and a change in perspective by focusing on the description of the “social reality” facing migrants and their environment – rather than on the analysis of migration solely from the perspective of the outside observer. Following research on Chinese migration, Pieke (1999)¹⁴² introduced the concept of “migration configuration” to draw attention to the fact that migration is sustained by elaborate social structures and practices that connect destination and source areas:

“A migration configuration is defined as the sum of the social institutions and networks in sending, receiving and transit areas that maintain and direct a migratory flow. It thus constitutes a transnational social and cultural space populated not only by migrants, but also by travel agents, smugglers, government officials, immigration lawyers, ‘immigration service companies’, and even anti-immigration activists, temples and churches.”¹⁴³

141 Zlotnik, H. ‘Empirical identification of international migration systems’ in *International Migration Systems*, Kritz, M., Lean Lim, L. and H. Zlotnik (eds.), op. cit.

142 Pieke, F.N., ‘Introduction: Chinese and European Perspectives on Migration,’ in *Internal and International Migration: Chinese Perspectives*, Pieke, N.P. and H. Mallee (eds.), Curzon, Richmond, Surrey, 1999.

143 Pieke, F.N., *Recent Trends in Chinese Migration to Europe: Fujianese Migration in Perspective*. IOM Migration Research Series No. 6, March 2002, p. 31.

Thus, individual migration processes are embedded in a *culture of migration* in the sending community that entails a particular discourse on terms of “movement” and “achievement” for its members. Pieke argues that this cultural approach:

*“makes it possible again to look at migration (...) in its own right rather than just as an adjunct of, say, the inequalities of the world economic system, modernisation, or simply the workings of the national or international labour market”.*¹⁴⁴

4.7.2 Postmodern Nomadism

More recent research on international migration has provided empirical results that go beyond the well-known forms of “long-term”, “forced”, “transnational” or “circular” migration. The results indicate that in many cases migrants cannot be easily placed within the context of known migration systems or networks or national labour markets but instead must be viewed as being embedded in economic activities and social networks extending across several countries. The concept of the *nomadic subject* as developed by Braidotti¹⁴⁵ triggered an ongoing debate on the understanding of migration in a globalising environment which is not only to be interpreted in terms of understanding migration flows, but also in understanding new and complex identities:

*“Being a nomad, living in transition, does not mean that one cannot or is unwilling to create those necessarily stable and reassuring bases for identity that allow one to function in a community (...) rather, nomadic consciousness consists of not taking any kind of identity as permanent. The nomad is only passing through; s/he makes those necessarily situated connections that can help her/him to survive, but s/he never takes on fully the limits of one national, fixed identity. The nomad has no passport – or has too many of them.”*¹⁴⁶

Postmodern nomadism generally encompasses the international movement of highly flexible and highly mobile workers, a movement that sometimes is

¹⁴⁴ Ibid.

¹⁴⁵ Braidotti, R., *Nomadic Subjects*, Columbia University Press, New York, 1994.

¹⁴⁶ Ibid. p. 33.

facilitated by governments, as in the case of globally mobile elites. Sometimes, nomadic movements are simply ignored, and sometimes they are strenuously prosecuted by governments as in the case of, also highly flexible, irregular migrant workers.

“In the modern era new classes of diplomats, politicians, capitalists, artists and scientists moved between states with an ease previously reserved for monarchs and generals. In the present age, the list is being extended, as the new model of global governance demands that more categories of workers move and stay longer than under the rules for transnational corporations and international agencies in the last quarter of the twentieth century (...) new kinds of global nomadic agents come into being (...).”¹⁴⁷

A person may work in different places at different times, work different jobs, use different documents, might not bother too much about immigration status and may have circumnavigated the globe by the end of their journey. A look at international migration figures confirms a characteristic increase in temporary migration.

Postmodern nomadism represents a challenge to many countries' immigration policies as well as to the traditional concepts of membership of a community or nation, and accessibility to the judicial system.¹⁴⁸ Based on the results of his research,¹⁴⁹ Franck Düvell suggests that this type of migrant makes decisions on whether and where to go individually, with their family having little say in the matter. In making the decision to move (or not), such migrants depend more or less exclusively on the environment shaped by respective immigration legislation. Where the application process is burdensome or time-consuming, they either do not go or try to circumvent the law.

Whereas the reasons for the nomad to migrate – such as wage disparities or development of their human capital – are similar to those that figure in other

147 Jordan, B. and Düvell, F. *Migration: The Boundaries of Equality and Justice*, Cambridge: Polity, Cambridge, 2003, p. 83.

148 Ibid.

149 Düvell, F., 'Global migration, Global Labour markets and migration systems. Empirical evidence from qualitative research'. Talk given at the European Social Science History Conference, Berlin, 24-27 March 2004.

types of migration, one specific feature of the postmodern nomad attitude towards migration presents a challenge to other theoretical concepts explaining migration. For postmodern nomads, settling down or even integrating into well-established ethnic communities is not an issue. Remittances or investments in transnational businesses are not of primary relevance, as the contact with their communities or to their countries of origin is kept rather loose. The traditional meaning of “home” has been deconstructed. Postmodern nomads make themselves comfortable wherever they may stay for a certain period of time; they tend to integrate with the equivalent local social class, practising a sort of cosmopolitanism and cultural hybridism.¹⁵⁰

The networks within which these migrant groups are determined by recruitment agencies, specialised internet advertisements, friends/colleagues, etc. Economic considerations are the dominant variables in decision-making processes. Incentives are understood in terms of prospective economic gains from migration. What matters most are market conditions and opportunities, businesses, salaries, prestige.

Geographical and cultural considerations rank only second. Spatial entities (countries, conurbations, places) are looked at from a market perspective and assessed according to competitive criteria. A country is taken as a competitor on a global market and the individual actor tends to go where s/he expects to obtain the best rewards. The world is perceived as the pitch of the global labour market competition on which the individual plays.

Nomadism often develops in a migrant’s life over time, either by preparing for it, having already become mobile inside a country, or by getting used to that way of life. Nomadic migrants develop their ambitions on a temporary basis and constantly have an eye on the “market situation”, displaying a readiness to respond to changing demands or convincing offers at short notice.

This type of migrant seems to reflect the emergence of a new historically specific global migration system, possibly characteristic of migration processes under

150 Papastergiadis, N. ‘Tracing Hybridity in Theory’ in *Debating Cultural Hybridity: Multi-Cultural Identities and the Politics of Anti-Racism*, Werbner, P. and T. Modood (eds.), Zed Books, London, 1997, pp. 257-281.

conditions of globalisation, featuring innovative biographies and identities. These individuals can hardly be defined as “immigrants” in the classical understanding, but as individuals following market incentives for a specific period of their lives. Postmodern nomadism therefore represents a migration system in its own right.¹⁵¹

4.8 Conclusions

The main conclusion which can be drawn from the above overview on migration theories is that migration processes are constantly driven by development. It is thus not enough to apply classical push-pull theory in explaining migration processes in a specific region or country. Whilst higher wages in one country might be seen as pull factors for migrants, in reality, migration might be caused by specific needs prevailing within the receiving country labour market.

While theories on migration help to understand *how* migration occurs and *why* people are migrating, by drawing key patterns and regularities, migration policy decision makers need to look at the migration phenomenon in its complexity. Therefore, it is important to remember that although migration processes are mainly formally regulated by the specific laws and regulations (e.g. laws establishing legal status of aliens, visa and residence permit regulation), migration processes are often influenced by other policy areas such as education, employment, health and social policies, etc.

In this regard, the following key factors need to be taken into account:

- ◆ **Migration patterns are strongly affected by social transformation**, including changing gender roles, globalisation, developments of transportation services and media. Modern media transmit images of desired destination directly to countries of origin, facilitating migration decisions, and transportation services make it easier to migrate. Meanwhile, the same globalisation patterns reduce social costs and constraints of migration, making it easier to communicate with family members left behind and keep strong links with the country of origin. Classical push-pull models still play their role, while development processes significantly increase the capability to move;

151 Düvell, F., ‘Global migration’, op. cit.

- ◆ **The role of families, social and migrant networks in migration decision-making should not be underestimated.** The role of networks in the country of origin needs to be taken into account, including their effect on both taking the decision to move (somewhere) and the ultimate choice of destination. The social costs of migration might be reduced if there are already networks in the prospective destination countries which might offer help (accommodation, consultation, other support). Examples of successful migration of local community members might encourage more migration from the same immediate vicinity or region. Migrants' financial and social remittances influence developments in countries of origin, including at household and local community level, which in turn may directly affect future migration patterns;
- ◆ **The specific factors of the countries of origin and destination, as well as individual characteristics of migrants, need to be kept in mind** – regardless of the various other factors that can potentially facilitate migration decision-making and reduce social costs. Not all people who are in a similar situation choose to migrate; for the vast majority, migration at no point becomes an option, despite an array of potential pull and push factors, and even circumstances which might reduce the social costs of migration.

4.9 Questions for Discussion

1. *Why is it important to explain migration?*
2. *Is it possible to explain migration using one single but comprehensive theory? Justify your answer.*
3. *What does it mean to analyse migration on different levels? Which levels of analysis are you familiar with?*
4. *Why have push-pull factors models and neoclassical approaches been criticised in recent times? What is your opinion about that?*
5. *What role do social networks play in the decision to migrate?*
6. *Which theories of migration are migrant (individual) focused?*

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Chapter 5

Migration Data and Migration Data Management

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5.1 Introduction – migration data needs

Across the globe, ever-growing numbers of people are on the move, with a corresponding increase in the scope, scale and complexity of the international mobility occurring. A politically charged topic, the prominence of migration discourse on the national agenda has increased in most countries. On the broad spectrum of international mobility, international migration – defined as a change in the country of usual residence – sizeably impacts national demographics and various aspects of a country's society.

Even if immigration and emigration flows tend to be relatively small compared to a country's total population, their effects upon the economic and social conditions in that country, including upon the labour market, may be significant,

nonetheless. National migration policies often thus impose some form of selection criteria for permitting migrants to enter the national territory. If a country experiences significant emigration, the outflow tends to affect a substantial part of the population, including those family members left behind. Therefore, data on migration and their analysis are very much needed to support policy development and monitoring in the field.

There are two main reasons why a country needs international migration data: (i) to monitor migration flows and their impact on the society and (ii) to update population figures, both total numbers and compositions. As international migration directly impacts population makeup, information on those who migrate, both arriving immigrants and departing emigrants, is needed. There are multiple reasons for this, high among them being the need to provide raw input for migration policy at all levels. For population statistics, information on the age and sex composition of the migrant population are mostly needed. However, this information is not sufficient for analysis of migration, since a deeper understanding about the causes and consequences of migration, data on characteristics of migrants, their living and working conditions, are needed and should be comparable with similar data on non-migrants.

Migrants make positive contributions to the development of both the country of origin and the country of destination, but they are also a potentially vulnerable population group, with specific needs that need to be addressed to help them to overcome these vulnerabilities. For this reason, international bodies such as the United Nations (UN) are highly concerned with helping countries to collect the data necessary for analysing migration and highlight the advantages and problems of global migration. Whereas a number of recent initiatives in the area of global migration policy, such as the *Global Compact for Safe, Orderly and Regular Migration*, have called for quality, timely and fit-for-purpose migration data, it is also clear that this pursuit poses great challenges for national statistical systems.¹⁵²

Several experts and international technical working groups are working to provide methodological guidelines to assist countries in collecting, compiling, and

152 United Nations, *Global compact for safe, orderly and regular migration*, A/RES/73/195, Resolution adopted by the General Assembly on 19 December 2018, United Nations, New York, 2018.

using data related to migrants and migration. However, success at the country level depends on which data sources are available, their quality/completeness, and how these sources are made available and used for statistical purposes.

This chapter summarises the international recommendations for migration data collection based on country practices in the field of international migration data collection, and migration data management in the Republic of Azerbaijan within this context.

5.2 Concepts and definitions in international migration statistics

Since the beginning of the 20th century, various international bodies have provided recommendations on how to define international migrants and the act of migration.¹⁵³ An early set of definitions was proposed by the International Labour Organization (ILO) in regard to labour migration, based on the consideration that searching for employment was the most important reason for migration. In many instances, labour migration was meant to be temporary – and return migration was expected, with the prospect of family members joining the migrant generally not considered.

However, it gradually became clear that a significant proportion of labour migrants were staying permanently in the host country, creating clearly identifiable, multigenerational diasporas. The 20th century saw a great increase in international mobility, including in the realm of international migration. The increasing variety of reasons (tourism, business, education, health, etc.) for travel and different types of mobility (short, long, fixed, circular, etc.) meant that it became difficult even to distinguish migration from non-migration mobility.

In a landscape shaped by such variety, the task of collecting accurate data on the movements taking place also increased in difficulty and, as a result, only certain select types of migration became the focus of policy priorities, in line with a country's specific interests. Traditional immigration countries are generally in-

153 Poulain, M., Perrin, N. and A. Singleton (eds.), *THESIM: Towards harmonised European statistics on international migration*, Presses universitaires de Louvain, 2006.

terested in collecting data for managing immigration flows. Conversely, countries where emigration flows exceeds immigration flows are more interested in collecting data on their nationals abroad, particularly when there is a risk of these emigrants being maltreated. Such prioritisation may affect the availability of data on the broader migration picture in the country, as both data on immigrants and emigrants are needed to measure the overall impact of international migration.

5.2.1 Basic international migration definitions

For statistical purposes, an ‘international migrant’ is defined according to UN recommendations, revised in 1998 and still relevant today, as any person who changes his or her country of usual residence.¹⁵⁴ Two concepts are important in this definition – the place of residence and the change of this place. There are two questions to be considered: (i) *Which place can be considered a person’s place of usual residence?* and (ii) *What criteria are used to determine that the place of usual residence has changed?* Usually, people have a clear perception of which place is their place of usual residence, but there are several situations where this is not so clear, and people can identify this place differently.

However, for the purpose of producing statistics, these concepts must be precise and unequivocally understood. To this end, the 1998 UN recommendations set out the following definitions:

International migrant: *Any person who changes his or her country of usual residence.*

Country of usual residence: *The country in which a person lives, that is to say, the country in which he or she has a place to live where he or she normally spends the daily period of rest. Temporary travel abroad for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage does not change a person’s country of usual residence.*

154 United Nations, *Recommendations on Statistics of International Migration: Revision 1*, United Nations, New York, 1998.

The usual place (country) of residence is also defined for census purposes, ensuring the compatibility of population stocks living in the country with migration flow data, compiled as part of population change analysis. However, the concept of 'usual' is not used in other statistical domains. Therefore, the latest recommendations for population and housing censuses¹⁵⁵ propose defining **resident population** of the country based on the duration of stay in the country – for most of the previous 12 months (at least 6 months and one day) or at least 12 months continuously (excluding shorter-term international movements for various reasons).

The 1998 UN recommendations on international migration statistics are currently under revision.¹⁵⁶ The new conceptual framework for international migration statistics proposes that international migration be considered part of broader international mobility (comprising all movements that cross international borders within a given year). Among all movements, **international migration** would cover *all movements resulting in a change in the country of residence within a given year*.

The definition of country of residence is in line with that recommended for censuses,¹⁵⁷ ensuring compatibility between international migration flows and population stocks. New recommendations will be in line with the International Recommendations on Refugee Statistics and new guidelines from the ILO on international labour migration statistics.¹⁵⁸

According to the conceptual framework supporting revision of the 1998 recommendations, use of the following concepts and definitions are recommended for statistics on international migration:¹⁵⁹

155 United Nations, Principles and Recommendations for Population and Housing Censuses, Revision 3, ST/ESA/STAT/SER.M/67/Rev.3, Department of Economic and Social Affairs, Statistics Division, United Nations, New York, 2017.

156 United Nations, *Final Report on Conceptual frameworks and Concepts and Definitions on International Migration. Task Force 2: Key concepts and definitions related to international migration*, United Nations, New York, 2021.

157 Ibid.

158 European Union, United Nations, *Expert Group on Refugee and Internally Displaced Persons Statistics – International Recommendations on Refugee Statistics*, Luxembourg, 2018; ILO, *Guidelines concerning statistics of international labour migration*, ICLS/20/2018/Guidelines, Department of Statistics, 20th International Conference of Labour Statisticians, Geneva, 10-19 October 2018, ILO, Geneva, 2018.

159 United Nations, *Final Report on Conceptual frameworks*, op. cit.

International migrant: *A person who has changed his or her country of residence and established new residence in the country within a given year (see above definition of resident population). International migrants can be either an ‘immigrant’ or an ‘emigrant’ and include those with national or foreign citizenship(s), and stateless persons.*

Immigration (flow): *All persons entering the country and becoming part of the resident population within a given year, including persons with national or foreign citizenships or stateless persons.*

Emigration (flow): *All persons leaving the country to become a part of another country’s resident population within a given year, including persons with national or foreign citizenships or stateless persons.*

Returning citizens (flow): *All national citizens who previously resided in another country and become residents of the country in a given year.*

Returning native-born population (flow): *All native-born persons who previously resided in another country and become residents of the country in a given year.*

5.2.2 Definition of population stocks relevant to international migration

Two concepts have traditionally been used to distinguish a country’s population groups with regard to international migration among the resident population: foreign-born population and foreign citizens. To identify these population groups, information is needed on a person’s country of birth and country of citizenship. Information on country of birth of parents may also be needed, for additional classification of people based on their migration background. The definitions for these concepts were provided by the United Nations Economic Commission for Europe (UNECE) within the frame of the Conference of European Statisticians for the 2020 round of population censuses.¹⁶⁰ In line with the census recommendations, the revision of international migration statistics proposes use of the follow-

160 UNECE, *Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing*, ECE/CES/41, New York and Geneva, 2015.

ing concepts for population stocks relevant to migration:¹⁶¹

- ◆ **Foreign-born population (stock):** *All persons who reside in the country at a particular time who were born in another country.*
- ◆ **Native-born population (stock):** *All persons who reside in the country at a particular time who were born in the same country.*
- ◆ **Foreign citizen population (stock):** *All persons who reside in the country at a particular time who do not hold national citizenship, including those without citizenship (stateless).*
- ◆ **National citizen population (stock):** *All persons who reside in the country at a particular time who have national citizenship.*

Foreign-born population corresponds to the stock of population born outside the country, meaning that they are international migrants who immigrated to the country at least once in their life and reside inside the country on the enumeration date. The foreign citizen population includes all persons who reside in the country on the enumeration date and do not hold citizenship of the country. These persons are predominantly foreign born, so the two population stocks largely overlap.

A more detailed typology of the various migration-related population stocks may be obtained by combining country of birth and country of citizenship, distinguishing between native-born population – *native-born national citizens* and *native-born foreign citizens*, and between foreign-born population – *foreign-born national citizens* and *foreign-born foreign citizens*. For national citizen population, the terms ‘citizens’ or ‘nationals’ are often used, whereas members of the foreign citizen population are often simply classified as ‘foreigners’.

In addition to a person’s own country of birth, the country of birth of his or her parents is used for classifying persons with a foreign background. The group of **persons with a foreign background** is composed of those persons born to parents who were both born outside the country. Persons in this group may or may not have directly experienced international migration. In the case that data are

161 United Nations, *Final Report on Conceptual frameworks*, op. cit.

not available on the parents' country of birth, a foreign background can be ascribed to a person based on acquisition of citizenship. As such, a person having national citizenship since birth are considered as having a national background, and persons who have received national citizenship by naturalisation or other means are included in the group of persons with a foreign background.

Based on the definition of 'international migrant', the UN *Handbook on Measuring International Migration through Population Censuses* proposed to define **stock of international migrants** as *the set of persons who changed his or her country of usual residence*.¹⁶² These are persons who have spent at least 6 consecutive months (most of one year) of their lives in a country other than that in which they live at the time of data collection. It is assumed that all foreign-born are international migrants, including those who migrated with their parents before the age of one year.

The term 'immigrant stock' is defined as the total number of international migrants present in a given country at a particular point in time, while the 'emigrant stock' is defined as the total number of international migrants from a given country who reside abroad at a particular point in time.¹⁶³ However, the legal or administrative term 'immigrant', as used in some countries, may carry different meanings; for example, it may refer only to a foreign citizen but not to a national citizen. The current revision of the terms applied offers a more precise definition of the population groups that should be considered as part of the immigrant and emigrant population stock, considering their national and foreign citizenship.¹⁶⁴ In addition, it will be recommended to distinguish among the usual resident population stock those persons who previously lived in a given country, emigrated, and later returned to that country:

- ◆ **Returned migrants (stock):** *Persons who previously resided in the country of measurement who emigrated and subsequently came back to live in the country and stayed or intended to stay for the minimum duration required for residence.*

162 United Nations, *Handbook on Measuring International Migration through Population Censuses*, Statistical Commission, Department of Economic and Social Affairs, United Nations, New York, 2020.

163 Ibid.

164 United Nations, *Final Report on Conceptual frameworks*, op. cit.

- ◆ **Returned native-born migrants (stock):** *Native-born persons who previously resided in the country of measurement who emigrated and subsequently came back to live in the country and stayed or intended to stay for the minimum duration required for residence.*

5.2.3 Temporary population mobility and temporary population stock

Temporary international movement¹⁶⁵ was not addressed by the UN recommendations on international migration statistics, nor were the terms ‘temporary migration’ and ‘circular migration’ defined.¹⁶⁶ However, as the types of international movement have become increasingly varied, the need to distinguish temporary movement from migration has become increasingly apparent. For the compilation of statistics on international migration and temporary mobility, two types of populations are suggested in the current revisions of the UN recommendations: resident population and temporary population. All international movements which are not international migrations as defined above are considered **temporary population mobility**. Thus, international temporary mobility refers to all movements that cross international borders and do not result in a change in the country of residence.

The following underlying concepts and definitions in regard to temporary movements are recommended for future data collection:

- ◆ **Cross border workers:** *All persons who are not residents of the country of measurement but have been engaged in economic activities on a repeated basis (more than once in a year) in that country provided they depart at regular and short intervals (daily or weekly) from the country.*¹⁶⁷
- ◆ **Seasonal workers:** *All persons who are not residents of the country of employment, whose work by its character is dependent on seasonal conditions and is performed during part of the year.*¹⁶⁸

165 United Nations, *Recommendations on Statistics*, op. cit.

166 UNECE, *Conference of European Statisticians*, op. cit.

167 ILO, *Guidelines concerning statistics*, op. cit.

168 Ibid.

- ◆ **Other types of temporary workers:** *All persons who are not residents of the country of measurement but travel to the country for short periods (less than the minimum duration requirement for residence) for work-related reasons, such as itinerant workers and project-tied workers.*¹⁶⁹
- ◆ **Training-related mobility:** *All persons who are not residents of the country but travel to the country to attend a short-term training programme for less than the minimum duration required for residence.*
- ◆ **Health-related mobility:** *All persons who are not residents of the country but travel to the country to access health care services for less than the minimum duration required for residence.*
- ◆ **Asylum seekers in transit:** *Persons who travel to the country in transit, with the intention to travel to another country to file an asylum application.*
- ◆ **Circular mobility:** *Persons who are not residents of the country and travelled to the same country more than once during a particular year.*¹⁷⁰

Currently, it is not rare that migration data are collected only if the change in the country of residence is considered ‘permanent’ (rather than ‘temporary’). In reality, it is not possible to identify any ‘permanent’ de facto migration. Distinction can only be made between persons who have the right to permanent residence and those who do not. The latter group are allowed to stay in the respective country on solely a ‘temporary’ basis, for a fixed period of time. However, this may involve staying in the country (or abroad) for periods ranging from a few months to many years, depending on the relevant national legislation.

Accordingly, the distinction between permanent and temporary residence is not suitable for producing internationally comparable migration data. Moreover,

169 For detailed categories of workers included in this group, see ILO, *Guidelines concerning statistics of international labour migration, ICLS/20/2018/Guidelines*, Department of Statistics, 20th International Conference of Labour Statisticians, Geneva, 10-19 October 2018, ILO, Geneva, 2018.

170 UNECE, *Defining and Measuring Circular Migration. Final report of the Task Force on Measuring Circular Migration*, UNECE Task Force on Circular Migration, ECE/CES/STAT/2016/5, New York and Geneva, 2016.

for many countries, nationals living abroad are considered as having emigrated temporarily, statistically remaining part of the home country's population even if they have lived abroad for many years. By contrast, temporary foreign immigrants may not be considered in the receiving country's population numbers, even if they have lived in that country for more than a year.

5.2.4 Additional international migration topics

In practice, other types of migrants and migrations might be distinguished when considering the legal situation and status of migrants (e.g. as voluntary or forced migrants). However, as the aim of international migration statistics is not only to present data on various types of migration but to also define those parts of the population with usual residence in the country, the concept of migration (and migrant) is based on the concept of usual residence, as defined by criteria which consider the duration of stay in the country. Therefore, in principle, the legacy of settlement in a country is not a precondition for considering a given person to be a migrant when crossing the national border.

If a refugee, asylum seeker or any other similar person meets the duration criteria, he/she will be counted within the number of international migrants if they moved in or out of the country within the specified reference dates; for example, a foreign person who enters the host country for international protection reasons and stays there continuously for at least six months should be considered an immigrant. Similarly, a refugee who returns to his or her country of origin after having sought protection abroad and who will not return within the following 6 months will be considered an emigrant or a returning migrant, as defined by the UN recommendations.¹⁷¹

5.3 Main data sources

The main data sources for migration statistics can be roughly divided into statistical field data collection activities, such as censuses and sample surveys, and data collected originally for non-statistical purposes but which are processed via

171 United Nations, *Principles and Recommendations*, op. cit.

appropriate methodology to produce needed statistical data. This subchapter provides a brief description of the data sources recommended by the United Nations and most frequently used by UN states for the production of international migration statistics.

Statistical data collection tools

Traditional statistical field data collection tools include population and housing censuses and household or other sample surveys. These collection tools are flexible in terms of contents and definitions. Statisticians can choose the most appropriate set of variables and definitions, and to cover either a representative sample, as in the case of household surveys, or a whole population, as in the case of censuses. To ensure comparability at the international level and across time series, statisticians have agreed on the main components and definitions for censuses and most necessary household surveys.

The main features of the methodology of such tools are usually provided by international bodies dealing with statistical data, in cooperation with national statistical institutions. Considering the increasing importance of international migration, it is suggested that migration issues be widely integrated into the statistical process. Therefore, migration questions are usually introduced in population censuses and some statistical sample surveys.

Population and housing censuses

A set of variables identifying international migrations is included in the *Principles and Recommendations for Population and Housing Censuses* and the *Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing*.¹⁷² The recommendations for censuses are updated before each census round. In addition, the United Nations has published the aforementioned *Handbook on Measuring International Migration through Population Censuses*.¹⁷³ The recommendations for the 2020 round of censuses suggested that all coun-

172 Ibid.; UNECE, *Conference of European Statisticians*, op. cit.

173 United Nations, *Handbook on Measuring International Migration*, op. cit.

tries collect data on immigrant populations. The key migration characteristics to be collected in censuses are country of birth, country of citizenship, country of previous usual residence, time of arrival and reason for migration.

The population census is a key data source for producing migration statistics for countries that do not have reliable administrative registers, especially population registers. Although censuses are typically carried out only once every ten years, for many countries they are the only reliable source of information concerning international migrants. Through identifying socio-economic and demographic characteristics of population stocks with a migration experience or foreign background, censuses can provide an appropriate amount of statistical data for analysis of migration patterns.

However, censuses have some limitations, particularly concerning data on migration flows. Capturing data on all emigrants remains a challenge, particularly in cases where the whole household has emigrated. Due to the infrequency with which censuses are conducted, a significant part of migration that occurred between two census dates could be excluded, due the person concerned dying or (re)emigrating. Moreover, in practice, data is typically collected only on the last immigration events. Data on emigration is difficult to collect via census if the related person does not live in the country at the time of enumeration, and practically impossible if the whole household has emigrated.

Household and other sample surveys

Whereas censuses can only include a rather small number of questions on each topic, including migration, sample surveys can collect more detailed data on a broader range of topics, and be carried out with greater frequency. For some statistical sample surveys, the suggested methodology is proposed by international statistical bodies where migration questions are sometimes included. Among these stands the Labour Force Survey (LFS), where some of the questions asked may focus particularly on labour migration and the migrant's situation in the labour market.

However, it is usually quite challenging to collect reliable migration data through a household sample survey which is focused on households of the general population and not specific consideration of households with migrants. First, the dif-

Difficulty in collecting data on migration flows through sample surveys are largely the same as encountered in the case of population censuses – even if there is the possibility of including more questions in survey questionnaire than in those underpinning censuses. Second, if the survey sampling strategy does not include a representative sample for migration issues, the survey may not be able to collect accurate migration data, as migrants compose only a small proportion of the overall population. Both of these problems can be partially avoided if the survey administered is designed specifically to collect migration data. However, even in this case, the ability of the survey to fully represent migration flows data remain questionable. In general, even if various household sample surveys are carried out, they rarely include questions relevant to migration topics.

Specialised international migration survey

To collect detailed data on migrants, including socio-demographic characteristics and personal migration history and intentions, a specialised migration survey is more appropriate. The main advantage of this type of survey is that it focuses on collecting data on migration issues. Accordingly, the survey sample is designed so that collected data will reliably represent the migrant population. A prominent example of this type of survey are the Migration Household Surveys conducted in several African countries with the help of the World Bank.¹⁷⁴

Whereas data on persons who have immigrated or returned after living abroad can be collected sufficiently by such surveys, similar to other field interview surveys, persons currently living abroad cannot be easily accounted for. Useful data in this regard can be received if the sample includes households of current emigrants, but these are not necessarily the same as data which could be given by the emigrant him/herself. For more specific studies, emigrated members of households are sometimes interviewed at their place of residence abroad. However, such cross-border surveys are rather rare, as they are difficult to arrange. It must be concluded that specialised international migration surveys cannot be considered to be the appropriate source for regular/annual international migration statistics.

174 World Bank, Migration and Remittances Surveys, Microdata Library. Available at: <https://microdata.worldbank.org/index.php/catalog/mrs/?page=1&ps=15&repo=mrs>. Accessed on 18.05.2023.

Administrative datasets

State authorities in most countries do collect some data on migration issues. Data are stored in registers or databases for various administrative purposes and are usually continuously recorded and include the date of recording. Among such registers and databases stand data for controlling and managing migration processes such as issuance of visas and residence permits. Other registers or databases include data on resident population, including place of residence.

Continuous recording of events related to the resident population in a given country – such as vital events, arrivals to or departures from the country, registration of a new place of residence, issuance of documents or processing of certain applications of persons for services and rights – may provide the possibility for capturing (or deriving) data on international migration. As the data collection is a continuous process, the variables necessary for actionable migration statistics can be derived as frequently as needed (annually, quarterly, monthly). Administrative datasets also collect data specifically on international movement of people, including migration-related issues – such as databases on issuance of visas, residence permits, work permits for migrants, entry/exit to the state, decisions on naturalisation. Even databases related to issuance of documents for nationals – such as passports and ID cards – can be, in certain cases, used to identify possible international migration.

Using data from administrative databases requires a different type of preparation, compared to that for using statistical field data collected via census or sample survey. The concepts and definitions used in administrative data are usually fixed in national law and are not necessary directly applicable for migration statistics.

The most widely used databases for migration statistics are administrative registers:

- ◆ **Population register.**
- ◆ **Foreigners' register.**
- ◆ **Residence permit register.**

Population register data are useful because they usually specify place of residence as a personal characteristic that is updated according to the legislation. In international migration statistics, the key concept for identification of migration

is the usual country of residence.

In this regard, there are two conditions to be fulfilled:

- (i) The registered place of residence must be the place of residence where the person usually lives.
- (ii) The minimum time period for living at the new place of residence registered should be shorter or equal to the period recommended for defining the usual place of residence.

The **foreigners' register**, sometimes called the 'immigration register', is similar to the population register but includes only foreign immigrants to the country. In some cases, the foreigners' register forms a dedicated part of the population register, and may include more characteristics than the general population register. The same conditions as in the case of the population register are needed if foreigners' register data are to be used for the identification of migration events. However, in the case of migrants, legal rules are in place to force persons to register their place of residence when arriving to live in the country (or within a specified time period following their arrival in the country), and/or when leaving the country.

The **residence permit register** is relatively similar to the foreigners' register, as first-time issuance of a residence permit can be considered to be a proxy for an immigration event. However, even if the dates of validity of the residence permit are recorded, these do not necessarily reflect the real dates of the holder's arrival and departure. In the case of a migrant being granted the right to permanent stay in a country, any following periods of residence elsewhere cannot be captured in these data. Conversely, migrants who do not renew their expired residence permit should be considered to be international emigrants. The number of identified migration events would be overestimated if the successive resident permits issued and renewed for the same person cannot be linked. In line with international best practice, close consideration should be given to the methodology for using residence permit data to identify international immigrants or emigrants.

In addition, border crossing databases can be used to capture cases where persons stay inside or outside of a country for more than the minimum period need-

ed to be identified as an international migrant. The advantage of border data is that the migration events of both nationals and non-nationals can be covered, but only a small number of personal characteristics are included in the data, since data collection at the border is typically based solely upon the information contained in the travel document and associated documentation presented.

Combined methods and other sources

Depending on the availability of data sources, several independent data sources may need to be linked to ensure collection of necessary data or locate information that allows identification of migration events. Some examples of combined methods:

- ◆ Statistical data collection linked with administrative procedures.
- ◆ Linkage of data from statistical and non-statistical datasets.
- ◆ Linkage of data from several statistical field data collections.

In some countries, data needed for migration statistics are collected at the time of administrative procedures occurring, but with specific consideration for statistical needs. Such data can be collected by ad hoc statistical data collection forms or by means of additional variables in the population register.

Combined methods may consist of linkage of records extracted from various administrative databases so that migration events and related characteristics can be derived. One method used for the identification of long-term migration is the linkage of records from two successive censuses and vital events occurring between these two censuses.

Recently, the so-called 'big data', mostly obtained from satellite imagery and mobile telephone flow based on the global positioning system, has been tested for producing migration statistics. However, the development of a statistical population register nonetheless represents an important potential improvement for migration data collection.

5.4 Institutional framework for migration data management in Azerbaijan

5.4.1 Migration as an interagency subject in Azerbaijan

In Azerbaijan, the institutional framework for managing international migration issues involves a number of governmental institutions, each of which has its own set responsibilities, including in regard to collection of statistical data. A common information system, the Interagency Automated Information-Retrieval System “Entry-Exit and Registration” (IAMAS), provides an ad hoc environment for sharing data collected by the mandated institutions based on relevant agreement and legislative rules. The IAMAS also provides the possibility to produce statistics on various migration-related topics for which data has been made available through this system.

The various governmental institutions have access to individual records created by other institutions as well as to statistical tables produced for common use of these governmental institutions according to their needs, based on predefined agreements. Some statistical data are prepared and provided to the State Statistical Committee for publication as official national statistics. Unfortunately, most statistics provided are so-called ‘institutional statistics’, which present data on specific activities of the institutions involved and not the statistical data encouraged by international recommendations.

5.4.2 Azerbaijani institutions involved in migration data management and production of statistics

The three main institutions involved in migration data management and the production of statistics in Azerbaijan are the State Migration Service (SMS), the State Border Service (SBS) and the State Statistics Committee (SSC).

In the field of migration management, the SMS is the key actor covering various topics of international migration. Other ministries and government institutions also deal with matters related to international migration and collect relevant data maintained in the IAMAS, albeit within a very specific and narrow area of responsibilities.

The tasks of the SMS include management of the information in the migration field collected on immigrants, for which it maintains a special Unified Migration Information System (UMIS). This system brings together most of the data collected on international migration and immigrants in Azerbaijan. The SMS collects data on various areas, including (but not limited to) temporary stay and registration of an immigrant's place of stay in the Republic of Azerbaijan, granting and extending temporary and permanent residence permits and work permits, and granting refugee status, as well as acquisition, restoration, determination, and loss of citizenship of the Republic of Azerbaijan, and registration of dual citizenship.

All data collected by the SMS are recorded in the UMIS, which, as an online database, provides information necessary for the activities of state bodies involved in the management of migration processes and provision of electronic services to Azerbaijani citizens, those holding other citizenships, and stateless persons. The UMIS is linked to the IAMAS, which covers the whole country's information resources. Whereas data from all procedures pertaining to migrants are subject to processing via the UMIS, the IAMAS includes the so-called 'shadow' of the UMIS. As such, the SMS shares relevant data on migration with the respective state institutions, both through the online databases and bilateral agreements established between the institutions on necessary information to be shared.

The State Statistics Committee is the key institution in terms of producing statistics in the field, overseeing population stocks as well as censuses. The latest Azerbaijani census (conducted in 2019) incorporated information on a) foreign nationals currently living in the country on a usual basis (i.e. resident permit holders, work permit holders, foreign students, other migrants with long-term visas), and b) foreign-born nationals currently living in the country. The census also publishes data on arrivals in and departures from the country, received from the Ministry of Internal Affairs (MIA) and the SMS. In general, the statistical data on international migrations published by the SSC are acquired from the SMS based on the official statistical reports and include only the migrations of non-nationals.

The State Border Service is mandated to collect data on persons and vehicles crossing the state borders of the Republic of Azerbaijan. Persons and vehicles are registered through the 'Border control' subsystem of the IAMAS, and the data cover border crossings by both nationals and non-nationals. It should be noted that international migrants account for only a small portion of these border crossings and travel document information contains few personal characteristics.

In addition to these three institutions, the Ministry of Internal Affairs performs a wide scope of activities pertaining to migration, including registration of the place of residence in Azerbaijan of Azerbaijani nationals and issuance of identity cards and passports to members of this group. The latter is specifically dealt with by the Department of Passport, Registration and Migration. The MIA also contributes to producing data on human trafficking (i.a. on number of cases prosecuted and number of victims placed in shelters) and stateless persons (i.a. on the granting of identity documents to members of this group).

Unlike the above-mentioned institutions, the Ministry of Labour and Social Protection of Population (MLSPP) does not collect data directly from persons but receives from the SMS necessary information on persons in Azerbaijan not holding Azerbaijani citizenship and stateless persons. This occurs through the 'Foreigners' subsystem of the IAMAS, which includes a set of variables on persons not holding Azerbaijani citizenship/stateless persons made available for the MLSPP to fulfil its tasks. The MLSPP is mainly concerned with the data on the issuance of work permits.

The Ministry of Foreign Affairs (MFA) primarily oversees data collection on consular registration of Azerbaijani nationals living abroad and the issuance of certificates for return to the Republic of Azerbaijan. Since no exit visa is required to leave Azerbaijani territory, the information on emigrants is usually collected through the self-declaration of Azerbaijani nationals abroad, at the respective diplomatic missions. Since registration as an Azerbaijani citizen abroad is recommended but not obligatory, the number of Azerbaijani nationals living abroad, especially on a temporary basis, is likely to be underestimated.

Some other state institutions, such as the Ministry of Justice and the State Committee on Work with the Diaspora of the Republic of Azerbaijan, are also involved in migration-related topics. The Ministry of Justice deals with data related to migration through management of the State Register, which incorporates information on demographic characteristics of population in Azerbaijan, including migrants and stateless persons who permanently reside in the country. The State Committee on Work with the Diaspora conducts activities involving the diaspora and various matters linked to the freedom and rights of Azerbaijani nationals residing abroad.

5.5 Questions

1. *What are the recommended main sources for data collection on international migration?*
2. *What advantages and drawbacks might each data source have?*
3. *How do the UN recommendations define an ‘international migrant’?*
4. *How can temporary international movements be distinguished from international migration flows, according to the UN definitions?*
5. *What are the challenges to producing accurate data on stock of population, if the concept of ‘temporary migrant’ does not include any time criterion?*
6. *In Azerbaijan, which institution would be most suitable, considering the skills needed, to consolidate data on population stocks and migration flows as recommended by the United Nations, and to ensure consistency between stocks and flows?*

5.6 Case studies

1. International migration is a process that causes change in the population of a country: births and immigrations increase the population; deaths and emigrations decrease the population.

Exercise:

Total population change in Azerbaijan during the year 2021 was 37,300 people, increasing from 10,119,100 on 1 January 2021 to 10,156,400 on 1 January 2022.

Replicate the calculation of this population change by using the data on births, deaths, immigrations and emigrations, available from the website of the State Statistical Committee of the Republic of Azerbaijan: https://www.stat.gov.az/menu/6/statistical_yearbooks/?lang=en.

2. The population number is based on the results of the population census and represents those people usually living in the country. The United Nations recommends that the population number include everybody who usually lives in the country for a period of at least one year. Any person who usually stays abroad for a period of at least one year should not be counted in the population of the country of their previous residence regardless of whether the person has the right or intention to stay permanently or temporarily in this country or abroad.

Exercise:

Which data are most suitable for calculating the migration component of change in the population defined above?

Assuming that all data sources are complete and of good quality, please choose one or more possibilities to identify the annual number of immigrations from the following sources:

1. All arrivals recorded in the border crossing database.
2. Only arrivals of non-nationals recorded in the border crossing database.
3. Only arrivals of non-nationals recorded in the border crossing database who intend to stay in the country for longer than one year.
4. All persons who registered their permanent residence in the country.
5. All non-nationals who received a permit for temporary residence in the country.
6. Only non-nationals who received a permit for temporary residence for at least one year

Repeat the process undertaken in the previous exercise. This time, the aim is to identify the annual number of emigrations from the following sources:

1. All departures recorded in the border crossing database.
2. Only departures of non-nationals recorded in the border crossing database.
3. Only departures of nationals recorded in the border crossing database who intend to stay in the country for longer than one year.
4. All persons who deregistered their permanent residence in the country.
5. All non-nationals whose temporary residence permit has expired.
6. All non-nationals whose temporary residence permit for longer than one year has expired.

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Chapter 6

Legal Aspects of Migration

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Introduction

In a world shaped by seismic civilizational shifts, the main claim of this chapter remains the same: migration is a social phenomenon and an intrinsic part of a broader social and economic order. It is also a phenomenon that can present an excessive challenge if not underpinned by an approved and sufficient legal and normative framework for human movement.

Today, legal, irregular, and forced migration have become embedded fields of study. There is a growing number of scholarly work stressing how geopolitical preferences define migration corridors, or how international relations impact migration and its legal framework. When studying the movement of people, it is important to be aware of normative and non-normative rules, binding and non-binding practices that apply at the local, national, and supra-national level.

The present Chapter 6 consists of **five sub-chapters** examining migration throughout the lens of law and its practice. The sub-chapter **‘The Right to Migrate’** provides an overview of migration as a phenomenon patterned by historical, legal, and philosophical contexts. The next sub-chapter - **‘Legal Migration Etymology’** – **provides an overview of main international legal provisions** related to different migration regulation areas through analysis of migration terminology from the legal point of view. Whenever relevant, the sub-chapter also demonstrates the

links of international terminology to the national regulation. The sub-chapter, **‘Key Principles of Current International Legal Framework’**, then provides a state-of-the-art overview of three non-binding global documents – the Global Compact for Migration, the Global Compact for Refugees, and the United Nations Guiding Principles on Internal Displacement, covering prominent migration trends and migration debates of recent years. Chapter 6 is closed by the final sub-chapter **‘Additional Materials’**, which provides recommendations for further reading, case studies based on judgments of internationally recognised judicial bodies, and questions for further discussion.

6.1 The Right to Migrate

Over the centuries, the question of whether one has a right to migrate and a right to hospitality, and, if so, what limits may exist on these rights. It has been a controversial issue for many scholars. An early example of the debate comes in the form of the biblical story of Lot,¹⁷⁵ who was willing to sacrifice his daughters’ lives rather than betray the strangers who walked into his house – out of an innate sense of mercy and kindness to one another. Even today, the limits of the rights and obligations of strangers versus locals and hosts cannot be pinned down definitively.

Ancient philosophers and thinkers created a great variety of concepts and ideas that helped view and understand the movement of people. A Spanish theologian and lawyer Francisco de Vitoria already in XVI century promoted the existence of “a freedom to migrate freely (...) established from the beginning of the world”, with denying outsiders permission to enter therefore potentially seen as “an act of war”.¹⁷⁶ Moreover, de Vitoria’s concept¹⁷⁷ of *jus communicationis*¹⁷⁸ between people in accordance with their hearts was “not limited to the right to travel and

175 The similar story, with some additional remarks, appears in the Holy Koran, see: <http://mquran.org/content/view/1551/>.

176 See: Nafziger, J.A., ‘The General Admission of Aliens under International Law’, *American Journal of International Law*, Vol. 77, No. 4, 1983, pp. 804-847, p. 811. <https://doi.org/10.2307/2202535>

177 Chetail, V., ‘Sovereignty and Migration in the Doctrine of the Law of Nations: An Intellectual History of Hospitality from Vitoria to Vattel’, *European Journal of International Law*, Vol. 27, Issue 4, 2016, pp. 901-922, <https://doi.org/10.1093/ejil/chw059>.

178 Translated literally, “the right to communicate”.

the duty of hospitality. It was a much broader principle that also included free trade, freedom of navigation and *jus soli*.¹⁷⁹ In the first part of XVII century, the Dutch lawyer and scholar Hugo Grotius spoke about two corresponding rights – the right to leave one’s own country and the right to remain in a foreign country. He introduced to European law the foundations of a state’s responsibility for injuries to aliens by implementing the Roman law *culpa lata*¹⁸⁰ principle.¹⁸¹ A century later, the German mathematician and philosopher Christian von Wolff defined the term emigration as “permission to go to voluntary exile”, while Austrian lawyer, diplomat and state servant, and later also a judge at the European Court of Human Rights Alfred Verdross, who was active before, during and after the First and Second World Wars, was a founder of the “international law of aliens” that establishes universal rules binding states and indicates the state as the primary source of protection for those on the move.¹⁸²

Philosophers such as Immanuel Kant and Jacques Derrida have also made their significant contributions to studies critically evaluating the philosophy of hospitality, and in particular the right to hospitality and the obligation of nation states¹⁸³, though they are working on the issue 200 years apart (Kant in 18th century and Derrida in 20th). The right to hospitality outlined by Kant in his *Perpetual Peace* refers to the right “of a stranger not to be treated as an enemy when he arrives in the land of another”. However, the stranger can be denied the right to hospitality if his comportment does not fit in with the tenor of life and accepted norms, although this denial should be accomplished “without causing his destruction”.

179 The “right of soil”, that is, the right of anyone born on the territory of a state to be granted nationality or citizenship of that state. Along with the *jus sanguinis* principle, “right of blood” where this grating of status is based upon the nationality of one’s parents, *jus soli* is the legal procedure most commonly applied among the states in the world today.

180 According to the interpretation of Roman scholar Max Radin, “*culpa lata* or *latoir*, was made either by the civilians or ‘by the pilers of the Digest’”. The basis of holding the debtor responsible is correlated with fault (*culpa*). *Culpa* is divided into intent (*dolus*) and negligence (also *culpa*), and negligence is ranked on scale of slight negligence (*culpa levis*) to gross negligence (*culpa lata*). See: Radin, M., ‘Fundamental Concepts of the Roman Law’, *California Law Review*, Vol. 12, No. 6, 1924, pp. 481-495. <https://doi.org/10.2307/3475799>

181 Roy, S.N., ‘Is the Law of Responsibility of States for Injuries to Aliens a Part of Universal International Law?’, *American Journal of International Law*, Vol. 55, No. 4, 1961, pp. 863-891. <https://doi.org/10.2307/2196271>

182 See: Vincent C., *International Migration Law*, Oxford University Press, Oxford, 2019.

183 Baker, G., ‘Right of Entry or Right of Refusal? Hospitality in the Law of Nature and Nations’ in *Hospitality and World Politics*, Baker, G. (ed.), Palgrave Studies in International Relations Series, Palgrave Macmillan, London, 2013. https://doi.org/10.1057/9781137290007_3

Jacques Derrida believed that “hospitality is a kind of ethics” is not political but rather “culture and (...) ethics of itself.” Derrida distinguished between “unlimited hospitality” and “conditional hospitality”.¹⁸⁴ So-called “unlimited hospitality”, he believed, is practically unrealisable in the real world; while conditional hospitality, which he defines as “receiving and welcoming a stranger”, is very much needed in the world. According to the Derrida’s view, abolition of “the right of hospitality” is dangerous. The state which does not grant the right to hospitality or denies it to outsiders can turn “strangers” into “parasites” – “a sort of disenfranchised, irregular guests, to be deported and arrested.” The right to hospitality requires that both parties observe ethical norms – a foreign guest remains always the guest, locals are always the host; any departure from this hierarchy is fraught with extreme situations when either guests “carry on like parasites” or the hosts revel in their “philanthropy”.¹⁸⁵

Many modern scholars assume that neither national nor international law recognises or guarantees the right to hospitality, nor the right to migrate.¹⁸⁶ However, some have concluded that the right to migrate has been “framed by international law for ages”.¹⁸⁷ This group of thinkers propose analysing the right to freely move and the right to leave a country as two elements of the right to migrate.¹⁸⁸ According to such theory, the right to migrate could mean the right to legally leave one country and enter another for a short or longer period (the right to travel). In the United States, a series of court judgments, for example, the 1893 *Corfield v. Coryell*, have illustrated various aspects and interferences of the right

184 Derrida, J., ‘Hospitality, Justice and Responsibility: A Dialogue with Jacques Derrida’, in *Questioning Ethics: Contemporary Debates in Philosophy*, Kearney, R. and M. Dooley (eds.), Routledge, London, 1999, pp. 65-83.

185 O’Gorman, K.D., ‘Jacques Derrida’s philosophy of hospitality’, *Hospitality Review*, Vol. 8, No. 4, 2006, p. 56.

186 Saroléa, S., ‘From Protection of the Migrant to the Rights of the Migrant Person: Free the Migrant from His Legal Exile....’, in *Spheres of Global Justice*, Merle, J.C. (eds.), Springer, Dordrecht, 2013. https://doi.org/10.1007/978-94-007-5998-5_28

187 Vincent, C., ‘Sovereignty and Migration’, op. cit.

188 Gulina, O., ‘Rechtsvergleichende Analyse des nationalen Freizügigkeitsrechts der Russischen Föderation und der Bundesrepublik Deutschland’ (Comparative analysis of the national freedom of movement law of the Russian Federation and the Federal Republic of Germany), *Aktuelle Probleme des Öffentlichen Rechts in Deutschland und Russland*, Schulze, C. (ed.), Vol. 14(S), 2011, pp. 243-264.

to travel,¹⁸⁹ but the right itself finds no explicit mention in any legally binding US document.

Moreover, while the United States Supreme Court agreed that there is a right to travel, there has been no consensus concerning the legally binding source of this right.¹⁹⁰ The right to travel and the right to cross borders are not guaranteed by any legal documents, except specific regional agreements, such as Art. 5 of the Agreements Establishing the Commonwealth of Independent States (CIS).¹⁹¹

Interestingly, some states have officially offered outsiders the unlimited right to hospitality. For instance, up until recently, Art. 1 of the 1938 Law on Aliens, Extradition, and Naturalization of the Republic of Ecuador¹⁹² stipulated: “the territory of the Republic of Ecuador is open to all foreigners who wish to come to reside or domicile themselves in it, provided they fulfil the provisions of the present law”.¹⁹³

However, since there exists no internationally protected and legally binding right to enter another country, the right to migrate therefore remains quite theoretical.¹⁹⁴

International law does not guarantee the right to migrate, the right to travel or the right to cross borders; although it does recognise and protect the right to

189 Leonard, B.B., ‘The Constitutional Right to Travel’, *Columbia Law Review*, Vol. 56 (Jan. 1956), pp. 47-75.

190 “The right of a citizen of one state to pass through or to reside in any other, for the purpose of trade, agriculture, professional pursuits, or otherwise (...) may be mentioned as some of the particular privileges and immunities of citizens which are clearly embraced by the general description of privileges deemed to be fundamental.” See: Schroeder, D.W., ‘The Right to Travel: In Search of a Constitutional Source’, *Nebraska Law Review*, Vol. 55. No. 1, Art. 7, 1975.

191 Agreements Establishing the Commonwealth of Independent States, signed in Minsk, Belarus on 8 December 1991, and in Alma-Ata, Kazakhstan, on 21 December 1991. <https://cis.minsk.by/page/176>

192 This Law is no longer in operation. Ecuadorian lawmakers adopted a number of amendments aimed at strengthening control of immigration, allowing authorities to carry out deportations in an expedited manner. See: Government of Ecuador, Organic Law of Human Mobility of the Republic of Ecuador, 2021. <https://perma.cc/8DPC-89RN>

193 Government of Ecuador, Republic of Ecuador, Law on Aliens, Extradition, and Naturalization, 1938. See: *American Journal of International Law*, Vol. 32, No. 54, 1938, pp. 163-81. <https://doi.org/10.2307/2213732>

194 Saroléa, S., ‘From Protection of the Migrant’, op. cit.

leave a country, including one's own. The right to leave a country is stipulated in many international legal instruments, including:

- ◆ Art. 13.2 of the Universal Declaration of Human Rights;¹⁹⁵
- ◆ Art. 12.2 of the International Covenant on Civil and Political Rights (ICCPR) and Art. 8 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW);¹⁹⁶
- ◆ Art. 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;¹⁹⁷
- ◆ Art. 10 of the Convention on the Rights of the Child;¹⁹⁸
- ◆ Art. 5 of the United Nations Declaration on the Human Rights of Individuals Who are Not Nationals of the Country in Which They Live;¹⁹⁹
- ◆ Art. 2.2 of Protocol No. 4 to the European Convention on Human Rights (ECHR).²⁰⁰

The international treaty bodies established under the respective treaty regimes (e.g. the European Court of Human Rights (ECtHR) and the Human Rights Committee monitoring implementation of the ICCPR by its signatories) have substantively

195 United Nations Universal Declaration of Human Rights, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

196 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>

197 United Nations International Convention on the Elimination of All Forms of Racial Discrimination, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>

198 United Nations Convention on the Rights of the Child, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

199 United Nations Declaration on the Human Rights of Individuals Who are Not Nationals of the Country in Which They Live in, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.26_Declaration%20on%20the%20Human%20Rights%20of%20Individuals%20who%20are%20not%20nationals.pdf

200 European Convention on Human Rights (ECHR), https://www.echr.coe.int/Documents/Library_Collection_P4postP11_ETS046E_ENG.pdf

examined the right to leave and produced extensive case law on this basis. In fact, the right to leave a country also includes the right to be issued a passport or other necessary travel documents, which is the duty of a sovereign state.

The international treaty bodies permit nation states to place restrictions on the right to leave and/or the right to stay in the country. However, such restrictions must be provided for by law, to protect national security, public order and/or public health and/or the rights and freedoms of others. The international treaty bodies cannot rely on the findings of national authorities if they do not have all essential information before them for any such reasons, including for reasons related to national security, when issuing the expulsion order (see ECtHR, Case *X v. Sweden*).²⁰¹

Sovereign states are entitled to secure their borders, protect national security, public order and public health or moral rights, and other rights and freedoms, but they should neither allow expulsion of their own nationals nor deny their own nationals entry to the country.²⁰² These two rights are guaranteed by the Art. 12 of the International Covenant on Civil and Political Rights and Art. 3, Protocol No. 4 of the ECHR in the European context. Moreover, the international treaty bodies established under the respective treaty regimes, i.e. the ECtHR and the Human Rights Committee, have outlined criteria for cases of expulsion of foreigners who have settled in a state and who are convicted of a criminal offence and/or are unlawfully present on the territory of nation state. These criteria include examination of the nature and seriousness of the offence committed by the foreigner, the length of the foreigner's stay in the country (from which (s)he would be expelled), the solidity of social, cultural, and family ties with the host country and with the country of destination, etc.²⁰³ In addition, the ECtHR and the Human Rights Committee unconditionally stipulate that the requirement of exit visas for certain categories of people, such as those indicated in the Qatari Law No. 13 of

201 ECtHR, Judgment of 9 January 2018, *X v. Sweden*, Application no. 36417/16. <https://hudoc.echr.coe.int/eng?i=001-180018>

202 United Nations, International Covenant on Civil and Political Rights, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, 1966.

203 ECtHR, Judgment of 18 October 2006. *Üner v. The Netherlands*, Application no. 46410/99, 2006. <https://hudoc.echr.coe.int/eng?i=001-77542>; ECtHR, Judgment of 7 December 2021, *Savran v. Denmark*, Application no. 57467/15, 2021. <https://hudoc.echr.coe.int/eng?i=001-214330>

2018 on Exit Visas for Labour Workers²⁰⁴ and the Belarusian Draft Law on Exit Visas for Regime's Opponents of July 2022,²⁰⁵ also violates international law.²⁰⁶

Concluding, international migration law and customary international law do not guarantee the right to migrate, but they do regulate and protect the right to leave a country, including one's own.

6.2 Legal Migration Etymology

Migration is an integral part of human history, with “homo migrants” existing throughout the history of *homo sapiens*.²⁰⁷ The complexity and diversity embodied by migrants represent both a challenge and a gift to the contemporary world. However, neither the linguistic description of their diversity nor categorisation of the migration field are neutral and are often politicised.

Already Ravenstein in his 1889 ‘The Laws of Migration’ operated with the description “native element” to describe people from the same county, using the term “foreign element” to refer to people coming from a neighbouring county.²⁰⁸ However, through the entire history of migration and up until very recent events we witness misinterpretation and misuse of migration terminology: the massive migration movement to Europe via the Mediterranean Routes in 2014-2016 gave us a good example of this. Moreover, this terminological dispute about the difference between forced migrants, economic migrants and refugees has significant impact on migration regulation and its enforcement across Europe and on the lives of thousands of people.

204 Government of Qatar, Law No. 13 of 2018 amending certain provisions of Law No. 21 of 2015 in relation to organizing the entry and exit of expatriates and their residence, 2018. http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=107340

205 Government of Belarus, Draft Law on Exit Visas for Regime's Opponents, 2022. <https://pravo.by/document/?guid=3941&p0=2022044001>

206 The same provisions were in force elsewhere in Eurasia in the early 1990s. See: HRC, Concluding Observations, Belarus, A/47/40 (1992) 124, para. 561, 1992; HRC, Concluding Observations, Ukraine, A/50/40 vol. I, 57, para. 320. 1995.

207 Bade, K.J., *Europa in Bewegung: Migration vom späten 18. Jahrhundert bis zur Gegenwart* (Europe on the Move: Migration from the Late 18th Century to the Present), C.H. Beck, Munich, 2000, p. 11.

208 Ravenstein, E.G., ‘The Laws of Migration’, *Journal of the Royal Statistical Society*, Vol. 52, No. 2, 1889, pp. 241-305. <https://doi.org/10.2307/2979333>

This chapter provides a brief overview of the key international legal instruments and relevant legal framework through analysis of definition and categorisation of people on the move. Further, it strives to distinguish legal definitions created by international treaty bodies and national lawmakers from bureaucratic categories and terms used by the general public and mass media. In the current climate, these kinds of international, regional, and national diversification of terms carry considerable cultural, historical, and political charge, wielding power that can be of great significance.

6.2.1 Migrant

The broadly used term “**migrant**” is not defined under international law. The International Organization Migration (IOM) *Glossary on Migration*, a seminal work of reference periodically updated by this UN agency, defines migrant as “*a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons*”.²⁰⁹ This means that everyone can be a migrant, when s/he moves or has moved across an international border or within a state’s border from his/her place of usual residence, regardless of (a) Legal status; (b) Voluntary or involuntary movement; (c) Causes for the movement; and (d) Length of stay.

Such general understanding of the term “migrant” includes a few internationally defined legal categories of people on the move, such as “migrant in irregular situation”, “migrant worker” and “smuggled migrant”, and also those whose status or means of movement are not specifically defined under international law, such as IDPs or international students. The United Nations Department of Economic and Social Affairs (UN DESA) operates with the term “international migrant” as meaning “any person who changes his or her country of usual residence”.²¹⁰ Under such a definition, individuals travelling for shorter periods, as tourists or business travellers, are not considered migrants.

209 IOM, *Glossary on Migration*, 2019. https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf

210 UN DESA, *Recommendations on Statistics of International Migration*, Revision 1, para. 32, 1999.

Interestingly, regional legal frameworks and newly independent state legislation²¹¹ often use migration terminology not necessarily defined by international law. An example of this can be seen in the Migration Code of Azerbaijan, which identifies the following definitions: a person staying in the country temporarily; a person residing temporarily; and a person residing permanently (Art. 3 of the Migration Code of Azerbaijan).²¹² Migration Acts from Ukraine, Kazakhstan, Kyrgyzstan and Tajikistan normatively define terms such as “immigrants” (Art. 1 of the Law on Migration of Tajikistan²¹³) and “emigrants” (both terms: Art. 1 of the Law on External Migration of the Kyrgyz Republic²¹⁴; Art. 1 of the Law on Immigration of Ukraine²¹⁵; Art. 1. of the Law on Population Migration of Kazakhstan²¹⁶).

According to the Resolution of the Inter-Parliamentary Assembly of States Members of the Commonwealth of Independent States,²¹⁷ the term “migrant” means “a person entering the territory of the state or traveling outside its borders, as well as moving through the territory of the state, regardless of the reasons for such movement”.²¹⁸ The same definition of the term appears in Arts. 1-10 of the Law on Migration of Kazakhstan.

211 Hereinafter, those countries mentioned as newly independent states are: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan.

212 Government of Azerbaijan, The Migration Code of the Republic of Azerbaijan, 2013. https://migration.gov.az/content/pdf/60ed89e2411a5_M%C9%99c%C9%99II%C9%99%20%C4%B0ngilis.pdf

213 Government of Tajikistan, Law of the Republic of Tajikistan on Migration, 1999. <http://ncz.tj/content/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD-%D1%80%D0%B5%D1%81%D0%BF%D1%83%D0%B1%D0%BB%D0%B8%D0%BA%D0%B8-%D1%82%D0%B0%D0%B4%D0%B6%D0%B8%D0%BA%D0%B8%D1%81%D1%82%D0%B0%D0%BD-%D0%BE-%D0%BC%D0%B8%D0%B3%D1%80%D0%B0%D1%86%D0%B8%D0%B8>

214 Government of the Kyrgyz Republic, Law on External Migration of the Kyrgyz Republic, 2000. <http://cbd.minjust.gov.kg/act/view/ru-ru/350?cl=ru-ru>

215 Government of Ukraine, Law on Immigration of Ukraine, 2016. <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5d66705e4>, [http://www.cisstat.com/migration/cis_low/2_UK_Law%20of%20Ukraine%20On%20Immigration%202001%20\(2016\).pdf](http://www.cisstat.com/migration/cis_low/2_UK_Law%20of%20Ukraine%20On%20Immigration%202001%20(2016).pdf)

216 Government of Kazakhstan, Law on Population Migration of Kazakhstan, 2011. <https://adilet.zan.kz/rus/docs/Z1100000477>

217 Inter-Parliamentary Assembly of States of the Commonwealth of Independent States, Resolution of the Inter-Parliamentary Assembly of States Members of the Commonwealth of Independent States dated 13 April 2018, No. 47-13 “On the Glossary of Terms and Concepts Used by the CIS Member States in the Border Sphere” (St. Petersburg), 2018. https://continent-online.com/Document/?doc_id=35182492#pos=0;0

218 Ibid.

6.2.2 Forced migrants: asylum seekers, refugees and displaced persons

Many scholars have outlined the importance of distinguishing between forced migrants (i.e. asylum seekers, refugees and displaced persons) from other categories of migrants, because forced migration and forced migrants indicate a lack of alternatives, whereas the term “migrant” and the act of migration itself tends to imply choice and a broad array of variables in terms.²¹⁹ Let us follow their recommendation.

According to the United Nations High Commissioner for Refugees (UNHCR) *Glossary of Terms*, an “**asylum seeker**” is an individual who seeks international protection.²²⁰ In states with special legal procedure, an asylum seeker is a person whose asylum claim has not been yet finally approved by the states’s migration authorities. Not every asylum seeker can be recognised as a refugee, but every recognised refugee was originally an asylum seeker. A “refugee”, within the meaning of the 1951 UN Convention relating to the Status of Refugees (1951 Refugee Convention),²²¹ is distinguished from other migrants, internally displaced persons, and other individuals in search of humanitarian assistance.

The term “refugee” means:

“[A] person who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” (Art. 1 of the 1951 Refugee Convention)²²²

219 Turton, D., ‘Refugees, Forced Resettlers and ‘Other Forced Migrants’’, RSC Working Paper No. 13, Refugee Studies Centre, 2003, p. 10; Wong, D., ‘The Semantics of Migration.’ *Sojourn: Journal of Social Issues in Southeast Asia*, Vol. 4, No. 2, 1989, pp. 275-85. <http://www.jstor.org/stable/41056779>.

220 UNHCR, *UNHCR Master Glossary of Terms*, 2006. <https://www.refworld.org/docid/42ce7d444.html>

221 United Nations, The Refugee Convention, 1951. <https://www.unhcr.org/4ca34be29.pdf>

222 Ibid.

It is important to note that some succeeding international documents (e.g. the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa²²³ and the 1984 Cartagena Declaration on Refugees)²²⁴ have further developed the normative scope of the term “refugee” to include persons fleeing armed conflicts and/or natural disasters.

The background of the term “refugee” in the Western legal tradition also warrants exploration. The German Jochen Oltmer showed that the French cognate of this word, “*réfugié*”, was applied to French Protestant Huguenots who fled persecution of Catholics after the first Edict of Fontainebleau in 1540 and the withdrawal of the Edict of Nantes in 1685. The term was mentioned in a funeral reading of 1622 to describe a prodigal son whose father took him back for his safety.²²⁵

The modern understanding of the term is rooted in discussion at international law forums organised by the League of Nations and activities of the International Refugee Organization (IRO) and subsequently UNHCR after World War II.²²⁶ Philosopher and political thinker Hannah Arendt in her 1943 essay ‘We refugees’ wrote of a refugee as a person “who has reasonable fear (...) of persecution”.²²⁷ Year by year, the term “refugee” becomes more common in the lexicon of humans worldwide. It was chosen as the Word of the Year for 2015

223 OAU, OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted by the Assembly of Heads of State and Government at its Sixth Ordinary Session, Addis-Ababa, 10 September 1969. <https://www.unhcr.org/about-us/background/45dc1a682/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted.html>

224 UNHCR, Cartagena Declaration on Refugees, adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Cartagena de Indias, Colombia, 22 November 1984. <https://www.unhcr.org/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html>

225 Oltmer, J., ‘Begriff und Figur des Flüchtlings in historischer Perspektive’ (Concept and Figure of the Refugee in historical Perspective), Bundeszentrale für politische Bildung, 2021, <https://www.bpb.de/themen/migration-integration/kurzdossiers/342015/begriff-und-figur-des-fluechtlings-in-historischer-perspektive/>

226 Banko, L., Nowak, K. and P. Gatrell, ‘What is refugee history, now?’, *Journal of Global History*, Vol. 17, No. 1, 2022, pp. 1-19. doi:10.1017/S1740022821000243

227 Arendt, H., ‘We Refugees’, *Menorah Journal*, Vol. 31, No. 1, 1943, pp. 69-77. http://www-leland.stanford.edu/dept/DLCL/files/pdf/hannah_arendt_we_refugees.pdf

in Germany²²⁸ and Portugal²²⁹, and as the Children's Word of the Year for 2016 by Oxford University Press.²³⁰

Another important term related to forced migration and protection is so-called *principle of non-refoulement*, which is contained in a number of international instruments, including the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Refugee Convention, the American Convention on Human Rights, and the Charter of Fundamental Rights of the European Union, and other. Moreover, non-refoulement principle is currently recognised as part of the International customary law. That means that this principle is understood as so called *jus cogens* norm, accepted and recognized by international community from which no derogation is permitted. In brief, the principle of non-refoulement means prohibition from transferring, removing or deporting individuals from territory of the state when there are substantial grounds for believing that the person would be at risk of serious harm upon return, including persecution, torture, ill-treatment or other serious human rights violations. In this way, the non-refoulement principle represents an essential protection element under international human rights, refugee, humanitarian and customary law.

There are also other terms used to specify forced movement within the state borders. According to the *UN Guiding Principles on Internal Displacement*,²³¹ the term “internally displaced person” refers to:

“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border”.

228 Gesellschaft für deutsche Sprache, *GfdS wählt »Flüchtlinge« zum Wort des Jahres 2015* (GfdS chooses “refugees” as word of the year 2015), press releases, 11 December 2015. <https://gfdS.de/wort-des-jahres-2015/>

229 The Portugal News, “Refugee’ word of the year’, News, 7 January 2016. (<https://www.theportugalnews.com/news/refugee-word-of-the-year/37112>)

230 Erizanu, P., “Refugee’ is children’s word of the year, declares Oxford University Press’, *The Guardian*, 26 May 2016. <https://www.theguardian.com/childrens-books-site/2016/may/26/refugee-is-childrens-word-of-the-year>

231 OCHA, *Guiding Principles*, op. cit. <https://www.unhcr.org/43ce1cff2.pdf>

A crucial requirement to be considered an IDP is to not have crossed an international border. It should also be noted that although broadly used, the term “internally displaced person” has no legal definition in public international law. However, a few regional treaties, such as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, operate with the term “internal displacement” and “internal displaced person(s)” (Art. 1 of the Kampala Convention).²³² Similar definition is used by state legislators in Ukraine, with the following meaning:

“IDP is citizen of Ukraine, permanently residing at the territory of Ukraine, that was forced or voluntarily left one’s residence place as a result of or in order to avoid negative impact of armed conflict, temporary occupation, situations of generalized violence, mass violations of human rights and disasters of natural or human-made origin.” (Art. 1-1 of the Law on Ensuring the Rights and Freedoms of Internally Displaced Persons of Ukraine).²³³

Legislators in Georgia also operate under a similarly worded definition of who counts as an IDP.²³⁴

For its part, Kyrgyz law operates with the term “forced migrant” as meaning:

“[A] citizen of the Kyrgyz Republic who is forced to leave his place of residence and move to another place within the Kyrgyz Republic due to circumstances that pose a threat to his life, health and safety, such as an armed conflict, riots, natural and man-made disasters and other misfortunes on the territory of the Kyrgyz Republic.” (Art. 1- 4 of the Law on Internal Migration of the Kyrgyz Republic)²³⁵

232 African Union, Kampala Convention. African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 23 October 2009. <https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa>

233 Government of Ukraine, Law of Ukraine on Ensuring the Rights and Freedoms of Internally Displaced Persons. <https://zakon.rada.gov.ua/laws/show/1706-18#Text>

234 Government of Georgia, Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia. <http://mra.gov.ge/res/docs/201406171444442634.pdf>

235 Government of the Kyrgyz Republic, Law on Internal Migration of the Kyrgyz Republic. <http://cbd.minjust.gov.kg/act/view/ru-ru/1090>

Lawmakers of other newly independent states (e.g. Azerbaijan, Tajikistan, and the Russian Federation) often use the term “forced resettler”. In the Azerbaijani context, this term means *“a person who has moved to another place being forced to leave his/her permanent residence within the territory of the Republic of Azerbaijan in connection with military aggression, natural or technogenic disaster”* (Art. 1 of the 1992 Law on Refugees and Forced Displaced of Azerbaijan).²³⁶

The corresponding definition used in the Russian Federation refers to this category of migrant as a citizen of the Russian Federation who was forced to leave his or her permanent residence in Russia due to:

*“threats of, or actual, violence against the person or family based on race, national origin, religion, language, or membership in a certain social group, or due to political beliefs regarding violence toward certain groups, massive disruption of the peace, and other actions that significantly violate human rights.” (Art. 1-1 of the Law on Forced Resettlement of Russia)*²³⁷

Modern scholarship focuses on two legal regimes based on different categories of displaced persons: a development-induced displacement and resettlement regime (DIDR) and a conflict-induced displacement and resettlement regime (CIDR).²³⁸ DIDRs remain a significant driver of internal displacement, reinforced by development projects and initiatives in many countries around the world, particularly on the African continent.²³⁹ Canadian scholar Michael Barutciski explains the legal complexities of DIDR as presenting a double-edged responsibility for national governments. On the one hand, the national government is responsible for the displacement of those people, while, on another hand, legal protection of development-induced displaced persons (DIDPs) is also guaranteed by said government.²⁴⁰

236 Government of Azerbaijan, Law on Status of Refugee and Displaced Person of the Republic of Azerbaijan, 1999. <https://migration.gov.az/content/pdf/b4016bf679a060c8d4988ce252ad85e6.pdf>

237 Government of the Russian Federation, Law on Forced Displaced Person of Russian Federation, N 4530-I, 1993. <https://base.garant.ru/10105693/>

238 Muggah, R. ‘Protection and Durable Solutions: Regimes for Development and Conflict-Induced Internally Displaced and Resettled Populations’ in Forced Displacement, Grabska, K. and L. Mehta (eds.), London, Palgrave Macmillan, 2008.

239 Adeola, R., ‘The Legal Protection of Development-Induced Displaced Persons in Africa’, African Journal of Legal Studies, Vol. 1 No. 1, 2017, pp. 91-104.

240 Barutciski, M., Addressing Legal Constraints and Improving Outcomes in Development-Induced Resettlement Projects. Desk Study, Department for International Development, Refugee Studies Centre, University of Oxford, 2000.

Many scholars have pointed out that DIDPs and conflict-induced displaced persons require assistance and support to overcome their economic and social losses, as well as protection from the state.²⁴¹ While these two groups of displaced persons have similar experiences to refugees in terms of personal damages suffered, they are not protected by international migration law.²⁴² Simply said: the international legal and institutional framework created to protect refugees does not protect any type of IDP, because DIDPs and conflict-induced displaced persons are subject to a state's jurisdiction and sovereignty.

6.2.3 Labour migrants

Special attention should be drawn to the terms “migrant worker”. Labour migrants constitute the largest part of the migrant community worldwide and their status and rights are concluded under the patronage of (a) Public international law, i.e. International Labor Organization (ILO) Conventions on Migrant Workers²⁴³, the ICRMW²⁴⁴; (b) Regional treaties, and (c) Normative acts of many sovereign states.

The definition of a migrant worker varies depending on the document. ILO Conventions operate with the term “migrant for employment” as “a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment” (Art. 11-1 ILO Conventions No. 97, No. 143)²⁴⁵. The ICRMW defines a migrant worker as “a person who is to be engaged, is engaged or has been engaged

241 Cernea, M. 1990. ‘Internal refugee flows and development-induced population displacement’, *Journal of Refugee Studies*, Vol. 3, No. 4, pp. 320-349.

242 de Wet, C., *Development-Induced Displacement: Problems, Policies and People*. Berghahn Books, New York, 2006.

243 ILO, Safety Provisions (Building) Convention No. 62, 1937. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C062; ILO, Migrant Workers (Supplementary Provisions) Convention No. 143, 1975. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143.

244 United Nations, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), adopted 18 December 1990. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-13&chapter=4

245 ILO, Migration for Employment Convention (Revised) No. 97, 1949. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:312242; ILO, Convention No. 62, op. cit. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143

in a remunerated activity in a State of which he or she is not a national” (Art. 2-1 ICRMW).²⁴⁶ The length of stay of the migrant worker in the state of employment does not play a role in the definition, with “migrant for employment” applying equally to short-term, long-term and seasonal labour migrants.

International Law scholar Vincent Chetail summarised three substantial criteria of the description “migrant for employment” in the context of ILO Conventions: (a) Any person regularly admitted as a migrant for employment is included and undocumented migrant workers are excluded; (b) Self-employed persons are beyond the scope of Conventions; (c) Migrant workers who come temporarily at the request of their employer to undertake specific tasks, and for a limited period of time, migrant workers who leave the country upon completion of their duty, and those who come for the purpose of advanced training or education are beyond the scope of the Conventions²⁴⁷. The scope of the ICRMW definition is broader and includes certain categories of migrant workers not covered by ILO Conventions, in particular self-employed persons, frontier workers, itinerant workers, project-tied and specified employment workers hired for a defined period.²⁴⁸

The legal definition of migrant worker at regional and national level is limited to workers whom are legally resident in the territory of the state of employment and legally working in the territory of the state of employment (Art. 1 of the Convention on Legal Status of Migrant Workers and Members of Their Families of the State Parties of the Commonwealth of Independent States;²⁴⁹ Art. 96, para. 5 (10) of the Treaty of the Eurasian Economic Union;²⁵⁰ Art. 3.0.10 of the Migration Code of Azerbaijan;²⁵¹ Art. 9-1 of the Law on Migration of Turkmenistan,²⁵² etc).

246 See Article 2(1) of the ICRMW.

247 Chetail, V. *International Migration Law*, Oxford University Press, Oxford. 2019, p. 202.

248 Ibid., p. 222.

249 CIS, Convention on Legal Status of Migrant Workers and Members of Their Families of the State Parties of the Commonwealth of Independent States, 2008. <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/83982/93098/F1842771661/KAZ83982.pdf>

250 Eurasian Economic Union, Treaty of the Eurasian Economic Union. http://www.consultant.ru/document/cons_doc_LAW_163855/5cf60bd176bf919303a57de094fae3ae9d6f3711/

251 The Migration Code of Azerbaijan stipulates that ‘migrant worker’ refers to a natural person who migrates legally from one country to another with the aim of undertaking paid labour activity. https://migration.gov.az/content/pdf/60ed89e2411a5_M%C9%99c%C9%99ll%C9%99%20%C4%B0ngilis.pdf

252 Government of Turkmenistan, Law on Migration of Turkmenistan, 2012. https://base.spininform.ru/show_doc.fwx?rgn=51425

6.2.4 Migrants in irregular situation

Many migrants today fall outside the reach of legal protection due to their vulnerable situation and/or unauthorised status on the territory of a given state. Numerous binding and non-binding legal documents set a framework for migrants in an irregular situation. Among these documents are the Global Compact for Safe, Orderly and Regular Migration, the UN Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations,²⁵³ and ILO Conventions such as Conventions No. 97 and No. 143 on irregular migration.²⁵⁴

IOM describes migrant in an irregular situation as:

“[A] person who moves or has moved across an international border and is not authorized to enter or to stay in a State pursuant to the law of that State and to international agreements to which that State is a party.”²⁵⁵

It is important to mention that the term “migrant in an irregular situation” is used in (a) Public international law (ILO Convention No. 143;²⁵⁶ Parliamentary Assembly of the Council of Europe Resolution on Human Rights of Irregular Migrants²⁵⁷; ICRMW²⁵⁸); (b) Regional treaties (The Agreement on Cooperation of the State Parties of the Commonwealth of Independent States in Fight Against Illegal Migration²⁵⁹), and (c) Legislators of nation states (Art. 1 of the Law on Migration of Kazakhstan;²⁶⁰ Law on Migration of Tajikistan;²⁶¹ Art. 9-2 of the Law on Migration of Turkmenistan,²⁶² etc.), ILO Conventions No. 97 and No. 143 are legally binding international documents dealing with irregular migration, but do not set out the definition of an undocumented, irregular migrant. These

253 United Nations, Global Compact, op. cit.

254 Migrant Workers (Supplementary Provisions) Convention, op. cit.

255 IOM, *Glossary on Migration*, op. cit.

256 ILO, Convention No. 143, op. cit.

257 CoE, Parliamentary Assembly, op. cit.

258 ICRMW

259 CIS, The Agreement on Cooperation of the State Parties of the Commonwealth of Independent States in Fight Against Illegal Migration of 1998. https://base.spininform.ru/show_doc.fwx?rgn=4726

260 Government of Kazakhstan, Law on Population Migration of Kazakhstan, op. cit.

261 Government of Tajikistan, Law of the Republic of Tajikistan on Migration, op. cit.

262 Government of Turkmenistan, Law on Migration of Turkmenistan, op. cit.

documents aim at obliging national lawmakers to adopt provisions and regulations for effective detection of illegal employment of migrant workers and migrants in an irregular situation. Furthermore, both ILO Conventions stipulate that “nothing shall prevent Members from giving persons who are illegally residing or working within the country to right to stay and to take up legal employment”.

The CIS²⁶³ Agreement on Cooperation in Fight Against Illegal Migration defines “irregular migrants” as those citizens of third states and stateless persons who violate rules of entrance, departure, stay or transit through the territories of the signatory states, as well as citizens from those states who violate the rules of stay on the territory of any of the other states. Such usage of this definition warrants closer examination, as irregular entry and irregular stay on the territory of another state are set under the same provisions, and a significant distinction is not made between irregular entry and irregular stay.

Moreover, the status of (ir)regular migrants can shift over time, as migrants often move in and out of a situation of irregularity. Therefore, incorporation of the definition of illegal migrant(s) into national law, as occurs, for example, in the Law on Migration of Tajikistan,²⁶⁴ is quite problematic and controversial. According to public international law and the concept of human dignity, an individual cannot be illegal²⁶⁵ and outside of the law: only an individual’s *actions* can be considered thus.²⁶⁶ Hence, the term “migrant in an irregular situation” or “migrant with irregular status” is preferred.

Interestingly, in the French-speaking countries, two terms are in operation: “*clandestine*” and “*sans-papiers*” (“without papers”), with, at least from an etymological standpoint, neither term carrying the inhuman and discriminatory connotation embedded in the English-language appellation. It should be added

263 After the USSR broke up in 1991, the Commonwealth of Independent States (Sodruzhestvo Nezavisimyykh Gosudarstv) was formed as a regional intergovernmental organisation in Eastern Europe and Asia.

264 Government of Tajikistan, Law of the Republic of Tajikistan on Migration, op. cit.

265 Kubal A. ‘Conceptualizing Semi-Legality in Migration Research’, Law & Society Review, Vol. 47, No. 3, 2013, pp. 555-587.

266 de Haas, H., Castles, S. and M.J. Miller, The Age of Migration: International Population Movements in the Modern World, 6th edition., The Guilford Press, London, 2020, p. 33; UNHCR, *Terminology Leaflet*. https://www.unhcr.org/cy/wp-content/uploads/sites/41/2018/09/TerminologyLeaflet_EN_PICUM.pdf

here that UN Resolution 3449 of December 1975²⁶⁷ proposed that the word “illegal” should not be applied in any definition of migrants in an irregular situation. Council of Europe (CoE) Resolution 1509²⁶⁸ also underlines the difference between *illegal* migration as a phenomenon and the *irregular* migrant as a participant in that phenomenon, and therefore suggests using “illegal” only in reference to a migration status or process. Moreover, the European Commission operates only with the terms “third-country national found to be illegally present” or “illegally resident/staying third-country national” in its legislation and documentation.²⁶⁹

At the UN level, the following groups of migrants are seen as being in situations of vulnerability: (a) Migrants who are compelled to leave their country of origin in the context of disasters, the adverse effect of climate change and environmental degradation, gender inequalities, separation from family, and lack of access to economic and social rights, including adequate food, healthcare, social protection, decent work, land, and water; (b) Migrants who face vulnerable situations during their journey and at destination, including migrants that transit through countries that are experiencing a disaster, crisis or a conflict; and (c) Migrants who are at heightened risk because of their identity or personal circumstances; for example, pregnant or nursing women, trafficked persons, survivors of sexual and gender-based violence, persons in poor health (including those living with HIV), persons with disabilities, older persons, and children (including unaccompanied or separated children), all of whom can be particularly at risk.²⁷⁰

According to international human rights law, even if in an irregular situation, migrants are entitled to access to economic, social and cultural rights and associated services. The UN Agenda for Sustainable Development commits to ensuring the “full respect for human rights and the humane treatment of migrants

267 UN General Assembly, Measures to ensure the human rights and dignity of all migrant workers, 30th session, 1975-1976. <https://digitallibrary.un.org/record/189610?ln=ar>

268 CoE, Parliamentary Assembly, op. cit.

269 EU Commission, Migration and Home Affairs, Definition(s), ‘irregular migrant’, n.d., https://home-affairs.ec.europa.eu/pages/glossary/irregular-migrant_en

270 United Nations Network on Migration, Regular Pathways for Admission and Stay for Migrants in Situations of Vulnerability, Guidance Note, 2021. https://www.ohchr.org/sites/default/files/2022-01/guidance_note_migrants_in_situations_of_vulnerability_2021.pdf

regardless of migration status”.²⁷¹ The International Covenant on Economic, Social and Cultural Rights grants the rights to health, education, social security, decent work, and an adequate standard of living for all humans, regardless of their migration status, with the treaty body stating:

“[T]he Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons. Migrant workers and victims of international trafficking, regardless of legal status and documentation.”

Only 7 of the Covenant’s 169 States Parties (the Bahamas, Belgium, China (Hong Kong), France, Kuwait, Monaco, and the United Kingdom) have formulated a reservation related to non-citizens.²⁷²

At the regional level, Art. 39 of the Treaty on the Eurasian Economic Union, Art. 18 of the Treaty on the Functioning of the European Union (EU), and the Inter-American Court of Human Rights²⁷³ propose that the exercising of rights must be made without discrimination and irrespective of [an individual’s] migratory status. Furthermore, the European Commission against Racism and Intolerance encourages the EU Member States to:

“[E]nsure that no public or private bodies providing services in the fields of education, health care, housing, social security and assistance, labour protection and justice are under reporting duties for immigration control and enforcement purposes.”²⁷⁴

271 United Nations, *The 2030 UN Agenda for Sustainable Development*, Primer, United Nations System Staff College, n.d. <https://www.un.org/development/desa/jpo/wp-content/uploads/sites/55/2017/02/2030-Agenda-for-Sustainable-Development-KCSD-Primer-new.pdf>

272 Chetail V., *International Migration Law*, Oxford University Press, Oxford, 2019.

273 Ibid., p. 162.

274 ECRI, ECRI General Policy Recommendations No. 16 On Safeguarding Irregularly Present Migrants From Discrimination, CRI(2016)16, 16 March 2016. <https://rm.coe.int/ecri-general-policy-recommendation-no-16-on-safeguarding-irregularly-p/16808b5b0b>

6.2.5 Trafficked Persons and Smuggled Migrants

The most widely applied definition of trafficking in persons is laid out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), supplementing the United Nations Convention Against Transnational Organized Crime (UNTOC):

“[T]rafficking in persons includes the recruitment, transportation, transfer, harbouring or receipt of persons [act], by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person [means], for the purpose of exploitation [purpose]. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”²⁷⁵ (Art. 3 a-b of the Palermo Protocol)

The UN Office on Drugs and Crime (UNODC) has created a list of human trafficking indicators to help in recognizing the signs of human trafficking, as well as labour and sexual exploitation. Among the indicators are personal display of fear or anxiety; limited or no social interaction; no access to medical care; incapability to negotiate working conditions; poor or substandard accommodations.²⁷⁶ Dependence on the traffickers, fear of reprisal, and/or vulnerability of an individual also play an important role.

Many victims of human trafficking are often in an irregular situation and do not have a legal status in the country to which they have been trafficked. Nevertheless, they are protected under public international law and its enforcement. In addition, the protection mechanisms relate to both national and transnational

²⁷⁵ United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000. https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18

²⁷⁶ UNODC, Human Trafficking Indicators, n.d. https://www.unodc.org/documents/human-trafficking/HT_indicators_E_LOWRES.pdf

trafficking in human beings (THB), irrespective of whether or not it is connected with transnational organised crime (ECtHR, *Zoletic and Others v. Azerbaijan*, Section 155).²⁷⁷

In conjunction with the Recommended Principles and Guidelines on Human Rights and Human Trafficking,²⁷⁸ states have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers, and to assist and protect trafficked persons. The jurisprudence established by the ECtHR stipulates negative and positive obligations of a sovereign state. The positive duties consist of obligations to prohibit trafficking and related acts (ECtHR, *Siliadin v. France*; ECtHR, *Markin v. Russia*²⁷⁹); to investigate, prosecute and punish traffickers (ECtHR, *Rantsev v. Cyprus and Russia*²⁸⁰); to non-punishment (ECtHR, *V.C.L. and A.N. v. the United Kingdom*²⁸¹) and to protect victims of trafficking (ECtHR, *L.E. v. Greece*²⁸²).

The international treaty bodies dealing with cases of human trafficking and/or smuggling often rely on many international legal instruments, in particular the 1926 Slavery Convention (ECtHR, *Siliadin v. France*, Section 122); the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (ECtHR, *C.N. and V. v. France*, Section 90), ILO Convention No. 29 (ECtHR, *Van der Mussele v. Belgium*, Section 32) and the CoE Convention on Action against Trafficking in Human Beings and the Protocol to Prevent, Suppress and Punish Trafficking in Persons (ECtHR, *T.I. and Others v. Greece and ECtHR, Rantsev v. Cyprus and Russia*, Section 282).²⁸³

277 ECtHR, Judgment of 7 October 2021, *Zoletic and Others v. Azerbaijan*, Application no. 20116/12, <https://hudoc.echr.coe.int/eng?i=001-212040>

278 UNHCR, *Recommended Principles and Guidelines on Human Rights and Human Trafficking (excerpt)*, <https://www.unhcr.org/4963237811.pdf>

279 ECtHR, Judgment of 22 March 2012, *Markin v. Russia*, Application no. 30078/06. <https://hudoc.echr.coe.int/eng?i=001-109868>

280 ECtHR, Judgment of 7 2010, *Rantsev v. Cyprus and Russia*, Application no. 25965/04. <https://hudoc.echr.coe.int/eng?i=001-96549>

281 ECtHR, Judgment of 16 February 2021, *V.C.L. and A.N. v. The United Kingdom*, Applications nos. 77587/12 and 74603/12. <https://hudoc.echr.coe.int/fre?i=001-207927>

282 ECtHR, *Criminal complaint by a victim of human trafficking was not dealt with by the Greek authorities in a way compatible with the Convention*, Press Release, ECHR 28, 21 January 2016. <https://hudoc.echr.coe.int/eng-press?i=003-5277600-6561216>

283 ECtHR, Guide on Article 4 of the European Convention on Human Rights, 31 August 2022, https://www.echr.coe.int/documents/guide_art_4_eng.pdf

The UN Smuggling of Migrants Protocol²⁸⁴ is an imperative part of the UNTOC adopted in 2000. It defines “smuggling of migrants” as:

“the procurement [act], in order to obtain, directly or indirectly, a financial or other material benefit [purpose], of the illegal entry of a person into a State Party [means] of which the person is not a national or a permanent resident.” (Art.3a of the The Smuggling Protocol)

The legal definitions of both trafficking of persons and smuggling of migrants consist of three key elements: act (*what?*), means (*how?*), and purpose (*why?*). Distinguishing between these two acts is important in recognising the respective level of danger and exploitation typically involved. Keeping this distinction to the fore is also important in acknowledging the consent of the migrant in the case of smuggling.

Trafficking in human beings is a crime against an individual, whose (universal) human rights are violated by the act; smuggling of migrants is a crime against a sovereign state and/or legal order, conducted with the consent of the smuggled migrant(s), facilitating their unauthorized movement across an international border. It is important to add that an instance of smuggling of migrants can often develop into a case of THB.

Human trafficking and smuggling have myriad facets. Slavery, servitude, child sexual exploitation, forced and/or child marriage, enforced prostitution and the exploitation of prostitution are all trafficking-related practices that violate one’s rights and are prohibited under public international law. The “removal of organs” as a form of exploitation refers to cases of organ transplants that involve living donors whom are induced (e.g. paid) to donate an organ or bodily fluids to another person.²⁸⁵ The non-binding *World Health Organization Guiding Principles on Human Cell, Tissue, and Organ Transplantation*²⁸⁶ and the CoE Additional

284 The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organized Crime was adopted by the United Nations General Assembly in 2000. It is also referred to as the Smuggling Protocol.

285 de Jong, J., *Human trafficking for the purpose of organ removal*, 2017. <https://www.politieacademie.nl/kennisenonderzoek/kennis/mediatheek/PDF/93846.pdf>

286 World Health Organization (WHO), *WHO Guiding Principles on Human Cell, Tissue, and Organ Transplantation*, 2010. <https://apps.who.int/iris/handle/10665/341814>

Protocol concerning Transplantation of Organs and Tissues of Human Origin prohibit the trade of organs, declaring that “the human body and its parts shall not, as such, give rise to financial gain or comparable advantage” (Art. 21) and that “tissue trafficking shall be prohibited” (Art. 22).²⁸⁷

Sham marriage is also a form of migrant smuggling and human trafficking, but is not criminalised nor sanctioned in many states. Few EU Member States punish sham marriage and sanctions tend to be mild. Among those EU states that do criminalise the arranging or entering into of sham marriages and apply fines or prison sentences in punishing this practice, the maximum prison sentences imposed are: Hungary, Luxembourg, Malta – two years’ imprisonment; Austria, Cyprus – three years’; Belgium, France, Portugal, Latvia – five years’; Bulgaria, Slovak Republic, Czech Republic – eight or more years’.²⁸⁸

Many newly independent states have signed and ratified the Palermo Protocol and the UN Smuggling of Migrants Protocol. They have set criminal statutes and legal frameworks against trafficking and smuggling and established anti-trafficking institutions. Examples include Georgia’s State Fund for Protection and Assistance to Victims of Trafficking in Person under its Ministry of Internal Affairs; Belarus’s International Centre on Migration and Combating Trafficking in Human Beings, and Azerbaijan’s Relief Fund for Victims.²⁸⁹

Interestingly, US scholar Laura Dean classified the development of the human trafficking policy and anti-smuggling procedures in such newly independent states as follows: Ukraine as “an early innovator” that has pioneered in passing anti-human trafficking policy in Eurasia; Latvia as “a status quo holder” that adopted and reflected the Palermo Protocol almost verbatim throughout its national legislation, and the Russia Federation as “the holdout” that refuses contingently to adopt and activate an encompassing legal framework to fight trafficking.²⁹⁰

287 CoE, Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin, 2002. <https://rm.coe.int/1680081562>

288 Eurojust, *Supporting judicial authorities in fighting sham marriages as a form of migrant smuggling and human trafficking*, Report, September 2020.

289 Dean, L.A., *Diffusing Human Trafficking Policy in Eurasia*. Policy Press, Bristol, 2020, pp. 42-43.

290 Ibid., pp. 51-64.

Dean also found that Ukraine has the most effective anti-trafficking policy implementation by statistics (provided by that state), and Latvia by implementation processes (such as victim identification, assistance, combating trafficking by formulating and adopting legislation). Georgia and Moldova remain human trafficking policy leaders, with the highest scope of human trafficking policy index.²⁹¹

6.2.6 Environmental migrants

Turning to a migration term, or a cluster of migration terms, that are sure to capture broad attention for years to come, neither “environmental migrant” or “eco-migrant” is mentioned in any international agreement. However, such a term does appear in the national legal frameworks of several newly independent states, including those of Kyrgyzstan,²⁹² Tajikistan,²⁹³ Azerbaijan²⁹⁴ and Georgia. Indeed, the Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia (MRA) has a special department for eco-migrants²⁹⁵ that aims at formalising data on eco-migrants and providing housing for eco-migrant families within the country. Moreover, the Georgian Commission on Regulating Issues of Resettlement of Families Damaged and Displaced by Natural Disasters was established in 2013 by the Office of the United Nations High Commissioner for Human Rights (OHCHR).²⁹⁶

²⁹¹ Ibid., pp. 230-237.

²⁹² Art. 1 of the Law on Internal Migration of the Kyrgyz Republic. <http://cbd.minjust.gov.kg/act/view/ru-ru/1090>

²⁹³ Art. 1 of the Law of the Republic of Tajikistan on Migration, No. 1541, 3 August 2018.

²⁹⁴ Secondary legislation of Azerbaijan also operates with this term. According to Item 1.1 of the ‘State Migration Management Concept of the Republic of Azerbaijan’ approved with the Decision of the Cabinet of Ministers of the Republic of Azerbaijan, 13 July 2004, persons obliged to leave their place of residence as a result of the change in the level of the Caspian Sea, landslides, floods and other natural disasters, as well as salinisation of the land because of the lack of resources and equipment to carry out melioration measures, are considered ecological migrants.

²⁹⁵ Visit the MRA homepage: <http://mra.gov.ge/eng/static/4689>.

²⁹⁶ OHCHR, Questionnaire in relation to Human Right Council Resolution A/HRC/35/20 on human rights and climate change, Georgia. <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Protection/Georgia.pdf>

The term “environmental migrant” or “eco-migrant” has been defined as:

“[A] person or group(s) of persons who, predominantly for reasons of sudden or progressive change in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move within or outside their country of origin or habitual residence.”²⁹⁷

This term aims to describe various situations in which force people to move in the context of natural factors.²⁹⁸ UNHCR places eco-migrants alongside IDPs and distinguishes them from refugees by the fact of their being forced to leave their normal place of residence but remaining within the borders of their own state, and so can usually count on the protection of their own state.²⁹⁹

6.2.7 Summary

Summing up, legal migration framework operates with various terms, some of which – as noted above – are defined by international and national laws, while others, like the concept of an environmental migrant or stranded migrant³⁰⁰ have no legally binding definition and often lack substantive clarity. Given the ambiguity on usage, challenges may emerge when stakeholders, lawmakers and even scholars operate with extra-legal terms that may feature in the discourse but which are not regulated by or accountable to immigration law.

297 IOM, <https://environmentalmigration.iom.int/environmental-migration#:~:text=%E2%80%9CEnvironmental%20migrants%20are%20persons%20or,and%20who%20move%20either%20within>

298 IOM, Discussion Note: Migration and the Environment, IOM Council, MC/INF/288, November 2007; IOM, *International Dialogue on Migration (no. 18)*, Climate Change, Environmental Degradation and Migration, 2012; IOM, *Outlook on Migration, Environment and Climate Change*, 2014.

299 Lyle, Justin. *Resettlement of Ecological Migrants in Georgia: Recent Developments and Trends in Policy, Implementation, and Perceptions*, ECMI Working Paper No. 53, 2012.

300 The Global Migration Group defines “stranded migrants” as those who are “... unable or unwilling to return to their country of origin, cannot regularise their status in the country where they reside, and do not have access to legal migration opportunities that would enable them to move on to another state”. See: Gois, W. and K. Campbell, ‘Stranded migrants: a call to rethink the current labour migration paradigm’, *Migration and Development*, Vol. 2, No. 2, 2009, pp.157-172. DOI: 10.1080/21632324.2013.802126

An example of this can be seen in Lim (2021), where the author uses the term “crimmigration” to refer to state use of uniquely tough law enforcement methods against unauthorised migrants, aimed at facilitating use of this group as an instrumental and fungible source of “cheap” labour.³⁰¹ The author speaks of “crimmigration” as an ongoing historical injustice that primarily targets Latino low-skilled migrants in the United States.³⁰² The term “crimmigration” could also potentially be applied to harsh, yet widely used, practices towards Central Asian migrants in Russia.

Migration terminology should be precisely based on legal sources and define the language of lawmakers, law enforcement, mass media and ordinary people.

Further, human rights demands in the field of migration have taken on new importance in recent years. Today’s public international law promote a human rights-based approach to migrants and migration aimed at strengthening migrant rights and placing the migrant at the centre of migration policy and governance at the international, national, and local level. Yet, there is a gap between legally binding documents and day-to-day practice. International organisations and national institutions of sovereign states must thus promote, protect and defend the human rights of all migrants, regardless of their status, with a particular focus on migrants in irregular and/or vulnerable situations.

6.3 Key Principles of Current International Migration Legal Framework

Migrants make a special contribution to the development of new forms of social, cultural, political and even economic identity in our world. Sovereign states, for better or worse, are still learning to navigate such transformation. To strengthen a human rights-based approach on migration, the 2016 New York Declaration on Refugees and Migrants set in motion the development of two non-binding international documents. The Global Compact for Safe, Orderly and Regular Migration (GCM) and the Global Compact for Refugees (GCR) were adopted by the

301 Lim, D. ‘Low-Skilled Migrants and the Historical Reproduction of Immigration Injustice’, *Ethical Theory and Moral Practice*, Vol. 24, 2021, pp. 1229-1244. <https://doi.org/10.1007/s10677-021-10240-1>

302 Ibid. pp. 1233-1235.

United Nations (UN) General Assembly in December 2018 and aim to represent the political will and ambition of the international community for strengthened cooperation and solidarity with migrants and refugees.

6.3.1 Global Compact for Safe, Orderly and Regular Migration

The GCM stipulates: “migration is a multi-dimensional reality that cannot be addressed by one government policy sector alone”.³⁰³ As a result, it requires global solutions and global responsibility on migration challenges. The GCM aims, inter alia, to: (a) Find an appropriate response to a wide range of migration-related issues, such as border management, smuggling and trafficking in human beings, migrant documentation and inclusion, return, resettlement and readmission; (b) Better manage and facilitate diasporas and remittances; and (c) Foster international cooperation by setting out guiding principles and responding to the migration challenges of today and tomorrow at the local, national and international level.

The Global Compact on Migration is based on 10 principles, such as the universality of human rights, rule of law, a whole of society and whole of government approach, a gender- and child-responsive approach, national sovereignty, and the non-legally binding character of the GCM. It outlines 23 concrete objectives for safe, orderly and regular migration as points of reference for sovereign states when applying their migration policies at the local, national, regional and supra-national level. According to para. 16 of the GCM, ‘Intergovernmentally Negotiated and Agreed Outcomes’, the objectives are:

1. Collect and utilize accurate and disaggregated data as a basis for evidence-based policies;
2. Minimize the adverse drivers and structural factors that compel people to leave their country of origin;
3. Provide accurate and timely information at all stages of migration;
4. Ensure that all migrants have proof of legal identity and adequate documentation;

303 United Nations, Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195), 2018. <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F73%2F195&Language=E&>

5. Enhance availability and flexibility of pathways for regular migration;
6. Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work;
7. Address and reduce vulnerabilities in migration;
8. Save lives and establish coordinated international efforts on missing migrants;
9. Strengthen the transnational response to smuggling of migrants;
10. Prevent, combat and eradicate trafficking in persons in the context of international migration;
11. Manage borders in an integrated, secure and coordinated manner;
12. Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral;
13. Use migration detention only as a measure of last resort and work towards alternatives;
14. Enhance consular protection, assistance and cooperation throughout the migration cycle;
15. Provide access to basic services for migrants;
16. Empower migrants and societies to realize full inclusion and social cohesion;
17. Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration;
18. Invest in skills development and facilitate mutual recognition of skills, qualifications and competences;
19. Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries;
20. Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants;
21. Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration;
22. Establish mechanisms for the portability of social security entitlements and earned benefits;
23. Strengthen international cooperation and global partnerships for safe, orderly and regular migration.³⁰⁴

304 Ibid.

6.3.2 Global Compact for Refugees

The GCR³⁰⁵ is another important key instrument for strengthening international solidarity and ensuring the rights of refugees and the communities that host them. The objectives of the GCR are to: (a) Ease the burden on host countries and benefit refugees and local communities; (b) Enhance refugee self-reliance; (c) Expand access to third-country solutions; and (d) Support conditions in countries of origin for return in safety and dignity.

The GCR aims to achieve these objectives by mobilising political will and facilitating more equitable, sustained and predictable contributions among sovereign states and other relevant stakeholders. The GCR links forced migration and displacement with the 2030 Agenda and the Sustainable Development Goals (SDGs) and provides support for efforts to ensure that refugees are included in work towards achieving the SDGs.

It is important to mention that the GCR includes the Comprehensive Refugee Response Framework (CRRF), which is an integral part of the global compact as it was adopted by the UN General Assembly (A/RES/71/1, Annex I). The CRRF should set up a multi-stakeholder approach, including national and local authorities, international organisations, international financial institutions, regional organisations, regional coordination and partnership mechanisms, civil society partners (i.e. faith-based organisations and academia), the private sector, media actors and the refugees themselves.³⁰⁶

The GCR determines the following areas as needing support: (1) Reception and admission, particularly early warning, preparedness and contingency planning; immediate reception arrangements; safety and security; registration and documentation, etc; (2) Needs and support of communities to strengthen the resilience of the host community, particularly education, housing, food security and nutrition, energy, and natural resource management, etc; (3) Search and facilitation for solutions, including by eliminating causes of forced migration and by planning for solutions from the outset of refugee situations. In this regard, the following

305 United Nations, Global Compact on Refugees, 2018. <https://www.unhcr.org/5c658aed4.pdf>

306 United Nations, Global Compact, op. cit., Annex I (paras. 1-16). <https://www.unhcr.org/57e39d987>

actions are foreseen: support for countries of origin and voluntary repatriation, resettlement, complementary pathways for admission to third countries, local integration, and other solutions at local, national and regional level.

6.3.3 UN Guiding Principles on Internal Displacement

The UN Guiding Principles on Internal Displacement³⁰⁷ consist of 30 principles presented to the UN Commission on Human Rights in 1998 and constitute a non-binding legal document. The Guiding Principles reflect and are consistent with public international human rights and customary international law. The Principles remain a significant instrument in monitoring the responsibilities of national governments to protect and assist internally displaced persons (IDPs); providing for advocacy and observing assistance and protection needs of those persons regardless of the cause of their displacement.

The Principles are structured around protection measures for IDPs at the various stages of displacement: (a) Protection against displacement (Principles 5 to 9); (b) Protection during displacement (Principles 10 to 23); (c) Humanitarian assistance (Principles 24 to 27); (d) Protection during return, resettlement, and reintegration (Principles 28 to 30).

The Guiding Principles stipulate that IDPs are entitled to enjoy, in full equality, the same rights and freedoms under international and domestic law as other persons in their country (Principle 1). They shall not be discriminated against in any rights and freedoms on the ground of race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria and/or on the ground that they are internally displaced (Principle 4).

The Principles call on UN Member States to ensure to IDPs the right to food, water, housing, shelter, medical service and sanitation (Principle 18); dignity, and safety (Principle 8); the right to education (Principle 23); the right to respect of family

307 United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Guiding Principles on Internal Displacement*, 1998. <https://www.internal-displacement.org/sites/default/files/publications/documents/199808-training-OCHA-guiding-principles-Eng2.pdf>

life (Principle 17); the right to recover their property and possessions (Principle 21). Every IDP has the right to liberty of movement and freedom to choose his or her residence (Principle 14). IDPs shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is necessary, it shall not last longer than required by the circumstances (Principle 12-2).

Under the Principles, IDPs should also have the right to seek asylum in another country (Principle 15 “c”), and the right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk (Principle 15 “d”). It is important to add that the primary duty and responsibility for providing humanitarian assistance to IDPs lies with national authorities (Principle 25-1). Relevant international humanitarian organisations and other appropriate actors have the right to offer their services in support of the internally displaced, and the consent thereto shall not be arbitrarily withheld, especially when the authorities concerned are unable or unwilling to provide the required humanitarian assistance (Principle 25-2).

6.4 Additional Materials

6.4.1 The Right to Migrate

Reference Texts and Further Reading

- ◆ Council of Europe/European Court of Human Rights, *Guide on the case-law of the European Convention on Human Rights. Immigration*, 31 August 2021. https://www.echr.coe.int/Documents/Guide_Immigration_ENG.pdf
- ◆ Fundamental Rights Agency, *Handbook on European law relating to asylum, borders and immigration*, Edition 2020, 2020. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-handbook-law-asylum-migration-borders-2020-ed_en.pdf

Case Study

Discuss whether the right to leave the country was violated by the state(s) and which international legal documents are relevant to the people and situations related below.

1. Musala is a man of Kurdish ethnicity from Türkiye. He applied for political refugee status in Sweden, but his application was denied. Although the Swedish authorities initially allowed him to stay, Musala faced an expulsion order because of his suspected terrorist activities. This expulsion order was not carried out, and the Swedish authorities opted instead to strictly control and monitor Musala's movements and place of residence. He must stay in his home municipality, cannot leave his residence and must report to the police three times per week. He can also not leave or change his municipality of residence, nor change his employment without prior permission from the police. During the judicial hearings, Musala repeatedly denied all suspected terrorist activities.³⁰⁸

308 HRC, Communication No. 456/1991, Ismet Celepli v. Sweden, 1991. <http://sim.law.uu.nl/SIM/CaseLaw/fulltextccpr.nsf/160f6e7f0fb318e8c1256d410033e0a1/8e0ba5a929249a7041256d640047085e?OpenDocument>

2. Suaz is a Libyan national forced to flee Libya on account of his political beliefs, for which he was persecuted. He was granted asylum in Switzerland. His wife and children sought to join him there but were stopped at the Libyan-Tunisian border. Their passports were confiscated. Suaz's wife has made several unsuccessful attempts to retrieve the passports.
3. Miriam is a Libyan student. She has lived in Morocco with her divorcée mother and holds a residence permit for that country. Miriam applied to the Libyan Consulate in Morocco for a passport to travel to France to continue her studies.

Miriam claims that all her applications have been denied without any lawful or legitimate grounds. She notes that although she is an adult, she had to attach to the application form an authorization from her father (who is resident in the Libyan Arab Jamahiriya), which was certified by the Libyan Ministry of Foreign Affairs, in order to obtain any official document required.

Miriam adds that the Libyan Consul stated, without giving any further details, that, on the basis of the pertinent regulations, he could not issue her a passport, but could only provide her with a temporary travel document allowing her to travel to the Libyan Arab Jamahiriya. The Libyan authorities refused to issue the passport. As a result, Miriam was unable to enrol at the University of Montpellier.³⁰⁹

6.4.2 Legal Migration Etymology

Reference Texts and Further Reading

- ◆ IOM, *Glossary on Migration*, 2019. https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf
- ◆ European Commission, EMN Asylum and Migration Glossary, n.d. https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en

309 HRC, *The Case of Loubna El Ghar v. Libyan Arab Jamahiriya*, Communication No. 1107/2002, U.N. Doc. CCPR/C/82/D/1107/2002, 2004.

Discussion Questions

1. Why is every refugee a migrant but not every migrant is a refugee?
2. What is the difference between refugees, people under subsidiary protection, internally displaced persons?
3. What kind of terms examined in this chapter could be worth incorporating into the migration/legal framework of your country?

Case Study

Describe the legal status(es) of the main male characters depicted in the stories below. Reflect upon whether they can be recognised as refugees or displaced persons; which kind(s) of assistance and rights are assigned to the main characters; and which legal documents (at international and national level) are relevant to the different people and situations related.

1. Being married to a Ukrainian national, Ildar studied and resided in the eastern Ukrainian city of Kharkiv. After conflict broke out in the region, he and his wife decided to return to Azerbaijan, Ildar's home country. En route, they became stranded (and quickly running out of money) in the Polish city of Katowice, where IOM and representatives of the Polish Government teamed up to provide them with transport to Bucharest, from where they will proceed onward to Baku.
2. When Sajaz was six years old, his family moved from Azerbaijan to Iraq. A few years later, his father and brother died as a result of conflict in that country. Around the same time, Sajaz was also separated from his mother and younger sibling and was detained by the local authorities. At the age of 14, he was able to return to Azerbaijan in line with the Government of Azerbaijan's approach and principled decision to repatriate its citizens. Sajaz was then reunited with his grandmother and other relatives in his native village and started attending school, with the help of relatives and representatives of the local community. However, Sajaz and his grandmother face a number of problems: they are unable to purchase school supplies or consistently cover Sajaz's transportation costs, which leads to his poor attendance.

3. Marat is a third-generation farmer. Over the last years, droughts and landslides claimed the larger part of what had been quite fertile soil. Tens of hectares of productive land were destroyed and affected by land erosion and salinization. Droughts and environmental degradation exacerbated the intensity and frequency of Marat's losses and he was forced to leave his farmhouse and move into a tiny house in the village of his wife. Despite the passing of several years, his lack of a stable income has meant that Marat could not collect enough money to rebuild his farmhouse. He has therefore made the hardest decision of his life: Marat will leave his wife behind and travel to Türkiye to work on a construction site.

Migrants in an Irregular Situation

Reference Texts and Further Reading

- ◆ Council of Europe/Commissioner for Human Rights, *Positions on the Right of Migrants in an Irregular Situation*, CommDH/PositionPaper (2010)5. Strasbourg, 24 June 2010. [https://rm.coe.int/ref/CommDH/PositionPaper\(2010\)5](https://rm.coe.int/ref/CommDH/PositionPaper(2010)5)
- ◆ Babis, P. et al., *Recommendations for the Roadmap to Refugee Integration Policy in Azerbaijan*, ICMPD, Prague Process, 2018. <https://www.pragueprocess.eu/en/migration-observatory/publications/33-reports/168-recommendations-for-the-roadmap-to-refugee-integration-policy-in-azerbaijan>
- ◆ United Nations Network on Migration, *Regular Pathways for Admission and Stay for Migrants in Situations of Vulnerability*, Guidance Note, 2021. https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/guidance_note-regular_pathways_for_admission_and_stay_for_migrants_in_situations_of_vulnerability_final.pdf
- ◆ OHCHR, *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*, 2017. <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf>

Case Study

Please discuss with your colleagues the kind(s) of legal documents, at the international and national level, that are relevant to the people and situations depicted below. Who should be recognised as persons in a situation of vulnerability? And why?

1. Four individuals from Iraq, the Palestinian territories, Somalia and Syria were travelling via Moscow's Sheremetyevo Airport and were refused entry into the Russian Federation. Three of the applicants spent between five and eight months in the airport's transit zone, while the fourth member of the group, the individual from Somalia, spent nearly two years in the transit zone.³¹⁰ All four individuals found themselves without status or documents and left destitute, as the country's law enforcement agents did not provide them with any status.
2. Seven Tajik nationals were arrested upon arrival in Istanbul, Türkiye. While some media outlets framed the police operation as targeting circles allegedly close to the Islamic State and described the seven Tajik workers as followers of an unauthorised Qur'anic school, the Turkish police spokesperson said that the seven persons were arrested due to their irregular stay in the country. The Turkish authorities issued an expulsion order to Tajikistan on the grounds of a perceived threat to the public security of Türkiye.³¹¹ Tajik authorities has not initiated proceedings against these seven labour migrants and no evidence was provided to show that these (or any) persons could face any form of persecution for being Qur'anic students in Tajikistan, as long as the school attended does not have connections with Islamic extremist groups.

310 ECtHR, Judgment of 18 April 2018, Z.A. and Others v. Russia. <https://hudoc.echr.coe.int/eng-press?i=003-6063568-7803651>

311 ECtHR, Judgement of June 21 2022, Affaire M.N. et Autres c. Turquie (Case of M.N. and Others v. Türkiye), Application no. 40462/16. <https://hudoc.echr.coe.int/eng?i=001-217813>

Trafficked Persons and Smuggled Migrants

Reference Texts and Further Reading

- ◆ UNODC, *Human Trafficking Indicators*, n.d. https://www.unodc.org/documents/human-trafficking/HT_indicators_E_LOWRES.pdf

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan*, Second Evaluation Report, GRETA, 2018. <https://rm.coe.int/greta-2018-17-fgr-aze-en/16808f11a5>

- ◆ Vainomaa, M. and I. Hainzl, *What is Trafficking in Human Beings?*, Trainer's Manual, ICMPD, Prague Process, 2019. <https://www.pragueprocess.eu/en/migration-observatory/publications/document?id=192>

Case Study

Please analyse and discuss the legal modules/elements of human trafficking and human smuggling you observe in the stories below.

1. Lola was very poor, with very few, if any, opportunities in Moldova, her country of origin. Her conditions forced her to quit her schooling and she worked hard, because her elderly mother and minor children became her responsibility. In paying off her family's bills, Lola always ran out of money. She saw an advertisement in a newspaper from a Moldovan agency that arranges jobs in the United Arab Emirates (UAE). The people she met at the agency told her that she could work as a cleaning and accompanying lady for EUR 3,500 per month – six times as much money as she could earn in her homeland.

Lola borrowed money to pay the agency fee, and an extra 1,500 EUR from her neighbours to pay for her trip to UAE. When she arrived in Dubai, a man picked her up at the airport, brought her to a tiny apartment outside of the city and took her passport, ostensibly for the purpose of preparing contracts and registering her employment. Lola did get paid, but she worked 18-20 hours/7 days per week, without holidays. When she asked whether she could leave her position and requested her passport back, her employer told her that she had signed a three-year contract and could not escape this legal obligation. Lola feels scared and trapped.

2. A Serbian farmer Ivan, with the intention of obtaining material benefit in an undetermined amount, invited five Syrian men to cross the Serbia-EU border in his minivan. After the Syrians entered his vehicle, Ivan started to drive along the pre-arranged route, towards the bus station in Bujanovac, Serbia. The agreed plan was that the Syrian men would depart Bujanovac by bus to Belgrade for the purpose of further onward travel to Germany. When Ivan neared Bujanovac, he stopped his vehicle on the highway and ordered the Syrian men to leave the vehicle, pointing them in the direction of Bujanovac bus station. At that moment, border police from the nearby border crossing point approached the minivan and prevented further transit or transport through Serbia.³¹²

3. A suspicious increase in the number of mixed nationality marriages was detected in a small municipality in Portugal.³¹³ A criminal group was suspected of organising sham marriages, with Portuguese women recruited to marry Pakistani men they had never met. In return, the women received a cash payment. The couples travelled to Belgium to marry, where the wives were soon employed by (allegedly bogus) Belgian companies. By purchasing shares in the companies, the husbands were permitted to stay in the EU, obtain resident permits and receive social and other benefits. The wives occasionally returned to Belgium for police and immigration checks. Once the residence was secured, the Pakistani men would divorce their Portuguese wives and bring their Pakistani (previous) wives and children to the EU.

4. Begimai is a national of Kosovo.³¹⁴ She was stopped at Istanbul Airport after passing through passport control and told the representative of a border control that she had travelled from Kosovo to “donate” her kidney. She was immediately examined by a medical practitioner at the airport, who concluded that she was in poor medical condition and not capable of travelling.

312 UNODC, Sherloc, Case Law Database, Serbia, Judgement K. br. 105/16, Fact Summary, Basic Court of Bujanovac. https://sherloc.unodc.org/cld//case-law-doc/migrantsmugglingcrimetype/srb/2016/k._br._10516.html?lng=en&tmpl=sherloc

313 Eurojust. *The Amouda case: Dismantling a criminal gang recruiting Portuguese women into sham marriages with Pakistani illegal immigrants in Belgium*. https://www.eurojust.europa.eu/sites/default/files/assets/sham_marriage_the_amouda_case.pdf

314 This reference to Kosovo as a territory should be understood as being in full compliance with United Nations Security Council resolution 1244 and without prejudice to the status of Kosovo.

In stating the case in court the following year, the Prosecution submitted that this was standard practice following organ transplants at clinic X. Victims would be discharged and sent back to their home countries as soon as possible after the operation, having served their purpose, with no documentation for follow-up treatment or concern for their future well-being. Following the examination by the doctor, Begimai was immediately taken to hospital for urgent medical treatment. She provided the police with preliminary information that she had recently undergone surgery and her kidney had been removed for human organ transplant to an unknown person.

6.4.3 Key Principles of International Migration Framework

Reference Texts and Further Reading

- ◆ United Nations, Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195), 2018. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_73_195.pdf
- ◆ Global Compact for Migration, Global Compact for Safe, Orderly and Regular Migration, 'Intergovernmentally Negotiated and Agreed Outcomes', 2018. https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf
- ◆ OHCHR, *Informal analysis of the final draft of the Global Compact for Safe, Orderly and Regular Migration*, 2022. <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GCMIInformalAnalysis.pdf>
- ◆ IOM, *Migration and the 2030 Agenda. A Guide for Practitioners*, 2018. <https://publications.iom.int/books/migration-and-2030-agenda-guide-practitioners>
- ◆ OCHA, *The Guiding Principles on Internal Displacement*, 1998. <https://www.internal-displacement.org/sites/default/files/publications/documents/199808-training-OCHA-guiding-principles-Eng2.pdf>

Global Compact for Safe, Orderly and Regular Migration and Global Compact for Refugees. Discussion Questions

1. *What does the international community want to achieve with the Global Compact on Migration and the Global Compact for Refugees? What are the main objectives of the GCM and the GCR?*
2. *Does the GCM or the GCR have any implications on national sovereign rights?*
3. *Does the GCM or the GCR create legal obligations for nation states? Will Global Compacts create any direct financial obligations for sovereign state(s)? Why? Please explain your point of view.*
4. *How do the GCM and the GCR affect irregular migration and migrants in irregular situation?*
5. *Does the GCM or GCR replace any other legally binding or non-binding agreements in migration field at the national or supra-national level?*

UN Guiding Principles on Internal Displacement. Discussion Questions

As of the end of 2020, approximately 735,000 IDPs were living in Azerbaijan, 651,000 of whom were internally displaced due to former Nagorno-Karabakh conflict in previous years. Following renewed hostilities in former Nagorno-Karabakh in 2020/2021, 84,000 new displacements were registered.

The State Committee for Refugees and IDPs of Azerbaijan is in charge of IDPs on the territory of Azerbaijan. The Committee maintains the Unified Online Database of IDPs, which collects demographic information, such as each IDP's date of birth, region of displacement, and current address. This information forms the basis for the allocation of monthly allowances provided to IDPs. Data on new IDPs is only partially disaggregated by gender.

Azerbaijan allocated financial resources for assisting IDPs and providing monthly benefits payments in cash. In 2020, additional funds of AZN 42.5 million (approx. EUR 23.25 million) were assigned for improving housing conditions for the

country's IDPs. According to the global displacement index,³¹⁵ the estimated economic impact of internal displacement in Azerbaijan equals approximately EUR 147.6 million, representing 0.29% of the country's GDP (for 2021).

What kind of actions taken by the Government of Azerbaijan fit the prepositions enshrined in the Guiding Principles? What kind of further actions can be required?

6.5 Bibliography

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³¹⁵ Internal Displacement Monitoring Centre (IDMC), *2021 Internal Displacement Index report*, Azerbaijan, 2021. https://www.internal-displacement.org/sites/default/files/publications/documents/IDMC_Internal_Displacement_Index_Report_2021.pdf

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UNODC, Sherloc, Case Law Database, Serbia, Judgement K. br. 105/16, Fact Summary, Basic Court of Bujanovac, 2016. https://sherloc.unodc.org/cld//case-law-doc/migrantsmugglingcrimetype/srb/2016/k._br._10516.html?lng=en&tmpl=sherloc

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Wong, D. 'The Semantics of Migration', *Sojourn: Journal of Social Issues in Southeast Asia* Vol. 4, No. 2, 1989, pp. 275–285. <http://www.jstor.org/stable/41056779>

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Chapter 7

Migration and National Security

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Introduction

A complex phenomenon comprising demographic, sociological, economic, political and cultural elements, the multifaceted field of migration naturally attracts the attention of researchers from a broad range of scientific disciplines. Migration processes – the movement of people from one geographical location to another – are a natural and integral part of human history. In our modern world, international migration constitutes an integral element of globalisation, playing a central role in the development of the world economy, the spread of advanced practices, and the mutual enrichment of cultures.

Complex in nature, migration positively affects various areas of life in societies across the globe. However, challenges associated with migration are also central to this phenomenon for many states. Irregular migration, for instance, occupies more space in the mass media and (especially the) political debates of the largest migrant-receiving countries. In turn, the stereotypes shaped or imposed as a result of such debate make it difficult for the general public to comprehensively and objectively discuss and assess the migration process.

Alongside the (often exaggerated) negative effects of modern migration, its positive impacts as a means of solving a number of socio-economic challenges should not be overlooked. In some states, migration contributes to mitigation of

negative consequences stemming from natural decline in the size of the national population (and the related decrease in the economically active population, the structural mismatch between demand and supply in the labour market, etc.).

However, the positive aspects of migration are often overshadowed, in a context where disproportionate focus is routinely placed upon negative trends that may be associated with the migration phenomenon, such as increased unemployment levels, rising crime rates, terrorism, the spread of diseases, social vulnerability of migrants and other security issues. However, if treated in an in depth and comprehensive manner, it becomes clear that the disproportional benefits of migration outweigh the negative effects that may occur.

Chapter 7 explores the development of migration as a topic of international relations and examines its place in both national and international discourse across various realms (demographic, political, economic, etc.) and society at large. The securitisation of migration and migration-related questions in recent decades is then zoned in upon, and an attempt made to account for the movement of migration to the centre of public debate on (inter)national security. The latter section of Chapter 7 provides a brief examination of the Azerbaijani migration experience during this period and some conclusions on the perceived connection between migration and security, and the place of security considerations in state migration policy. A list of questions and exercises related to the content of this chapter is also provided.

7.1 Migration processes in the international system

According to the data from the United Nations High Commissioner for Refugees (UNHCR), as of November 2023, 110 million people were displaced worldwide, forced to leave their place of permanent residence (becoming forcibly displaced persons) for various reasons.³¹⁶ Among these 110 million stand 62.5 million internally displaced people, and 36.4 million refugees.³¹⁷ Since Russia-Ukraine

316 UNHCR, Refugee Data Finder Agency. Available at: <https://www.unhcr.org/refugee-statistics/>. Accessed on 01.11.2023.

317 Ibid.

war started in February 2022, a significant number of refugees from Ukraine have been among these figures; as of June 2023, UNHCR put the number of refugees from Ukraine at 6.3 million.³¹⁸ Regarding the number of migrants worldwide, in 2005 there were approximately 191 million people living outside their countries of origin, by 2010 this number had increased to 220 million, and in 2019 to 271 million.³¹⁹

In the months following February 2022, the number of refugees and irregular migrants entering the European Union (EU) reached numbers not seen since the end of the World War II. According to the European Border and Coast Guard Agency (Frontex), during 2015, the peak of the migration flows seen during the “European migrant crisis” of 2015-2016, more than 1,820,000 illegal border crossings into the EU were detected.³²⁰

While states in the region such as Jordan, Lebanon and Türkiye host large numbers of refugees from across the wider Middle East, people from this region do continue to seek asylum in EU Member States (MSs), particularly MSs perceived to be more understanding of asylum seekers’ situations and open to accepting newcomers. Migration flows, especially from the Middle East, are mainly directed toward Europe’s most economically developed states. However, due to close proximity of social and political institutions and open internal borders, many other European states are also experience inward migration flows.

The growing numbers of migrants entering the EU have in some cases led to the fundamental democratic and universal values of the bloc being called into question, alongside the viability of European integration and commitment to the ideals of multiculturalism. Distribution of burden is one of the core issues often debated at EU level, with EU mandatory quotas on refugee numbers issued in an attempt to spread the distribution of migrants.

318 UNHCR, Ukraine Emergency. Available at: <https://www.unhcr.org/ukraine-emergency.html>. Accessed on 26.07.2023.

319 IOM, *World Migration Report 2020*, 2019, p. 39. Available at: https://publications.iom.int/system/files/pdf/wmr_2020.pdf.

320 Rettman, A., ‘EU observer, EU border agency highlights terrorist threat’, *EUobserver*, 6 April 2016. Available at: <https://euobserver.com/rule-of-law/132941>.

As a result of this discourse, migration has become one of the main points triggering the activation of right-wing, nationalist and racist political forces, and their increased participation in elected bodies, on many parts of the European continent, which remains a major destination for migrants. In turn, these developments directly and indirectly affect the internal political stability and security, foreign policy, international relations, geopolitical processes and, most importantly, the international security of the states involved, a dynamic which looks set to continue.

In recent years, migration has been one of the key topics of various election campaigns and debates, as seen, for instance, in the United States (US) and France. In the US presidential elections of 2016, one of the main subjects of candidate Donald Trump's election campaign was migration and the fight against irregular migrants. Among Trump's most prominent pre-election promises in this regard was the commitment to build a wall along the southern US border with Mexico, to stem irregular migrant flows into the US. During his subsequent presidency, Trump's attempts to fulfil this promise repeatedly caused crises among the legislature, judiciary and supreme executive bodies that objected to the wall being built decision. In France, the 2022 presidential election campaign was characterised by a high prevalence of discourse and debate related to migration.

Although right-wing and racist political organisations and leaders have not gained full power in neither the US nor France, the increasing popularity and prominence of such actors have led to increased presence of right-wing positions and conservatism within the political discourse, tendencies and decisions of these two states.

Charting the path taken to this point, some commentators have cited the aforementioned "European migrant crisis" as bringing to a halt the "Europeanisation and liberalisation" qualitative change that began following the accession to the EU in the mid-2000s of various states from Eastern, Central and Southern European, and initiating a reversal of this opening process.³²¹ Under this view, the European migrant crisis emboldened nationalist forces, particularly in Central Europe, and xenophobic fears began to surface in ways that took many

321 Karcic, H., 'The False Promise of Europeanisation. Central Europe and the Balkans expose the failures of European integration', *Foreign Policy*, 18 May 2022. Available at: <https://foreignpolicy.com/2022/05/18/europeanization-eu-accession-central-europe-balkans-integration/>.

by surprise. Politicians in Visegrad Group³²² states with insignificant Muslim populations started making more frequent Islamophobic statements, while the transit of migrants through these states to Western Europe allowed politicians to claim that they have a responsibility to protect Europe's cultural identity.³²³

7.1.1 Instrumentalisation of migration as a tool of hybrid warfare

Recent years have seen an additional dimension of the migration debate emerge, as seen through the lens of international relations and international security. Migration is now being increasingly instrumentalised as a tool in so-called "hybrid" and "information" warfare. An example of this is the 2016 scandal in Germany surrounding the *Lisa case*, which attracted the attention of the international community.³²⁴ Instances of actors in other states making similar baseless claims against and citing false "facts" in regard to migrants have also occurred.

One of the most prominent examples of this instrumentalisation of migration was the migrant crises on the Belarus-Poland and Belarus-Lithuania borders, which held the attention of the world media for several months in 2021, particularly due to increasing tensions between Russia and Western states and initial assumptions about upcoming conflict. From August 2021 onward, thousands of migrants from Afghanistan, Congo-Brazzaville, Iraq, and Syria, actively attracted by the Belarussian Government, attempted to enter the EU along the Belarus-Poland and Belarus-Lithuania borders. However, in many cases, incoming migrants were pushed back to Belarus, with the situation ultimately leading to EU legislation on the instrumentalisation of migration.³²⁵

322 The Central European states of Czechia, Hungary, Poland and Slovakia.

323 Ibid.

324 See Meister, S., 'The "Lisa case": Germany as a target of Russian disinformation', NATO Review, 25 July 2016. Available at: <https://www.nato.int/docu/review/articles/2016/07/25/the-lisa-case-germany-as-a-target-of-russian-disinformation/index.html>.

325 European Parliament, *Instrumentalisation in the field of migration and asylum*, Briefing, 22 November 2022. Available at: [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2022\)739204](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)739204).

7.2 Securitisation of the migration phenomenon

The assessment of migrants and migration processes from the perspective of security is not a new phenomenon. During World War II, for example, German citizens living in Great Britain were held in temporary detention centres on suspicion of being part of the “fifth column”, while 120,000 ethnic Japanese living in the US were forcibly placed in camps, with approximately two-thirds of this group being US citizens at the time of internment.³²⁶

However, the broader perception of migration as a threat to national security has certainly grown in the decades following World War II. This is due to both the increasing role of migrants in different aspects of the security agendas and policies of states, and the rapid increase in the number of international migrants, including of those in an irregular situation.

Europe’s reconstruction and rapidly growing economies during the first decades of the post-war era demanded a large number of workers, with an “open door” policy for migrants introduced in many states to meet this demand. Particularly during the period 1955-1973, Germany pursued an active policy to attract “guest migrant workers” (*gastarbeiter*). However, amid the economic crises that marked the 1970s, the narrowing of labour markets and the strengthening of competition between migrants and local labour force in these markets led to a re-viewing of migration policy in many developed states, through the lens of national security.

The expansion and flowing nature of migration has made it a central area of political debate and academic study, stirring reassessment of immigration, and the migration phenomenon at large, from a security perspective. Indeed, the trends of the past twenty years have injected further urgency into the perceived need to assess migrants more in terms of security. After the September 2001 terror attacks in the US, the inclusion of immigration on the agenda of the fight against terrorism has played an important role in developing migration issues into security topics.

326 Chambers-Letson, J.T. ‘Imprisonment/internment/detention’, in Lee., R. (ed.), *The Routledge Companion to Asian American and Pacific Islander Literature*, London and New York, Taylor and Francis, 2014, pp. 144-153.

Recent years have also marked a discernible shift within the literature and discourse on the migration field, be it in the academic setting or otherwise, with analysts increasingly viewing various aspects of the field, especially irregular migration, through the lens of national security and international stability. As migration processes can be associated with, or are accompanied by, a number of complex security challenges, researchers have focused on various different aspects of migration security.

The concept of “national security” is often referred as the state of protection of the vital interests of the individual, society, and state from internal and external threats. In a broad sense, national security is understood as the state’s system established to survive and develop in the face of internal and external threats.³²⁷ Scientific literature and mass media alike cover various different fields of security in this regard, including in the areas of information, defence, the environment, energy, and economics.

With regard to migration, researchers have noted the connection between migration and security as being *bidirectional*,³²⁸ that is, a (potential) threat can be viewed from the perspective of the security of communities, societies and states affected by migration flows, but also in the context of the security of migrants themselves. Further, studies undertaken in this area tend to distinguish between real and symbolic threats.³²⁹ The former is typically understood as a threat to the physical or material well-being of societies, while the latter imply threats to the society’s system of norms, values, standards, or beliefs.³³⁰

327 Erikson, J., and Rhinard, M., ‘The Internal–External Security Nexus: Notes on an Emerging Research Agenda’, *Cooperation and Conflict*, Vol. 44, No. 3, 2009, pp. 243–267, p. 244. Available at: <https://www.jstor.org/stable/45084574>.

328 Phizacklea, A., ‘Concluding Remarks: State Security Versus the Security of Migrants: The Unbalanced Contest’, in Lazaridis., G. (ed.), *Security, Insecurity and Migration in Europe*, London and New York, Taylor and Francis, 2011, pp. 287–291.

329 Castelli Gattinara, P. and L. Morales, ‘The politicization and securitization of migration in Western Europe: public opinion, political parties and the immigration issue’, in Bourbeau, P. (ed.), *Handbook on Migration and Security*, Quebec, Edward Elgar, 2017, pp. 273–295, p. 4.

330 Ibid.

7.2.1 Security and the evolution of theoretical approaches

There are no universally agreed definitions for “national interest” and “national security”. Typically, the term “security” covers a wide range of topics, meaning that many different issues can be interpreted as the subject of security policy. In international relations theory, Hans Morgenthau, a leading proponent of the realist school, in 1948 defined the term “national security” as: “[L]ife and survival of the state [...] the minimum requirements of national interests are the integrity of the national territory, its political institutions and culture”.³³¹

The realist approach to security was to become particularly dominant during the Cold War. At that time, the concept of security was understood in its most general sense as the absence of threats. This traditional approach to international security focused primarily on military issues. Within this frame, the state was seen as a reference subject that needed protection from threatening forces, especially war.³³²

However, during the post-Cold War period, security studies moved away from a state-centric approach, broadening the definition of national security to include a range of potential threats.³³³ It is symbolic in this regard that, on 31 January 1992, the United Nations Security Council (UNSC) Summit Declaration emphasised that threats to international peace and security can come from non-military, economic, social, humanitarian, and environmental sources of instability, and stated that such threats were included in the field of activities of the UNSC. The Declaration also stated that monitoring of elections, human rights and refugee repatriation are integral parts of the UNSC efforts to maintain international peace and security.³³⁴

331 Morgenthau, H.J., ‘Another Great Debate: The National Interest of the United States’, *The American Political Science Review*, Vol. 46, No. 4, 1952, pp. 961-988, p. 973.

332 Krause, K. and M.C. Williams, ‘Broadening the Agenda of Security Studies: Politics and Methods’, *Mershon International Studies Review*, Vol. 40, No. 2, 1996, pp. 229-254. Available at: <https://www.jstor.org/stable/222776>; Peoples, C. and N. Vaughan-Williams, *Critical Security Studies: An Introduction*, London, Routledge, 2010, p. 23.

333 Krause and Williams, ‘Security Studies’, p. 230; Lohrman, R., ‘Migrants, Refugees and Insecurity. Current Threats to Peace?’, *International Migration*, Vol. 38, No. 4, 2006, pp. 2-22, p. 5. Available at: <https://library.fes.de/libalt/journals/swetsfulltext/8629557.pdf>.

334 UNSC, ‘The responsibility of the Security Council in the maintenance of international peace and security Decision of 31 January 1992 (3046th meeting): statement by the President’, 1992. Available at: https://www.un.org/en/sc/repertoire/89-92/Chapter%208/GENERAL%20ISSUES/Item%2028_SC%20respons%20in%20maint%20IPS.pdf.

Barry Buzan has argued that security studies should not only focus on the military sector, but be further developed to include social, environmental, economic and political security.³³⁵ According to Buzan, security is the ability of states to be free from threats and that of societies to protect their independent identity and functional integrity from changes deemed hostile to them.³³⁶ Thus, due to the broadening of the concept of security, a range of factors, such as issues relating to the environment, poverty and international migration, have been identified as risks or threats to security.³³⁷

In line with this, researchers studying the connection between migration and security today tend to distinguish among the effects of migration on the societal, economic, internal and public security of states and societies.

7.2.2 Migration and societal security

The most prominent authors in this area mainly refer to “societal security” among the security threats potentially caused by migration. The concept of societal security should not be confused with that of “public security”, another widely analysed area. Public security relates more to public order, direct physical security of societies, while societal security relates more to symbolic norms, and applies a more abstract, symbolic and subjective approach.

The concept of societal security in the contemporary discourse was addressed by Ole Waever in the 1993 publication *Identity, Migration and the New Security Agenda in Europe*, pointing to societal security as primarily related to issues of collective identity of society. Waever and his co-authors believed societal security to be “the ability of society to maintain its basic character in the face of changing conditions, perceived or real threats”.³³⁸ In relation to international migration, they refer to perception by a state of a threat posed by migrants to their cultural,

335 Peoples and Vaughan-Williams, *Critical Security*, pp. 22-23.

336 Buzan, B., ‘New Patterns of Global Security in the Twenty-first Century’, *International Affairs*, Vol. 67. No. 3., 1991, pp. 431-451, p. 432, Available at: <https://academic.oup.com/ia/article-abstract/67/3/431/2406749>.

337 Lohrmann, ‘Migrants, Refugees’, p. 5.

338 Waever, O. et al., *Identity, Migration and the New Security Agenda in Europe*, London, Pinter Publishers, 1993, p. 23.

linguistic, religious or national identity. In this regard, the national values of the country receiving the migrants are the reference subject at risk.³³⁹ Seeing migrants as a threat to societal security can lead to their poor socio-cultural integration, alienation and isolation, which in turn can cause the emergence of other, more real threats.

As noted by Martin Heisler and Zygmunt Layton-Henry, in the post-war period, many Western European states changed from fairly homogeneous states with a sense of cultural and ethnic identity to states with diverse ethnic and national composition.³⁴⁰ In this case, migration may be perceived as a threat to public security, because it challenges the state's traditional national identity and core values.³⁴¹ Heisler and Layton-Henry also highlight that, during this period, politicians in the United Kingdom (UK) and France emphatically emphasised the view that the absence of integration or assimilation among immigrants was having a significant impact on societal cohesion and the stability of the state.³⁴²

According to Myron Weiner, the perceived threat of migration to a state's societal security is not an objective and universal threat, but rather a subjective threat, depending on how the receiving state positions itself;³⁴³ for example, while some states may find multiculturalism undesirable, other states may be proud of their cultural diversity and view it as a strength. Weiner also notes that in some states migration is discussed against a background of extreme threat, reinforcing the perception that the society "can protect themselves from the attacks of tanks, missiles, and armies, but are powerless in the face of the influx of thousands of job-seeking migrants". This statement implies that as carriers of foreign religious and cultural identity, migrants constitute a threat to the collective identity or societal security of the receiving country. Unfortunately, similar anti-migrant rhetoric is becoming increasingly widespread in societies that have traditionally received large numbers of migrants, and, indeed, once advocated peaceful coexistence of different cultures and the necessity of multicultural values at the state level.

339 Weiner, M., 'Security, Stability, and International Migration', *International Security*, Vol. 17, No. 3, 1992, pp. 91-126, p. 103. Available at: <https://www.jstor.org/stable/2539131>.

340 Waever, *Identity, Migration*, p. 158.

341 Ibid.

342 Ibid., p. 162.

343 Weiner, 'Security, Stability', p. 110.

Multicultural values are not only built into the universal human values, they form the basis that ensures the coexistence of different ethnic groups and minorities in each society. Until the emergence of the migration discourse in mass media and politics, the ideas and values of multiculturalism, as the principles of the basic value system of liberalism, were the most promoted principles, especially in the developed states of Europe. Undoubtedly, societies with weak multicultural values are open to conflicts on various ethnic and national grounds, and their societal security can face threats. In this regard, the transformation of migration from a *societal* security issue to a *public* security issue can be observed.

In recent years, senior state officials in many Western states have spoken of the so-called “bankruptcy of multiculturalism”. However, opinions to this effect were already being voiced before the “European migration crisis”. In 2010, for instance, German Chancellor Angela Merkel stated that multiculturalism in Germany had died or failed. According to Merkel, she and others had for some time deceived themselves with the hope that migrants who filled job vacancies during the economic boom of the 1960s onward would integrate or assimilate into German society, but that this did not occur as expected. The speech marked a shift from Merkel’s previously liberal line on migration.³⁴⁴

In the same year, the sensationalist bestseller *Germany Is Destroying Itself*³⁴⁵ was published by Thilo Sarrazin, a former member of the executive board of the Germany Bundesbank. The book tells of how the perceived failure of many of Germany’s 16 million immigrants to integrate led to the country’s decline. According to Sarrazin, 70% of Turkish migrants and 90% of Arabs in Germany do not want to integrate into German society and make no effort to do so, and thus, admission of migrants of this origin to Germany should be limited. Such views unduly place the entirety of the blame for the failure to integrate into society on the migrants themselves. In the simplest explanation of the concept of integration, this process is two-sided, i.e. along with the tendency of migrants

344 Connolly, K., ‘Angela Merkel declares death of German multiculturalism’, *The Guardian*, 17 October 2010. Available at: <https://www.theguardian.com/world/2010/oct/17/angela-merkel-germany-multiculturalism-failures>.

345 Sarrazin, T., *Germany abolishes itself: how we are putting our country at risk*, Munich, Deutsche Verlags-Anstalt, 2010. Available at: <https://books.google.az/books?vid=ISBN9783421044303> (in German).

groups to integrate, must come a readiness of the receiving society to accept migrants as members of the society.

On the other hand, a state like Canada, historically a recipient of large numbers of migrants, may have a more expansive sense of national identity and in continuing to pursue a policy of multiculturalism can exhibit tolerance and acceptance of different languages, cultures and religions. Nevertheless, even among the Canadian public, blowback against pro-immigration sentiment has been observed in more recent times, coupled with a growing reluctance to accommodate larger numbers. However, this shift has been primarily driven by technical and economic concerns, such as pressures on housing and health care, rather than issues related to identity and culture.³⁴⁶ Comparative analyses of migration and national identity in Germany and Canada provide useful inlets into this aspect of the migration discourse.

Immigration to Canada has long been considered an essential condition for national development and, as a country made up largely of immigrants, the state is not associated with any one historical, local or dominant ethnic group. Thus, the receiving of large numbers of migrants has not tended to be seen as a source of threat to society.

By contrast, the intention of inviting migrants to Germany, a state which has historically spanned the most densely populated regions of the European continent, did not prioritize integration into society, and the issue of family reunification was not initially given consideration. There were no substantial integration efforts from the state, as politicians believed that individuals would come to work, support the German economy, and eventually return to their home countries. The increase in the migrant population in Germany has come as a (somewhat unexpected) result of decades of significant inflows of guest migrant workers, asylum seekers and refugees³⁴⁷ into a country which historically had an

346 Major, D., 'Canada looking to stabilize immigration levels at 500,000 per year in 2026', CBC News, 1 November 2023, Available at: <https://www.cbc.ca/news/politics/canada-immigration-targets-1.7015304>.

347 Esses, V.M. et al., 'Perceptions of national identity and attitudes toward immigrants and immigration in Canada and Germany', *International Journal of Intercultural Relations*, Vol. 30, No. 6, 2006, pp. 653-669. Available at: <https://www.sciencedirect.com/science/article/abs/pii/S0147176706000551>.

indigenous and dominant population, whose right to citizenship is formed on the basis of *jus sanguinis* (“volk-centred”).³⁴⁸ As captured in the Canada-Germany comparison, migration may or may not be considered a threat to a state’s societal security, regardless of the different forms that the migration takes.

Each state’s unique history impacts that state’s migration policy, and whether or not migration is perceived as a threat to society. To continue the comparison at hand, while Canada since 1971 has followed a policy of multiculturalism aimed at protecting the identity of its multiple ethnic groups, Germany has tended toward assimilation of its immigrant population.³⁴⁹ According to Myron Weiner, ethnic and cultural affinity is a social construction; which cultural and ethnic groups are or are not the source of threat is a notion that changes over time.³⁵⁰ What may be seen as a threat to society in one state may be accepted, or even encouraged, in another, suggesting that immigration can be a subjective rather than an objective threat to societal security and will tend to vary from state to state, and over time.

7.2.3 Migration and economic security

Another aspect of the discourse surrounding migration as a potential threat to national interests centres on the impact which migration has on national economies. Societal and economic security are closely connected, as the perception of immigrants as “other” changes in line with (the perception of) how immigrants actually influence the economies of destination countries. Migration has a significant impact on the economies of both destination and origin countries. The expansion of the concept of security to the economic sector thus facilitates assessment of the economic challenges caused by migration. In recent years, portraying migrants as a threat to states’ economic security has become increasingly prevalent.

A 2005 publication edited by Elspeth Guild and Joanne van Selm takes the view that labour migration poses a threat to the economic security of both sending and receiving countries. According to this (now very widely popularised) argument,

348 Brubaker, R., *Citizenship and Nationhood in France and Germany*, London and Cambridge, Massachusetts, Harvard University Press, 1994, p. 3.

349 Esses, ‘Perceptions of national identity’, p. 655.

350 Weiner, ‘Security, Stability’, p. 105.

migration of highly skilled workers from developing countries of the Global South to developed countries of the Global North leads to “brain drain” in sending countries and undesirable economic consequences in receiving countries.³⁵¹ The authors show that countries of origin lose highly skilled specialists to migration, in whom they have invested, via their education system. Guild and van Selm also claim that migrants keep wages in the labour market of the receiving country low, while adversely impacting the social security of the local population.

Conversely, according to Stuart Carr and Kaye Thorn, amid discourse which emphasises the concept of “brain drain”, the concept of “brain gain” is frequently overlooked. Under this analysis, while developing countries may lose highly skilled workers to emigration, large numbers of migrants do return home, equipped with higher skill levels.³⁵² Migrants, in particular returnees, bring home other assets, e.g. exposure to new business ideas/ methods/ information not yet widespread in their home country, connections gained abroad, enhanced understanding from exposure to different cultures, languages and people, etc. Among the various counterarguments to this reading, it has been pointed out that even if migrants become highly skilled abroad, they are not always able to easily return to the labour force in their home countries, for various reasons.

Potential returnees in many cases do not ultimately make the move back home, due to a lack of attractive working conditions, lower labour standards, limited access to roles which are well aligned with their acquired skills, and lower levels of social security. The “brain drain” tendency is thus not as straightforward as it is sometimes portrayed. Firstly, the emigration of skilled people is often exaggerated, and rather is caused by a lack of opportunities at home.³⁵³ Further, when determining whether “brain drain” is truly occurring in state, the size of the population concerned and the magnitude of the emigration experienced need to be taken into consideration.

351 Guild, E. and J. van Selm, *International Migration and Security*, London and New York, Routledge, 2005, p. 29.

352 Carr, S.C., Inkson, K. and K. Thorn, ‘From Global Careers to Talent Flow: Reinterpreting ‘Brain Drain’’, *Journal of World Business*, Vol. 40, No. 4, 2005, pp. 386-398.

353 de Haas, H., ‘Human Migration: Myths, Hysteria and Facts’, Wolfson College Research Clusters. Available at: <https://heindehaas.files.wordpress.com/2016/02/de-haas-2013-wolfson-human-migration-myths-hysteria-and-facts.pdf>.

Moreover, remittances to countries of origin play an important role in their economic growth and development.³⁵⁴ According to the World Bank, in 2012, migrant remittances to their home countries amounted to US\$ 406 billion. In the following years, the value of remittances increased annually, reaching US\$ 624 billion one decade later, in 2022.³⁵⁵

A number of studies have shown that remittances have a positive effect on poverty elimination and economic development. In many developing countries, remittances have successfully reduced the share of the population living below the poverty line. In 2021, 54% of Lebanon's Gross Domestic Product (GDP) was made up by remittances, with remittances accounting for similarly outsized shares of GDP in many states worldwide (including Tonga (44%) Tajikistan (34%), Kyrgyzstan (33%), and Samoa (22%)).³⁵⁶ In this way, economic security intersects with human security. This aspect of migration has a positive impact not only on the economy of the country of origin, but also on the physical and financial status of its population. Viewed through this lens, arguments which find migration to be a challenge to economic security in the country of origin appear unfounded.

According to another line of argument, migration poses a threat to the economic security of the receiving country due to its impact on the labour market. Guild sheds light on this dynamic by addressing some key questions: *Do migrant workers in strong economies really drive down wages?* and *Do migrants take the jobs of local workers in a strong economy?*³⁵⁷ Public opinion typically views migrant workers as reducing wages in the receiving country, with local workers losing their jobs and economic conditions worsening as a result of increased labour supply. Such a line of argument, or some variation on it aimed toward the same ends, is often used in both the mass media and at

354 de Haas, H., 'International Migration, Remittances and Developments: myths and facts', *Third World Quarterly*, Vol. 26, No. 8, 2005, pp. 1269-1284. Available at: <https://www.jstor.org/stable/4017714>.

355 The World Bank, 'Remittances Grow 5% in 2022, Despite Global Headwinds', Press Release, 30 November 2022. Available at: <https://www.worldbank.org/en/news/press-release/2022/11/30/remittances-grow-5-percent-2022>.

356 The World Bank, 'Remittances to Reach \$630 billion in 2022 with Record Flows into Ukraine', Press Release, 11 May 2022. Available at: <https://www.worldbank.org/en/news/press-release/2022/05/11/remittances-to-reach-630-billion-in-2022-with-record-flows-into-ukraine>.

357 Guild and van Selm, *International Migration*, p. 48.

the legislative level to justify the enactment of restrictive and discriminatory policies against migrants.

However, this restrictive line of argument does not appear to be based on empirical evidence nor scientific facts, but rather on subjective claims. According to Aviva Chomsky, the theory that the number of people in the labour market determines the availability of jobs is not accurate, with population growth spurred by migration in fact providing people with jobs in the short term, while creating new jobs in the longer term.³⁵⁸ One point which should be emphasised when examining restrictive migration-relayed policies is that such policies may lead to increased threat to the personal security of migrants. Stephen Castles believes that one of the reasons for the increase in trafficking in human beings (THB) seen during recent decades is the restrictive migration policies of economically highly developed states. According to Castles, high demand for labour in a state where tight restrictions are in place allows the “migrant industry” to flourish,³⁵⁹ creating a conflict between the state’s economic security and the personal security of migrants to that state.

Analysis of the literature shows that the economic impact of migration on the local labour market differs across states, and varies depending on the economic conditions prevailing. Further, from a statistical perspective, depending on the methodology used by the economists to measure the impact of migration on labour markets, different conclusions can be drawn.³⁶⁰ Some economists claim that migration often has a positive impact on the employment rate in the receiving country.³⁶¹ In general, studies on this issue conducted in various developed countries tend to conclude that there is no clear correlation between migration and increased unemployment.³⁶²

358 Chomsky, A., *They Take Our Jobs!: And 20 Other Myths About Immigration*, Boston, Beacon Press, 2007, pp. 7-8.

359 Castles, S., ‘Towards a Sociology of Forced Migration and Social Transformation’, *Sociology*, Vol. 37, No. 1, 2003, pp. 13-34, p. 15.

360 Aubry, A. et al., ‘Does Immigration Affect Wages? A Meta-Analysis’, HAL Open Science, 2022, p. 3. Available at: <https://hal.inrae.fr/hal-03579606/file/docweb2202.pdf>

361 Islam, A., ‘Immigration Unemployment Relationship: The Evidence From Canada’, *Australian Economic Papers*, Vol. 46, No. 1, 2007, pp. 52-66, p. 53, Available at: <https://ideas.repec.org/a/bla/ausecp/v46y2007i1p52-66.html>.

362 Ibid., p. 63; Fromentin, V, ‘The Relationship Between Immigration and Unemployment: The Case of France’, *Economic Analysis and Policy*, Vol. 43, No. 1, 2013, pp. 51-66. Available at: <https://www.sciencedirect.com/science/article/pii/S0313592613500038>.

However, according to the results of a study conducted by the Migration Policy Institute (MPI), in some cases, migration may cause an increase in temporary or short-term unemployment, with this effect diminishing over time, as the local economy adjusts to the increase in labour supply.³⁶³ One study claims that “in the long-term perspective, demand has a side effect, wages adjust, labour demand recovers, and thus, local workers benefit”.³⁶⁴ The MPI study points out that while the impact of migration varies across states, it has had minimal impact on wage levels in many states, including the UK, Germany, Portugal and Australia. In the UK instance, there are various cases where workers are not negatively affected by the impact of immigration, but rather benefit from it.³⁶⁵ According to this MPI study, economic migration does not pose a threat to the economic security of the receiving country, with other factors, such as education and demographic changes, having a greater impact on local employment opportunities.³⁶⁶

Contrary to the popular belief that migrants threaten the job security of the local population, reduce wages and increase unemployment, migration may in fact increase employment opportunities and provide a boost to the economy of the receiving country. Claims made in the media and political realms also frequently frame migrants, especially refugees and asylum seekers, as a threat to and exploiters of the social insurance system of the host country. In this regard, migration for protection reasons is portrayed as a problem rather than an opportunity.

Jef Huysmans notes that refugees and asylum seekers are sometimes portrayed as profiteers and spongers, who illegally exploit the receiving country’s social security system, with this system simultaneously presented as being unable to cope with an influx of immigrants.³⁶⁷ In such depictions, migrants are portrayed as so numerous and so poor that they pose a serious economic threat to the state, create housing shortages and damage education, transport, sanitation and

363 Somerville, W. and M. Sumption, *Immigration and the Labour Market: Theory, Evidence and Policy*, Migration Policy Institute, 2009, p. 9. Available at: <https://www.migrationpolicy.org/pubs/Immigration-and-the-Labour-Market.pdf>.

364 Islam, ‘Immigration Unemployment’, p. 64.

365 Somerville and Sumption, *Immigration and the Labour Market*, pp. 13-14.

366 Ibid., p. 3.

367 Huysmans, J., *The Politics of Insecurity: Fear, Migration and Asylum in the EU*, London, Routledge, 2006, pp. 78-79.

communication services.³⁶⁸ In a landscape where such narratives are present, it is not surprising that the provision of social insurance services to migrant and refugee workers can cause dissatisfaction among the local community.³⁶⁹

However, the argument which has waves of ragtag foreigners threatening the economic security of the state by seeking protection is heavily influenced by misconceptions in the public debate, as well as by widespread stereotypes about migrants. Although increased inward migration flows, especially of refugees and asylum seekers, may create short-term, and sometimes medium-term, economic challenges for the host country, particularly when many migrants arrive within a short period of time, the impact of migration on social costs varies according to location, and over time.

Furthermore, the long-term economic benefits of refugees and other migrants should not be overshadowed. Studies on the impact of the presence of refugees in Australia show that the initial cost of resettling refugees through social security benefits is recouped within ten years of arrival.³⁷⁰ The portrayal of immigration as a security issue and the arrival of immigrants as a threat to the local social security system in some cases leads to their exclusion from social services, as they may be considered to be undeserving of support.

7.2.4 Migration and public (internal) security

In addition to societal and economic security, immigration is also frequently depicted as a source of threat to the internal security or public order of a state. Compared to the 1980s, the concept of immigration as a threat to internal security is now more prevalent.³⁷¹ As Huysmans stresses, EU documents such as the Schengen Agreement and the Dublin Convention for the first time connected immigration

368 Weiner, 'Security, Stability', p. 95.

369 Huysmans, *The Politics of Insecurity*, p. 78.

370 Stevenson, R., 'Refugees and Economic Contributions', paper presented at Hopes Fulfilled or Dreams Shattered? From resettlement to settlement Conference, 23-28 November 2005.

371 Huysmans, J., 'The European Union and the Securitisation of Migration', *Journal of Common Market Studies*, Vol. 39, No. 5, 2000, pp. 751-777, p. 756.

to terrorism, international crime and border control.³⁷² As mentioned, after the September 2001 terror attacks in the US, immigration came to occupy a central place in the counter-terrorism agenda. Associating immigration with terrorist activities, governments continue to take steps to tighten immigration policies.³⁷³

Some experts support the idea of restrictive immigration policy to protect the internal security of the receiving country. Daniel Stoffman, for example, argues that because a large number of many migrants come to Canada, every newcomer cannot be thoroughly screened, meaning dangerous people may potentially enter the country as migrants.³⁷⁴ According to Stoffman, the most effective way to prevent undesirable immigrants would be to reduce the number of annual arrivals, rather than improve screening efficiency.³⁷⁵

Although terrorism is undoubtedly a real threat to the internal security of states around the world, its connection with immigration is questionable and has been the subject of much academic research. John Mueller convincingly refutes the argument that the reduced threat of terrorist attacks in the US since September 2001 is the result of increased border controls and stricter immigration policy.³⁷⁶ Although it has become more difficult for terrorists to enter the US, hundreds of thousands of immigrants enter the US legally each year, with daily estimates for irregular entries ranging from 1,000 to 4,000. Mueller argues that the terror threat from home-grown or immigrant terrorists has been greatly exaggerated.³⁷⁷

Similarly, a study by Maria Saux on immigration and terrorism in Spain suggests that the supposed connection between irregular migration and terrorism does not reflect the prevailing reality, but rather an unsubstantiated or fabricated

372 Huysmans, J., 'Migrants as a Security Problem: Dangers of 'Securitising' Societal Issues', in Miles, R. and D. Thranhardt (eds.), *Migration and European Integration: The Dynamics of Inclusion and Exclusion*, London, Pinter Publishers, 1995, pp. 53-72, p. 53.

373 Spencer, A., 'Linking Immigrants and Terrorists: The Use of Immigration as an Anti-Terror Policy', *The Online Journal of Peace and Conflict Resolution*, Vol. 8, No. 1, 2008, pp. 1-24.

374 Stoffman, D., 'Truths and Myths about Immigration', in Moens, A. and M. Collacott (eds.), *Immigration Policy and the Terrorist Threat in Canada and the United States*, Vancouver, Fraser Institute, 2008, pp. 3-20, p. 4.

375 Ibid.

376 Mueller, J., 'Is There Still a Terrorist Threat?: The Myth of the Omnipresent Enemy', *Foreign Affairs* Vol. 85, No. 2, 2006, pp. 2-8, p. 3.

377 Ibid., p. 4.

presumption. Based on moral panic theory, Saux shows that the threat of terrorism causes one group of people to blame a certain other group of people, label them as enemies, and create a divide between “us” and “them”.³⁷⁸

Under this analysis, following the 2001 attacks in New York, the 2004 Madrid train attacks, and the 2005 London terrorist attacks, all of which occurred in major migrant-receiving countries, migrants and asylum seekers in Europe began to be seen as enemies.³⁷⁹ In the same way that public debates and media portray migrants as a threat to societal and economic security, political and media actors have been prolific during the past two decades in claiming connections between migration and terrorism, fuelling a hostile attitude towards migrants broadly. According to Fiona Adamson, creating a connection between terrorism and immigration is problematic because, with more severe societal effects, it leads to the alienation, exclusion, and racial profiling of immigrants, especially those who introduce themselves as Muslim or Arab.³⁸⁰

In the aftermath of the Madrid bombings, Spanish newspapers planted a narrative of the connection between migration and criminal behaviour that influenced public opinion.³⁸¹ This mirrored the climate which developed in the US in the period immediately following the September 2001 attacks, when the media and political debate were dominated by calls for urgent action on migration law. It is clear that the connection between migration and terrorism has been reinforced through public discourse and become entrenched in public opinion.

However, as Daniel Griswold has shown, immigration and border management are two separate issues.³⁸² Terror attacks by persons with a migration background are not the result of an open and liberal immigration policy, but rather of the failure to prevent this small number of dangerous persons from entering the state. Similarly, Amanda Spencer points to the challenges that emerge when the

378 Saux, M.S., ‘Immigration and Terrorism: A Constructed Connection’, *European Journal on Criminal Policy and Research* Vol. 13, Nos. 1-2, 2007, pp. 57-72, p. 63.

379 Ibid., 63.

380 Adamson, F.B., ‘Crossing Borders: International Migration and National Security’, *International Security*, Vol. 31, No. 1, 2006, pp. 165-199, p. 196.

381 Saux, ‘Immigration and Terrorism’, p. 62.

382 Griswold, D., ‘Don’t Blame Immigrants for Terrorism’, Cato Institute, Commentary, 23 October 2001. Available at: <http://www.cato.org/publications/commentary/dont-blame-immigrants-terrorism>.

term “immigration” is given the wrong meaning.³⁸³ Many academic studies do not distinguish between “immigrant” and “visitor”; the individuals who committed the 2001 terrorist attack in the US were not migrants, rather, they were persons who entered the US on temporary visas.³⁸⁴

Just as migration has come to be associated with terrorism in the minds of many outside of the migration field, it is also sometimes linked to an increase in crime, leading to the perception of migration as a threat to public order. In many cases, irregular migrants do not have access to employment or the social security system, so they are forced to use mechanisms of ethnic solidarity to survive. This may lead to the formation of organised crime groups and ethnic organisations acting in a closed manner. As a result of this phenomenon, a certain group of people may be stigmatised as a whole and receive frequent coverage in local news outlets, with continuous streams of stories, for example, about various ethnic or national crime groups from ex-Soviet Union states, including Azerbaijan, leading to blanket discrimination against all people of the given ethnicity or nationality.

In this climate, recent years have seen an intensification of hostile attitudes towards migrants in receiving countries, with an increase in ultra-right activity, conflict, and incidents involving migrants. However, it should be noted that the question of whether migration really leads to an increase in crime is still largely driven by stereotyping and discrimination. In reality, as Xia Wang shows, while the public perception may be increasingly concerned about increased crime rates as a result of migration and the threat which migrants may potentially pose to public order, these concerns are empirically unfounded.³⁸⁵ Contrary to popular belief, studies across multiple different states have failed to find a strong correlation between migration and increased crime rates.

Studies which come to the contrary conclusion include a 2001 study which found that in Spain, “the proportion of foreign-born prisoners is twenty-five times higher

383 Spencer, ‘Linking Immigrants and Terrorists’, p. 9.

384 Ibid.

385 Wang, X., ‘Undocumented Immigrants as Perceived Criminal Threat: A Test of the Minority Threat Perspective’, *Criminology*, Vol. 50, No. 3, 2012, pp. 743-776, p. 743.

than the share of immigrants among the population”.³⁸⁶ However, this study also suggests that this phenomenon has more to do with demographic factors than immigrant status. Therefore, when studying the link between immigration and crime, the demographic variables and/or factors other than solely immigration status must be taken into consideration.

7.2.5 Demographic security

In her 2005 novel, *The Notre Dame de Paris Mosque*, Elena Chudinova depicts the France of 2048, where, buoyed by their increased numbers, Muslim migrants seize power and turn the famous church into a mosque. Now a minority in their historical homeland, French nationalists resort to a terrorist struggle against the Muslim French Government. Of course, these types of books, which are widely popular, are not merely manifestations of events taking place in Europe, and the West more broadly, they also inflame hatred and fear against migrants. Chudinova’s novel, and the 2011 feature documentary film based upon it, have subsequently been used as elements of the hybrid warfare on migration.³⁸⁷ The main aim of this and similar fabricated narratives aimed at migrants is to instil the fear that the population of the receiving country will one day become a minority in their historical home.

Demographic security can be described as the situation where demographic processes are sufficient for the reproduction of the population, and provide human resources for the geopolitical interests of the state without the significant influence of external factors.³⁸⁸ Demographic security is the functioning and development of the population according to its age, gender and ethnic parameters, and its

386 Westbrook, R. ‘Immigration and Crime in Catalonia, Spain: What’s the Connection? Towards a Theory on Immigrant Crime’, paper presented at Claremont-UC Undergraduate Research Conference on the European Union, Vol. 2010, Art. 10, 2012, pp. 101-120, p. 101. Available at: <https://scholarship.claremont.edu/urceu/vol2010/iss1/10/>.

387 Wikipedia.org, ‘The Notre Dame de Paris Mosque’. Available at: https://en.wikipedia.org/wiki/The_Notre_Dame_de_Paris_Mosque. Accessed on 20.05.2022.

388 Sidorenko, A., ‘Demographic transition and “demographic security” in post-Soviet countries’, *Population and Economics*, Vol. 3, No. 3, pp. 1-22, 2019. Available at: <https://populationandeconomics.pensoft.net/article/47236/>; Nichiporuk, B., ‘The Security Dynamics of Demographic Factors’, *Population Matters*, Arroyo Center, 2000. Available at: <https://apps.dtic.mil/sti/pdfs/ADA376405.pdf>.

alignment with the national interests of the state, which consists of ensuring the state's territorial integrity, independence, and sovereignty, and preservation of its geopolitical status. The internal aspect of this form of security is often characterised by terms such as "survival", "population decline", "degeneration", "extinction", "self-preservation", "self-sufficient reproduction", "demographic development", "demographic crisis", and "depopulation", among many others.³⁸⁹ The main danger in this regard is that the terms or definitions employed include only the characteristics of the natural movement of the population: processes related to birth and death.

Currently, many states which receive significant numbers of migrants are faced with a difficult choice in terms of demographic security. Such states must either accept migrants to replace the naturally decreasing local population and maintain their economic development at a certain level, or not accept migrants based on maintaining the homogeneity of the population, accepting the reality of declining population numbers and economic conditions.³⁹⁰ Germany can be put forward as a clear example of a state which has chosen to follow the former course. According to a study conducted by the Employment Research Institute and Coburg University of Applied Sciences, if Germany were to not accept new migrants, by 2060, the size of its population would drop by 30%. To maintain the current population level, Germany is thus estimated to need to admit to the state some 260,000 migrants annually.³⁹¹

Conversely, Japan is a prime example of a state which has chosen to pursue the second course, and today ranks first among developed countries in terms of rapidity of population decline. In 2021, Japan recorded 811,604 births and 1,439,809 deaths, meaning that the national population decreased by 628,205 people in one year, the largest natural decrease recorded by the state, with

389 Leuprecht, C., 'The Demographic Security Dilemma', *Yale Journal of International Affairs*, Vol. 5, No. 2, 2010, Available at: <https://www.yalejournal.org/publications/the-demographic-security-dilemma>.

390 Nichiporuk, B., 'Demographics and the Changing National Security Environment', RAND Corporation, RAND Research Brief, 2000. Available at: https://www.rand.org/pubs/research_briefs/RB5035.html.

391 Germany Visa, 'Germany Needs 260,000 Immigrants a Year to Meet Labour Demand Due to Ageing Workforce', Available at: <https://www.germany-visa.org/news/germany-needs-260000-immigrants-a-year-to-meet-labor-demand-due-to-ageing-workforce>.

the birth rate decreasing by 3.5% compared to the previous year.³⁹² The Japan Statistics Bureau estimates that the national population will shrink from approx. 127 million today to 100 million by 2050, with UN calculations projecting a further decrease in Japan's population to 85 million by 2100.

In compensating for natural population decline through immigration, states enact fundamental societal changes with a range of ethno-cultural and social consequences, with the ethno-genetic composition of the local population gradually changing over time. During the past decades, migrants have come to constitute a fairly significant part of the population of many states, with many strong diasporas emerging.

One of the main claims of those conducting hybrid warfare on migration in the West is that European civilisation will be replaced by Asian civilisations, as a result of large influxes of migrants. Proponents of this argument stress the claim that a sharp decline in the natural growth rate and ageing of the local population is linked with large migrant flows. Under these claims, in the future, the historical population of states that receive significant numbers of migrants may become a minority in their historical home, or, even if this shift does not occur, the demographic security of these states will nonetheless be under great threat as result of migration. From this perspective, the impact of migration on the demographic security of states can coincide with the elements of societal security discussed in detail above.

At first glance, inward migration flows may appear to be becoming a major challenge for many developed Western states, because while migration is affecting all aspects of the national security of these states, the demographic crisis in these states is also deepening.

According to Germany's official statistics from 2019, some 26% of German citizens (approx. 21.2 million people) had a migration background. However, more than half (52%) of this number is comprised of persons of ethnic or culturally German origin born in other states, with the remaining 48% (10.1 million people) being

392 Parker, C., 'Japan records its largest natural population decline as births fall', *The Washington Post*, 3 June 2022, Available at: <https://www.washingtonpost.com/world/2022/06/03/japan-low-births-population-decline-2021/>.

of non-German origin. According to UN estimates, by 2050, 36% of Germany's population, or 33 million people, will be descendants of migrants who migrated to Germany after 1995.³⁹³

In some European states, debate on the growing share of migrants “threatening the demographic security”, and the transformation of this issue into a topic of internal political struggle, is giving rise to increased scrutiny of concepts such as the modern nation state, ethnic identity, nationalism and civic nationalism. As is well documented, the concept of citizenship in modern liberal societies is not rooted in ethnocentricity, but rather implies an inclusive approach, such as civic nationalism based on traditional liberal values (e.g. freedom, tolerance, equality, and individual rights), regardless of religion, race, or ethnic origin. In some states that have received significant numbers of migrants, the change in ethnic composition as a perceived demographic threat puts the concept of liberal civic nationalism and the nation state construct to a historical test.

Historically, nation states have mainly employed two different approaches to citizenship and nation. The nation states of France and Germany are among the states where the ideas of modern civic nationalism began to take shape. In his comparative analysis of the concepts of citizenship and nation in France and Germany, and on the French and German paths to statehood, Rogers Brubaker charts various differences. According to Brubaker, the concept of citizenship in France was shaped on the basis of territory, therefore the path can be considered state-centric and assimilative.³⁹⁴ Although the French nation state is rooted in an idea of political unity, it is based on a desire for cultural unity. Political inclusion implies the cultural assimilation of both cultural minorities and immigrants.

By contrast, according to Brubaker, citizenship in Germany was shaped on the basis of blood origin, with the German nation state conceived not as a carrier of universal political values, but rather on the basis of organic cultural, linguistic or racial unity. On the basis of its structure, France easily grants citizenship to second-generation migrants, while although Germany immediately grants

393 Destatis.de, ‘Population with a migration background grew by 2.1% in 2019: weakest increase since 2011’, 28 July 2020. Available at: https://www.destatis.de/DE/Presse/Pressemitteilungen/2020/07/PD20_279_12511.html (in German).

394 Brubaker, *Citizenship and Nationhood*, p. 1.

citizenship to ethnic Germans from abroad, it does not always do so in the same manner as it grants citizenship to descendants of migrants born in Germany.³⁹⁵

Since migrants in France have not been fully assimilated as expected,³⁹⁶ and in Germany, generally, migrants have not been included in the concept of the German nation state, the increase in the share of migrants compared to the local population in both cases is seen as a demographic threat. France and Germany, as examples of two liberal democratic countries with distinct state and citizenship concepts, each with their unique history and experiences in dealing with aliens and migrants, illustrate how, despite the crucial role migrants have played and continue to play in their economic prosperity and development, both nations have arrived at a similar point in their perception of demographic security. Ideas about the demographic situation in Europe, not too dissimilar to those voiced in Anna Chudinova's novel, are gaining ever-greater salience in these states, with migrants being increasingly seen as a demographic threat.

7.2.6 Security of the human rights of migrants

States have adopted the principle of *non-refoulement* as one of the most important norms of international law, to protect the rights of migrants and refugees at the international level. This principle, set forth in numerous instruments of international law, protects any person from being transferred ("returned", "expelled", "extradited", etc.) from one state to another where there is well-founded reason to believe that transferring the person may endanger the person's life or result in violation of their fundamental rights, forbidding states from transferring the person in such cases.³⁹⁷ Among the international treaties which provide for *non-refoulement* are the Convention Relating to the Status of

³⁹⁵ Ibid., p. 3.

³⁹⁶ Sánchez, D.R., 'How France's Assimilation Model Failed to Integrate its Cultural Diversity', *The Medium*, 5 April 2019. Available at: https://medium.com/@danielsanchez_/https-medium-com-danielsanchez-frances-cultural-assimilation-model-food-for-thought-af6109f631f1.

³⁹⁷ Rodenhäuser, T., 'The principle of non-refoulement in the migration context: 5 key points', International Committee of the Red Cross, Humanitarian Law & Policy Blog, 30 March 2018. Available at: <https://blogs.icrc.org/law-and-policy/2018/03/30/principle-of-non-refoulement-migration-context-5-key-points/>.

Refugees (1951)³⁹⁸, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)³⁹⁹, and the International Convention for the Protection of All Persons from Enforced Disappearance (2010).⁴⁰⁰

Furthermore, the United Nations Human Rights Committee has held that *non-refoulement* is an integral part of protection against torture or other forms of cruel, inhuman or degrading treatment or punishment, or arbitrary deprivation of life. Similar conclusions have been drawn by regional human rights courts, especially the European Court of Human Rights. The principle of *non-refoulement* was first included in the Geneva Conventions of 1949, primarily in connection with the transfer of prisoners, and the protection of the civilian population.

The principle of *non-refoulement* is part of customary international law and is applicable to all migrants, regardless of their migration status.⁴⁰¹ *Non-refoulement* is also one of the fundamental *jus cogens*⁴⁰² principles of international law that forbids a state receiving asylum seekers from returning them to a state in which there is well-founded reason to believe that they would be in danger of persecution based on “race, religion, nationality, political opinion or membership in a particular social group”.⁴⁰³

398 UNHCR, The 1951 Refugee Convention, About UNHCR, Who we are. Available at: <https://www.unhcr.org/about-unhcr/who-we-are/1951-refugee-convention>.

399 OHCHR, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, Human Rights Instruments, Core Instrument. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

400 Ibid., International Convention for the Protection of All Persons from Enforced Disappearance, 2010, Human Rights Instruments, Core Instrument, Universal Instrument. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>.

401 Office of the United Nations High Commissioner for Human Rights (OHCHR), *The principle of non-refoulement under international human rights law*. Available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>.

402 Article 53 of the Vienna Convention on the Law of International Treaties (1969) specifies the peremptory norm of general international law (*jus cogens*). According to this article, *jus cogens* is a norm of general international law, accepted and recognised by the international community of states as a whole, with no derogation from this norm permitted.

403 UNHCR, The 1951 Refugee Convention.

Although the signatory states of the various treaties in this regard have declared their commitment to protect the fundamental rights of migrants and refugees, these rights are not adequately ensured in some states, including in regard to regulation of the labour activities of migrant workers. This gap exists despite a number of international documents obliging states to regulate the rights and activities of migrant workers. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁴⁰⁴ (adopted in 1990, entered into force in 2003), for example, obliges signatories to prohibit the exploitation of migrant workers, regulate their labour activities, and protect the rights of migrant workers and members of their families. Important to note is that this convention is ratified (and therefore implemented) by mainly migrant sending countries. None of the major migrant receiving countries has ratified this convention.⁴⁰⁵ And some signatory states have yet to align their domestic legislation with their responsibilities under the Convention, or implement policies in accordance with their international obligations in this regard.

According to International Labour Organisation (ILO) figures, the number of migrant workers worldwide stood at 169 million in 2021, making up 4.9% of the total labour force across the various countries of destination. In 2019, international migrant workers accounted for approximately 69% of the world's working-age international migrant population (aged 15 years and over).⁴⁰⁶

Migrant workers play an important role in the labour markets of many receiving countries, despite in some case being engaged in irregular employment. The social protection of immigrants stands among the greatest emerging challenges in the area of irregular labour migration. Such migrants are particularly vulnerable to discrimination, are exposed to various types of exploitation, and work mainly in the informal, shadow economy for lower wages than migrant workers in a regular situation. The shadow economy spans construction, trades, clandestine workshops, criminal activities, and various other sectors. As noted above, even

404 OHCHR, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 1990. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>.

405 <https://indicators.ohchr.org/>.

406 ILO, *ILO Global Estimates on International Migrant Workers: Results and Methodology*, Third edition, 2021, p. 11. Available at: https://www.ilo.org/global/topics/labour-migration/publications/WCMS_808935/lang-en/index.htm.

if the presence of migrants does not increase competition in national labour markets – as, in many cases, they fill positions deemed unattractive by local jobseekers, their presence may cause a deterioration of social standards in the field of employment, due to a lowering of labour costs in the short term.

The labour markets of highly developed economies typically offer a high number of irregular employment opportunities, which are disproportionately filled by migrants, in a setting where labour, social insurance and tax legislation is strictly observed.⁴⁰⁷ According to 2021 data, the shadow economy in France, for example, had an estimated value of US\$ 452 billion (13.1% of total GDP), with the shadow economy⁴⁰⁸ in Germany worth US\$ 548 billion (11.2% of GDP), and that of the US estimated at some US\$ 1,532 billion (7.3% of GDP). Indeed, in many other economically developed countries, the share of the shadow economy in total GDP is also significant.⁴⁰⁹

Migrant worker exploitation can be accompanied by other types of crime. Various methods of tax evasion, including money laundering, illegal withdrawal of capital from the country, working without patents and licenses, unregistered employment, etc. can be shown as examples in this regard. However, the scale of these crimes may be even greater and include areas such as illicit drug and illegal arms trafficking, large-scale smuggling, prostitution, and THB.

Legislation in some states artificially narrows the scope of legal work for migrants, thus encouraging their exploitation, which may well amount to a de facto human rights violation. Registration of residence, application for citizenship, work permits, and other requirements and complicated procedures provided for in legislation are among the barriers restricting the legal employment of many migrants in practice.

407 Schneider, F., 'Estimating the Size of the Shadow Economies of Highly-developed Countries: Selected New Results', CESifo DICE Report, 2016. Available at: <https://www.econstor.eu/bitstream/10419/167285/1/ifo-dice-report-v14-y2016-i4-p44-53.pdf>.

408 Also known as the "informal economy", this part of the economy is typically hidden from the general public and the state, and remains outside of state control and accounting. This broad term covers the unobserved, unregistered part of the economy, but cannot completely capture it. The shadow economy also includes illegal, criminal and illicit economic sectors.

409 Medina, L. and F. Schneider, 'Shadow Economies Around the World: What Did We Learn Over the Last 20 Years?', IMF Working Paper, 2018. Available at: <https://www.imf.org/en/Publications/WP/Issues/2018/01/25/Shadow-Economies-Around-the-World-What-Did-We-Learn-Over-the-Last-20-Years-45583>.

As a result of such obstacles, a significant proportion of migrants are excluded from any form of public accounting, formal employment, taxation, and, most importantly, from state social protection and health insurance systems. Some experts believe, for example, that the large number of undocumented migrants in the US is not due to lax border security, but rather the current (intentionally) poor regulated labour laws in place in the US to lure migrants to the country. Under this analysis, these migrant workers are then exploited and employers are not held responsible for their illegal employment, amounting to “modern slavery”.⁴¹⁰ According to International Organisation for Migration (IOM) data for 2019, an estimated 40 million migrants worldwide are currently captive in such “modern slavery”.⁴¹¹

International criminal networks specialising in migrant smuggling and trafficking control most of the legal and semi-legal foreign employment and marriage agencies, visa agents and other intermediary organisations involved in the “international migration business”. With strong contacts in countries of origin, transit and destination, these organisations provide a wide range of services related to legal and illegal border crossings.

This means that in the fight against irregular migration, the state is opposed not by the migrants themselves, but by a structured network that includes transnational criminal groups operating in these states. These criminal groups are often technically well equipped, as evidenced, for example, by the high quality of forged or false passports, stamps, documents, invitations, visas, etc. detected at borders. These groups also tend to be flexible in their approach and methods, which allows them to easily react to changes in the situation at border crossings.

The criminal aspect of irregular migration is related to both the spread of traditional types of crime and corruption in state bodies, primarily in those authorities dealing directly with migrants (police, migration services, passport offices, etc.). Since many irregular migrants in practice do not have the opportunity to reside legally

410 Ayala, L. ‘Modern day slavery: How immigration laws lure and trap undocumented workers’, *The Hill*, 12 August 2020. Available at: <https://thehill.com/changing-america/opinion/511669-modern-day-slavery-how-immigration-laws-lure-and-trap-undocumented/>.

411 David, F., Bryant, K. and J.J Larsen, *Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour*, IOM, 2019, p. 6. Available at: https://publications.iom.int/system/files/pdf/migrants_and_their_vulnerability.pdf.

in the destination country, they, as a vulnerable group, tend to be more likely to fall victim to groups operating in criminal areas such as drug and arms sales, prostitution, gambling, and smuggling, and forcibly involved in such activities.

These various issues pose threats to the human rights and personal security of migrants, as well as to the economic security of the states concerned. Beyond the immediate legal and economic implications, the criminal aspects of irregular migration pose significant threats to the human rights, personal security, and overall well-being of migrants, and, indeed, to the stability and security of the respective states. Addressing these multifaceted challenges requires comprehensive strategies that go beyond border enforcement and encompass legislative reforms, international cooperation, and a commitment to safeguarding the rights and dignity of all individuals, irrespective of their migration status.

7.3 Migration and the national security of Azerbaijan

After regaining its independence following the collapse of the Union of Soviet Socialist Republics (USSR), Azerbaijan and the other newly independent states in the post-Soviet space opened up to international migration flows, which brought more economic, educational and other types of opportunities. However, these states also became a target for global criminal networks specialising in THB and human smuggling. After 1991, numerous channels for illegal transportation of migrants emerged along the internal and external borders of the former USSR. Amid various conflicts, increased crime, and a worsening economic situation in the former Soviet republics, many millions fled, in different directions.

With its favourable geographical location, Azerbaijan became both a destination and transit centre, attracting migrants from various states and becoming a migration hub, a beachhead projecting outward into the post-Soviet space and beyond. Today, millions of people of Azerbaijani origin live outside of Azerbaijan, mainly in the Russian Federation and various other former Soviet republics.

According to various sources, about 10,000 Russian-speaking or ex-Soviet origin fighters are fighting for the Islamic State (IS) terrorist organisation, of which approx. 5,000-8,000 fighters are directly enlisted in IS ranks and another 2,000-

5,000 are part of affiliated groups.⁴¹² The potential return of these fighters to their countries of origin may pose serious threats to the national security of the respective states. It is difficult to determine how many of them are citizens of or originally from Azerbaijan. Simultaneously, the familiarity of these people with the post-Soviet space and their language skills enable them to travel easily throughout the entire post-Soviet region. Consequently, each of these individuals poses a potential threat in all countries of the post-Soviet space.

After 1991, Azerbaijan also became an attractive location for various international organised crime groups involved in sexual exploitation of women and children. To address this development, in accordance with Article 8 of the 2005 Law of the Republic of Azerbaijan “On Fight against Human Trafficking”,⁴¹³ the Ministry of Internal Affairs Department for Combatting Human Trafficking was established. This institution is tasked with: effective implementation of the duties stipulated in the National Action Plan on Combatting Trafficking in Human Beings;⁴¹⁴ ensuring the security of victims of human trafficking, and providing them with professional assistance; collecting in one single location information for the fight against THB (and protecting this information); and ensuring that the fight against THB is conducted by professional, specially trained police and police agencies supplied with the necessary equipment.⁴¹⁵

The effective steps taken by Azerbaijan in the fight against THB and irregular migration have been commended by various international organisations and states. Effective cooperation has been established between law enforcement agencies and non-governmental organisations (NGOs) to protect the victims of human trafficking and prevent irregular migration.

412 Rosbalt.ru, ‘The State Duma proposes to weed out ISIS fighters on the Russian border’, 2015. Available at: <https://www.rosbalt.ru/main/2015/09/10/1438859.html> (in Russian).

413 Government of Azerbaijan, Law of the Republic of Azerbaijan “On Fight against Human Trafficking”, 2005. Available at: <https://e-qanun.az/framework/10641> (in Azerbaijani).

414 Ibid., National Action Plan on Combatting Trafficking in Human Beings, 2004. Available at: <https://e-qanun.az/framework/5977> (in Azerbaijani).

415 Ministry of Internal Affairs of the Republic of Azerbaijan, Department for Combatting Human Trafficking, About Us. Available at: <https://insanalveri.gov.az/?/az/menu/4/> (in Azerbaijani).

7.4 Conclusion

Accurate assessment of the perceived connection between migration and security is necessary for the formulation of responsive state migration policy, with even the term “migration security” being very difficult to accurately define. However, regardless of the direction of national security, migration will have some form of impact on each of its elements. The evidence- and fact-based approach to migration in the context of various (political, economic, demographic, ethno-cultural, social) aspects of the national security concept allows the formulation of balanced, long-term migration policy.

This chapter has explored various different aspects of the migration phenomenon, its relationship with (inter)national security, and its place in the widespread debate on this area that spans the political, economic, and cultural realms, and society at large. It has also provided analytical insight on a question that commonly frames this discourse, that is, whether migration does in fact pose a threat to security. In regard to the latter, the following conclusions are put forth.

There is little evidence to indicate that the share of terrorists, would-be terrorists, or criminals is typically higher among migrants than among the local population. To debunk a similar claim often uttered in the public (health) discourse on migration, only in exceptional cases have migrants been found as carriers of “exotic viral diseases”. Indeed, by focusing on extreme aspects of migration, such as potentially increased terror/criminal activity and public health threats, attention is diverted from the real ways in which migration may indeed pose a threat to the national security of states.

The law enforcement agencies of each state primarily aim to help to maintain a well-functioning society and protect the interests and security of that state. Thus, irregular migration may well be seen as a violation of state sovereignty, since each state has the right to control who crosses its borders and settle on its territory. As most irregular migration is achieved by first crossing the border with authorisation (and then continuing to stay in country without it), it is difficult to police, and failure to control and manage migration poses risks that undermine public confidence in the integrity of state policy. Migrant smuggling and trafficking can pose a real threat to the rule of law, especially where it is linked to organised crime and intersects with the smuggling of goods, including illicit drugs and arms.

However, in such cases, the criminals and the security threat(s) involved do not stem from migrants, but rather from their exploiters.

Each year, millions of people are trafficked, turned into cheap and lawless labour force and exploited as a result of irregular and uncontrolled migration. By violating basic their human rights and turning migrants into “slaves of the modern age”⁴¹⁶, irregular migration inevitably raises issues of personal security. Research conducted by liberal academic institutions in migrant-receiving countries seeks to examine the statistical correlation between the illegal status of immigrants and crime⁴¹⁷, as well as the impacts of excluding migrants from formal employment, taxation, and social security systems. The prevailing findings challenge the common belief that illegal migration is inherently linked to higher crime rates, with some suggesting that illegal migrants may actually have lower crime rates. These critical examinations, aimed at challenging the marginalization thesis, posit that migrants turn to criminal activities due to reduced life opportunities. The ‘marginalization thesis’ posits that a greater number of migrants turn to criminal activities as a response to diminished conventional life opportunities.⁴¹⁸ However, these studies often overlook the nuanced and negative effects of migration, including human rights violations of migrants, labour market distortions of hosting countries, economic losses, increased intolerance, and ethno-social tensions. In fact, that understanding the consequences of migration requires considering not only crimes committed by illegal migrants but also the lawless activities indirectly influenced by migration, acknowledging the complexity of these impacts.

Labelling a(ny) challenge as a security threat has serious implications in terms of the laws, regulations, policies and procedures which are justified to respond to that threat. Indeed, the words “migration” and “security” are so often used in connection, and with such vehemence, during public discourse on migration that it may instantly stir in the mind of the observer thoughts of a punitive, restrictive

416 Ayala, L. ‘Modern day slavery: How immigration laws lure and trap undocumented workers’, *The Hill*, 12 August 2020. Available at: <https://thehill.com/changing-america/opinion/511669-modern-day-slavery-how-immigration-laws-lure-and-trap-undocumented/>.

417 Flagg, A., ‘Is There a Connection Between Undocumented Immigrants and Crime?’, *The New York Times*, 13 May 2019. Available at: <https://www.nytimes.com/2019/05/13/upshot/illegal-immigration-crime-rates-research.html>.

418 Leerkes, A., Engbersen, G. and J. van der Leun, ‘Crime among irregular immigrants and the influence of internal border control’, *Crime Law and Social Change*, Vol. 58, No. 1, 2012, pp. 15-38. Available at: <https://link.springer.com/article/10.1007/s10611-012-9367-0>.

approach to migration. While playing to the fears felt by some, such hard-line measures can jeopardise the safety of migrants; for example, prohibiting asylum seeker access to safe states leads more migrants into the hands of smugglers and traffickers.

The international community, encompassing both migrant-sending and receiving countries along with international institutions handling migration, is presently grappling with a crisis in migration management and a challenge in controlling the mass movement of people. Although the movement of people significantly decreased during the COVID-19 restriction period, there is a concern that, as these restrictions are lifted, the movement will return to levels observed in the pre-COVID-19 period due to ongoing and outburst of new conflicts in different parts of the world. Yet, as a result of restrictive policies which are not based on the appropriate research and analysis, the scale of irregular migration is increasing. If efforts to regulate migration processes are not unified across different states and international cooperation is not reinforced, the transnational nature of migration will inevitably conflict with the national concept of its management. The economic challenges and the pressing demographic increase in developing countries, coupled with the persistent emergence of new conflicts, pose threats to potential waves of migration in the future. This underscores the necessity for flexible migrant policies that can appropriately respond to the evolving context.

Law enforcement experts believe that the channels of illegal transportation of migrants often coincide with those of drug trafficking.⁴¹⁹ On this basis, at least two conclusions can be drawn: first, the efforts of special services to combat irregular migration should focus on those who facilitate such migration, not on the migrants themselves; and, second, at the international and regional level, there should be unified and joint cooperation among all states impacted by irregular migration.

Cooperation at the regional and international level should not be limited to the signing of readmission agreements among states. Such bi/multilateral treaties must be accompanied by large-scale, intensive international cooperation and

419 Willis, H. et al., 'Contributions of Border Security to Drug Control, Counterterrorism, and Illegal Migration', in Willis, H. et al., *Measuring the Effectiveness of Border Security Between Ports-of-Entry*, RAND Corporation, Technical Report, 2010, pp. 15-22, p. 21.

coordination of activities among law-enforcement agencies, border agencies, migration authorities, special services, and other government bodies, as well as human rights and NGOs in different states. The creation of regional mechanisms and development of legal and institutional frameworks of cooperation in this regard will allow the steps taken to be consistent, purposeful and sustainable.

7.5 Questions and exercises

1. *Is the role of modern migration in current international relations more positive or negative? Draw a table, write down the positives, and then the negatives, and then compare them.*
2. *What is meant by “national security”?*
3. *Which factors are used to assess modern migration processes in the context of national security?*
4. *How real and objective are the symbolic threats posed by migration?*
5. *What is the role of migrants in the internal political processes of receiving states?*
6. *Why is migrant used in hybrid warfare?*
7. *Of the approaches of Hans Margenthau and Barry Buzan to national security, which approach is more migration-focused? Why?*
8. *Which historical reasons underlie the different migration approaches of Canada and Germany?*
9. *Considering the differences in the demographic security and migration policies of Germany and Japan, which is more acceptable for protection of the national interests and security?*
10. *Which aspects make the principle of non-refoulement under international human rights law important for protection of the human rights of migrants?*
11. *Which security aspects of migration policy are depicted in Anna Chudinova’s novel?*

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Chapter 8

Migration Governance

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Introduction

International migration is becoming an increasingly important aspect of contemporary politics; on the other hand, the study of migration is considered one of the latecomers in the interdisciplinary academic field. Currently, as the state borders are more about political studies – taking strictly into account the recent political occasions in various states mainly stemming from migrants' movements, migration is closely linked to international relations and political matters. In this sub-chapter, the paradigms and approaches of different theories and elements of international relations towards migration and migration governance will be respectively discussed laying mainly out the standpoints and notions of interlocutors and scholars of international migration. This chapter addresses the core subjects of international relations linked to migration – including globalisation and migration, migration securitisation and international security, migration governance, as well as global politics.

8.1 International relations as a core element of migration governance: review and appraisal

Till the latter half of the twentieth century, geopolitics, political science, international relations, international political economy, and other related fields have been largely overlooked in the study of migration policy and the political causes of migration flows. Population mobility across international borders has had a significant impact on international relations in recent years,⁴²⁰ though migration has altered the political processes within and between premodern civilisations throughout history. Human migration was the principal means of technology transfer, cultural borrowing, and political model relocation right before the invention of printing, postal systems, and telecommunications technology, however, scrutinising the political aspects of migration and the emerged role of political factors in a crisis period have been overshadowed.⁴²¹

Currently, migration is a top priority for the UN and many other international organisations. The international organisations whose mandates cover different categories of (international) migration are the IOM and ICMPD for migrants in general; the ILO for migrant workers and the protection of their rights; the UNHCR for refugees and other people in need of protection, such as stateless people and IDPs; the UNHCHR for migrants' human rights; the UNDP for the effects of migration on developing countries; and UNICEF for the impact of migration on children, the OSCE for migration from a security and human rights perspective; the WB mainly for the monetary effects of migration such as remittances and the WTO dealing with the effects of migration on service provision. International organisations operate on a transnational scale and have the ability to influence political agendas and even world politics, so affecting the interests and systems of states. They also have the ability to create new norms and values for states, as well as re-organise existing ones.

420 Inglis, Christine, Wei Li, and Binod Khadria, eds. *The SAGE Handbook of International Migration*. Sage, 2019.

421 Hollifield, J. F. (1992). Migration and international relations: Cooperation and control in the European Community. *International Migration Review*, 26(2), 568-595.

Immigration politics and immigration research have grown in importance during the previous two decades. However, fewer datasets exist that would allow academics to systematically evaluate immigration policy across a broad sample of countries. This chapter lists below some important databases and policy/governance assessment tools and methods that can be used for migration legislation and policy evaluation in the academic field.

The World Population Policies Database covers 196 nations' perspectives and policy goals on immigration and emigration, as well as other population policy themes such as age structure, fertility, health and mortality, and internal migration. Within the context of demographic, social, and economic change, the database depicts the evolution of government views and policies on population size and growth, population age structure, fertility, reproductive health and family planning, health and mortality, spatial distribution, and internal and international migration. The Database is updated biennially through a detailed country-by-country review of national plans and strategies, programme reports, legislative documents, official statements, and various international, inter-governmental, and non-governmental sources, as well as through the use of official responses to the United Nations Inquiry among Governments on Population and Development.

The Determinants of International Migration Policy Project (DEMIG POLICY) of the International Migration Institute (IMI) tracked documents from 1945 to 2013 and monitored almost 6,500 migration policy changes implemented by 45 geographically, economically, and socially varied countries. DEMIG determines whether a policy move constitutes a shift toward greater restrictiveness (coded +1) or less restrictiveness (coded -1) within the existing legal system, enabling quantitative and qualitative study on the long-term evolution and efficacy of migration policies.⁴²²

The Migration Integration Policy Index (MIPEX) is based on a set of factors that aid in the assessment and comparison of integration strategies in 56 countries with 8 policy areas. The initiative educates and engages important policy actors to improve integrated governance and policy effectiveness through the use of indicators. To that purpose, the initiative identifies and measures integration

422 International Migration Institute, DEMIG Policy, Available at <https://www.migrationinstitute.org/data/demig-data/demig-policy-1>

policies, as well as the linkages between integration policies, outcomes, and public opinion, using worldwide scientific studies as a foundation. Policy indicators have been created to provide a comprehensive picture of migrants' possibilities to engage in society.⁴²³ The latest MIPEX 2020 is its fifth edition produced by the Barcelona Center for International Affairs and the Migration Policy group.⁴²⁴

The Immigration Policies in Comparison Project (IMPIC) created a set of quantitative indices to compare immigration policies in each of the 35 OECD nations from 1980 to 2010. Labour migration, asylum claims, and refugees, family reunification, and migration of persons with a common colonial history, language, religion, and/or ancestry are all policy concerns. The given dataset will enable researchers and policymakers to convey policy change over time and location, as well as investigate the origins and impacts of migration policies in greater depth. According to the IMPIC project, immigration policies are statements made by the government on what it intends to do or not do (including laws, rules, decisions, or directives) regarding the selection, admission, settlement, and deportation of foreign residents existing in the country. Immigration policies are so separate from integration policies, which deal with migrants who have already crossed national boundaries and established themselves. Furthermore, the IMPIC dataset only includes legislative regulations, excluding information on implementation, which may differ significantly from policy outcomes.⁴²⁵

The International Migration Policy and Law Analysis Project (IMPALA) gathers comparable data on immigration law and policy in over 25 countries of immigration. Data are available for important categories of immigration law and policy, such as obtaining citizenship, economic migration, family reunification, and asylum and refugee protection. It categorizes and measures entry tracks related to five migration categories: economic migration, family reunion, asylum and humanitarian migration, student migration, and citizenship acquisition. Researchers from George Mason University, Harvard University, the London School of Economics and Political Science, the Paris School of Economics, the University of Amsterdam, the University of Luxembourg, and the University of

423 MIPEX (Migration Integration Policy Index), Available at <https://www.mipex.eu/what-is-mipex>

424 <https://www.mipex.eu/who-produces-mipex>.

425 The Immigration Policies in Comparison Project (IMPIC), Available at <https://www.migrationdataportal.org/blog/impic-new-and-more-comprehensive-way-measure-immigration-policies>

Sydney collaborated on it. Political theory has gone hand in hand with international relations and international law due to the political causes of migration being pushed to the background and off the agenda. International migration in the post-World War II period offers numerous issues for international relations research. Individual migration across national borders affects nation-state relations and has had profound consequences on state-internal politics in some circumstances, particularly in Western Europe's liberal democracies.

In present times, migration restrictions, imposed by individual countries as well as xenophobic rejection of migrants and refugees in some societies may damage long-term economic growth, functioning labour markets, and social cohesion in the world community. As a result, migration governance is becoming a worldwide concern. Generally, migration governance refers to the interconnected set of legal norms, policies, institutions, and practices that control, regulate, and mediate activities and connections within defined political-social entities, such as States, administrative regions, cities, or corporate organisations in the field of international migration and migration policy implementation. Migration governance must be responsive to the diversity and complexity of migration reasons, as well as refugee and migrant situations while being constantly reminded that the ultimate goal of governance must be to promote human well-being for everyone.⁴²⁶ Despite this, international relations theorists have yet to build a paradigm for comprehending international migration and to better comprehend the issues of varied types of migration. These fields of science have traditionally elaborated more on stability and war in the international system so far. However, there are areas of study where international migration directly intersects with international relations to better respond to the emerging questions related mainly to the issue of international migration from the standpoint of politics.⁴²⁷ As Betts points out, "Although there is a direct link between migration and global politics, I have found that there is no literature in the theoretical or empirical context on the processes of forced migration in international relations."⁴²⁸

426 MGI: Global perspectives, IOM, UN Migration (2019), Available at <https://publications.iom.int/system/files/pdf/mgi-a-global-perspective.pdf>

427 Fitzgerald, J., Leblang, D., & Teets, J. C. (2014). Defying the law of gravity: The political economy of international migration. *World Politics*, 66(3), 406-445.

428 Betts, A., & Kainz, L. (2017). *The history of global migration governance*. Refugee Studies Centre, Oxford Department of International Development, University of Oxford.

Migration is regarded as one of Europe's most pressing political and social affairs, and it is at the center of often divisive political campaigns. This, in turn, led to the extreme polarization of migration. International migration demonstrates the open contradiction between the postwar international order's principal economic goal of promoting interchange and the national benefits of sovereignty and citizenship of nation-states.⁴²⁹ Therefore, in the example of migration, the issue of high economic interests and socio-economic well-being contradicts the national security issue in the form of national values, citizenship, and sovereignty of the state. For instance, Switzerland supports the flow of highly qualified and competitive immigrants into the country however, it imposes strict quotas and restrictions on their employment in the Swiss labour market. Even though the country is open to providing work permits to immigrants on behalf of the Swiss socio-economic welfare, it still is more strict and sensitive about political stability, national security, and sovereignty. Regardless of appropriate state support measures for the socio-economic integration and employability status of migrants in Switzerland, the economic interests stemming from the migration compared to sovereignty and internal stability are still one step behind.⁴³⁰

One of the primary goals of a sovereign country in international relations is to protect the state's national interests, which primarily supports the realistic point of focusing merely on national security, to a large extent, the protection of state borders, internal stability, citizenship ideas, and identity issues. The theory of international relations provides several tools, views, and concepts for understanding and investigating the behavior of states and other actors in world politics. International relations and international migration are closely related to each other, however, there is a visible gap in the international relations theories and their basic concepts in political science concerning the detailed interpretation of international migration. International relations theories provide a collection of tools for understanding and interpreting perceptions, stances, and behaviors of actors in the political arena - arising from a desire to perceive why nations behave the way they do and the circumstances in which conflict and cooperation occur. International relations as a field came to appreciate that international population

429 Bastia, Tanja, and Ronald Skeldon, eds. Routledge handbook of migration and development. Routledge, 2020.

430 Switzerland's foreign policy on migration, Available at <https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/human-rights/migration/foreign-policy-migration.html>, Accessed on 03.04.2022

migrations can have a crucial influence on state security and sovereignty. How can it be started to theorize about international migration from the view angle of international relations? Hence, it is worth providing the key theories of international relations and giving a short appraisal of their principal assumptions.

The primary premise of *political realism theory* is that states are rational, unitary entities whose actions are restrained by the international system's anarchic structure. States are thus, trapped in a security conundrum, thrilled to be constantly vigilant in protecting their sovereignty but also looking for methods to strengthen their authority and capabilities.⁴³¹ From this theoretical starting point, two simple hypotheses can be derived. First, the migration or refugee policy (i.e., entry and exit rules) is more about national security, and governments will open or close their borders when it responds to their best interests (i.e. when it will enhance their power and position in the international system).⁴³² This argument, like many realist arguments, is clearly on the verge of becoming a tautology; as a result, it must be connected with the second hypothesis. Second, international systemic issues, such as the allocation of power in the political system and the relative positions of states, influence migration policies and flows. States' relative positions in the system and concerns about the balance of power will influence whether they are ready to risk immigration or emigration and whether they will accept or reject large numbers of refugees.⁴³³

According to the realist paradigm, governments or nation-states must restrict international migration to safeguard the national interest and their internal sovereignty*, involving everything from the population, labour markets, and human capital to ethnicity, race, culture, and religion.⁴³⁴

431 Adamson, F. B. (2006). Crossing borders: International migration and national security. *International Security*, 31(1), 165-199.

432 Metelev, S. E. (2016). Migration as a threat to national security. *Indian Jour. of Science and Technology*, 9(14), 1-6.

433 Fauser, M. (2006). Transnational migration—A national security risk? *Securitization of migration policies in Germany, Spain and the United Kingdom*. Center for International Relations, 2(6), 1-19.

434 Cohen, R. (1996). *Theories of migration*. Edward Elgar Publishing.

National security scholars such as Samuel Huntington reinterpreted migration as a security issue in the West.⁴³⁵ In the title of his best-known study, *Friends or Strangers?* Economist George Borjas summarised the “securitisation”⁴³⁶, claiming that widespread migration from Third World nations is a threat to the economy because it depletes or dilutes the human capital stock of receiving societies, converting them from diamond-to hourglass-shaped societies with many haves at the top and many have-nots at the bottom.

Liberal theory arguments are focused on institutions/the nation-state perspective and thus, share some assumptions with realism. The primary distinction between liberal and realist ideas is that liberals wish to disaggregate the “national interest” and look at the multitude of social and economic groups that seek to influence the state. The theory of liberal institutionalism claims that migration has a close link with international relations, which envisages the need for international cooperation on various aspects of migration.⁴³⁷ On the other hand, the main shortcoming of liberal institutionalism is that states are perceived only as sovereign actors, and international politics is considered entirely at the interstate level. Liberal institutionalists, predictably, concentrate almost entirely on politics and policy in liberal democracies, where group rivalry is relatively free and unencumbered by authoritarianism and corruption. Reflective revolution and the third well-known debate in the theory of international relations formed the trend of constructivism. Proponents of the theory believe that immigrants bring states closer together to some extent, forming common values and interests over time.

Constructivists argue that the national interest cannot be simply deduced from the structure of the international system and the balance of power, as realists suggest. They do believe that ideas, culture, and norms trump material interests and that political discourse can “securitise” almost any issue.⁴³⁸ Rey Koslowski subscribes to the basic tenets of globalisation theory and has expanded his

435 Huntington, S. (2001). Migration flows are the central issue of our time. *International Herald Tribune*, 2.

436 Helton, A. C. (1990). G. Borjas, *Friends or Strangers: The Impact of Immigrants on the US Economy* J. Simon, *The Economic Consequences of Immigration*. *Fordham International Law Journal*, 14(4), 1103.

437 Woodward, J. (1992). *Commentary: Liberalism and migration*. *Free Movement*. London: Harvester Wheatsheaf, 59-84.

438 Adler, E. (1997). Seizing the middle ground: Constructivism in world politics. *European journal of international relations*, 3(3), 319-363.

work to look at mobility and migration from a constructivist perspective, holds that concepts such as national security and national interest are sociological constructs and that almost any issue can be transformed from a “state” security to “societal” security.⁴³⁹ From a constructive point of view, norms and institutions are essential in allowing international actors to understand how they see the world and their interests. Due to constructivism, non-governmental actors such as international organizations, such as NGOs, can play a pivotal role in influencing world politics independently.⁴⁴⁰

It is difficult to deny the impact of rights-based liberalism on domestic immigration. Despite the lack of evidence for a liberal international migration regime, domestic liberalism has tended to spill over to the international level, providing some protection for migrants but not fully institutionalising. The impending moves toward greater political and economic unity in Europe after 1992 also hold out the promise of greater regionalisation of labour markets and a European Community-wide immigration and refugee policy. However, there is no guarantee that these regional regimes will reflect embedded liberalism, which is still strong (but under siege) at the domestic/national level.

The critical theory offers to investigate the reasons for the division of migrants into different categories. The different names for refugees and migrants serve a specific purpose and therefore have both political and practical implications. Immigration presents a critical quandary for liberal governments. Another theory that has recently emerged in international relations is regionalism.⁴⁴¹ The expression of a shared sense of identity and purpose in conjunction with the establishment and implementation of institutions that express a distinct identity and form collective action within a geographical region is referred to as regionalism. The EU, for example, can be classified as a result of regionalism, which is more inclined to pursue the policy of “Europeanisation” amongst its member countries.

439 Koslowski, R. (Ed.). (2005). *International migration and the globalization of domestic politics* (pp. 5-32). London: Routledge.

440 Bourbeau, P. (2011). *The securitization of migration: A study of movement and order*. Taylor & Francis.

441 Mitchell, C. (1989). International migration, international relations and foreign policy. *International Migration Review*, 23(3), 681-708.

Governments, particularly in Europe, have struggled to deal with immigration and the challenge it represents to the sovereignty and autonomy of the nation-state. National borders have become even more porous since the Cold War's end, and the rise of ethnic conflict in Eastern Europe and Africa has created the potential for even greater population movements.⁴⁴² Controlling new migrant flows will necessitate greater cooperation among liberal states, as well as an acknowledgment that international migration has an intensely political and economic dimension.

International migration necessitates deducing state behavior from the structure of the international system such as more or less migration, greater or less support for the principle of political asylum, normalised or strict quotas, restrictions, and related measures. Migration has become a vital feature of international relations as international exchange, in particular, regional interdependence has grown in the post-WWII period. Individual movement across borders has been fueled by a liberal dynamic with a strong economic and political component. The political dimension of international migration is linked to an increase in rights-based liberalism in the major receiving countries. Understanding the politics of international migration is highly needed, to compare immigration policies and outcomes across liberal democracies.

8.2 Migration management at international and regional (at the example of the EU) levels

In the modern political space, the approach of the government and society plays a pivotal role in the effective organisation of migration policy, which in turn, encourages the state to reform and cooperate on migration policy and management in tandem with transnational and international organisations. As international migration becomes more prominent in national, regional, and global development and political agendas, the need for effective migration management grows. Globalisation processes, combined with sweeping changes in global political and economic systems, resulted in a dramatic intensification of interstate territorial movements of people and the formation of fundamentally new global migration patterns in the second half of the twentieth century.

442 Betts, A. (2009). *Forced migration and global politics*. John Wiley & Sons.

Over the last five decades, the estimated number of international migrants has increased. Interactive World Migration Report 2022 reveals that in 2020, around 281 million people comprising 3.60% of the world population were living in countries other than their birth countries, which constitutes 128 million more than in 1990 and more than three times the estimated number in 1970.⁴⁴³ Therefore, international migration has become a global phenomenon affecting all aspects of community life and global politics.

The current global population of 7.8 billion people is expected to grow to 8.6 billion by 2030, 9.8 billion by 2050, and 11.2 billion by 2100 according to the World Population Prospects: The 2017 Revision published by the UN Department of Economic and Social Affairs 2017 Revision provides a comprehensive review of global demographic trends and prospects. With around 83 million people added to the world's population each year, the upward trend in population size is expected to continue, even if fertility levels continue to fall, still, the global population of migrants will more than double to 450 million people.⁴⁴⁴ The international treaties, agreements, and other regulating legal acts adopted at various meetings and conferences held under the auspices of leading international organisations do form the foundation of interstate regulatory management of migratory processes. The United Nations and its divisions (the United Nations Population Fund (UNFPA), the United Nations Conference on Trade and Development (UNCTAD), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Program (UNDP), the International Organization for Migration, the International Labor Organization, but also non-UN inter-governmental organisation, such as International Centre for Migration Policy Development (ICMPD) are the first in dealing with the international migration management in different countries. The population issues were discussed at three conferences (held in Bucharest in 1974, Mexico City in 1984, and Cairo in 1994), and two fundamental documents on conceptual approaches to the management of international migration processes were adopted: the World Population Plan of Action (1974) and the Population and Development Program of Action (1994). Among the recommendations

443 UN, The Department of Economic and Social Affairs, International Migration 2019 Report, Accessed on 14.04.2022

444 UN, World Population Prospects: The 2017 Revision, Department of Economic and Social Affairs, 21 June 2017. Available at <https://www.un.org/development/desa/publications/world-population-prospects-the-2017-revision.html>, Accessed on 15.04.2022

concerning international migration management in the World Population Plan of Action (UN 1975), the following ideas stand out:

- ◆ Governments and international organisations facilitate voluntary international movement.
- ◆ Governments are encouraged to hold bilateral or multilateral consultations to harmonise their policies on international migration management.

Core suggestions for improving international migration management can also be found in the resolutions of other World Conferences and Summits, namely the UN World Conferences on Environment and Development (Rio de Janeiro 1992; Johannesburg 2002); the International Conference on Human Rights (Vienna 1993); the World Summit on Social Development (Copenhagen 1995); the 4th International Conference on Women (Beijing 1995); as well as the World Conference against Racism, Racial Discrimination, and Racial Discrimination (New York 2005).

In 2001, the Berne Initiative became another significant intergovernmental event, intending to improve state cooperation to enhance migration management at the national, regional, and global levels. The most notable benefit of the Berne Initiative was the conception of the International Agenda for Migration Management, which involved a set of general guidelines for developing a balanced and integrated approach to migratory process management aiming at facilitating inter-state cooperation in the planning and management of the humane and orderly movement of people.⁴⁴⁵ Further, the UN's Global Compact on Refugees is an international governance framework for more predictable and equitable responsibility-sharing, which recognises that a sustainable solution to refugee situations cannot be achieved without international cooperation.⁴⁴⁶

To take the importance of the migration issue, *the UN Secretary-General* announced an Action Plan on Migration, which included eight principles in 2013. This action plan brings together sectors that have traditionally been the responsibility of multiple UN organisations (for example, the ILO, UNDP, UNICEF, and UNHCR). The action plan is significant because it was one of the first attempts

445 UN IOM, Berne Initiative, Available at <https://www.iom.int/berne-initiative>, Accessed on 10.04.2022

446 UNCHR Global Compact on Refugees, Available at <https://rb.gy/a79rc>, Accessed on 17.08.2023.

to merge migratory capabilities with the UN system in order to foster a consistent approach.⁴⁴⁷ Institutionally, several global organisations are closely involved in global migration governance.

In 1951, *the International Organization for Migration (IOM)* was established, originally known as the Provisional Intergovernmental Committee for the Movement of Migrants from Europe (PICMME), and sought to relocate many of Europe's forcibly displaced people following World War II. After several reforms, it was finally renamed the International Organization for Migration in 1989. IOM became part of the UN system in September 2016. It is currently the premier international organisation in the field of migration, collaborating closely with governmental, intergovernmental, and non-governmental partners. The IOM has 157 member countries and 10 observing countries, and it operates in over 150 countries. The International Organization for Migration's (IOM) mission is to preserve migrants' dignity and well-being, to support social and economic growth through migration, and to respond to rising difficulties in the field of migration management.⁴⁴⁸

The United Nations High Commissioner for Refugees (UNHCR) works on refugee issues as well as other vulnerable populations such as stateless people and internally displaced people (IDPs) around the world. Following World War II, the United Nations High Commissioner for Refugees (UNHCR) was established in 1950 to aid involuntarily displaced and stateless persons. Currently, the UNHCR mandate includes people who are outside their countries of residence due to persecution, conflict, violence, or other situations, and thus require international protection. UNHCR was established as a legal entity to act as an intermediary on behalf of refugees and asylum seekers. One of the organisation's key functions is to oversee the process of achieving international commitments pertaining to asylum seekers and stateless people in order to ensure compliance with international law. The UNHCR's mandate also includes refugees who have returned to their country of origin. More precisely, the mandate calls for support with reintegration and monitoring of those who have returned.⁴⁴⁹

447 UN Press Release, UN takes action on international migration to address urgent migration challenges and increase benefits for development,

448 MGF, IOM, UN Migration, Available at <https://publications.iom.int/books/migration-governance-framework>

449 UNCHR, Official website, Available at <https://www.unhcr.org/asylum-and-migration.html>

The **UN Network on Migration** was established to ensure effective, timely and coordinated system-wide support to the UN Member States. In carrying out its mandate, the Network prioritises the rights and well-being of migrants and their communities of destination, origin, and transit. It places emphasis on those issues where a common UN system approach would add value and from which results and impact can be readily gauged.⁴⁵⁰

In addition to the UN organisations, there are also other inter-governmental bodies which play a significant role in international migration governance. For instance, **the International Centre for Migration Policy Development (ICMPD)** is an international organisation with 19 member countries and UN observer status. It has over 465 employees, working in over 90 countries and takes a regional approach to formulate appropriate collaboration and partnering along migration routes. Africa, Eastern Europe and Central Asia, the Mediterranean, the Silk Routes, the Western Balkans, and Türkiye are among the priority regions. Its migration management approach, which connects policy and research, migration dialogues, and capacity building, contributes to better migration policy development.⁴⁵¹ The ICMPD's mission is to promote innovative, comprehensive, and long-term migration policies while also serving as a service exchange mechanism for governments and organisations. The ICMPD's work is organised around three pillars: migration dialogues, which support inter-governmental dialogue on international migration; strengthening national and regional opportunities and capacity building, one that supports effective migration management and overcoming existing challenges in the field of migration; and conducting research and documenting strategic issues.⁴⁵²

On the regional level, it is interesting to look at the migration governance within the EU. The freedom of movement of citizens and labour force within the European Union is the most astounding example of international migration management within a regional integration association. However, from a regional perspective, the EU's migration policies are in desperate need of new impetus and revitalisation after many years of futile efforts. Since 2015, the EU member

450 UN Migration Network, Official website, Available at <https://rb.gy/m6ql3>, accessed on 18.08.2023

451 ICMPD, Capacity building, Available at <https://www.icmpd.org/our-work/capacity-building>

452 ICMPD, Available at https://knowledge4policy.ec.europa.eu/organisation/icmpd-international-centre-migration-policy-development_en

states have met on numerous occasions in an attempt to develop a common approach and coherent policy for dealing with Europe's refugee flow. Political meetings, negotiations, debates, and discourses on migration abound, and there is still no political consent, mutual perception, or cohesive decisions and plans by the EU member states to resolve the migration occurrence in cohesion.⁴⁵³

At least three new reasons have emerged as to why Europe has reached a political impasse on the migration issue. First, there are different points of view among member states as well as between member states and the EU, creating difficulties that prevent the so-called "migration crisis" from being addressed properly, let alone resolved. Southern European countries have faced a large number of unauthorised arrivals and inflows of migrants and stand to benefit greatly from a coordinated European approach to the case. Meanwhile, Northern European countries benefit from a national approach because they are shielded by intra-European borders, which have regained some of their erstwhile significance as migration barriers.

The second one primarily relies on the emerging political dissent between Western and Eastern European member states, not only over migration but also concerning other political issues. Eastern Europe, in contrast to Western Europe, has a more hostile attitude toward migration, and strong anti-migration feelings have emerged. These differences impede the future development and implementation of migration policies and framework directives in Europe.

The third reason is a growing disagreement between ideals and pragmatism in EU migration policy. Europe strongly supports the human rights standards, established for instance by the 1951 Refugee Convention. However, due to the rise of populism in some of the member states and political divisions, there are some challenges regarding accepting refugees and migrants. This paradox has subverted the credibility of the EU's migration policy and exposed the frailty of its migration plans.⁴⁵⁴

453 Carrera, S., Blockmans, S., Gros, D., & Guild, E. (2015). The EU's response to the refugee crisis: Taking stock and setting policy priorities. CEPS essay, (20/16).

454 On its 70th Anniversary, the Refugee Convention Faces Unprecedented Threats Across Europe, University of Oxford, 2021 Available at <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2021/07/its-70th>, Accessed on 20.04.2022

Migration is an extremely sensitive and comprehensive issue that polarises society, often touching on the sense of identity of groups and nations, mobilising solidarity and integration in some, but eliciting fear and abhorrence in others. The EU's policy should seek to provide a long-term foundation for effectively managing migration, rebalancing the initiatives and improving the mechanisms which can open up new legal pathways for migration and protect vulnerable people.⁴⁵⁵ As a result, the EU would improve the economic dimension and benefits of the migration concept. It should make concrete and credible proposals for gaining broad access to legal migration, such as temporary work visas, educational visas, scholarships, and visa facilitation. Simultaneously, it should prioritise the protection of vulnerable migrants and refugees by providing much-needed visas and refugee relocation programmes. For example, the EU demonstrated solidarity by quickly passing legislation to provide Ukrainian refugees with instantaneous, temporary protection in early 2022. Other measures encompassed humanitarian aid packages, the establishment of a Solidarity Platform, and increased flexibility for states to access EU funding. Furthermore, new EU border management guidelines are designed to enhance arrivals management and speed up support for vulnerable people. The Border Management and Visa Instrument is providing funding to assist with arrival identification, as well as first reception and medical care. The Commission has also proposed new flexibility to allow member states to spend 2014-2020 cohesion funds on assisting refugees "in finding jobs, starting or continuing education, and accessing childcare."⁴⁵⁶ At the same time, the UN agencies and special rapporteurs have condemned reports of discrimination against third-country nationals fleeing Ukraine.

455 Berry, M., Garcia-Blanco, I., & Moore, K. (2016). Press coverage of the refugee and migrant crisis in the EU: A content analysis of five European countries.

456 ECRE, EU Ukraine Response: EU Steps Up With Temporary Protection, Border Management Guidelines, Humanitarian Aid, and Support to Member States, Available at EU Ukraine Response: EU Steps Up With Temporary Protection, Border Management Guidelines, Humanitarian Aid, and Support to Member States | European Council on Refugees and Exiles (ECRE), Accessed on 02.06.2022

8.3 The role of diaspora in migration governance and its impact on sustainable development

The contributions of migrants and diaspora to sustainable development in their countries of origin and destination have been recognised in recent years by the 2030 Agenda for Sustainable Development, the New York Declaration for Refugees and Migrants, and the Global Forum on Migration and Development Summits.⁴⁵⁷ The section envisions the contributions of diaspora and immigrants to all aspects of sustainable development, along with remittances as well as the portability of earned benefits. Diasporas are “migrants or descendants of migrants whose identity and sense of belonging, real or symbolic, have been shaped by their migration experience and background.” They keep in touch with their home countries and with one another through a shared sense of history, identity, or mutual experiences in the destination country.”⁴⁵⁸ Being a valuable resource for development, diaspora thus shapes migration governance on different levels. Aside from financial contributions, diasporas could assist to foster innovation, learning processes, and civic participation in their home countries. They can, however, play a crucial role within the countries of destination, for instance, by participating in the formulation of development agendas, representing migrants’ interests, or facilitating interactions and relations with the country of origin.⁴⁵⁹ Migration and diaspora are inextricably intertwined with processes of social, economic, and political growth, and they are critical for individual empowerment for millions of people, communities, and nations. The most explicit migration-related aim of the 2030 Agenda is SDG target 10.7, which calls on governments to support orderly, safe, regular, and responsible migration and mobility of people, particularly through the implementation of planned and well-managed migration policies.⁴⁶⁰ The four organisations, CISAN, GRFDT, and ADEPT, iDiaspora, have a strong global and sub-regional presence and draw on their extensive

457 International Organization for Migration (IOM), - A Guide for Practitioners, 2018 Switzerland, Accessed on 05.05.2022

458 Migration Data Portal, Diasporas report, Available at <https://www.migrationdataportal.org/themes/diasporas>

459 Hage, G. (2017). Diaspora and migration. A companion to critical and cultural theory. Hoboken, NJ: Wiley Blackwell, 191-204.

460 OECD, SDG INDICATOR 10.7.2, Available at <https://www.oecd.org/migration/mig/Sdg-indicator-10-7-3-December-2021.pdf>

networks of scholars and academics, policy institutions (international, regional, national, and sub-regional), migrant and diaspora organisations, and grassroots organisations. The mentioned organisations provide the important workshops, certificate programme on Migration Governance and Diaspora Engagement and related spheres to not only to get a better understanding of the complexities of migration governance and diaspora engagement from interdisciplinary and inter-sectoral perspectives but also examine multiple viewpoints, policies, and politics of migration governance and diaspora involvement critically.⁴⁶¹

The given Table 1 below briefly depicts the effective diaspora experiences in migration governance.

Table 1. The effective diaspora practices in the migration management

- ◆ Promoting consultative arrangements, partnerships, and cooperation among states and diasporas
- ◆ Diaspora involvement in migration and migration policy development
- ◆ Diaspora support for community-based initiatives such as hometown associations and migrant networks.
- ◆ Development and promotion of knowledge-sharing networks among diaspora members for the benefit of their home country.
- ◆ They do create and maintain communication and information channels to encourage diasporas to stay involved in their home country, for example, by providing websites with advertising opportunities for consular assistance, voting, and investment.

The recent discourse on migration and development has noted the significance of diaspora or transnational communities as a development resource.⁴⁶² According to the background report for the United Nations High-Level Dialogue

461 Migration Governance and Diaspora engagement certificate programme, Available <https://migration4development.org/en/e-learning/migration-governance-and-diaspora-engagement>

462 Devane, R. (2006). The dynamics of diaspora networks: Lessons of experience. *Diaspora Networks and the International Migration of Skills: How Countries Can Draw on Their Talent Abroad*, Washington, DC: WB, 59-67.

on International Migration and Development citizens working abroad can be development assets for their home countries.⁴⁶³ Diasporas have been regarded as knowledge bearers, innovators, and reputation ambassadors, among others.

Transnational communities and diasporas are terms that are increasingly being used interchangeably. The more traditional term is ‘diaspora,’ which has historically been associated with the dispersion of an ethnic population outside of its traditional homeland. It is related to the concepts of forced displacement, victimisation, and alienation,⁴⁶⁴ but also to labour migration, colonialism, trade, etc.⁴⁶⁵

In recent years, the term diaspora has been subject to a variety of interpretations, owing in part to its association with anthropological and social studies, and then with migration and broader development studies. With increasing globalisation and trans-nationalisation forces, it has taken on a broader meaning, referring to people living outside their country of origin and encompassing a wide range of groups such as political refugees, migrant workers, ethnic and racial minorities, and overseas communities. “Modern diasporas are ethnic minority groups of migrant origin residing and acting in host countries but maintaining strong sentimental and material links with their countries of origin—their homelands,” Sheffer writes.⁴⁶⁶

It is critical to recognise that diasporas or transnational communities are not homogeneous or tightly knit groups. They are intersected by a wide range of economic, social, and ethnic characteristics. Diaspora engagement, along with international migration, is at the foundation of socio-economic well-being, which reciprocally affects the social integration, activity and development of individuals in individual states. For instance, according to a United Nations report, India has the world’s largest diaspora population, with 18 million people living outside their homeland in 2020, along with the UAE (3.5 million), the United States (2.7 million), and Saudi Arabia (estimated 2.5 million) hosting the greatest number

463 United Nations, 2006a.

464 Davone, R. (2007). *Diasporas and development*. Washington, DC: World Bank. Available at: <http://documents.worldbank.org/curated/en/2007/01/7527868/diasporas-development> (accessed March 24, 2016).

465 Cohen, R. (1996). *Theories of migration*. Edward Elgar Publishing.

466 Sheffer, G. (2003). *Diaspora Politics: At home abroad*. Cambridge University Press.

of migrants from India. Other countries with a substantial diaspora population include Mexico (11 million), Russia (11 million), China (10 million), Syria (8 million), Bangladesh (7.8 million), Pakistan (6.3 million), Ukraine (5.9 million), the Philippines (5.4 million), and Afghanistan (5.1 million).⁴⁶⁷ Remittances constitute the inseparable part of the diaspora engagement in terms of the role of it in the overall development of the countries of origin. In 2020 alone, India and China received the most international remittances in Asia, totaling more than USD 140 billion. Furthermore, Lebanon (33 %), Kyrgyzstan (29 %), Tajikistan (27%), and Nepal were among the top remittance recipient countries as a percentage of GDP in 2020 (24%).

Currently, IOM is working to ensure that countries can reap the significant socioeconomic benefits that regular and orderly labour migration can provide, and will continue to provide technical assistance to the governments to ensure effective management of labour migration in order to protect migrants and support the development of new policy frameworks. IOM also collaborates with key stakeholders to create novel techniques to increasing diaspora engagement and the transfer of valuable, long-term skills, knowledge, and resources to countries.⁴⁶⁸ Thus, a significant number of migrant workers within and from the sub region, labour migration is a core feature in Eastern and Southern Africa. The number of international migrant workers within the Southern African Development Community (SADC), which includes labour migrants from both within and outside of Southern Africa, has also increased. A growing number of people are also migrating outside of the sub region. Northern America and Europe have traditionally been the primary destinations for emigrants from East African countries such as Kenya. In 2020, the United States (nearly 157,000 people) and the United Kingdom had the largest Kenyan diasporas (around 139,000).⁴⁶⁹ The Gulf States have also become a popular destination for migrant workers from Uganda, Kenya, and Ethiopia. The sub region's large diaspora communities have resulted in significant international remittance inflows in recent years. Kenya, for example, is the third-largest recipient of remittances in Sub-Saharan Africa after Nigeria and Ghana, receiving over USD 3 billion in 2020, a 9% increase from 2019.⁴⁷⁰

467 UN, World Migration Report, 2022, Accessed on 15.05.2022

468 IOM, UN Migration, Available at <https://www.iom.int/>

469 Betts, A. (2009). Forced migration and global politics. John Wiley & Sons.

470 Sub Saharan Africa, Global Economic Prospects, June 2021, Accessed on 15.05.2022

Migration has enabled the globalisation of the international economy by fostering transnational microeconomic linkages among diasporas. Historically, the local information usage in exchange and the development of trading networks have been at the forefront of diaspora economic activity. With the increased mobility of capital, remittances sent home by emigrants and direct foreign investment by diaspora members have grown significantly. As capital inflows and diaspora investment contribute more to the economic growth of countries of origin, migration has become more pertinent in the globalisation of these countries' domestic economies.

The increased interest in comparative migration studies has resulted in a number of efforts to evaluate and compare nations' migration policies and governance, including immigration, emigration, and integration. As a result, migration policies may include governance of labour market, integration, humanitarian/asylum, family reunification, and measures to prevent and fight irregular migration. Generally speaking, migration policy is defined by the IOM's Migration Governance Framework (MiGOF) as "law and policy affecting the movement of people" and includes policy on "travel and temporary mobility, immigration, emigration, nationality, labour markets, economic and social development, industry, commerce, social cohesion, social services, health, education, law enforcement, foreign policy, trade, and humanitarian" issues.⁴⁷¹

The linkage between diaspora, migration governance, and development is interconnected. When properly managed, international migration could assist both the countries of origin and destination development, specifically the socio-economic integration of immigrants in the receiving country. Through remittances, investments, skills transfer, brain circulation (reducing the impact of brain drain), and diaspora networks, international migration has the potential to contribute to sustainable development. Migration policies addressing the migration development and integration nexus may include facilitating voluntary return and reintegration – particularly of the highly skilled – enabling remittance transfers while lowering transfer costs and incentivising investment in the country of origin by migrants and diasporas.

471 Migration Governance Framework, Available at https://www.iom.int/sites/g/files/tmzbd1486/files/about-iom/migof_brochure_a4_en.pdf

8.4 Links between migration governance, globalisation, and securitisation

Globalisation is inextricably linked with international migration. People's international migration is at the heart of the ongoing globalisation process. The globalisation of migration also brings securitisation issues to the forefront, as it inevitably brings benefits and harms. The globalised migration, in turn, calls for greater attention to stability, security, and order.⁴⁷² Therefore, international migration, securitisation, and globalisation are interrelated.

International migration has become an inseparable feature of international relations with the expansion of international trade and increasing regional interdependence in the post-World War II period. The individual movement across borders has been fueled by a liberal dynamic with a strong economic and political component. The economic dimension is directly related to the world economy's abundant labour supply and the OECD countries' demand for additional labour force. In short, market globalisation has resulted in increased levels of international migration.⁴⁷³

Some reciprocal migration corridors have remained relatively constant for decades including Mexico- the United States, Morocco - France, Türkiye – Germany, and Azerbaijan - Russia. Other bilateral directions of migration, on the other hand, are less stable.⁴⁷⁴ For example, migration to Germany in the early post WWII years originated in Southern Europe and Türkiye, but today migration from Eastern Europe and former Soviet Union countries is growing. Similarly, for many years, most Indian emigrants went to the United Kingdom, but in the last two decades, countries such as Belgium and Sweden have become increasingly popular destinations. According to the UN World Migration Report 2020 index, Europe, and Asia each hosted around 87 and 86 million international migrants, respectively, accounting for 61% of the global international migrant stock, followed by North America, which hosted nearly 59 million international

472 Castles, S. (1998). Globalization and Migration: Some Pressing Contradictions. *International Social Science Journal*, 156, 179-86.

473 Solimano, A. (2010). *International migration in the age of crisis and globalization: historical and recent experiences*. Cambridge University Press.

474 Bacon, D. (2007, October). The political economy of international migration. In *New Labor Forum* (Vol. 16, No. 3/4, p. 57). Sage Publications Ltd.

migrants in 2020, constituting 21% of the global migrant stock, Africa at 9%, Latin America and the Caribbean at 5%, and Oceania at 3%.⁴⁷⁵

Globalisation has an influence on both internal migration and international movement. One of the most visible and significant aspects of globalisation is increased migration: an increasing number of people move within countries and across borders in search of better job opportunities and lifestyles. Although migration is commonly viewed as a challenge, it does contribute to long-term development, as discussed in the previous sub chapter. By fostering transnational microeconomic linkages among diasporas, migration has empowered the globalisation of the world economy. Remittances and direct foreign investment by diaspora members have increased significantly. International migration also creates conditions for rapid flow and exchange of goods, services, international trade, and sustainable economic development, from another perspective, immigration does present a critical quandary for liberal governments.

In the contemporary word, certain migration regulations and citizenship issues became part of the security policy or securitisation that states individually define. For instance, according to Kymlicka's study, the significance of residency and citizenship rights is highlighted, by stating that Canada is frequently chosen as a preferred destination (in comparison to the United States and the United Kingdom) because of its "reputation for openness to newcomers, as evidenced by its relatively progressive citizenship policies."⁴⁷⁶ Some destinations include additional conditions regarding the residency requirements before allowing a migrant to acquire citizenship. The countries including, for instance, Austria, Belgium, and the Netherlands require migrants to take a language test to obtain citizenship, which engenders an additional barrier for many migrants and prevents some migrants from enjoying full political rights.⁴⁷⁷ In addition to the residence requirements and language, some countries such as Austria, Netherlands, and Poland, prohibit dual citizenship and require citizens who have a right to naturalisation to renounce their previous citizenship.

475 UN, World Migration Report, 2022, Accessed on 15.05.2022

476 Banting, K., & Kymlicka, W. (2013). Is there really a retreat from multiculturalism policies? New evidence from the multiculturalism policy index. *Comparative European Politics*, 11(5), 577-598.

477 Linguistic Integration of Adult Migrants: Requirements and Learning Opportunities, Report on the 2018 Council of Europe and Alte Survey on Language and Knowledge of Society Policies for Migrants, Accessed on 20.05.2022

It is an undeniable fact that national/international security is the most significant topic in the foreign policy agenda of nation-states, in which security issues in domestic and foreign policy should complement each other. Polemicists such as Peter Brimelow (1995) and Patrick J. Buchanan (2006) make a security claim with obvious cultural and racial overtones, considering the influx of non-white immigrants into Western societies as a cultural threat that could destabilise liberal democracies.⁴⁷⁸ However, from the standpoint of political realism, Myron Weiner's treatment of migration is by far the most sophisticated, he was acutely aware of the destabilising impact of refugee arrivals in the Southern Hemisphere, where newly independent states' legitimacy is extremely fragile.⁴⁷⁹ Weiner broadened his argument to include south-north and east-west migration, hypothesising that every society has a finite capacity to absorb foreigners - what former French President François Mitterrand referred to as a "threshold of tolerance" - and he cites xenophobic backlash in Western Europe as examples of the sort of security threat posed by uncontrolled migration.⁴⁸⁰

As an overt example of the securitisation issue in Europe, the political occasions regarding the mass arrivals of refugees as a result of the Syrian Civil War could be interpreted. The long-brewing civil war in Syria, which catastrophically erupted in 2015, created a long trail of migrants from Türkiye to Greece and then on to Germany, Norway and Sweden as well.⁴⁸¹ Following the Syrian Civil War, the rise of conservative nationalism and Eurosceptic populism to create "national communities" directed by the Visegrad countries has raised concerns about the rule of law in these countries. While security issues overshadow migration, there are also positive approaches to international migration, which were discussed in the previous sub-chapter.

478 Buchanan, P. J. (2006). *State of emergency: The third world invasion and conquest of America*. Macmillan.

479 Weiner, M. (1992). Security, stability, and international migration. *International security*, 17(3), 91-126.

480 French Right Hits a Nerve With Immigration Plan, Available at <https://www.nytimes.com/1991/11/24/world/french-right-hits-a-nerve-with-immigration-plan.html>, Accessed on 24.05.2022

481 How the Syrian war affected Norway and Sweden, Available at <https://sciencenorway.no/refugees-war/how-the-syrian-war-affected-norway-and-sweden/1810445>, Accessed on 10.06.2022

Visa and border policies of states reflecting key aspects of security are considered the most crucial tools for regulating migration, which have a significant impact on international migration, and are also set up to deal with the priorities of the nation-states, mainly receiving countries. The legislation governing entry, stay, and exit from the country, as well as the legal status of foreigners, are affected and implemented based on the country's foreign policy, as well as the state's economic, social, and cultural interests. In this regard, Weiner (1985) proposes 7 types of regimes for migrants' entry and exit from the country based on state practice.⁴⁸²

- ◆ **A free entry regime** entails free entry into the country and relatively simple procedures for obtaining a residence permit or citizenship, as is commonplace in the EU member states where citizens of EU member states can freely move and work in other member states.
- ◆ **A promotional entry regime** with streamlined procedures for specific professions and ethnic groups. States address this practice when they require skilled labour or to solve demographic problems at the expense of migration, including the Green Card lottery in the U.S, the Russian Federation granting citizenship to the citizens of the former Soviet Republics through a simplified procedure, Germany offering residence and working rights to Turkish guest workers in the 1950s through 1970s, and related issues.
- ◆ **A selective entry regime** arises when states accept migrants, but the number depends on ethnic/religious background. For instance, Jewish migration to Israel from the former Soviet Union and other countries.
- ◆ **The prohibited entry rules** do not let migrants be practically received by the host countries. The legislation within them make it impossible for foreigners to obtain citizenship. For example, becoming a citizen by naturalisation is almost impossible in the Gulf States.

482 Myron Weiner, International Migration, and International Relations, (1985). In: Population and Development Review Vol.11, No.3. p. 444, Available at <https://www.jstor.org/stable/1973247>, Accessed on 15.05.2022

- ◆ **The restrictive exit regime** exists only in totalitarian states where citizens are prohibited from leaving the country. For example, it was immensely difficult to leave the country or travel abroad, during the Soviet Union regime. Such a regime is uncommon in the modern world; however, there are some exceptions, such as North Korea.
- ◆ **The selective exit rules** allow a specific group of citizens to leave the country. e.g Egypt⁴⁸³ once (in 2016) prohibited the emigration of physicians⁴⁸⁴ as Egypt faced an unprecedented emigration of physicians, raising concerns that the country's healthcare system would deteriorate further.⁴⁸⁵
- ◆ **Free exit rules** - the regime via which citizens have the right to leave the country if they are not under criminal investigation or have other legal obligations in the country. Within these rules, the state encourages mobility, including through creating state educational programmes to improve the skills of future migrants or granting preferential credits. For instance, countries such as Sri Lanka, Pakistan, Bangladesh, and India encouraged people to migrate to the Gulf States. Previously, the Turkish government facilitated Turkish citizens' labour migration to Germany.
- ◆ **Expulsion exit rules** are common in totalitarian states, where specific ethnic groups, representatives of a certain social class, or political opponents are forced to leave the country. The expulsion of West African migrants from Nigeria occurred as a result of President Shehu Shagari's executive order in January 1983, the mass expulsion of Azerbaijanis from the Meghri district

483 The brain drain: why medical students and young physicians want to leave Egypt, Available at <http://www.emro.who.int/fr/in-press/short-communications/the-brain-drain-why-medical-students-and-young-physicians-want-to-leave-egypt.html>, Accessed on 20.05.2022

484 Egypt considers blocking doctors from working abroad, Available at Egypt considers blocking doctors from working abroad - Al-Monitor: Independent, trusted coverage of the Middle East, Accessed on 20.05.2022

485 Egypt's Doctors are Fleeing, Leaving Behind a Physician Shortage, AL- Fanar Media, Available at <https://www.al-fanarmedia.org/2019/07/egypts-doctors-are-fleeing-leaving-behind-a-physician-shortage/>, Accessed on 15.05.2022

of Armenia in 1988,⁴⁸⁶ the forceful deportation of Crimean Tatars⁴⁸⁷ in May and Ahiska (Meskhetian) Turks ethnic subgroups of Turks in November 1944 by the Soviet Union are the examples.⁴⁸⁸

8.5 Conclusions

To conclude, international migration across borders is generally regarded as ineluctable. Globalisation has an impact on both internal and international migration. The globalisation of migration, to a large extent, the increasing flow of migration raises security concerns, as it inevitably brings both benefits and drawbacks. Globalisation, in turn, necessitates a greater emphasis on stability, security, and order. As a result, international migration, securitisation, and globalisation are all linked. In today's globalised world, the increasing migration flow forces states to seriously consider security issues related to migration management policies. An effective migration policy must ensure internal stability and consider the security of the country, however, the migration governance should recognise the positive migration impact on development.

As discussed in this chapter, migration governance in the globalised world should be guided by several key principles that aim to address the complexities and challenges associated with human migration. While specific approaches may vary across countries and regions, the following principles generally underpin migration governance efforts:

- ◆ **Human Rights and Dignity** should be central to migration governance. This includes, but not limited to ensuring the rights and dignity of migrants throughout the migration process, regardless of their legal status or background. Fundamental human rights such as non-discrimination, access

486 Deportation of Azerbaijanis from the Armenian SSR in 1988. Part II. The Sumgayit provocation, Available at <https://aze.media/deportation-of-azerbaijanis-from-the-armenian-ssr-in-1988-part-ii-the-beginning/>, Accessed on 10.05.2022

487 Sürgün: The Crimean Tatars' Deportation and Exile, Sciences PO, Available at <https://www.sciencespo.fr/mass-violence-war-massacre-resistance/fr/document/suerguen-crimean-tatars-deportation-and-exile.html>, Accessed on 08.05.2022

488 The Deportation of Muslims from Georgia, Sciences PO, Available at <https://www.sciencespo.fr/mass-violence-war-massacre-resistance/en/document/deportation-muslims-georgia.html>, Accessed on 08.05.2022

to justice, and protection from exploitation and violence are essential components of migration governance.

- ◆ **International Cooperation** is the key to efficient migration governance since migration is a global phenomenon. Countries should work together to develop shared approaches, exchange best practices, and establish frameworks for managing migration flows. Multilateral agreements and platforms, such as the United Nations Global Compact for Safe, Orderly and Regular Migration, facilitate collaboration among nations.
- ◆ Migration governance should adopt **comprehensive and balanced approaches** that address the different dimensions of migration by considering the economic, social, cultural, and demographic aspects of migration for countries of origin, destination and transit.
- ◆ Migration governance should **promote the rule of law** by establishing clear legal frameworks and procedures for migration. Development of regular and safe migration pathways, such as labour mobility programmes, family reunification, and humanitarian admissions, reduces irregular migration and provides migrants with legal protection and access to rights.
- ◆ Effective migration governance promotes the **integration of migrants into societies**, fostering social cohesion and inclusivity. Efficient integration, in turn, should foster intercultural dialogue and respect for diversity.
- ◆ Migration governance should be based on **accurate and comprehensive data** to inform evidence-based policies and decision-making. Collecting, analysing, and sharing migration data on national, regional and global levels allows better understanding of migration trends, the impact of policies on migration and development, and, therefore – efficiently addressing specific migration challenges.
- ◆ Migration governance should recognise the importance of **addressing the root causes of migration**, including poverty, conflict, inequality, and climate change. This is another important link between migration and development, which needs to be addressed by the migration policy makers.

8.6 Case studies

In 2015, the European Union experienced a significant arrival of migrants and refugees, primarily from conflict-affected countries in the Middle East and North Africa, such as Syria, Iraq, and Libya. The scale of the migration placed immense pressure on the EU's external borders, strained reception systems, and sparked political debates among member states regarding responsibility sharing and burden-sharing.

How these events affected the aspects of migration governance and international relations in the following dimensions such as:

- ◆ Regional cooperation within and outside the EU to address the arrivals of migrants;
- ◆ Policy responses and legal frameworks to enhance border security, improve asylum procedures, and establish relocation and resettlement programmes;
- ◆ Political dynamics among EU member states
- ◆ International cooperation and external support, including role of international organizations, such as the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM)
- ◆ Public opinion within and outside the EU member states

8.7 Guiding and discussion questions

1. To what extent do political sciences and international relations study and elucidate international migration and migration policy?
2. What is the role and importance of international organisations in migration governance?
3. How is international migration regulated at the national, regional, and international levels, and what are the main challenges in the regulatory process?
4. How does the theory of international relations analyse migration regulation, migration management, and migration policy?
5. How does the increasing migration flow force different states or governments to take some measures in their migration management/regulation?
6. How can the relationship between security and migration be explained in modern times? What factors mainly raise security issues related to migration?
7. What kind of threat can an irregular migration flow pose for the internal security of the state?
8. Which international relations theories can be able to provide a clear interpretation concerning the links between foreign policy of nation state, securitisation, and migration governance?
9. What can proposals and ideas be put forward for effective regulation of migration policy?

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Chapter 9

Migration Management in Azerbaijan

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Introduction

Occupying a favourable geographical location, at the centre of a region where many migration routes cross, the Republic of Azerbaijan has since the late 1980s experienced various large-scale migration processes, replete with quantitative and qualitative indicators. During the past decades, ethnic conflicts and volatile economic development in the South Caucasus have influenced migrants’ decision-making and led to intensified migration flows, as have, to a lesser extent, the impact of environmental disasters. Against this landscape, Azerbaijan launched a responsive migration strategy to direct the migration flows in a positive way, and establish an effective mechanism for their management.

To accurately situate an examination of the various aspects of migration management in Azerbaijan since independence, Chapter 9 first briefly reviews the legal policy framework, looks at the main actors involved in migration

management in Azerbaijan, and interprets the intersectoral policy and main expected outcomes in this regard, including as they pertain to integrated management systems. This chapter then provides an up-to-date assessment of the current situation in Azerbaijan. In particular, the following aspects are treated: the effective organisation of migration and border management in cases of force majeure, regular migration, the approach to (preventing) irregular migration, and issues related to internal migration, labour migration, readmission and citizenship, refugees and asylum seekers, and internally displaced persons (IDPs). It also touches upon issues related to other migrant groups.

9.1 Overview of migration-related national policy frameworks and legislation

The Constitution of Azerbaijan, the State Migration Management Policy Concept, the State Migration Programme for 2006-2008, and the Migration Code are the main documents establishing the legal framework for the migration management policy of Azerbaijan.

The **Constitution of the Republic of Azerbaijan**, and the corresponding legislation setting forth its provisions, provide for the rights and freedoms of foreigners and stateless persons in Azerbaijan. The Constitution ensures the equality of foreigners⁴⁸⁹ and stateless persons before the law and in court, as well as their rights to education, employment, personal integrity, adequate housing, rest, health care and other rights and freedoms. These elements are all fully provided for in conformity with the legislation of the Republic of Azerbaijan, regardless of the person's social or property status, race or ethnicity, gender, language, religious affiliation, type and nature of activities, and other circumstances.

Article 16 of the **Labour Code of the Republic of Azerbaijan** (prohibition of discrimination in labour relations) provides for the implementation of Article

489 The term “foreigner” is used to in various formal Azerbaijani documents on migration and in migration-related settings, usage that is reflected at various points in the present text. The underlying term in Azerbaijani is “əcnəbi”. Usage of this word in Azerbaijan-related texts and settings should not be taken to necessarily carry the same connotation of (“outsider”, for-eigner) present in the English cognate, and it does not share the same etymology as the English cognate.

25 of the Constitution. Article 16 strictly prohibits employers from making any discrimination between employees on account of factors that do not relate to their business attributes, professional competences, or work results, to create privileges or make concessions directly or indirectly on the basis of these factors, or to restrict their rights.

Foreigners and stateless persons have the right to make a legal appeal personally or through a representative, individually or collectively, in written or oral form, to state and municipal bodies, legal entities owned by the state or municipality or with controlling shares (interests) that belong to the state or municipality, and to budget organisations or their officials. Thus, in conformity with Article 57 and Paragraph 1 of Part I of Article 94 of the Constitution of the Republic of Azerbaijan, the **Law of the Republic of Azerbaijan “On Appeals of Citizens”** regulates relations on exercising the right of citizens of the Republic of Azerbaijan to appeal and establishes the procedure for consideration of such appeals by the respective official(s). According to Article 5.9 of this Law, the provisions the Law apply equally to citizens, foreigners, stateless persons and foreign legal entities, unless otherwise provided for in the international agreements to which the Republic of Azerbaijan is a party.

Foreigners have the right to health in a manner prescribed in the international agreements ratified by the Republic of Azerbaijan. Article 10 of the **Law of the Republic of Azerbaijan “On the Protection of the Health of the Population”** states that foreigners and stateless persons residing permanently in Azerbaijan are can be examined and treated on a paying basis at oncology facilities, but that urgent oncology assistance is provided to them free of charge. Medical assistance (including specialised assistance) is provided at public health facilities to HIV-infected stateless persons residing permanently in Azerbaijan and persons granted refugee status by Azerbaijan, at the expense of the State, to the amount set by the relevant executive authority.

Article 8.2 of the **Law of the Republic of Azerbaijan “On Mandatory Outpatient Treatment of Children”**, provides for measures on mandatory outpatient treatment of children, covering citizens of Azerbaijan, stateless persons and foreigners residing permanently in Azerbaijan (on the basis of a permanent residence permit).

Article 42 of the Constitution of the Republic of Azerbaijan states that every citizen has the right to education. The State provides the right to free compulsory general secondary education via the state-run education system. This right is also applicable to foreigners and stateless persons who have obtained a permit to reside permanently in Azerbaijan. The State has also set out guarantees enabling those who possess the necessary aptitude to continue their education regardless of their financial status. Minimum educational standards are also set out by the State.

Article 5 of the **Law of the Republic of Azerbaijan “On Education”** provides for the right of every citizen to compulsory general secondary education, and every person studying in state educational institutions has the right to obtain cost-free general education. In accordance with this article, the Republic of Azerbaijan also guarantees the creation of appropriate conditions for the education of every citizen, including foreigners and stateless persons who have obtained a permanent residence permit; forbids their deprivation during any stage, level or form of education; ensures that every citizen has the opportunity to obtain an education regardless of his/her sex, race, language, religion, political views, ethnicity, social status, origin, or health abilities, and prohibits discrimination on these grounds.

Article 44 of the Law (the right of citizens of Azerbaijan to study in foreign countries and the right of foreigners and stateless persons to study in Azerbaijan) states that the provision of access to education for foreigners and stateless persons at any level of education, or during their in-service training in Azerbaijan, shall be carried out in accordance with the international agreements to which the Republic of Azerbaijan is a party, and on the basis of the quotas determined by the State, the education grant programme and the agreements concluded directly by the educational institutions, legal entities and natural persons concerned. This article also lays out the rules for foreigners and stateless persons to study in Azerbaijan, and the procedures for recognition of higher education qualifications attained abroad are regulated by legal and regulatory acts approved by the relevant executive authority. However, the approach of providing the right to education for foreigners and stateless persons does not apply to all educational institutions. Foreigners and stateless persons do not have the right to study in special educational institutions of Azerbaijan, except in cases provided for in the international agreements ratified by the Republic of Azerbaijan.

The **State Migration Management Policy Concept of the Republic of Azerbaijan** approved by the Cabinet of Ministers of the Republic of Azerbaijan by its Decision No. 94 dated 13 July 2004,⁴⁹⁰ considers the importance of regulating the migration processes from the perspective of the modern development and security of Azerbaijan. This important document, developed for the assessment of the current situation in the field of migration and formulation of management policy, establishes the migration management policy framework and the main policy directions in this field.

Reviewing the current migration-related situation in Azerbaijan, the Concept sets out the goals, principles and tasks, activity directions and implementation mechanisms for unified migration management. According to the Concept, state migration policy has the following main directions: providing control over migration processes and preventing irregular migration in Azerbaijan; stimulating Azerbaijanis living abroad to return to Azerbaijan; encouraging immigration to Azerbaijan of skilled specialists and other migrant workers in demand in the Azerbaijani labour market; simplifying conditions for entry and stay of foreign citizens who set up business enterprises in Azerbaijan.

The **State Migration Programme of the Republic of Azerbaijan for 2006-2008** was approved by the Decree of the President of the Republic of Azerbaijan dated 25 July 2006.⁴⁹¹ This Programme was prepared in conformity with the State Programme in the Field of Demography and Population Development in the Republic of Azerbaijan approved by the Decree of the President of the Republic of Azerbaijan dated 11 November 2004. It sets out the future development directions in this field and the necessary actions to be implemented on the basis of analysis of the current migration processes in Azerbaijan. The State Migration Service (SMS) was established as a result of the successful implementation of this Programme, with the ground laid for the development and adoption of the Migration Code in the following years.

490 Government of Azerbaijan, Decision of the Cabinet of Ministers of the Republic of Azerbaijan on Approval of the State Migration Management Policy Concept of the Republic of Azerbaijan, 2004. Available at: <https://e-qanun.az/framework/6306> (in Azerbaijani).

491 Government of Azerbaijan, Decree of the President of the Republic of Azerbaijan on the Approval of the State Migration Programme of the Republic of Azerbaijan for 2006-2008, 2006. Available at: <https://www.migration.gov.az/content/pdf/2b93b6d90ee16dbfa0e160c7e29ced48.pdf> (in Azerbaijani).

The State Migration Management Policy Concept of the Republic of Azerbaijan and the State Migration Programme of the Republic of Azerbaijan for 2006-2008 laid the ground for the drafting of the migration legislation of Azerbaijan in the form of a Migration Code. As a result, the **Migration Code of the Republic of Azerbaijan** came into existence and was approved by the Law of the Republic of Azerbaijan “On Approval, Entry into Force of the Migration Code of the Republic of Azerbaijan and Related Legal Regulation”, adopted on 2 July 2013.⁴⁹² The Migration Code establishes norms on the implementation of state policy in the Republic of Azerbaijan in the field of migration, regulation of migration processes and relations arising in this field, and the legal status of foreigners and stateless persons in Azerbaijan.

The Migration Code, which defines key migration concepts, also regulates relations in the areas of local citizens’ exit from and entry to Azerbaijan; foreigners and stateless persons’ exit from and entry to Azerbaijan, their temporary stay on the national territory, the issuance of permits for their temporary and permanent residence in Azerbaijan, and their registration in the country; the rights and obligations of migration participants; labour migration; and state control over migration and the fight against irregular migration. The Migration Code consists of 6 sections, 15 chapters and 95 articles.

In the years immediately following its adoption, necessary work was done to improve the Migration Code and a number of changes were made to this legal document. In 2014, a new chapter titled ‘The Procedure for Placement and Detention of Foreigners and Stateless Persons in Detention Centres for Illegal Migrants’ was added to the Code. This important chapter sets out the grounds, terms and procedures for the placement of foreigners and stateless persons in detention centres on the grounds of irregular migration; the rights and duties of foreigners and stateless persons placed in such centres; the use of physical force and special tools at the centres; and other related issues. Detention centres of this nature are currently operating in three Azerbaijani cities (Baku, Nakhchivan, and Yevlakh).

492 Government of Azerbaijan, Migration Code of the Republic of Azerbaijan, 2013. Available at: <https://e-qanun.az/framework/46959> (in Azerbaijani).

In addition to the Migration Code, other legal and regulatory acts on migration management have been adopted in Azerbaijan, including the following laws:

- ◆ Law of the Republic of Azerbaijan “On State Border”;
- ◆ Law of the Republic of Azerbaijan “On Identification Document of Citizen of the Republic of Azerbaijan”;
- ◆ Law of the Republic of Azerbaijan “On Registration at Places of Residence and Stay”;
- ◆ Law of the Republic of Azerbaijan “On Citizenship of the Republic of Azerbaijan”;
- ◆ Law of the Republic of Azerbaijan “On the Status of Refugees and Internally Displaced Persons (Persons Displaced Within the Country)”;
- ◆ Law of the Republic of Azerbaijan “On State Policy Regarding Azerbaijanis Living Abroad”;
- ◆ Law of the Republic of Azerbaijan “On Fight Against Human Trafficking”.

The **Law of the Republic of Azerbaijan “On Registration at Places of Residence and Stay”**⁴⁹³ was adopted on 4 April 1996. The Law lays out the grounds for registration of places of residence and stay, and the terms for registration of a citizen at the place of residence. The Law specifies the documents required for identifying the place of residence and the grounds for limiting or rejecting registration. The procedures relating to issues such as registration of a citizen on the basis of his/her place of stay and deregistration of a person on the basis of his/her place of residence are set out in this Law. The Law contains separate provisions on registration of foreigners and stateless persons residing temporarily or permanently in Azerbaijan; foreigners and stateless persons whose temporary stay in Azerbaijan has been extended or who were granted refugee status; and foreigners and stateless persons at their place of stay in Azerbaijan.

The **Law of the Republic of Azerbaijan “On the Status of Refugees and Internally Displaced Persons (Persons Displaced Within the Country)”**⁴⁹⁴ was adopted on 21 May 1999. The Law provides definitions of the key terms “refugee” and

493 Government of Azerbaijan, Law of the Republic of Azerbaijan “On Registration at Places of Residence and Stay”, 1996. Available at: <https://e-qanun.az/framework/3988> (in Azerbaijani).

494 Government of Azerbaijan, Law of the Republic of Azerbaijan “On the Status of Refugees and Internally Displaced Persons (Persons Displaced Within the Country)”, 1999. Available at: <https://e-qanun.az/framework/4757> (in Azerbaijani).

“internally displaced person”, and contains the main provisions on the legal status of refugees and IDPs, providing for their rights and obligations and the acquisition and loss of the respective statuses.

The **Law of the Republic of Azerbaijan “On Fight Against Human Trafficking”**⁴⁹⁵ was adopted on 28 June 2005. The Law lays the legal and organisational grounds for the prevention of and fight against trafficking of human beings (THB) in Azerbaijan, and defines the legal status and regulates the protection and social rehabilitation of, and assistance to, victims of THB. Further, it specifies the features for handling THB cases, and the bearers of responsibility in regard to this criminal act, and establishes the institutional and legal frameworks of international cooperation in the field of the fight against THB.

9.2 Key actors in migration management

As a result of the increased scale of migration processes inside and outside of Azerbaijan, the stakeholders involved directly in conducting more organised work in the field of migration and policy management began to form. From this process emerged a circle of actors dealing with migration management in Azerbaijan. Today, the key actors involved in migration management on the basis of principles of conceptual governance are grouped as follows:

- ◆ **State institutions** – SMS, Ministry of Foreign Affairs (MFA), Ministry of Labour and Social Protection of the Population (MLSP), Ministry of Internal Affairs (MIA), State Committee for Affairs of Refugees and Internally Displaced Persons, State Border Service (SBS), State Committee for Work with Diaspora;
- ◆ **Civil society organisations** – non-governmental organisations (NGOs) that are members of the Public Council under the SMS and those operating in the field of migration, the Azerbaijan Trade Unions Confederation;

⁴⁹⁵ Government of Azerbaijan, Law of the Republic of Azerbaijan “On Fight Against Human Trafficking”, 2005. Available at: <https://e-qanun.az/framework/10641> (in Azerbaijani).

- ◆ **International organisations** – International Organization for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR), International Labour Organization (ILO), International Centre for Migration Policy Development (ICMPD).

The **State Migration Service** was set up under Decree No. 560 “On the Establishment of the State Migration Service of the Republic of Azerbaijan”, signed by the President of the Republic of Azerbaijan on 19 March 2007. A central executive authority with the status of a law enforcement agency, the SMS implements the state policy in the field of migration and exercises powers to manage and regulate migration processes, as specified by national legislation.

The SMS registers foreigners and stateless persons at their place of residence in Azerbaijan, is responsible for issuance of extensions for temporary stay on the national territory, issues foreigners with permits for temporary or permanent residence in Azerbaijan, provides foreigners who intend to perform paid labour activities with work permits within the established rules and procedures, takes relevant measures to prevent irregular migration, and conducts awareness raising and information activities on migration legislation. The SMS is involved in the consideration of issues on granting citizenship of Azerbaijan and asylum and ensures that national legislation on refugees (and asylum seekers) is implemented. The SMS also operates a unified record system and is responsible for monitoring in the field of migration.

The **Ministry of Foreign Affairs** protects the rights and interests of Azerbaijan, its citizens and legal entities abroad, and assists in the development of relations and cooperation with Azerbaijanis living abroad. The MFA bears formal responsibility for issues related to passport and visa documents, issues entry visas to foreigners and stateless persons who intend to visit Azerbaijan, and registers special categories of foreigners (including military officers and diplomatic staff of foreign states and international organisations functioning in Azerbaijan). Within its mandate, the MFA, as a member of the Commission on Citizenship Issues under the President of the Republic of Azerbaijan,⁴⁹⁶ is involved along with the other relevant institutions in consideration of citizenship issues.

496 Government of Azerbaijan, Decree of the President of the Republic of Azerbaijan “On the Establishment of the Commission on Citizenship Issues under the President of the Republic of Azerbaijan”, 2007. Available at: <https://e-qanun.az/framework/5057> (in Azerbaijani).

The **Ministry of Labour and Social Protection of the Population** is involved, together with the other relevant state bodies, in the formulation and implementation of a unified state policy in the field of labour migration (in conformity with the respective legislation), and puts forward proposals on the expediency of entry by the Republic of Azerbaijan into international agreements on labour migration. The MLSPP prepares proposals on the regulation of labour migration, creates, together with the relevant executive authorities, the necessary conditions for the social protection of migrant workers, monitors the provision of the rights of migrant workers by employers, and provides feedback on whether it is possible to meet Azerbaijani employers' labour force demands with local labour forces, while considering the option of issuance and extension of work permits to foreigners and stateless persons for their further engagement in paid labour activities in Azerbaijan.

The MLSPP also duly holds consultations and negotiations with international and foreign state organisations, associations, and foreign companies in regard to cooperation in the area of labour migration. In addition, the MLSPP chairs a commission consisting of representatives from a number of state institutions, set up to prepare proposals on the determination of the labour migration quota and coordination of the work in this area.⁴⁹⁷

The **Ministry of Internal Affairs** deals, within its mandate, with issues related to acquisition, restoration and revocation of the citizenship of Azerbaijan, arranges the issuance of passports and identity cards to citizens, and undertakes work in regard to their registration of places of residence and stay, and the centralised registration system for this area. The MIA issues relevant registration cards to stateless persons. In interaction with the relevant state authorities, it takes measures against organised crime and THB for the prevention of irregular migration, and exercises the rights specified in national legislation related to migration. The MIA is responsible for providing and maintaining the work of the "Entry-Exit and Registration" Interagency Automated Information Retrieval System (IAMAS).⁴⁹⁸

497 MLSPP, 'Proposals on the labour quota for the next year were discussed'. Available at: https://web.archive.org/web/20211210060526/https://www.sosial.gov.az/post_505357.

498 Government of Azerbaijan, Decree of the President of the Republic of Azerbaijan "On "Entry-Exit and Registration" Interdepartmental Automated Information Retrieval System", 2008. Available at: <https://e-qanun.az/framework/14177> (in Azerbaijani).

Among the main duties of the **State Committee for Affairs of Refugees and Internally Displaced Persons** are the temporary accommodation, repatriation, and social protection of refugees and IDPs, and improvement of their social and living conditions in the liberated territories; and the granting of “internally displaced person” status, issuance of a document (card) confirming this status, and deprivation of this status, as necessary, in accordance with the procedure and on the grounds established in the national legislation. These duties are carried out alongside: communication, through the relevant executive authorities, of the facts of massive violations of the rights of refugees and IDPs to the local and international community; maintaining records on refugees and IDPs at their places of accommodation, and arranging the creation of a single information database on refugees and IDPs; providing various types of rehabilitation and reintegration services at refugees’ and IDPs’ places of temporary accommodation, and during repatriation; increasing employment and reducing poverty among these groups, etc.

The **State Border Service** is the state actor responsible in regard to registration of persons crossing the state border of Azerbaijan, entry of foreigners and stateless persons into Azerbaijan, and their expulsion from the national territory, in accordance with the procedures and conditions established in the national legislation. Under the current legislation, the SBS is tasked with the prevention of illegal crossing of the state border and takes action to combat the use of forged or falsified identity and other documents, with a view to implementing effective border control aimed, among other goals, at preventing irregular migration and deployment of terrorists and affiliate groups in Azerbaijan.

The **State Committee for Work with the Diaspora** deals with the collection, analysis and assessment of information on the situation of Azerbaijanis living abroad, and the creation of a special databank for this purpose. It supports the work on arranging interaction among these people, and provides organisational support in this regard, and helps to establish and develop relations among the Republic of Azerbaijan and public, cultural, and other unions created and other cooperating diaspora organisations.

The **Public Council under the State Migration Service** was set up in 2015, and is tasked with the establishment and development of relations with state institutions, international and local public organisations, and the creation of

the Public Council's working bodies, among other mandates. Activities carried out at the theoretical and conceptual level include preparation of proposals for legislation to strengthen migration policy; expanding the rights of foreigners and stateless persons, protecting their legal interests; regulating the migration processes, implementing the state control over migration processes; and other relevant tasks. The organising of Azerbaijani language courses for migrants living in Azerbaijan, provision of humanitarian, medical and educational assistance to migrant families in need, and advice on their rights, monitoring, and the conducting of awareness and information campaigns and other proactive events are among the activities carried out by the Public Council at the operational and tactical level.

The **Azerbaijan Trade Unions Confederation (ATUC)** is a voluntary confederation of trade union associations representing and protecting the labour, socio-economic rights and interests of trade union members. The main activities of the ATUC centre on the protection of labour rights of workers in member trade unions, closely cooperating with its partners—the ILO, the International Trade Union Confederation, the National Confederation of Entrepreneurs (Employers) Organisations of the Republic of Azerbaijan (ASK), and others.⁴⁹⁹ Improving the working conditions of migrants and the mechanisms for the provision of their rights, and preventing THB and labour exploitation, are among the main goals of the ATUC.

One of the important steps taken in the development of relations between Azerbaijan and the **European Union (EU)** in the field of migration is the “Joint Declaration on a Mobility Partnership between the Republic of Azerbaijan and the European Union and its Participating Member States”, signed on 5 December 2013. This document envisages further development of dialogue and cooperation between the parties on migration and mobility in five directions: migration management, mobility, legal migration and integration; combatting illegal immigration and THB; readmission, security of identity and travel documents; border management; migration and development; asylum and international protection. In 2015, with the consent of Azerbaijan, the EU selected ICMPD to implement the projects arising from the Joint Declaration.

499 Azerbaijan State News Agency (AZERTAC), ‘The Role of Trade Unions in Regulation of the Migration Processes is Being Discussed in Baku’, 28 April 2011. Available at: <http://anl.az/down/meqale/azerbaycan/2011/aprel/171534.htm> (in Azerbaijani).

The presence of the **International Organization for Migration** in Azerbaijan began in 1996 with the establishment of its Baku mission. In 1999, an agreement establishing the legal grounds for further development of friendly cooperation between IOM and the Republic of Azerbaijan in solving migration issues was signed. After ratification of this agreement by the Republic of Azerbaijan and subsequent IOM Council approval, Azerbaijan became an IOM Member State (MS) in 2001. IOM has since continuously provided assistance to the Government of Azerbaijan in solving various migration-related challenges.

To achieve better understanding of migration issues, promote social and economic development, and help to solve migration-related challenges in Azerbaijan, IOM implements various projects in line with its mandate. Providing technical assistance to the Government, IOM Azerbaijan areas and directions include activities for the development and adjustment of legislation; border management; prevention of irregular migration, especially migrant smuggling and THB; facilitation of migration dialogue; support for return and reintegration; and restoration of the *kahriz* systems. Within the Regional Training Centre for Migration, one of the IOM-SMS joint initiatives launched in recent years, inputs are provided on training and education in the field of migration in Azerbaijan and states in Azerbaijan's region, alongside inputs aimed at improving the training of specialists in this field.

The **United Nations High Commissioner for Refugees** was established as an international organisation within the United Nations (UN) in 1950, with the main objectives of protecting and supporting refugees at the MSs' request or upon UN initiative, and providing support for their return to their home countries, or resettlement and local integration in third countries. UNHCR has been operating in Azerbaijan since 1992, implementing projects on shelter, basic (food, non-food aid, water supply, sanitation, etc.) needs, education, health care, etc. for refugees and IDPs. Either directly or through its implementing partners in country, UNHCR projects in Azerbaijan provide health services to refugees and asylum seekers; financial assistance to meet the basic needs of low-income families; support for secondary education, including disbursement of scholarships allocated by the Government of Germany for distinguished refugee students to study at tertiary level; provision of computers and organisation of other training activities for refugee and internally displaced youth; and provision of legal assistance to refugees and IDPs, including on combatting domestic violence and

promoting gender equality. Since 2012 the Republic of Azerbaijan has been a member of the UNHCR Executive Committee and it actively participates via its high-level delegation at the annual Executive Committee sessions.⁵⁰⁰ According to an agreement reached between the SMS and UNHCR, the procedure for determination of refugee status by UNHCR in Azerbaijan has been fully suspended since 1 July 2020, with this right delegated to the SMS from that date onward.⁵⁰¹

The **International Labour Organization** regulates labour issues in the international area. A member of this UN agency since 1992, the Republic of Azerbaijan has ratified 57 IOM conventions and accepted the principles and norms set out therein.⁵⁰² At the 86th International Labour Conference held in 1998, the ILO adopted the Declaration on Fundamental Principles and Rights at Work. This Declaration covers four main areas of labour policy that intersect with labour migration: freedom of association and the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the abolition of child labour; the elimination in respect of employment and occupation.⁵⁰³

The SMS closely cooperates with the **International Centre for Migration Policy Development**, which has a long track record of proactively contributing to the migration landscape in Azerbaijan. With the signing of the “Cooperation Agreement between the Government of the Republic of Azerbaijan and the International Centre for Migration Policy Development” in 2006, relations between the parties entered a new phase. This phase of increased cooperation commenced with the participation of Azerbaijan in regional projects and processes, such as the Budapest Process and the Prague Process, and continued with ICMPD provision of expertise in preventing and fighting THB, and integrated border management. ICMPD and its Azerbaijani counterparts also cooperate in the migration management field.

500 State Committee for Affairs of Refugees and Internally Displaced Persons of Azerbaijan, United Nations High Commissioner for Refugees (UNHCR). Available at: <http://idp.gov.az/az/activity/15/parent/25> (in Azerbaijani).

501 SMS, ‘To the attention of representatives of the refugee community and asylum seekers in Azerbaijan!’, News, Press centre, 25 June 2020. Available at: https://migration.gov.az/az/news_detail/14093 (in Azerbaijani).

502 MLSP, International Labour Organisation. Available at: <https://dma.gov.az/fealiyyet/terefdaslarimiz/xarici-teskilatlar/beynelxalq-emek-teskilati> (in Azerbaijani).

503 ILO, ILO Declaration on Fundamental Principles and Rights at Work, 1998 and 2022. Available at: <http://www.ilo.org/declaration/lang--en/index.htm>.

Although the MIA was initially appointed as the state authority responsible for implementation of the Cooperation Agreement, taking into consideration the SMS proposal agreed with the MIA, the SMS was subsequently appointed as the competent authority, on the basis of Decree No. 76s adopted by the Cabinet of Ministers of the Republic of Azerbaijan on 8 April 2009.⁵⁰⁴ On 17 March 2021, ICMPD officially established its office in Azerbaijan with the signing of the “Agreement between the Government of the Republic of Azerbaijan and the International Centre for Migration Policy Development (ICMPD) on the status of ICMPD in the Republic of Azerbaijan”.⁵⁰⁵ ICMPD is the designated organisation for implementation of the “Joint Declaration on a Mobility Partnership between the Republic of Azerbaijan and the European Union and its Participating Member States” and continues to build upon its history of implementing projects in Azerbaijan aimed at capacity building on migration and border management, development of migration policies, reintegration, and other areas.

9.3 Intersectoral policy and main cooperative entities

Intersectoral institutional management systems actively operated by the SMS cover different aspects of migration policy. Under the current arrangement, coordination of intersectoral policy sees the SMS organise and undertake activities within the following thematic groups (consisting of representatives of various stakeholders (state institutions, international and local organisations, private sector and migrants)):

- ◆ Advisory Council under the State Migration Service of the Republic of Azerbaijan;
- ◆ Working Group on Statelessness Issues;
- ◆ Working Group on Reintegration of Readmitted Citizens of the Republic of Azerbaijan;

504 Government of Azerbaijan, Decree of the Cabinet of Ministers of the Republic of Azerbaijan on the Proposal of the State Migration Service of the Republic of Azerbaijan agreed with the Ministry of Internal Affairs of the Republic of Azerbaijan, 2009. Available at: <https://e-qanun.az/framework/16652> (in Azerbaijani).

505 Government of Azerbaijan, Law of the Republic of Azerbaijan on Approval of the “Agreement Between the Government of the Republic of Azerbaijan and the International Centre for Migration Policy Development (ICMPD) on the status of the ICMPD in the Republic of Azerbaijan”, 2021. Available at: <https://e-qanun.az/framework/47644> (in Azerbaijani).

- ◆ Migrant Council Under the State Migration Service of the Republic of Azerbaijan;
- ◆ Working Group on Foreigners Granted Refugee Status in Azerbaijan.

The **Advisory Council under the State Migration Service** was established in 2018 to deliver to employers the necessary information concerning work permits and labour migration quotas, and to eliminate the challenges and concerns of entrepreneurs in meeting the demand for (foreign) labour force.⁵⁰⁶ The Advisory Council gathers representatives from various NGOs, as well as natural persons and legal entities engaged in entrepreneurial activities involving foreign labour. Its membership includes the responsible persons from organisations such as the ASK, the State Oil Company of the Republic of Azerbaijan, British Petroleum, the American Chamber of Commerce in Azerbaijan Public Association, and the Azerbaijan-Türkiye Business Association.

Azerbaijani government established the **Migrant Council** under the SMS in 2022.⁵⁰⁷ In line with the whole-of-society approach promoted by the Global Compact for Safe, Orderly and Regular Migration, the key purpose of the initiative is to enhance active participation of migrants residing in the country in the management of migration in Azerbaijan. Through the engagement of the Council, the aim is to improve the effectiveness of the protection of migrants' human rights and freedoms, to improve the quality of services provided to foreigners and stateless persons, to ensure transparency, as well as to assess the impact of the decisions taken in the sphere of migration on the daily lives of foreigners. Migrant Council consists of 8 representatives of migrant communities of Afghanistan, Iran, Germany, Georgia, Nigeria, Russia, Pakistan, Türkiye.

The **Working Group on Statelessness Issues** was established in 2020 to reduce statelessness in Azerbaijan.⁵⁰⁸ To this end, the principle goals of the Working Group are to organise the work undertaken toward the elimination of statelessness in

506 SMS, 'An Advisory Council is established under the State Migration Service', News, Press centre, 14 June 2018. Available at: https://migration.gov.az/az/news_detail/12650 (in Azerbaijani).

507 SMS, "Registration launched for membership of the Migrant Council under the State Migration Service", News, Press Centre, 3 February 2022, Available at: https://migration.gov.az/en/news_detail/15135

508 Ibid., 'In order to eliminate cases of statelessness in the country, the Working Group has started its activities', News, Press centre, 22 June 2020. Available at: https://migration.gov.az/az/news_detail/14177 (in Azerbaijani).

Azerbaijan (on the basis of Azerbaijan's international commitments), coordinate inter-agency activities, implement the decisions taken, and promptly resolve practical issues which may arise in this regard. With the SMS as a coordinating body, the Working Group comprises representatives from the MIA, the MFA, the State Security Service of the Republic of Azerbaijan, the Foreign Intelligence Service of the Republic of Azerbaijan, the UNHCR office in Azerbaijan, and the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

The **Working Group on Reintegration** was established in 2016 under the relevant assignment of the Cabinet of Ministers of the Republic of Azerbaijan, with a view to applying on the basis of readmission agreements a comprehensive approach to readmission of Azerbaijani citizens living abroad who find themselves in a precarious situation, promptly resolving (housing, health care, employment, social protection, education and other) difficulties and challenges faced by readmitted persons, and ensuring effective organisation of the target persons' reintegration into Azerbaijani society.⁵⁰⁹ The Working Group headed by the SMS includes the authorised representatives of the MFA, the MIA, the MLSP, the Ministry of Health, the Ministry of Education, the State Customs Committee, the SBS, and the ICMPD office in Azerbaijan.

The **Working Group on Foreigners Granted Refugee Status in Azerbaijan** was established to further improve the favourable environment created for persons granted refugee status in Azerbaijan, and to promote their socio-economic and human rights as per the legal acts and international conventions in force. Topics on which discussion within this group is notably intensive include: facilitation of refugee access to the labour market and the social security system in Azerbaijan; travel document issuance and improvement of the refugee card system; evaluation of measures taken to ensure the social and economic rights of people granted refugee status in Azerbaijan; and suggestions in respect of recommendations on the Road Map for the Refugees Integration Policy.

509 Ibid., 'The next meeting of the working group on reintegration was held', News, Press centre, 28 December 2020. Available at: https://migration.gov.az/az/news_detail/15076 (in Azerbaijani).

9.4 Border management, regular migration, and prevention of irregular migration

Control over foreigners and stateless persons' entry into and exit from the Republic of Azerbaijan is carried out across **three stages**:

Pre-entry control: According to the Migration Code, in cases where a visa is required to enter Azerbaijan, foreigners and stateless persons are required to obtain a visa in the prescribed manner. Depending on the visa purpose, either single-entry or multiple-entry visas are issued; for the purpose of transit, either single-entry or double-entry visas are issued. Single entry visas are valid for up to 90 days, and multiple entry visa have a validity of up to 2 years. A foreigner or stateless person is permitted to stay in Azerbaijan for the duration and purpose of the visit indicated in their visa. The actual use dates of the visa must fall within the validity period specified in the visa; a visa which is not used within this period thus becomes invalid.

Foreigners and stateless persons coming to Azerbaijan can obtain an e-visa through the "ASAN Visa" system (www.evisa.gov.az), for stays of up to 30 days (single-entry e-visa) and 90 days (multiple-entry e-visa). In a number of cases, foreigners and stateless persons may be permitted to come to Azerbaijan without a visa. Foreigners and stateless persons who have valid permits for temporary or permanent residence in Azerbaijan can exit and enter the country without obtaining a visa on the basis of the relevant permit cards, while those granted refugee status in Azerbaijan can do so with the travel document issued to them for foreign travel. In accordance with the reciprocal bilateral intergovernmental agreements signed between the Republic of Azerbaijan and various states, a visa-free regime is applied to citizens of the respective signatory states.

Entry control: Registration of persons and vehicles entering and exiting Azerbaijan is carried out through the IAMAS system, which records information on the results of the checks carried out at the border. Foreigners and stateless persons who attempt to cross the state border of Azerbaijan without the necessary document(s), or who are banned from entering Azerbaijan, are not permitted entry to the national territory, and may be returned to their country of origin. Foreigners and stateless persons who attempt to cross the state border with

forged or falsified documents are held accountable in the manner prescribed by law. Any person who intends to seek refugee status in Azerbaijan is allowed to enter the national territory through an official border crossing point, in accordance with the national legislation. Persons who entered Azerbaijan irregularly from another state with the intention of seeking refugee status and applied to the SMS as soon as possible are exempted from legal liability for their irregular entry and presence on the national territory, as provided for by the national legislation, on the basis of a justified decision from the SMS.

Post-entry control: Temporary stay of foreigners and stateless persons who come to Azerbaijan on the basis of a visa cannot be longer than the duration specified in that visa, and those who come to Azerbaijan under a visa-free regime are not permitted to stay on the national territory for more 90 days, except in cases covered by the international agreements to which the Republic of Azerbaijan is a party. If the period of temporary stay of a foreigner or stateless person in Azerbaijan has not been extended, if they have not been issued a temporary residence permit, and if they have not applied for extension of their temporary stay or the issuance of a temporary residence permit before the end of this period of stay, they are required to leave the national territory.

According to the requirements of the Migration Code, foreigners or stateless persons who stay temporarily in Azerbaijan for more than 15 days (or for more than 30 days for citizens of the Republic of Kazakhstan) must register their place of stay. As provided for in Articles 21.2-21.5 of the Migration Code, if a foreigner or stateless person changes his/her place of stay, he/she must register at his/her new place of stay within 5 working days from the time that he/she arrives at that new stay. If a foreigner or stateless person temporarily stays in another stay belonging to the owner of the residence where he/she is already registered, re-registration is not required. Foreigners and stateless persons can register their place of residence either electronically through the e-services of the SMS official website, the e-government portal, or via e-mail or in-person visit to a regional migration office or “ASAN Service” centre.

In some cases, foreigners or stateless persons may be placed, either voluntarily or involuntarily, in **Detention Centres for Illegal Migrants**. Such cases are detailed in Chapter 14 of the Migration Code. As noted, the SMS currently operates such centres in three Azerbaijani cities.

9.5 Labour migration management

Chapter 11 of the Migration Code (Articles 61-73) establishes the broad legal basis for labour migration management to and from Azerbaijan. According to the Migration Code, every able-bodied foreigner and stateless person who has reached the age of 18 is permitted to work in Azerbaijan upon obtaining a work permit through the respective legal entities. The Migration Code allows natural persons to engage in entrepreneurial activities in Azerbaijan without being required to set up a local legal entity or requiring the foreign legal entity that employs him/her under the conditions established in the Code to set up local branches or representatives.

The principal conditions for foreigners and stateless persons to be permitted to undertake paid labour activities in Azerbaijan include the availability of a job vacancy that cannot be filled by a citizen of Azerbaijan. In such cases, it must thus be proven that an Azerbaijani citizen with the professional skills or qualifications required for such a role cannot be found, including by demonstrating the inability of employment services to meet the employer's needs via local labour resources. Foreign legal entities and natural persons engaged in entrepreneurial activities without establishing a local legal entity can employ foreigners and stateless persons in Azerbaijan.

Work permits for foreigners and stateless persons are issued by the SMS. When making a decision on issuance, the SMS takes into consideration the opinion of the MLSPP. There are a number of fields in Azerbaijan where it is possible to engage in labour activities for up to 90 days without obtaining a work permit. Foreigners and stateless persons on a business trip in Azerbaijan of no more than 90 days in any one-year period can work in the following fields without obtaining a work permit: mining and processing industry; electricity, gas, steam and air conditioning supply; information and communication; finance and insurance; education; transportation; water supply, wastewater and waste treatment.⁵¹⁰

510 Government of Azerbaijan, Decision of the Cabinet of Ministers of the Republic of Azerbaijan on Approval of the "List of Fields of Activity that Do not Require Obtaining a Work Permit for Foreigners and Stateless Persons Who Are on a Business Trip in the Republic of Azerbaijan for No More than 90 Days During the Year", 2014. Available at: <https://e-qanun.az/framework/28888> (in Azerbaijani).

In addition, the legislation allows foreigners and stateless persons to work in Azerbaijan under certain conditions without obtaining a work permit. As a result, each year the number of migrants working in Azerbaijan exceeds the number determined under the labour migration quota in place. According to MLSPP data, as of January 2017, a total 33,940 foreigners were recorded in the individual registration system of the State Social Protection Fund,⁵¹¹ only 9,480 of them migrant workers working under the labour migration quota determined for 2016.⁵¹²

Since 2010, labour migration quota have been applied in Azerbaijan to better implement the labour migration policy in place, especially to protect the internal labour market and to make maximum use of the capacities of the national labour force.⁵¹³ Quotas are determined by taking into consideration the domestic labour market situation, demand for labour force, availability of vacant jobs not claimed by citizens of Azerbaijan who have the professional skills or qualifications required for such jobs, the ability of the State Employment Agency under the MLSPP to meet employers' labour needs via local labour resources, as well as the need to attract highly skilled specialists from abroad.

The parameters of the labour migration quotas vary from year to year, as each quota is set for the given year; for example, the annual upper limits of the quotas determined for the years 2010-2015 were approx. 10,000 persons per year, with the following years seeing a sharp decrease, falling to approx. 7,000 persons for the year 2019,⁵¹⁴ with growth reported in the following years. The quota approved by the Cabinet of Ministers of the Republic of Azerbaijan for 2021 covered 7,740 persons. This growth was linked to the liberation of territories in the Karabakh region during the 44-day Patriotic War in 2020, with extensive rehabilitation and

511 Allahveranov, A., 'Current issues of migration processes in the context of globalisation', Materials of the scientific and practical conference on "Migration policy in Azerbaijan: achievements and development prospects", Baku, Khazar University Publishing House, 2017, p. 128.

512 International Organization for Migration (IOM), 2023. Migration in the Republic of Azerbaijan: A Country Profile 2013–2021. IOM, Geneva. Available at: <https://publications.iom.int/books/migration-republic-azerbaijan-country-profile-2013-2021>.

513 Government of Azerbaijan, Decree of the President of the Republic of Azerbaijan on the Approval of the "Employment Strategy of the Republic of Azerbaijan for 2019-2030", 2018. Available at: <https://e-qanun.az/framework/40416> (in Azerbaijani).

514 Belskaya, E., 'Quotas in a bag: what kind of specialists cannot be found in the domestic labour market?', Zerkalo, 14 November 2019. Available at: <https://zerkalo.az/kvoty-v-meshke-kakih-spetsialistov-ne-najti-na-otechestvennom-rynke-truda/> (in Russian).

construction work being carried out in those territories, alongside infrastructure projects. The involvement of foreign companies in these construction works has led to increased demand for foreign workers in the Karabakh region, with the quota for 2022 rising to 8,740 persons to accommodate this increase in demand.⁵¹⁵

9.6 Return and readmission

According to the Migration Code (Article 76.3), foreigners and stateless persons who stay in Azerbaijan must comply with the declared purposes of their visit to the country and leave the national territory upon expiration of the established period. The SMS is responsible for making decisions on the expulsion of the following groups of foreigners and stateless persons:

- ◆ Persons whose documents permitting legal stay and residence in Azerbaijan (visa or decision to extend a temporary stay or temporary/permanent residence permit) have been cancelled;
- ◆ Persons whose stay in Azerbaijan was considered undesirable;
- ◆ Persons released from imprisonment (a decision on expulsion is not made in cases where there is a valid ground for the person to reside in Azerbaijan);
- ◆ Persons whose applications for refugee status were refused.

A decision of expulsion limits foreigners and stateless persons' entry into Azerbaijan for five years following its declaration. If the grounds for the cancellation of the documents permitting the person to reside legally in Azerbaijan are held to be invalid, the limit on their entry into Azerbaijan following the decision is lifted.

No decision on expulsion of foreigners and stateless persons who are deemed to be victims of THB is made during for a period of 1 year. In the case of foreigners and stateless persons who assist criminal investigation bodies, no decision is taken until the conclusion of the criminal case. No decision on expulsion is made on child

515 SMS, 'A traditional meeting was held between the State Migration Service and employers in our country', News, Press centre, 1 June 2022. Available at: https://migration.gov.az/az/news_detail/15275 (in Azerbaijani).

victims of THB, foreigners and stateless person who are granted refugee status or political asylum by the Republic of Azerbaijan.

The Migration Code obliges foreigners and stateless persons to leave Azerbaijan within the following terms, calculated from the time that the decision on expulsion is submitted to them:

- ◆ Persons released from imprisonment, persons whose visa or decision on the extension of temporary stay was cancelled, and those whose stay in Azerbaijan was considered undesirable – within 48 hours;
- ◆ Persons, whose temporary or permanent residence permit was cancelled, and those whose application for refugee status was rejected – within 10 days.

Development of the legislative framework regulating readmission of persons residing without authorisation abroad commenced with the signing of the Agreement between the European Union and the Republic of Azerbaijan on the Readmission of Persons Residing without Authorisation. This Agreement was produced during the negotiations on the facilitation of the visa-free regime and readmission, and 25 of 27 EU MSs⁵¹⁶ have joined the Agreement. Moreover, similar agreements have been signed with the Norway, Montenegro, and Switzerland. Negotiations to sign executive protocols are underway with several EU MSs. Further, a Joint Readmission Committee has been set up on the basis of the Agreement, to control its implementation and resolve issues arising from the interpretation or application of its provisions.

Most of the readmission requests issued under this framework originate from EU Member States, particularly Germany, with Azerbaijan the party receiving requests. In cases where the requests do concern citizens of Azerbaijan, their right to citizenship is investigated by the SMS. In cases concerning citizens of third countries and stateless persons, the SMS checks whether they have a legal permit to reside in Azerbaijan. In the case of a positive response to the readmission request, the relevant diplomatic mission issues the person concerned with a travel document free of charge, regardless of his/her wish to be readmitted.

516 The Republic of Ireland and the Kingdom of Denmark have chosen not to become parties to the agreement.

If the documents required to determine the citizenship of a person cannot be submitted or are incomplete, on the basis of the request, the diplomatic mission can conduct an interview with the person concerned.

Following the introduction of the current readmission agreements, various projects were carried out in cooperation with international organisations to reintegrate returned persons in Azerbaijan. The “Reintegration Support to Azerbaijani Returnees” (RESTART) project funded by EU MSs (Germany, Netherlands, Poland) was implemented jointly with ICMPD from 1 January 2019 through 30 April 2021, to support the effective reintegration of readmitted Azerbaijani citizens into society and to help them to solve challenges they may face. Within this project, reintegration guidelines were prepared, and the practice of provision of reintegration support to returning citizens, including vulnerable groups, were developed in cooperation with civil society organisations, while 87 citizens of Azerbaijan returned from EU MSs, classified as a vulnerable group, were provided with reintegration support in various areas (housing, health care, employment, social protection, education, etc.).

9.7 Refugees, asylum seekers, IDPs

Refugees, asylum seekers and IDPs, all of whom are classified as migrants, constitute the main part of the migrant groups living in Azerbaijan. From 1988 onward, as a result of a policy of renewed ethnic cleansing systematically pursued by neighbouring Armenia, more than 300,000 Azerbaijanis, who historically lived in that country were forcibly expelled from their native lands and found refuge in Azerbaijan. Through the military aggression of the Armenian armed forces, 20% of the territory of Azerbaijan, i.e. Karabakh and Eastern Zangazur regions, formerly known as Nagorno-Karabakh and 7 adjacent districts and settlements located at the border with Armenia, became occupied. As a result, more than 700,000 people from these areas lost their place of residence, became forcibly displaced, and were temporarily settled in more than 1,600 densely populated facilities in 62 cities and districts of Azerbaijan. Further, during the 1990s, up to 50,000 Ahiska (Meskhetian) Turks seeking refugee status, and approx. 15,000 people from Iran, the Russian Federation and Afghanistan, were given shelter in Azerbaijan. As of 2022, 1,138,450 refugees and IDPs were present on the Azerbaijani national territory. The State Committee for Affairs of Refugees and

Internally Displaced Persons reports that 350,000 of this figure are Azerbaijani refugees expelled from Armenia, with 788,950 people forcibly displaced from occupied territories.⁵¹⁷

As the main state body working with refugees and IDPs in Azerbaijan, the State Committee for Affairs of Refugees and Internally Displaced Persons deals with the employment, housing, social security of refugees and IDPs, and resolves, within its mandate, other issues related to these groups, or makes appropriate suggestions for their resolution. To improve the social situation of refugees and IDPs in general, the Social Development Fund of Internally Displaced Persons of the Republic of Azerbaijan was established. The main objectives of the Fund are to allocate funds for the implementation of projects aimed at improving the housing and living conditions of IDPs in Azerbaijan, creating jobs for them, restoring social infrastructure, and ensuring that the funds provided are used efficiently and purposefully.

Asylum seekers living in Azerbaijan and those who are granted refugee status are considered members of vulnerable groups, and are relatively smaller in number compared to refugees from Armenia and Uzbekistan and IDPs from the Azerbaijani occupied territories. According to UNHCR,⁵¹⁸ the number of asylum seekers registered in Azerbaijan as of 31 May 2022 was 1,756 people (69% from Afghanistan, 19% from Russia, 8% from Pakistan, and 4% from Iran). The total number of such persons provided with the relevant refugee status is 76, mostly people from Iran and Afghanistan.

In accordance with international obligations, additions and changes are made to the current legislative acts on the protection of the rights of refugees and asylum seekers in Azerbaijan. According to Article 64.0.15 of the Migration Code, “persons who applied for, received refugee status or were granted political asylum” are not required to have a work permit to carry out labour activities in Azerbaijan. As a result of the measures taken, refugees and persons protected by UNHCR in Azerbaijan have the right to work, on the basis of the relevant certificate issued by the SMS.

517 Poliqon, ‘The return to Zangilan began - the lot was cast’, Social, 17 June 2022. Available at: <http://pia.az/zengilana-qayidis-basladi-pusk-atildi-460153-xeber.html> (in Azerbaijani).

518 Data on asylum seekers was obtained by the authors through official correspondence with UNHCR.

Important steps taken in the regard were the respective changes to the national legislation for the inclusion of refugees, and persons under UNHCR protection into the national health insurance system, on an equal footing with citizens of Azerbaijan. Foreigners and stateless persons who received refugee status in Azerbaijan and those under UNHCR protection are thus included in the category of persons eligible for mandatory health insurance.

In addition, on the basis of SMS referral, persons whom have applied for or received refugee status (and their family members) can register with the polyclinic in their area, undergo medical examination, attend maternity hospital and receive in-patient treatment, as necessary. Foreigners and stateless persons registered by the SMS whom have received refugee status, as well as those under UNHCR protection, are provided with access to free vaccinations. Moreover, in accordance with the current legislation, those with refugee status (and applicants for this status registered with the SMS), and persons under UNHCR protection (and their children), are provided with access to free education in public schools and higher education institutions across Azerbaijan.

A travel document granting persons whom have received refugee status the right to travel abroad has been designed, and issued to these persons (and their family members) since January 2020.

Within the framework of the “Asylum Systems Quality Initiative in Eastern Europe and South Caucasus” (QIEE) project implemented by UNHCR and the “Support to Implementation of the Mobility Partnership with Azerbaijan” (MOBILAZE) project implemented by ICMPD, the Plan on Refugee Integration into Society was prepared by the Refugee Status Determination Department of the State Migration Service. This document takes into account international best practices on meeting the social needs of persons granted refugee status, and the necessary work has been carried out in Azerbaijan to meet their social needs, reflecting and building upon the experiences of other states in this area.

Given that an effective asylum system has been established in Azerbaijan, and that the right of all foreigners and stateless persons to apply for refugee status is ensured without any discrimination, the procedure for determining refugee status by UNHCR in Azerbaijan was fully suspended from 1 July 2020. On that date, this procedure is carried out by the SMS only.

9.8 Citizenship, naturalisation, and statelessness

Citizenship issues in Azerbaijan are regulated by the Constitution of the Republic of Azerbaijan and the Law “On Citizenship of the Republic of Azerbaijan”. According to Article 5 of the Law, the following persons are considered citizens of Azerbaijan: persons who were citizens of Azerbaijan prior to the date of entry into force of the Law (7 October 1998); persons who were not citizens of Azerbaijan or another state before 1 January 1992, but were registered at their place of residence in Azerbaijan; refugees who were resettled⁵¹⁹ in Azerbaijan between 1 January 1988 and 1 January 1992; and those who have acquired citizenship on the basis of the Law.

Citizenship is mainly acquired by birth or naturalisation. Citizenship by birth is acquired by virtue of the person being born in Azerbaijan – in accordance with the principle of *jus soli* (‘right of soil’) – or being the child of a citizen of Azerbaijan (principle of *jus sanguinis* (‘right of blood’)). The principle of *jus soli* is applied only in cases of prevention of statelessness. From this point of view, a child born in Azerbaijan is not considered a citizen of Azerbaijan if, at the time of birth, his/her parents are foreigners or one of the parents is a foreigner and the other is stateless person. However, the birth of a child on the Azerbaijani national territory whose both parents are stateless persons, is in Azerbaijan considered a ground for his/her acquisition of citizenship of Azerbaijan. A child who is in Azerbaijan and whose parents are unknown is considered a citizen of Azerbaijan. Based on the principle of *jus sanguinis*, if at least one of the parents is a citizen of Azerbaijan, this is considered a ground for recognition of their child as a citizen of Azerbaijan, regardless of his/her place of birth.

The main conditions for receiving citizenship of Azerbaijan via naturalisation are legal residence on the national territory, permanently and continuously for the previous five years, proof of a legal source of income, the making of a pledge to uphold the Constitution and laws of Azerbaijan, and proficiency in the official language of Azerbaijan. According to the national legislation, persons who have received refugee status can apply for citizenship while observing these conditions set forth. In this case, the period of permanent residence is

519 These persons do not lose the right to return to the states they left, and are eligible to benefits provided for IDPs under the legislation of Azerbaijan.

counted from the date on which refugee status was granted. Persons who display outstanding achievements in science, technology, culture or sports, or who are of special interest to the Republic of Azerbaijan, may be granted citizenship without fulfilling the requirement for residence on the national territory during the preceding period.

According to the national legislation, the holding of foreign citizenship by an Azerbaijani citizen (dual citizenship) is not recognised. A citizen of Azerbaijan who has acquired citizenship of another state must inform the SMS within one month of the acquisition.

As noted, the Working Group on Statelessness Issues has been set up to eliminate statelessness in Azerbaijan, and its work is coordinated by the SMS. During the focus of the past years on statelessness reduction, the Government of Azerbaijan joined the UNHCR campaign to end statelessness within 10 years and, at the High-Level Segment on Statelessness held in 2019, pledged to provide for the naturalisation of stateless persons residing permanently in Azerbaijan.

9.9 Internal migration

The phenomenon of internal migration in Azerbaijan is mainly driven by the processes occurring in connection with displacement due to urbanisation, ruralisation, ethnic conflict and environmental reasons. Urbanisation, de-urbanisation and ruralisation processes, which constitute the main drivers of internal migration, and are characterised by the movement of population between urban and rural areas, have long occurred in Azerbaijan. The events that took place at the social, economic and political levels during certain periods have had a noticeable impact on both the pace and nature of internal migration in Azerbaijan, with the dynamics of the movement of the population between urban and rural areas reflected in the official population figures provided by the State Statistical Committee. According to the 1989 census, 54.2% of Azerbaijan's population resided in cities, and 45.8% in rural areas, whereas subsequent censuses indicated marked fluctuation in the share of urban population, sometimes falling, at other times rising.⁵²⁰

520 Statistical Digest, Demographic Indicators of Azerbaijan, 2018, Baku, Small enterprise No. 9, pp. 40-41.

An integral part of the national programmes for the socio-economic development of Azerbaijan's provincial regions, local job creation plays an important role in preventing urbanisation. In this context, land reforms have been implemented, the development of farms and small businesses has been spurred, and the number of local businesses in rural areas has increased. When combined, such initiatives can help to regulate migration of the rural population to Azerbaijan's cities. However, to prevent potential mass flows to urban areas, further work on the complex causes that lead to such movements is urgently needed.⁵²¹

As mentioned, internal migration in Azerbaijan is not only characterised by movement of population exchange between urban and rural areas. The Armenia-Azerbaijan Nagorno Karabakh conflict began in 1988, and, following the occupation of 20% of the territory of Azerbaijan in the early 1990s, led to large-scale internal migration, with hundreds of thousands of citizens from the affected areas forced to leave their permanent places of residence and temporarily settle elsewhere in Azerbaijan as IDPs.⁵²²

However, as a result of the 44-day Patriotic War that took place in 2020, the territorial integrity of Azerbaijan was restored and this has created favourable opportunities for the sustainable resettlement of former IDPs in the liberated territories, and the coverage of these territories by the economic activities implemented in the country. The goals of sustainable settlement of IDPs and reintegration of these areas into the national economy are among those specified in the "Azerbaijan 2030: National Priorities for Socio-Economic Development" document.⁵²³ In addition, a Coordination Headquarters has been established for the centralised resolution of issues in the liberated territories, and a Strategic

521 United Nations Human Settlements Programme (UN-Habitat), The Habitat Agenda: Istanbul Declaration on Human Settlements, 2014. Available at: <https://unhabitat.org/sites/default/files/2014/07/The-Habitat-Agenda-Istanbul-Declaration-on-Human-Settlements-20061.pdf>.

522 Allahveranov, A., Aliyeva, R. and T. Sadigov, *Social Impact of Emigration and Rural-Urban Migration in Central and Eastern Europe*, European Commission, Directorate-General for Employment, Social Affairs and Inclusion, Gesellschaft für Versicherungswissenschaft, Final Country Report, Azerbaijan, April 2012, p. 7. Available at: https://www.researchgate.net/publication/311844529_Social_Impact_of_Emigration_and_Rural-Urban_Migration_in_Central_and_Eastern_Europe.

523 Government of Azerbaijan, Decree of the President of the Republic of Azerbaijan on Approval of the "Azerbaijan 2030: National Priorities for Socio-Economic Development", 2021. Available at: <https://e-qanun.az/framework/46813> (in Azerbaijani).

Action Plan and Work Plan were prepared for implementation of “the Great Return Programme”.⁵²⁴

The socio-economic development of rural areas results in the weakening of urbanisation processes and the emergence of the de-urbanisation phenomenon in Azerbaijan. In addition, the resettlement of former IDPs in the liberated territories, in the Karabakh region within the Great Return, will lead to increased ruralisation, which is considered a relatively new phenomenon for Azerbaijan in the context of internal migration.⁵²⁵ According to the Work Plan prepared, rehabilitation works will be carried out in three stages, depending on the scale and economic capacities of the territories to be settled. During the first stage, the rehabilitation of localities in the Jabrayil, Fuzuli, and Aghdam districts will occur, the second stage will address those in the Zangilan, Gubadli, Kalbajar, and Lachin districts, and, during the third stage, localities in the Shusha and Khojavand districts in the Karabakh and Eastern Zangazur regions, including seven villages in the Gazakh district, will be targeted. Rehabilitation and reconstruction works will commence in the respective district centres and large settlements. Simultaneously, the rehabilitation of the Shusha district is being carried out in accordance with the first stage of the activities planned. It is expected that the resettlement of IDPs will be included in the work completed during each stage,⁵²⁶ which will lead to essentially new processes in the field of internal migration.

In Azerbaijan, environmental migration can sometimes add certain shades to the overall picture on internal migration. “Ecomigrants” are thus included among the internal migrants enumerated, with such persons forced to leave their place of residence due to natural disasters (floods, landslides, earthquakes, soil salinisation, altered sea levels, etc.) or other environmental reasons. For a long time, environmental migration has generally not been a subject of multifaceted deep research in Azerbaijan. However, some scientific and research institutes and centres

524 State Committee for Affairs of Refugees and Internally Displaced Persons, ‘Issues related to the return of IDPs were discussed’, News, Meetings, 5 February 2021. Available at: <http://idp.gov.az/az/news/1146> (in Azerbaijani).

525 Orujaliyeva, Z., ‘The population of large cities of Azerbaijan may decrease’, Sputnik, 1 February 2021. Available at: <https://az.sputniknews.ru/life/20210201/426104893/ruralisaciya-azerbaijan-migraciya.html> (in Russian).

526 Demokratik, ‘The Great Return Plan: who will be the first to be resettled in Karabakh?’, News, Karabakh, 21 January 2021. Available at: <https://demokratik.az/xeberler/qarabag/26628-byuk-qayidish-plani-qarabaga-ilk-kimler-kcurulecek.html> (in Azerbaijani).

have conducted fragmentary surveys on environmental migration and obtained certain broad results that can help to frame the migration picture in Azerbaijan more accurately; for example, one such study found that during the period 1988-2007, 1.9 million people were affected by natural disasters in Azerbaijan.⁵²⁷

Nonetheless, it is clear that displacements within Azerbaijan due to natural disasters have been a consistent component of the national migration landscape for a long time. An example in this regard can be seen in the finding that during the period 2009-2014, some 67,865 people were displaced within Azerbaijan due to natural disasters.⁵²⁸ These numbers reflect forced temporary or permanent displacement from the Kura-Araz basin as a result of the floods that occurred in the spring of 2010. Due to the geographical expanse of the area affected and the number of ecomigrants produced as a result of this natural disaster, it constitutes the largest single movement of migrants for environmental reasons in Azerbaijan since independence.⁵²⁹ The development of rural areas in many economic aspects, especially the creation of industrial and agro-parks and the Great Return of IDPs to the liberated territories, is set to speed up the pace of both de-urbanisation and ruralisation, and result, in the nearest future, in new internal migration trends.

9.10 Migration management in cases of force majeure

During the first days of the Coronavirus disease 2019 (COVID-19) pandemic, Azerbaijan took decisive and responsive steps to prevent the spread of the virus, comprehensively implementing the necessary measures. Within a short period after 28 February 2020, the date on which the first case of COVID-19 was reported in Azerbaijan, entry into and exit from the country by ground and air was halted

527 Karimov, R.N. and G. Najafova, *Climate change, floods and eco-migration*, UNDP, Baku, UNDP, 2016, p. 14. This source does not specify the part of the population that had to change their permanent address.

528 ICMPD, *Baseline Study on Migration in Azerbaijan*, "Support to the Implementation of the Mobility Partnership with Azerbaijan" (MOBILAZE) project, 2018, p. 59. Available at: https://www.icmpd.org/file/download/48400/file/Baseline_Study_on_Migration_in_Azerbaijan_EN.pdf.

529 Karimov, R., 'Regulation of human migration caused by natural disasters', Materials of the scientific and practical conference on "Migration policy in Azerbaijan: achievements and development prospects", Baku, Khazar University Publishing House, 2017, p. 162.

(except for cargo transportation), special quarantine measures were applied, and internal movement was restricted.

Although the legal status of migrants living in Azerbaijan on the basis of valid residence permits was relatively stable, uncertainty concerning the legal status of migrants who came to Azerbaijan on the basis of (or without) a visa, and who could not/did not want to return to their country of origin due to restrictions in place, was an issue of concern during the COVID-19 pandemic. For this reason, the policy implemented by the relevant structures was based on the principles of providing the maximum convenience to migrants, minimising the existing administrative procedures, and widely promoting the digitalisation of documentation. During this period, the duration of stay for migrants who did not want to return to their country of origin was extended until the restrictions on entry and exit were lifted, with this extension occurring without the requesting of additional documents.

The most efficient way to implement measures for the legalisation of stay and residence of migrants in Azerbaijan, and provide general migration services within the special quarantine regime, was the wide use of e-services. During the COVID-19 pandemic period, migrants who were found to be engaged in labour activities and residing irregularly in Azerbaijan were not expelled, and an opportunity was created for them to continue residing in the country and legalise their status. In 2020-2021, a decision was made to regularise the residence of 4,857 irregular migrants present on the national territory.⁵³⁰

Heeding UNHCR advice, Azerbaijan continued to receive applications for refugee status throughout the COVID-19 pandemic period. The processing of applications of asylum seekers was temporarily postponed, the validity of permits issued to them for stay in Azerbaijan was extended, and persons whose applications for refugee status were rejected were not required to leave the country or forcibly placed in a detention centre.

Moreover, the recommendations of other international organisations were taken into account while formulating the approach to migrant workers. On 30 April 2020, the ILO announced its recommendations for the protection of the rights of migrant workers during the COVID-19 pandemic. The recommendations specified

530 SMS, Statistics, Press centre. Available at: <https://migration.gov.az/az/statistics> (in Azerbaijani).

that migrant workers belong to the most vulnerable category, and stated that they should be properly informed on their rights and matters of concern, have any food security concerns taken care of, and enjoy the rights to equal use of health services recognised. Special attention was also to be paid to cases of increased discrimination and xenophobia against migrants, their dismissal from work, and their deportation. Guided by these ILO recommendations, the SMS delivered its recommendations to foreign migrant employers through various platforms and tools (meetings, discussions, notices, etc.).

Forced expulsions and forced placements in detention centres were temporarily suspended in Azerbaijan during the COVID-19 pandemic, while migrants with limited financial resources could request to stay at detention centres. During this period, no administrative penalty in the form of expulsion was imposed on any migrant, and the status of every migrant residing in Azerbaijan illegally was legalised on the basis of his/her application.

Since 27 April 2020, applications for the registration of foreigners and stateless persons at their place of residence in Azerbaijan, obtaining temporary and permanent residence and work permits, determination of a person's right to citizenship of Azerbaijan, and acquisition, restoration and revocation of citizenship are again being received by the SMS structural units operating at the "ASAN Service" centres.

During the COVID-19 pandemic, applications for acquisition, restoration or revocation of citizenship of Azerbaijan were initially received by the "ASAN Service" centres and the regional migration offices. However, it was found more appropriate for foreigners and stateless persons to apply to the SMS electronically. As a result of the improvement of the e-services available, in 2020 alone, an 8.5-fold increase in the number of e-applications on the extension of temporary stay, work, and residence permits was reported, compared to 2019.

As a result of the wide introduction of e-services by the SMS during the period 2020-2021, two new e-services – "Providing information by a citizen of the Republic of Azerbaijan who acquired a citizenship of a foreign state" and "Determination of a person's affiliation to the citizenship of the Republic of Azerbaijan" were developed and put into operation.

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Chapter 10

Migrant Integration

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Introduction

Chapter 10 provides an overview of migrant integration, along two dimensions. First, it presents integration as a social phenomenon linked to immigration, both at the individual and group level. Second, it discusses the approach, scope and philosophy of official policies developed by states and other political actors to promote immigrant integration.

Migration issues are central to the political debate in almost all migrant-receiving countries worldwide, including the question of how to best integrate both newcomers and long-term residents in the economic, social, cultural and political processes of their respective host countries. This debate centres on fundamental questions regarding the principle necessity of immigration and integration, its functioning or non-functioning, the priorities and approaches of migration governance and integration policy, and the actual or perceived societal effects of these phenomena.

Attitudes towards immigration and integration tend to be both strong and mixed. A recent survey among the populations of EU Member States (MSs) revealed that approx. one third of respondents saw immigration mainly as a challenge, while

two thirds saw it as both a challenge and an opportunity. A little more than 50 per cent of the survey participants agreed with the statement that integration had been successful within their community or national setting, while a strong minority disagreed with this statement. A clear majority, of almost 70 per cent, indicated promoting integration as a necessary investment for their state. Finally, a narrow majority, of 51 per cent, indicated that the actions of the respective national government are sufficient to support the integration of immigrants; once again, a strong minority was of the opinion that this is not the case.⁵³¹

While the above figures refer solely to the views of citizens of EU MSs, it is safe to assume that public opinion on migration issues in most other states is also marked by polarisation. However, it is clear that immigration and integration are in each case embedded in broader discourses, which address fundamental questions of cohesion, identity, access to opportunities and resources, and the shaping of a society's future as a whole. In this dynamic, migration and integration frequently play the role of proxy issues for wider social concerns, such as access to jobs, housing or welfare benefits, often turning migrants into scapegoats for all adverse developments in a society, but for which, in reality, they are hardly responsible.⁵³²

It is thus important to constantly keep in mind that the integration debate is shaped by perceptions as much as by facts, and that, by extension, integration policies are forced to take emotions into account as much as they respond to realities. Moreover, it should be reiterated that integration is not an objectively defined term or model, but rather a concept that is constantly re-discussed and re-defined on the basis of ever-changing academic, societal, and political debate.

Given this dynamic, undertaking a brief analysis of the developments and historical background of the integration debate in the European context is quite useful for developing an understanding of both the prevailing theoretical concepts and the main approaches of most integration policies currently in place.

531 EU, *Special Eurobarometer 469 "Integration of immigrants in the European Union"*, Brussels, European Union, 2017, p. 7.

532 Wilton Park, *Report on Wilton Park Conference WP 890, Migration: Towards a Comprehensive Approach*, October 2007, Wilton Park, 2007. Available at: <https://www.researchgate.net/publication/318860991>.

10.1 Integration as a social concept

10.1.1 The history of the integration debate

Throughout the 19th and the first half of the 20th century, Europe was a continent of emigration. More than 60 million Europeans left their home countries to settle abroad during this period, mainly destined for the Americas and Oceania. The reasons for this massive emigration flow from Europe were quite similar to those of the majority of migrants coming to Europe today, namely, political or religious oppression and persecution, flight from war, a lack of economic opportunities at home, and demand for cheap and highly motivated labour force in destination countries.⁵³³

However, sustained economic development from the early 1950s onward turned Europe from a continent of emigration to one of immigration. The booming economies faced significant labour force shortages and open vacancies were often filled by labour migrants. The large immigration flows to Europe, but also within Europe, largely comprised migration flows from colonies or former colonies to the respective metropole states (e.g. France, Netherlands, United Kingdom), as well as large internal labour migration flows from southern European states to the industrial centres of the North. Under the frame of the so-called “guest worker programmes”, highly industrialised European states (e.g. Germany, Austria, Switzerland, Sweden, Denmark) actively attracted these labour migration flows to satisfy their demand for additional labour force.⁵³⁴

This period of large-scale labour immigration to and within Europe lasted until the early 1970s and was brought to an end by the economic downturn in the aftermath of the oil crisis. The subsequent period, from roughly 1973 to 1990, was a phase of “restrained immigration” in Europe. Labour immigration continued, but on a much smaller scale than before, shifting from large-scale low-skilled immigration to selective high-skilled immigration. The fall of the Iron Curtain then opened a new chapter in the history of European migration. This period continues to the present and is characterised by significant East-West migration, a simultaneous

533 Brüggemann-Buck, I., *Migration in Europe: Migration movements and their political effects in the context of European Integration*, University of Marburg, 1999, pp. 18-22.

534 Zimmermann, K.F., *European Migration: What Do We Know?*, Oxford, Oxford University Press, p. 4.

shift of migration flows to more distant regions of origin, an increase in irregular migration, and an ever-growing increase in forced displacement within and across state borders, culminating in the so-called “European refugee crisis” of 2015-2016.

For most of the broad time frame outlined above, European states tended to regard the admission of migrants as being temporary in nature and did not consider themselves to be immigration states. It was only during the second half of the 1990s that the major receiving states began to acknowledge that this often-repeated political position no longer reflected the social reality, where integration and integration policies became the focus of attention. Previously, immigration policy had traditionally focused on domestic labour market needs and pursued a “rotation principle”. The intention was to recruit foreign labour force on a temporary basis and to return labour migrants to their home countries upon completion of their work assignments or in times of economic decline. During the 1990s, however, European states began to realise that, contrary to the initial concept, immigration to their territories was not of a temporary nature, and that a large share of labour immigrants had decided to settle on a permanent basis.

With many of the labour migrants who had come to these states being followed by relatives, family migration developed into a main form of immigration.⁵³⁵ The increasing numbers of refugees who sought and found international protection in Europe and who could not return to their home countries were also to settle down or move on to other European states. In parallel, labour market developments in times of slowing economic growth had put certain immigrant populations in particularly vulnerable positions with regard to job security and labour market inclusion. These trends led to the conclusion that targeted action would be needed to avoid further exclusion of immigrants, and to counter negative developments with regard to public acceptance and social cohesion in the host societies. Integration became a main aspect of migration governance and the concept of integration policy was born.

535 Castles, S. and S. Loughna, ‘Trends in Asylum Migration to Industrialized Countries, 1990-2001’, United Nations University, World Institute for Development Economics Research, Discussion Paper No. 2003/31, p. 2. Available at: <https://www.wider.unu.edu/sites/default/files/dp2003-31.pdf>.

10.1.2 Integration – definition and concepts

Despite its intensity and expansive tendency, the lively public, political, and academic debate on immigrant integration has not produced a commonly accepted definition of the underlying concept. Although most will have at least a vague idea of what “integration” should mean or can give examples of when it does or does not function, political and academic experts, as well as the general public, tend to find it difficult to formulate the concept in such a precise and comprehensive way that would engender general acceptance and be conducive to concrete implementation. Thus, in speaking of “integration”, there is no ideal-type situation that can be scientifically determined, but rather its attributes tend to be determined by the given public and political debate, undertaken in a historically and geographically specific context.

Electing to break down the main dimensions constituting “integration” is perhaps the most promising approach for understanding the subject. With this in mind, the following section provides a brief outline of some of the key conceptual issues and approaches connected to integration, to facilitate understanding of the considerations underlying current integration policies – where they see the key challenges as laying, and what priorities they want to set.

10.1.3 Assimilation, integration, inclusion and multiculturalism

Immigration adds new populations to those already residing on a national territory. It brings together newcomers, long-term residents and the existing institutions of state and society, in a broad array of relationships. The nature of these relationships, individually and collectively, and the process through which they change over time constitutes what we call “integration”.

“The term integration refers to the process of settlement, interaction with the host society, and social change that follows immigration.”⁵³⁶

536 Garcés-Masareñas, B. and R. Penninx, *Integration Processes and Policies in Europe: Contexts, Levels and Actors*, Springer, 2016, p. 11.

Over the years, both academia and politics have used different terms to analyse, study and steer this process: “absorption, adaptation, race relations cycle, assimilation, acculturation, inclusion, incorporation and, of course, ‘integration’”.⁵³⁷

Against this background, this section briefly treats the four terms “assimilation”, “integration”, “inclusion” and “multiculturalism” since their use goes beyond mere semantics to refer to a different understanding of the concept of integration and its governance. This discussion is somewhat complicated by the fact that proponents of the respective terms have not used them uniformly, but rather have interpreted them according to their different approaches to the respective subjects. However, some generalisations can be made to shed clear light on this debate.

“Assimilation” is the oldest of the four concepts. First appearing in the 1920s, this term was used in relation to a process characterised by an emphasis on “acculturation” as the adoption of the “cultural patterns” of the host society, by newcomers or ethnic minorities.⁵³⁸ This presupposes the existence of a “core” or “mainstream culture”, which determines the social, political and economic life in the host country, which the newcomers or minorities, and their descendants, would inevitably adopt over time. Under this view, it is essentially the responsibility of the newcomer or minority group member to complete a “unidirectional, one-sided process”⁵³⁹ of adaptation to local customs. Through this process, migrants are, over time, absorbed into mainstream society, without leaving much trace of their own culture, history or origins.

The main difference between “assimilation” and **“integration”** is that the latter understands the course of approximation as a two-way process (rather than being unidirectional in nature), requiring both the commitment of the immigrants and the openness of the receiving society and its institutions.⁵⁴⁰ Both sides have rights and obligations. The immigrants are required to actively pursue individual integration goals, while the host society is obliged to support these efforts and

537 Heckmann, F., *Integration and integration policies: IMISCOE network feasibility study*, research report, 2005, p. 8. Available at: <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-192953>.

538 Alba, R. and V. Nee, ‘Rethinking Assimilation Theory for a New Era of Immigration’, *The International Migration Review*, Vol. 31, No. 4, 1997, pp. 826-874, p. 829. Available at: <https://doi.org/10.2307/2547416>.

539 Heckmann, *Integration*, p. 11.

540 Ibid., p. 14.

to remove all structural barriers and forms of discrimination preventing the immigrant from succeeding in their pursuit. This understanding recognises the immigrants' right to maintain their cultural heritage, as long as it does not collide with the fundamental values of the host society or interfere with integration processes. It also recognises that societies are not static but instead transform over time, not least because of immigration. Notwithstanding this, the concept of integration acknowledges that societal change due to immigration needs to be governed, controlled and accompanied by flanking measures to guarantee social cohesion and gratifying relations between all members of the respective society.

“Inclusion” goes one step further, by dissolving the “us” and “them” in the assimilation dynamic, the “non-migrant” and “migrant” dichotomy. Here the focus shifts from “group” to “society”. The focus is no longer on defining a certain population as marginalised, whose deficits need to be addressed to enable their participation in society to the same extent as the mainstream population.⁵⁴¹ Instead, this approach focuses on treating all groups as “mainstream” and creating a society that is open, receptive and inclusive for all groups, within and irrespective of their background.

When we look at the integration concepts and policies in place today, we see that they draw on all three of the conceptual approaches outlined above. They contain “assimilationist” elements, for instance, by referring integration to a mainstream culture defined by language, values and fundamentals of legal and political order. These principles are considered non-negotiable and immigrants are expected, under the threat of sanctions, to adhere to them.

“Integrational” elements of the current landscape can be seen in the defining of integration as a two-way process involving both migrants and the host society, and by stipulating rights and obligations for both sides. State-sponsored language courses are a good example in this regard. Migrants are expected to attend and complete the courses, which are organised and (partially or fully) paid for by the state.

541 Spencer, S. and K. Charsley, ‘Conceptualising integration: a framework for empirical research, taking marriage migration as a case study’, *Comparative Migration Studies*, Vol. 4, No. 1, Art. 18, 2016, p. 3. Available at: <https://doi.org/10.1186/s40878-016-0035-x>.

Lastly, “inclusive” elements are also present; for instance, when public institutions build multilingual information provisions or diversity management principles into their everyday services.

The latter also involves a fourth, hotly debated concept, namely, “**multiculturalism**”, as a guiding principle of immigrant integration. In the public debate, multiculturalism is often imbued with negative connotation, as a laissez-faire approach that does not require immigrants to accustom themselves to the host society at all, consequently hampering integration and undermining social cohesion.

However, in the context of migration and integration research, “multiculturalism” has taken on a different meaning. First, it is used to describe an “empirical reality of the presence of cultural diversity” within a state.⁵⁴² Second, it is understood as a two-way process of social integration, involving groups and individuals, and working differently for different groups.⁵⁴³ Multiculturalism does not deny the individualist aspects of integration (e.g. the personal aspirations of an immigrant to climb up the social ladder expressed in voluntary attendance of language and other training courses), but it emphasises groups as a critical feature of social life in general, and of immigrant integration in particular (e.g. obstacles to economic participation specific to female refugees with little previous work experience).⁵⁴⁴

Most large migrant-receiving states – whether or not they consider themselves “anti-multiculturalist” – acknowledge the presence of group-related aspects of integration. They address them by developing tailor-made programmes for the benefit of specific target groups, such as through the inclusion of childcare as a feature of language courses for female immigrants, or by introducing corporatist elements into their integration policies (e.g. maintaining institutionalised cooperation with migrant diaspora or faith-based associations).

542 Apap, J. et al., *The Nexus between Immigration, Integration and Citizenship in the EU*, CEPS-CHALLENGE Liberty & Security, Collective Conference Volume, CEPS Policy Brief, April 2006, p. 31.

543 Modood, T., *Multiculturalism and Integration: Struggling with Confusions*, European University Institute, 2011, p. 4. Available at: <https://www.coe.int/t/dg4/cultureheritage/mars/source/resources/references/others/38%20-%20Multiculturalisme%20and%20Integration%20-%20Modood%202011.pdf>.

544 Ibid., p. 5.

10.1.4 The time dimension of integration

When we talk about “integration”, we have to keep in mind a certain kind of contradiction inherent to the debate on this matter. Academic and political discourses regard integration as a long-term process, involving an (im)migrant’s whole biography, or even spanning generations. Consequently, the respective discourses tend to focus on long-term individual and societal processes or emphasise the medium- to long-term effects of state interventions and programmes. Conversely, public debate on integration is regularly triggered by specific events which are perceived negatively, or by the publication of statistics that suggest structural problems linked to immigration and integration.

Both viewpoints, the short-term “snapshot perspective” and the long-term “process perspective”, play an important role in the analysis of integration, but even more so in understanding the design and application of integration policies. Obviously, the latter have to deliver on the promotion of integration, but they also must send a clear signal to the population that developments in this area are taken seriously, problems are addressed and social cohesion is preserved by targeted and competent intervention.

10.1.5 Integration as a “snapshot”

Migrants are a highly heterogeneous group, in terms of socio-economic background, educational attainment, and cultural background, which makes any (constructive) generalisations difficult or even impossible to make. Keeping this caveat in mind, one can state that the available research suggests that immigration is indeed beneficial for European receiving societies in economic and demographic terms. Immigration seems to moderately increase GDP per capita, allows for key vacancies to be filled at both ends of the qualification and wage spectrums, does not lead to long-term displacement within the local labour market, and relieves pressure on public finances and welfare systems, due to the generally more favourable age structure of immigrant groups.

Integration also works better than is often assumed in both the political and public debates. In practice, most immigrants typically acknowledge that integration is a precondition for their success. They want to integrate and manage to do so,

which tends to involve the gradual approximation of cultural and behavioural patterns. This also finds its expression in notable upward mobility between first- and second-generation immigrants, once the language barrier is overcome. Female second-generation migrants in particular fair significantly better in the labour market than their mothers did, driven by high proficiency in the local language and graduation from the local education systems.

Challenges in regard to integration of migrants also of course do exist. Where there is upward mobility for certain groups, there is often downward mobility for other groups.⁵⁴⁵ Generally, first-generation immigrants face a higher risk of working below their qualification level and becoming locked into jobs with below-average wages. This can be largely attributed to four factors: language barriers; educational or vocational training credentials that differ from the standards in the host country; difficulties in obtaining formal recognition for skills and qualifications; and difficulty accessing opportunities through formal recruitment channels or informal social networks.

Many of these obstacles can be overcome with time, but not all of them are ultimately overcome – and not for every immigrant group.⁵⁴⁶ A long-term challenge arises when the first generation of immigrants has been recruited from persons with low levels of educational achievement, as education levels are often “passed on” from one generation to the next. Low-qualified second- and third-generation migrants are more likely to emerge from such a setting, who do not manage to obtain the credentials often necessary for upward social mobility, but whom also may be, compared to their predecessors, less willing to accept low-paid jobs.

10.1.6 Integration as a long-term process

The German sociologist Hartmut Esser developed one of the most influential concepts in terms of policy-making on integration.⁵⁴⁷ Esser defines “immigrant

545 Papademetriou, D.G., Sumption, M. and W. Somerville, *The Social Mobility of Immigrants and Their Children*, Migration Policy Institute, June 2009, p. 5.

546 Ibid., p. 2.

547 Esser, H., ‘Integration and ethnic stratification’, Mannheim Centre for European Social Research, Working papers, No. 40, 2001. Available at: <https://www.mzes.uni-mannheim.de/publications/wp/wp-40.pdf> (in German).

integration” as inclusion in the social system of the host country, with the underlying process comprising four phases related to four different dimensions of the phenomenon. The first phase of “acculturation” relates to the cultural dimension of integration and includes the acquisition of language, knowledge and skills. The second phase, “positioning”, centres on the structural dimension and comprises the acquisition of rights and participation in the labour and housing market and the educational system. The third phase, “interaction”, emphasises the social dimension and refers to contacts and relations beyond ethnical boundaries, friendships, marriage and family. The fourth phase, “identification”, is linked to the emotional dimension and is characterised by positive orientation towards the host society, a sense of identity and solidarity, and an increasing acceptance of the general values and social norms of the host society.

Two aspects are key in this regard: time and individual success. Integration processes take time and successful integration largely depends on the individual’s success in terms of fulfilment of his or her personal aspirations. This also puts in perspective the widely held belief that identification with the host society, with its various systems and values, has to come at the start of the integration process. In reality, this process appears to work in reverse, with positive identification the *endpoint* of successful integration.

This notion also has consequences for integration policies. First of all, integration processes require a great deal of endurance, they span many years, sometimes even generations. Integration policies must thus follow a long-term perspective. Second, gratifying participation and the fulfilment of personal or family aspirations are prerequisites for positive identification with the values and norms of the host society. In this regard, integration policies must particularly emphasise economic participation as a precondition for fulfilment of immigrants’ personal aspirations.⁵⁴⁸ Finally, integration policies should contain defined milestones, where successful integration efforts are rewarded with increased access to rights. Only then will immigrants positively identify with the host society’s values and endorse the written and unwritten rules by which it operates.

548 Hofmann, M., ‘Integration Comes of Age, PerConcordiam’, *Journal of European Security and Defense Issues*, Vol. 8, No. 4, 2018, pp. 38-46, p. 39.

10.1.7 Integration and citizenship

Citizenship is defined as the “relationship between an individual and a state to which the individual owes allegiance and in turn is entitled to its protection”.⁵⁴⁹ Article 15 of the 1948 Universal Declaration of Human Rights stipulates that everyone has the right to a nationality/citizenship.⁵⁵⁰ Typically, citizenship is assigned at birth; and for the majority of the world’s population is not subject to change over the course of their lifetime. Citizenship defines a set of particular rights, duties and responsibilities that are exclusive to the relationship between citizens and their home countries, and which do not apply to non-citizens. Only citizens have full political rights, can vote, hold public office, and, in some cases, be eligible for specific government posts. In many states, citizenship is a formal requirement for employment in public administration and the obligation to enlist in military service. In the area of social rights, citizens may have privileged access to welfare benefits, health care, education or public housing.

Citizenship is also the main instrument for distinguishing between members (citizens) and non-members (aliens / foreigners) of a polity (state), and of steering the territorial access and residence of non-members. The “filtering function”⁵⁵¹ of citizenship, however, does not end once a state has granted an alien the right to enter and settle on the national territory, it continues to differentiate thereafter between members and non-members in terms of rights, duties and responsibilities. The principal idea of integration, and the main goal of integration policy, is to level out these differences over defined time periods of legal residence, after completing certain formal steps within integration trajectories.

Many states have defined naturalisation, i.e. immigrants’ acquisition of citizenship, as the final milestone in this process. To this end, states have introduced a naturalisation process that formally assesses the state of integration of an immigrant (e.g. number of years of legal residency, language proficiency,

549 Citizenship, Encyclopedia Britannica. Available online: <https://www.britannica.com/topic/citizenship> (accessed on 8 December 2023)

550 In international law, citizenship is generally called nationality; Bauböck, R., ‘Citizenship and Migration – Concepts and Controversies’, in Bauböck, R. (ed.), *Migration and Citizenship: Legal Status, Rights and Political Participation*, Amsterdam, Amsterdam University Press, 2006, pp. 15-32, p. 17. Available at: <http://www.jstor.org/stable/j.ctt46mvkf.6>. Accessed 25 Aug. 2022.

551 Bauböck, ‘Citizenship and Migration’, p. 18.

socio-economic status, etc.) and/or require the passing of a specific citizenship test examining basic knowledge of the host society language(s), history, and institutions.⁵⁵²

10.1.8 Integration and social cohesion

As stated above, immigration not only affects the newcomers but also the host society and its resident members, citizens and long-term immigrants. Immigration and integration touch upon various economic, socio-cultural and political aspects that make up the fabric of a society, and the forces that hold it together. For the latter, also known as “social cohesion”, there is also no universally accepted definition, but the various conceptualisations of this phenomenon tend to centre on a sense of “inclusion”, “belonging” and “identity” within a society, whose members feel connected with each other (but also with the institutions of power), exhibit solidarity with each other, and share an “orientation towards a common good”. These attitudes not only guarantee peaceful and gratifying relations between the members of a society but are considered to be requisite preconditions for the functioning of state and society.

In the context of this chapter, “social cohesion” is understood as the belief among the citizens of a state and non-citizens who have settled in that state that they share a community, which enables them to trust each other, and share an overlapping, if not always common, identity, which in turn enables them to cooperate towards the achievement of a common good.⁵⁵³ Research on the subject, however, suggests a widespread feeling that social cohesion is on the decline, that many societies are becoming increasingly fragmented, and that traditional social bonds are diminishing. Globalisation, economic and technological change, modern communications technology, new kinds of lifestyles and immigration are seen as the main drivers of such perceived developments.⁵⁵⁴

552 Jacobs, D. and A. Rea, ‘The End of National Models? Integration Courses and Citizenship Trajectories in Europe’, *International Journal on Multicultural Societies*, Vol. 9, No. 2, 2007, pp. 264-283, p. 265.

553 Larsen, C.A., ‘Social cohesion: Definition, measurement and developments’, Aalborg University, Centre for Comparative Welfare Studies Working paper no. 2014-85, 2014, p. 2.

554 Dragolov, G. et al., *Social Cohesion Radar. Measuring Common Ground. An International Comparison of Social Cohesion*, Bertelsmann Foundation, 2013, p. 8.

The above conceptualisations also lead to the question of the relationships among immigration, migrant integration, and social cohesion. Christian Albrekt Larsen defines social integration as “the process that leads to social cohesion”,⁵⁵⁵ with integration thus not referring to specific groups but to all members of society. In following this definition, the analyst is led to three implied basic conclusions: a cohesive society is one that manages to integrate all its sub-groups and populations, including immigrants;⁵⁵⁶ integration is a continuous and constant process requiring active participation from all members of the respective society; states have a strong interest in the integration-cohesion-nexus, since, in the long run, a lack of cohesion will undermine the forces that hold a society together and the ability of the state to govern.

10.2 Integration policy

10.2.1 Definition of integration policy

Immigrant integration unfolds along three main planes: the individual integration efforts on the part of immigrants, the relationships between immigrants and the social systems of the host society, and the relationships among immigrants, non-immigrants, and state institutions and structures. In regard to the third plane, many immigrant-receiving states in Europe have developed specific strategies, institutional and legal frameworks, and targeted policies and programmes. This trend began at the municipal level, with the development of integration models in the early 2000s and expanded to the national level about 10 years later. In this textbook, “integration policy” is understood as both a deliberate plan of government action to guide decisions and achieve desired outcomes and as the sum of state and sub-state interventions in various processes of immigrant integration.

Integration policies are embedded in concrete historical, political, economic and cultural environments, and reflect the specific immigration situation in country, including the size and composition of the migrant population. While policies in this regard will differ to a certain degree, they tend to share common challenges

⁵⁵⁵ Larsen, ‘Social cohesion’, p. 2.

⁵⁵⁶ Hofmann, M., ‘Migration’, in Webinger, P. and A. Schahbasi (eds.), *Stable States*. Rethinking social cohesion and good governance, 2014, pp. 12-23, p. 16.

and develop comparable responses on immigrant integration. All integration policy approaches share one major objective: ensure that migrants acquire the necessary means to participate in the economic, cultural and social life of the receiving society, benefit from equal access to rights and opportunities, and are subject to the same obligations as the existing population.⁵⁵⁷

Integration policies are typically formulated along three dimensions. “Structural integration” refers to immigrants’ participation in the economic life of the host country, and access to the local education and health systems. “Social and cultural integration” refers to immigrants’ participation in social life and their orientation on commonly shared values. “Political integration” refers to migrants’ participation in the political decision-making process. As mentioned, the right to full political participation in a state is typically only granted upon acquisition of citizenship of that state.

In general, integration policies focus on the areas of language, labour, education, and norms and values and socio-cultural interaction. As a cross-cutting issue, policies on integration are not only linked to other migration policies but also to a broad number of other policy areas and so-called “regular structures”, such as public employment policies and services, and the education, health, and housing policies and systems. Specifically targeted measures in the area of integration regularly comprise language tuition, targeted job training, introduction to the history, culture and general values of the host society, or specific programmes addressing the needs of certain migrant groups (e.g. female or young migrants).

10.2.2 Recent trends in integration policies

The integration policy of a given European state develops as a result of the particular approach employed in that state in response to the national situation, including in terms of the size and characteristics of the immigrant groups residing on the national territory and the respective political and public environment on (im)migration. The scope and direction of integration policies in European states thus tend to vary, while nonetheless sharing a number of principles, a brief description of which is provided in the following section.

⁵⁵⁷ The right to full political participation forms an important exception in this context.

10.2.3 The principle of early intervention and language-related measures

Based on past experience, states tend to conclude that integration measures will be most successful if they intervene in the individual integration process as early as possible.⁵⁵⁸ From this perspective, integration measures should thus ideally start at the very beginning of an individual integration process or biography. Immigrants should be acquainted with the language and culture of the host country immediately after their arrival, or even before they arrive.

A number of language-related measures are deployed to ensure the efficient execution of this approach: a) intensive language courses for new immigrants, helping them to attain a level of language proficiency sufficient for participation in the economic, social and cultural life of the host society as early as possible, b) language courses and language tests in the country of origin, which oblige migration applicants to acquire and prove a certain level of language proficiency prior to entering the host country, c) a more intensive language programme, equipping immigrants with language competency above previous requirements. The trend in this regard is towards increased requirements on language competency and related training measures.

Traditionally, immigrant-receiving countries have emphasised language acquisition as the main objective of their integration measures. However, there is a clear tendency towards broadening and supplementing this focus, namely, with a view to economic integration and participation in the labour market.

10.2.4 Labour market focus of integration measures

Integration measures increasingly target vocational training and labour market integration of immigrants, placing language training within this context. This trend is based upon one fundamental insight: without successful integration into the labour market, all personal and state-led integration measures undertaken in

558 Clark-Foulquier, C., Wislocki, A-S. and S. Burger, *Towards an Effective Integration of Third Country Nationals*, Eurodiaconia, Policy Paper, December 2017, p. 5.

regard to the migrant will typically have only limited effect.⁵⁵⁹ Related measures place an emphasis on low- and medium-skilled occupations; generally, highly skilled immigrant populations are not the focus of integration policies, as this group tend to be perceived as being less affected by integration challenges compared to those with lower skill levels.

A number of measures aim at ensuring this approach: a) thorough assessment of existing professional skills of migrants, b) targeted support from the responsible entities during the job search phase, c) bridging measures, traineeships and internships to overcome existing skills gaps; d) integration measures directly implemented in the workplace. Such measures are of special importance, as most migrants must undertake paid work to sustain themselves and do not have the time nor capacity to participate in extensive training outside of working hours.

10.2.5 Increasing diversification of integration measures

Immigrants form a diverse population in terms of their country of origin, skills and education, cultural background, linguistic proximity of the language(s) they speak, traditions and role conceptions. This basic recognition has led to another principle of integration policies, namely, the diversification of integration measures. Integration policies attempt to develop and implement “tailor-made” interventions to the benefit of clearly defined target groups and their respective integration needs. Related approaches, which focus on specific target groups and are currently pursued by many European states, comprise, for example, specific measures for young immigrants/children, female immigrants, or according to level of education and/or professional qualification.

10.2.6 Customisation of integration measures

The diversification of integration measures goes hand in hand with yet another principle of integration policies: the development of customised solutions for the individual case. There are a number of integration challenges which all immigrants

559 EMN, *Labour market integration of third-country nationals in EU Member States: Synthesis Report for the EMN Study*, Brussels, European Commission, 2019, p. 9.

tend to encounter during successful navigation of the integration process, such as language acquisition, labour market integration, or the recognition of skills/qualifications. However, integration remains an individual process as well, unfolding over longer time horizons, where migrants are confronted with a number of smaller or larger obstacles rooted in their particular individual biography, before and after arrival in the host country.

The basic idea of customisation is thus to provide immigrants with individual support in the framework of general integration programmes. A number of measures aim at ensuring this provision: a) “case-by-case counselling” and development of an individual integration plan, b) “integration guides”, specifically trained representatives from immigration or integration authorities who accompany the migrant at certain stages of the integration process; c) specific mentoring programmes involving specially trained staff or well-integrated representatives from immigrant communities, who assist those who are newly arrived.⁵⁶⁰

Individual integration plans address individual integration challenges in a more targeted way, while strengthening a sense of self-responsibility among immigrants for their successful integration. The notion that personal efforts to successfully integrate into the host society are an obligation for immigrants has also found expression in another principle of integration policies measures, namely, the introduction of incentives and sanctions.

10.2.7 Incentives and sanctions

Many states now look to implement measures which reward immigrants for perceived successful integration, while sanctioning failure to integrate – for instance, through the reduction of welfare benefits or longer waiting periods for the granting of residence permits. This approach is not entirely new; the integration agreements or contracts introduced by European states in the 2000s mostly carried the option to withdraw a residence permit in case of non-compliance.⁵⁶¹ However, this punitive instrument was only used in a small number of cases.

560 Heckmann, F., *Welfare State Integration of Immigrants: the Case of Germany*, Bamberg, 2012, p. 11.

561 ICMPD, *Integration Agreements and Voluntary Measures*, Vienna, ICMPD, 2005.

A rather new approach is to add incentives to integration measures, which reward immigrants for successful integration efforts. Such incentives comprise: a) “fast-track procedures” or “preferential treatment” for resident permits or access to citizenship for immigrants who can prove particular integration success – for instance, by completing language courses early; and b) financial incentives and bonus payments for immigrants who successfully complete integration courses within certain set time frames.

10.2.8 The measurement of integration

In recent years, many European states have introduced so called “integration indicators” to measure the state of immigrant integration by use of statistical methods, the chosen methodologies for which differ from state to state. Some states use a small number of “key indicators” (e.g. employment rate, income, educational level), while others may use a set of more than 100 different indicators. Regardless of the methodology deployed, it is very difficult to precisely measure the state of integration in a given national setting. However, integration indicators have proved very useful in identifying certain problematic areas or immigrant groups who find it particularly difficult to successfully participate in the economic, social and cultural life of the host country.

In general, indicators quantify and simplify social phenomena and help to better understand complex realities without precisely measuring them.⁵⁶² Charting the education levels attained by immigrants, for instance, will not be sufficient to fully account for or predict whether or not they will manage to successfully integrate. Nonetheless, since education is often linked to labour market participation, it can be assumed that, together with other factors, it will have a positive or negative impact on this aspect. Consequently, integration indicators or monitoring systems use a set of different data, which together can paint an accurate picture of the overall situation.

The monitoring of social conditions and processes by means of quantitative indicators is one frequently used method; for instance, in the areas of poverty research, research on general living conditions, and labour market research.

562 Hofmann, M., ‘Integration Comes’, p. 42.

Monitoring migrant integration processes, on the other hand, is a relatively new development that has gained much importance in recent years, coming to play a central role in policy development and implementation in the integration field. Over the past fifteen years, many authorities at the national and local level have developed integration indicators and established “integration monitors”.

The local and regional levels were often the first to introduce integration indicators or monitors within the given state, with national administrations then beginning to look at the situation on the whole-of-country level. Thus, the importance attributed to measuring the state of integration is also reflected by the fact that uniform integration indicators have also been developed at European Union (EU) level.⁵⁶³

States and municipalities have followed different approaches in developing their respective integration monitors. Nonetheless, each share the aim of making the state of migrant integration *measurable*, to identify specific areas where state intervention is needed and to see whether or not integration policies have a positive impact. However, due to the expansive and diverse nature of the matter under study, and regardless of the methodology deployed, measuring the state of integration within a particular national setting will continue to present a challenge and results produced cannot be considered conclusive or unbiased.

In the following example, the case of the EU integration indicators is used to demonstrate which individual aspects and data sources can be included in such a monitoring system. These indicators were adopted as part of the Zaragoza Declaration⁵⁶⁴ in April 2010 and focus on four core areas: employment, education, social inclusion, and active citizenship. Each core area includes a number of concrete quantitative indicators that can be measured by using existing data sources.

563 European Ministerial Conference on Integration, Declaration of the European Ministerial Conference on Integration (Zaragoza, 15 and 16 April 2010), 16 April 2010. Available at: https://ec.europa.eu/migrant-integration/library-document/declaration-european-ministerial-conference-integration-zaragoza-15-16-april-2010_en.

564 Ibid.

The Zaragoza Indicators ³⁵	
Core Area	Core Indicators
Employment	<ul style="list-style-type: none"> ◆ Employment rate (number of employed persons as a percentage of the active population/labour force). ◆ Unemployment rate (number of unemployed persons as a percentage of the active population/labour force). ◆ Activity rate (percentage of active persons – employed and unemployed – in relation to the overall population).
Education	<ul style="list-style-type: none"> ◆ Highest level of education (share of population with tertiary, secondary, primary, or less than primary, education). ◆ Share of low-achieving 15-year-olds in reading, mathematics and science. ◆ Share of 30-34-year-olds with tertiary education. ◆ Share of early leavers from education and training.
Social Inclusion	<ul style="list-style-type: none"> ◆ Median net income of the immigrant population as a proportion of median net income of the overall population. ◆ At risk of poverty rate – share of immigrant population with disposable income of less than 60 per cent of the national median. ◆ Share of immigrant population perceiving their health status as good or poor. ◆ Ratio of property owners to non-property owners among immigrants and the overall population.
Active Citizenship	<ul style="list-style-type: none"> ◆ Share of immigrants who have acquired citizenship. ◆ Share of immigrants holding permanent or long-term residence permits. ◆ Share of immigrants among elected representatives.

An initial study conducted across EU MSs on the basis of the Zaragoza Indicators confirmed the usefulness of integration monitoring, and revealed a number of interesting results.⁵⁶⁶ Against a background of a high degree of heterogeneity among EU immigrant populations, it showed that nationality, gender, length of residence and socio-economic background influence integration outcomes as

⁵⁶⁵ Ibid., p. 15.

⁵⁶⁶ Huddleston, T., Niessen, J. and J.D. Tjaden, *Using EU Indicators of Immigrant Integration: Final Report for Directorate-General for Home Affairs*, European Union, 2013.

much as various forms of discrimination.⁵⁶⁷ The study also confirmed a general trend towards over qualification, i.e. immigrants working below their formal skills and qualifications, which, among other factors, stems from underdeveloped systems for the recognition of skills attained abroad.⁵⁶⁸ This over qualification phenomenon is linked to considerably higher poverty risk among immigrants.

The figures also pointed towards a positive impact of targeted integration measures and the importance of a general openness towards immigrants' needs in other policy areas, such as education and labour. On the whole, one can conclude that the Zaragoza Indicators serve their purpose. They shed light on the general state of integration in the context of the main economic, socio-cultural and political environments of the host country, while highlighting areas where there are deficits and where targeted policy intervention is needed.

10.3 Integration of migrants and refugees in Azerbaijan

Azerbaijan has in recent years been receiving relatively increasing numbers of migrants, especially from neighbouring states, with migrant integration thus becoming one of the key priorities of the Government of Azerbaijan in regard to migration. This section charts the various institutional efforts being made to boost successful integration among immigrants to Azerbaijan.

10.3.1 Overview of Azerbaijani integration programmes and initiatives

The Government of Azerbaijan is actively spearheading initiatives aimed at fostering integration endeavours pertaining to foreign nationals and stateless individuals present on the national territory. The Government has established a variety of initiatives that support refugees and migrants in fully and actively participating in society and leading independent lives.

⁵⁶⁷ Ibid.

⁵⁶⁸ Ibid.

In 2022, the Migrant Council was established under the State Migration Service of the Republic of Azerbaijan (SMS). The primary goal of the Migrant Council is to develop programmes designed to facilitate the integration of immigrants and refugees residing in Azerbaijan. The Migrant Council focuses on enhancing collaboration with migrants and playing a significant role in achieving a comprehensive societal approach to addressing all aspects of migration-related challenges.⁵⁶⁹

At the request of the SMS, the International Centre for Migration Policy Development (ICMPD) has been implementing activities in Azerbaijan dedicated to the integration of migrants, including refugees, in the framework of the “Support for implementation of the Mobility Partnership with EU” (MOBILAZE 2) project. In February 2023, ICMPD began a pilot integration programme for migrants, including refugees, in close cooperation with the SMS, and engaging two national integration consultants based in the Baku Regional Department of the SMS.⁵⁷⁰ The main objectives of the integration programme are to: foster a sense of stability and protection among young migrants and refugees, motivating them to pursue a long-term inclusion process; ensure a holistic approach to the needs of migrants and refugees, including housing, training, health, and education; reduce economic and social risks for young migrants and refugees; promote the personal and educational development of young migrants and refugees; and prepare local communities for integration, taking into consideration the two-sided dynamic of the integration process. The integration programme also maps existing resources and services in Azerbaijan which can be of service in accelerating the integration process.

The integration programme focuses on several key areas:

Orientation support is provided to newcomers to settle in and navigate their new communities. This support includes language support for newcomers who speak no/very little Azerbaijani, enabling them to plan and attend medical

569 SMS, ‘The first meeting of the Migrant Council under the State Migration Service was held’, About the service, Migrant Council, 15 March 2022. Available at: https://migration.gov.az/index.php/az/about_detail/2660 (in Azerbaijani).

570 ICMPD, MOBILAZE 2 Project: Launch of new integration programme in cooperation with the State Migration Service Azerbaijan, Project News, 15 February 2023. Available at: <https://www.icmpd.org/news/mobilaze2-project-launch-of-new-integration-programme-in-cooperation-with-the-state-migration-service-azerbaijan>.

appointments, language courses, notary services, city registration, and available cultural and educational services in their new community. The migrant and refugee beneficiaries are also guided through the administrative procedures required by government agencies.

Further, beneficiaries are supported in the translation of important personal documents, such as academic records, driving licences, birth certificates, marriage certificates, degrees and diplomas, letters, and documents for confirming their status in Azerbaijan, and benefit from the further pillars of the integration programme. The integration programme mobilises service providers to waive the fees for services rendered to beneficiaries, or covers the cost of such services via the project budget.

Health is one of the fundamental rights for all humans. Thus, one of the key aims of the integration programme is to ensure migrants' and refugees' access to health care services. The integration programme envisages referral of beneficiaries to relevant local health services, assisting the beneficiaries to obtain public or private health insurance packages where possible. The integration case managers support the beneficiaries in registering at local primary health care facilities and advocate and promote accessibility of community-based health care services for migrants and refugees.

The integration programme also aims to help its beneficiaries with relevant **training and education** opportunities. To this end, the integration case managers map the formal and informal education/training institutes accessible to migrants and refugees in the local area. If institutions are not accessible, the case managers investigate the reasons for this and further advocate for access for the beneficiaries of the integration programme.

The integration programme assesses the academic and professional backgrounds, and skills, of the beneficiaries upon application to the programme, with the aim of recognising their prior experience and education. The beneficiaries' skills, interests and aspirations are taken into consideration when placing them in employment or training opportunities. The integration consultants involve local communities, civil society, social services and existing mechanisms to support the beneficiaries in this regard. Most referrals are organised informally, with integration consultants utilising their network largely during the initial stage of the integration programme.

The programme also creates and/or accelerates networking opportunities among beneficiaries and the local community, to establish enhanced employment and training opportunities for migrants and refugees, by organising events, meetings for local communities and migrants and refugees.

Furthermore, the programme develops strategies to make sure that assessment and placement services are responsive to the needs of the beneficiaries, ensuring that the language used during interviews is understood by the beneficiary, the documents and evidence provided by the beneficiary are clear to employers, etc. These strategies also include awareness-raising among employers on the rights of migrants and refugees.

Learning the local language is an essential part of the integration programme. However, the programme does not offer language courses directly. Instead, it cooperates with other civil society initiatives and organisations which provide language courses for migrants, including refugees.

The integration programme utilises case management methodology and assesses the needs of beneficiaries, developing individual integration plans which are implemented jointly with the beneficiary. Once the integration plan has been fully executed, a final assessment is carried out by the integration consultants to identify whether the beneficiary has any further needs or the integration process has been successfully completed.

10.3.2 Employment and vocational training programmes

As a result of the substantial inflow of migrants and refugees to Azerbaijan in recent years, the Government of Azerbaijan has put in place a number of job and vocational training initiatives, to assist in the newcomers' societal integration and economic contribution. One of the essential elements of successful integration is achieving economic self-sufficiency. In addition to helping to safeguard financial security, employment significantly affects a person's capacity to engage equally in the host community, form friendships, and build social support networks.⁵⁷¹

571 UNCHR, Employment, Integration Handbook. Available at: <https://www.unhcr.org/handbooks/ih/employment-training/employment>.

One example of this approach is the internship opportunities offered by the United Nations High Commissioner for Refugees (UNHCR) in Azerbaijan, to provide refugees with free access to the labour market. As of 2022, 3 out of 11 interns were legally employed by different organisations in Azerbaijan under this initiative, with refugees benefitting from soft skills training sessions aimed at preparing them for the workplace.⁵⁷²

10.3.3 Access to health and social services

Under the mandatory health insurance system in place, refugees in Azerbaijan are entitled to receive health care services free of charge, as an integral component of their benefit package. Refugees also have the rights to free access to primary health care medicines from local health care facilities.

Ensuring access to health care is a primary concern for UNHCR in Azerbaijan, with health recognised as an essential human right for all, including refugees. In April 2020, the International Labour Organization (ILO) released guidelines for protecting the rights of migrant workers during the Coronavirus disease 2019 pandemic. The recommendations emphasised the need to raise awareness, guarantee food security, and ensure equal access to health care for migrant workers, whom are among the most vulnerable groups. The ILO guidelines also highlighted the importance of addressing discrimination and xenophobia against migrant workers, protecting them from dismissal, and preventing their expulsion from the national territory.⁵⁷³

10.3.4 Access to education and free language courses

At the state education institutions, refugees are entitled to free access to primary and secondary education as part of their rights. UNHCR Azerbaijan works to ensure that child refugees across Azerbaijan can access quality education. Refugees have

572 UNHCR, Azerbaijan Factsheet, Available at: <https://www.unhcr.org/sites/default/files/legacy-pdf/6407450a7.pdf>

573 SMS, 'Article of the Chief of the State Migration Service Vusal Huseynov on "Migration management in Azerbaijan during the pandemic"', Press room, News, 26 August 2020. Available at: https://www.migration.gov.az/en/news_detail/14185.

the opportunity to take advantage of various benefits, including free Azerbaijani language courses, educational grants, preparatory courses (to prepare for final examinations), and financial support to cover transportation expenses, all with the aim of helping them to rebuild their communities and lead productive and fulfilling lives. Moreover, qualified refugees have the opportunity to obtain an undergraduate degree in their country of asylum or home country through the Albert Einstein German Academic Refugee Initiative (DAFI) programme.⁵⁷⁴ As of 2022, 21 refugee students in Azerbaijan are granted the DAFI scholarship.⁵⁷⁵

Language courses are one of the most important integration programme components for migrants and refugees in Azerbaijan. Language barriers tend to comprise a major challenge for migrants and refugees, potentially preventing them from fully integrating into their new communities. Since 2013, the Azerbaijan Red Crescent Society has been providing language courses to migrants and refugees to support them in learning the Azerbaijani language and being able to interact more effectively with the local population.⁵⁷⁶

Since 2016, the SMS has provided language courses for migrants and stateless persons at its Training Centre. Participants receive training in the Azerbaijani language, but also in the history and culture of Azerbaijan, and the rights of migrants and stateless persons.⁵⁷⁷

574 UNHCR, DAFI Tertiary Scholarship Programme. Available at: <https://www.unhcr.org/what-we-do/build-better-futures/education/tertiary-education/dafi-tertiary-scholarship-programme>.

575 UNHCR, DAFI Country Factsheets 2022 <https://www.unhcr.org/sites/default/files/2023-10/dafi-2022-factsheets.pdf>

576 International Organization for Migration (IOM), 'The head of the IOM representative office in our country participated in the opening ceremony of the Azerbaijani language course for migrants', IOM Azerbaijan, News - Local, 2 October 2019. Available at: <https://azerbaijan.iom.int/az/news/bmq-t-nin-olk-mizdki-numayndliyinin-rhbri-migrantlar-ucun-azrbaycan-dili-kursunun-acilisi-tdbirind-istirak-etdi> (in Azerbaijani); Azerbaijan Red Crescent Society, What we do, Available at: <https://yardim.et/az/what-we-do> (in Azerbaijani).

577 SMS, 'Training courses have started in the State Migration Service', Press centre, News, 4 October 2016. Available at: https://www.migration.gov.az/az/news_detail/9708 (in Azerbaijani).

10.3.5 The role of community organisations and civil society in integration

UNHCR collaborates with both governmental authorities and civil society stakeholders to create sufficient protection opportunities for individuals seeking asylum in Azerbaijan, and to improve the likelihood of refugees successfully integrating into local communities.⁵⁷⁸

Since 2022, the non-governmental organisation Psychosocial Rehabilitation and Development Centre has been implementing the “Support to the integration to society and psychological adaptation of migrants living in Baku, Azerbaijan” project. The project provides the beneficiaries with appropriate mental health care, to empower them to cope with the challenges of displacement, take care of their families, and make valuable contributions to their society. The organisation also advocates for Ukrainian refugees and compatriots’ access to psychological support, and supports mental health programmes in Azerbaijani facilities.⁵⁷⁹

10.4 Case example

CASE EXAMPLE



Elena is a 37-year-old migrant residing in Azerbaijan. She moved to Azerbaijan from Moldova 10 years ago, to study in Baku, then wanted to stay in Azerbaijan. She speaks intermediate-level Azerbaijani and works part-time at a beauty salon.

Elena has very limited social connections and does not spend much time with her colleagues after work. She visits her parents in Moldova once per year. During her last visit home, Elena met a man from her home district, whom she now wishes to marry.

578 UNHCR, Azerbaijan. Available at: <https://www.unhcr.org/countries/azerbaijan>.

579 SMS, *Annual Report 2022*, 2022. Available at: https://migration.gov.az/content/pdf/63c54e6e377c8_DMx%20hesabat%202022%20uzre%20revised.doc.pdf (in Azerbaijani).

However, Elena is hesitant about whether they should live in Azerbaijan. She approached an integration case manager and asked for help regarding the legal procedures involved.

Discussion questions:

What information does the integration case manager need to clearly assess the situation?

How would you support Elena to widen her social network?

If Elena marries the man from her home district in Moldova, what resources are available in Azerbaijan to support their integration as a family?

Which employment opportunities could be found in Azerbaijan for Elena's soon-to-be husband?

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Chapter 11

Overview of Migration Policy in Azerbaijan's neighbourhood

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Introduction

This chapter provides an overview of migration governance systems and the main features of recent migration policy trends at state level in the region surrounding Azerbaijan. The analysis focuses largely on the direct neighbourhood, i.e. states bordering Azerbaijan, but also applies a regional approach to the migration processes covered.

This chapter is based on analysis of the legislation of the countries under study as well as various analytical materials, including materials developed by the International Centre for Migration Policy Development (ICMPD); in particular, data collected in the *ICMPD Migration Outlook* analytical products, produced annually.⁵⁸⁰

As Azerbaijan is located on the boundary of Eastern Europe and Western Asia, the migration governance frameworks presented in this chapter are those of

⁵⁸⁰ See, for instance, ICMPD, *ICMPD Migration Outlook 2022: Twelve migration issues to look out for in 2022*, 2022. Available at: <https://www.icmpd.org/file/download/56783/file/ICMPD%2520Migration%2520Outlook%25202022.pdf>. Accessed on 17 June 2022.

the European Union (EU); states from the EU Eastern Neighbourhood (Georgia, Moldova and Ukraine); Belarus and the Russian Federation; states from the Central Asia region (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan); Türkiye; and Iran.

The state of Azerbaijan borders Iran to its South, Russia to its North, Georgia to its North-West, and Armenia and Türkiye to its West.⁵⁸¹ Azerbaijan and its neighbouring states participate in various regional and global intergovernmental organisations and unions which influence their respective policies, including those pertaining to migration governance.

The various systems of migration governance deployed by the states in Azerbaijan's broad neighbourhood are all naturally shaped by prevailing geopolitical, economic, and climate change considerations. Each of these aspects is treated in this chapter.

11.1 **European Union**

While the phenomenon of 'EU migration policy' is frequently discussed, it is more accurate to refer to this policy as an area of shared competence between the EU and its Member States (MSs). This means that migration legislation can be adopted at the EU or the national level. Generally, the so-called 'primary' EU laws comprise the treaties upon by the MSs, with the European Charter of Fundamental Human Rights having the same legal value as the EU treaties. The treaties also empower the EU institutions to adopt secondary legislation – regulations, directives, decisions, opinions and recommendations, as well as communications, resolutions, white and green papers. Disputes concerning the application and interpretation of the laws fall within the jurisdiction of the Court of Justice of the European Union, and EU law supersedes the national law of individual EU Member States.

In addition, some of the laws are directly enforceable, meaning that citizens can rely on EU legislation in court, even if the national legislation does not contain respective provisions. Regulations, for instance, have a direct effect, and become part of the

581 Ministry of Foreign Affairs of Azerbaijan, Azerbaijan, General Information. Available at: <https://mfa.gov.az/en/category/general-information>. Accessed on 17 June 2022.

Member States' national law on the day that they come into force at EU level.

Directives typically provide minimum common implementation standards in a particular area. Member States are given a set time frame to transpose directives issued at EU level into national law and inform the EU institutions concerning this legislation. However, typically, each directive indicates that MSs can adopt more favourable provisions for the beneficiaries of the directive.

In recent decades, the European migration debate has tended to be shaped largely by issues related to irregular migration and asylum. However, in the past years, migration governance has also been shaped by the impact on mobility and a host of other migration-related issues arising from 'black swan' events such as the Coronavirus disease 2019 (COVID-19) pandemic, the Taliban takeover of Afghanistan in 2021, and Russia-Ukraine war in 2022. As a result of mobility restrictions to contain the spread of the COVID-19 pandemic, a decrease in both asylum applications (-24.8%) and border apprehensions (-7.8%) was registered in 2020, compared to previous year.

However, the trend seen in previous years soon returned, and already again in 2021, the European Agency for the Management of Operational Cooperation at the External Borders (Frontex) registered an increase (+56.7%) in the total of number (196,034) of illegal crossings detected at the external borders of the EU. This figure compares to the 125,110 cases recorded in 2020 and also marks an increase of 38.3% in comparison to 2019 (the last year before COVID-19-related mobility restrictions were imposed).⁵⁸²

In the first 14 weeks of the war in Ukraine in February 2022, almost 7 million people left Ukraine to seek protection in neighbouring states such as Poland, Romania, Hungary, Slovakia and Moldova. With men aged 18 to 60 years required to stay in Ukraine, the vast majority of refugees from Ukraine are women, children and the elderly. Illustrating this dynamic, in April 2022, German authorities reported that 70% of the roughly 600,000 Ukrainian displaced people registered in that country were women, with an estimated 30-40% being children under the age

582 ICMPD, *ICMPD Migration Outlook 2022*, op. cit.

of 14 years.⁵⁸³

Ukrainian citizens can enter the EU without a visa, although the visa-free regime is designed for short-term stays (of up to 90 days), mainly for tourism or short visits. This gives Ukrainians an important right to enter and stay in EU states – a right which most other refugees arriving in the EU, such as those fleeing Afghanistan, Syria, or Eritrea, cannot lean upon.⁵⁸⁴ In response to the situation in Ukraine, the EU Temporary Protection Directive,⁵⁸⁵ adopted following the conflicts which marked the Balkans during the 1990s, was triggered for the first time, to facilitate quick and effective assistance to those fleeing Ukraine.

Several important areas of migration management are regulated at the EU level, including border management and external border crossing; legal migration and integration; and migration and asylum. Each of these major areas are outlined below, with the specifics of the latter grouping, migration and asylum, covered more extensively (in subsections 1.3. Common European Asylum System and 1.4 Migration and Asylum).

11.1.1 Border management and external border crossing

The 1985 **Schengen Agreement**⁵⁸⁶ removed internal borders within the 'Schengen area', creating a common external EU border. The existence of this border-free area guarantees **free movement** to EU citizens within its boundaries, as well as non-EU nationals legally present in the EU – including residents, visitors, and

583 Perching, B. and J. Perumadan 'Are rural areas across Europe viable destinations for Ukrainian refugee women?', ICMPD blog, 1 June 2022. Available at: <https://www.icmpd.org/blog/2022/are-rural-areas-across-europe-viable-destinations-for-ukrainian-refugee-women>. Accessed on 21 June 2022.

584 Wagner, M. 'The war in Ukraine and the renaissance of temporary protection – why this might be the only way to go', ICMPD blog, 2 March 2022. Available at: <https://www.icmpd.org/blog/2022/the-war-in-ukraine-and-the-renaissance-of-temporary-protection-why-this-might-be-the-only-way-to-go>. Accessed on 25 September 2022.

585 For more information on the Temporary Protection Directive, see the subsection on the Common European Asylum System below.

586 European Economic Community, 1985 Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, 1985. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A42000A0922%2801%29>. Accessed on 17 June 2022.

exchange students. Currently, the Schengen area encompasses all EU Member States except Bulgaria, Cyprus, Ireland and Romania, as well as several non-EU states such as Iceland, Norway, Switzerland and Liechtenstein.⁵⁸⁷

The Schengen area is regulated by the common EU rules covering the following key areas:

- a) Regulations related to crossing the EU external borders, including the types of visa needed;
- b) Harmonisation of the conditions of entry and of the rules on short stay visas (up to 90 days);
- c) Cross-border police cooperation framework as well as strong judicial cooperation, in particular, in facilitation of extradition system and the transfer of enforcement of criminal judgments,
- d) The unified Schengen Information System;
- e) Regulations on documents needed for travelling in Europe.⁵⁸⁸

Notwithstanding joint regulation and management of the Schengen area, a Schengen MS may temporarily reintroduce border controls at its internal borders (within the EU), if that state deems there to be a serious threat to public security that could be addressed by this action. In such a case, the state concerned must inform the European Council, the European Parliament, the European Commission and the public about this decision. Schengen MSs exercised this right during the COVID-19 pandemic, but also in a small number of prior instances.⁵⁸⁹

In this regard, it is important to highlight the Agreement between the European Union and the Republic of Azerbaijan on readmission of persons residing without

587 European Commission, Migration and Home Affairs, Schengen Area. Available at: https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/schengen-area_en. Accessed on 17 June 2022.

588 Ibid.

589 For more information on recent, non-COVID-19-related temporary border control reintroductions, see: European Commission, Migration and Home Affairs, Temporary Reintroduction of Border Controls. Available at: https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/schengen-area/temporary-reintroduction-border-control_en. Accessed on 20 June 2022.

authorisation (Readmission Agreement), signed on 28 February 2014.⁵⁹⁰ According to the Agreement, the parties (the EU MSs and Azerbaijan) agree to (re)admit, upon application, their own nationals and third-country citizens, provided that it is proved that the person seeking admittance has the legal right of residence in the country which is requested to readmit him or her.

Moreover, the Agreement between the European Union and the Republic of Azerbaijan on facilitation of the issuance of visas entered into force on 1 September 2014. The purpose of this Agreement is to facilitate, on a reciprocal basis, the procedures for issuing visas for an intended stay of no more than 90 days (in any 180-day period) to EU citizens and Azerbaijani citizens.⁵⁹¹

11.1.2 Legal migration and integration

Given the structure introduced by the Schengen Agreement, the need for a common EU framework on legal migration emerged at the end of the 1990s, as free movement of persons within the Schengen area means that the migration decisions of one Member State affect other Member States. The EU therefore needed to establish a set of **minimum guarantees and standards** in relation to the conditions and procedures for non-EU national entry, residence and work in the EU.

EU legal migration policy focused efforts to create a framework that would benefit all stakeholders: migrants, countries of destination, and countries for origin. The main task in this regard is to harmonise conditions for third-country national entry and residence in the EU. The ultimate aim of the legal migration and integration policy of the EU is to provide an opportunity to potential migrants to inform themselves while making a decision on migration and support the national labour markets of the EU MSs, and stimulating migrants' contribution to

590 European Union, Agreement between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorisation, 2014. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22014A0430%2801%29>. Accessed on 9 January 2023.

591 European Union, Agreement between the European Union and the Republic of Azerbaijan on visa facilitation, 2013. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0430%2802%29>. Accessed on 17 August 2023.

their home countries.

The following areas of legal migration and integration are regulated at the EU level:⁵⁹²

- a) Entry and residence of highly qualified non-EU nationals for labour purposes are regulated by the '**Blue Card Directive**'.⁵⁹³ Originally adopted in 2009, the Directive was revised after the evaluation of its initial implementation. The new revised directive offered a more harmonised, simplified and streamlined approach. It was adopted in November 2021.⁵⁹⁴ The main objective of the Directive is to harmonise the entry and residence conditions for highly qualified non-EU migrant workers, facilitate their access to the labour markets of the EU MSs, and facilitate their movements within the EU.
- b) The **Seasonal Workers Directive**⁵⁹⁵ addresses the structural needs for seasonal work within the EU, as well as the need to protect migrants from exploitation and other human and labour rights violations. The Directive provides an opportunity for temporary employment in the EU to those non-EU nationals whose principal place of residence is outside the EU. Employment under this directive can occur for periods of between 5 and 9 months (within any 12-month period). The list of sectors in which seasonal work is needed is

592 For more information, see European Commission, Migration and Home Affairs, Legal migration and integration. Available at: https://ec.europa.eu/home-affairs/policies/migration-and-asylum/legal-migration-and-integration_en. Accessed on 20 June 2022.

593 European Union, Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, 2009. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009L0050>. Accessed on 20 June 2022.

594 European Union, Directive (EU) 2021/1882 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country national for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC, 2009. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021L1883>. Accessed on 20 June 2022.

595 European Union, Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, 2014. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0036>. Accessed on 20 June 2022.

drawn up by the Member States and submitted to the European Commission. The Directive also ensures that non-EU seasonal workers are treated the same as nationals of the host country with regard to terms and conditions of employment, and health and safety regulations.

- c) The globalisation of businesses, which required posting and relocation of managers and experts to different units internationally, but within one business corporation, gave rise to the need for regulation of so-called 'intra-corporate transfer' of personnel. This need was addressed in the **Intra-Corporate Transfer Directive**,⁵⁹⁶ aimed at increasing the attractiveness of the EU as a destination for foreign investment, creating a simplified procedure for the admission, work, and relocation of intra-corporate transferees (and their family members) within the EU Member States. The Directive establishes minimum criteria and requirements which the transferee should meet in order to enjoy the rights provided by the Directive, such as a certain period of service with their company prior to transfer, evidence of return transfer once the posting ends, maximum duration of transfer, evidence of financial means, etc.
- d) To promote the EU as a world centre of excellence and advance the EU in the global competition for talent, study and research opportunities are addressed under EU legal migration policy. The facilitation of migration for study and research purposes is regulated by the **'Students and Researchers Directive'**⁵⁹⁷ adopted in 2016, improving upon the weaknesses and merging two previous documents: the 2004 Directive on students and the 2005 Directive on researchers. Applicants under this directive must fulfil the general (travel document, health insurance, financial means requirements) and category-specific requirements (hosting agreement, research contract, etc.).

596 European Union, Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country national in the framework of an intra-corporate transfer. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0066>. Accessed on 20 June 2022.

597 European Union, Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country national for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, 2016. Available at: <https://eur-lex.europa.eu/eli/dir/2016/801/oj>. Accessed on 20 June 2022.

- e) Family reunification is a fundamental rights recognised in the European Convention on Human Rights,⁵⁹⁸ as well as in the EU Charter of Fundamental Rights.⁵⁹⁹ To establish common rules regulating the right to family reunification of non-EU nationals legally residing on the territory of the EU, the **Family Reunification Directive**⁶⁰⁰ was adopted in 2003. This directive does not apply to the family members of EU citizens.
- f) Seeking to simplify the procedures for applying for residence and work permits in the EU, the **Single Permit Directive**⁶⁰¹ was adopted in 2011. Alongside the simplified procedures, the Directive ensures that non-EU citizens working in the EU are treated the same as EU nationals with regard to establishment of working conditions, social security, recognition of qualifications, and tax benefits.

While the needs and conditions for establishing the EU policy framework on legal migration have remained valid since the establishment of the Schengen area, the surrounding geopolitical context and realities have evolved, with migration becoming one of the central topics on the Member States' political agenda.

Taking these developments into account, the European Commission initiated and completed a so-called “fitness check” on EU legislation on legal migration, which analysed implementation of the legislation outlined above and provided recommendations for improvement. The recommendations for the next step provide for a number of measures, including facilitation of attraction of highly skilled workers, ensuring stronger enforcement of the respective directives,

598 European Court of Human Rights, 1950 European Convention on Human Rights, 1950. Available at: https://www.echr.coe.int/Documents/Convention_ENG.pdf. Accessed on 21 June 2022.

599 European Union, Charter of Fundamental Rights of the European Union, 2012. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>. Accessed on 21 June 2022.

600 European Union, Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, 2003. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003L0086>. Accessed on 21 June 2022.

601 European Union, Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country national to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, 2011. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1552639212905&uri=CELEX:32011L0098>. Accessed on 21 June 2022.

raising awareness of the rights and procedures in the area of EU legal migration governance, etc.⁶⁰²

11.1.3 Common European Asylum System

The establishment of the Common European Asylum System (CEAS) was agreed by the then 15 EU Member States in 1999. The resulting Tampere programme for 1999-2004 set out two phases of CEAS implementation, which should be fully based on application of the 1951 Geneva Refugee Convention. Following the enacting of the Tampere programme, the **'first generation' of the CEAS** was adopted. It included the European Dactyloscopy (Eurodac) and Dublin Regulations (dealing with Member State responsibility for conducting the examination for the asylum application), the Temporary Protection Directive, the Reception Conditions Directive, the Qualification Directive, and the Asylum Procedures Directive.

As mentioned, EU directives establish minimum standards for MSs regarding treatment of asylum seekers (allowing MSs to set up more favourable conditions). However, the Dublin System was developed – in the absence of a comparable system in MSs – as a *directly applicable* set of regulations.⁶⁰³

The Hague Programme (2005-2009) then set the goals for the next phase of the CEAS, focusing on a common asylum procedure and a uniform status for those granted refugee status or subsidiary protection. Although no changes to the CEAS were initiated during the Hague Programme period, one important milestone was achieved: the European Asylum Support Office (EASO) was established in 2008. Recasting of the CEAS instruments was undertaken during implementation of the Stockholm Programme (2010-2014), aiming at creating “a common area of

602 For more details on evaluation and conclusion, see: European Commission, *Commission Staff Working Document, Executive Summary of the Fitness Check on EU Legislation on Legal Migration, SWD (2019) 1055 final*. Available at: https://ec.europa.eu/home-affairs/system/files/2019-03/swd_2019-1056-executive-summary_en.pdf; Report: Part 1/2: https://ec.europa.eu/home-affairs/system/files/2019-03/swd_2019-1055-staff-working-part1.pdf; Part 2/2: https://ec.europa.eu/home-affairs/system/files/2019-03/swd_2019-1055-staff-working-part2.pdf. Accessed on 21 June 2022.

603 Wagner, M. and P. Baumgartner, 'In search for a vision of the Common European Asylum System (CEAS)', ICMPD blog, 19 June 2019. Available at: <https://www.icmpd.org/blog/2019/in-search-for-a-vision-of-the-common-european-asylum-system-ceas>. Accessed on 21 June 2022

protection and solidarity based on a common asylum procedure and a uniform status for those granted international protection”.

During this period, the Recast Qualification Directive, followed by the Dublin III Regulation, the Recast Eurodac Regulation, the Recast Reception Conditions Directive, and the Recast Asylum Procedures Directive, were adopted. Further developments of the CEAS were strongly influenced by incidents in the Mediterranean and the emergence of the “refugee crisis” in 2015.⁶⁰⁴

The European Agenda on Migration,⁶⁰⁵ adopted in 2015, set *inter alia* interventions in the area of resettlement and relocation and reinforced the reform of the CEAS. The *proposed* set of new CEAS instruments were published on 4 May 2016. It included the Dublin IV Regulation, the Eurodac Regulation, and the EASO Regulation. On 13 July 2016, the *draft* Asylum Procedures Regulation, the Qualification Regulation, the Recast Reception Conditions Directive, and the EU Resettlement Framework were presented. However, the proposals have to date not been adopted,⁶⁰⁶ except for the regulation⁶⁰⁷ for a reformed European Union Asylum Agency (EUAA),⁶⁰⁸ which replaced the EASO.

There are three forms of international protection jointly recognised by the EU MSs: refugee status, subsidiary protection, and temporary protection. The Member States may also employ additional types of protection, which are regulated by the national legislation; for instance, on diplomatic or territorial asylum. The following EU legal acts regulate international protection issues:

a) The **Asylum Procedures Directive**⁶⁰⁹ creates common standards for rules

604 Ibid.

605 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration, 13 May 2015. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52015DC0240>. Accessed on 23 June 2022.

606 Wagner, M. and P. Baumgartner, ‘In search for’, op. cit.

607 Adopted in December 2021 and entered into force in January 2022.

608 Visit the EUAA homepage at: <https://euaa.europa.eu/>.

609 European Union, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 2013. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en>. Accessed on 22 June 2022.

related to registration of asylum applications, a time limit for the examination, border procedures and safe country concepts, adequate support for asylum seekers with special needs, appeal procedures, and a framework for decision maker capacity-building.

- b) Common standards with regard to reception conditions among the EU Member States are regulated by the **Reception Conditions Directive**.⁶¹⁰ As with most other directives, Member States are allowed to introduce more favourable conditions according to the national legislation and procedures. The Directive establishes rules on regular access to housing, food, clothing, health care, education for minors, access to employment and other reception areas, including special procedures for vulnerable persons. The above-mentioned proposal for a new directive shall provide for even greater consistency in the common standards, which should decrease secondary movements as well as reflect the need for reception of greater influxes of asylum seekers.
- c) The international human rights instruments guaranteeing the right to asylum (such as 1951 Geneva Convention Relating to the Status of Refugees) do not establish rules related to procedures for examination of asylum claims, nor agreed rules on interpretation of the grounds for protection. For this reason, the **Qualification Directive**⁶¹¹ sets out criteria for applicants to qualify for refugee status or subsidiary protection, and clarifies the rights associated with protection statuses, residence permits, travel documents, access to integration, special provisions for vulnerable groups, etc.
- d) Due to the absence of internal border controls within the European Union, it is important to determine which Member State is responsible for examination of the asylum application. Such procedures have several objectives.

610 European Union, Directive 2013/33/EU of the European Parliament and of the Council on June 26 2013 laying down standards for the reception of applications for international protection (recast), 2013. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN>. Accessed on 22 June 2022.

611 European Union, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country national or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 2011. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF>. Accessed on 22 June 2022.

Firstly, each asylum application lodged within the EU needs to be examined once, to avoid secondary movements and so-called “asylum shopping”, where persons seeking asylum move to another EU MS in the case that they receive a negative decision in the first country of application.

Secondly, it is important to avoid a situation where no EU Member State takes responsibility and an asylum seeker finds themselves in a situation of limbo. The first mechanism for such determination was established by the 1990 Convention⁶¹² signed in Dublin; therefore, all subsequent EU legal acts reforming and improving this mechanism are referred to as “Dublin” regulations. Currently, the **Dublin III Regulation**⁶¹³ establishes the procedure for determining the responsible Member State, employing three main criteria: (1) family considerations; (2) recent possession of a visa or residence permit in an EU MS; (3) whether the entry to the EU was irregular or regular. Special provisions for children and other vulnerable groups, as well as other humanitarian circumstances, are also covered by the Regulation.

Implementation of the Regulation is supported by the Eurodac electronic system, established by the **Eurodac Regulation**.⁶¹⁴ This system contains the fingerprints of asylum seekers within EU states aged 14 years or over,

612 European Communities, 1990 Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities – Dublin Convention, 1990. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A41997A0819%2801%29>. Accessed on 22 June 2022.

613 European Union, Regulation (EU) No 604/2013 of the European Parliament and of the Council of June 26 2013 establishing the criteria and mechanism for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), 2013. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02013R0604-20130629>. Accessed on 22 June 2022.

614 European Union, Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of ‘Eurodac’ for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, 2013. Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32013R0603>. Accessed on 22 June 2022.

maintained for the purposes of determining the responsible Member State. The system operates through a Central Unit and single National Access Point in each of the EU Member States.

- e) The **Temporary Protection Directive**⁶¹⁵ was adopted in 2001, in the aftermath of the conflicts that occurred during the breakup of Yugoslavia, to enable EU Member States to quickly react to greater influxes of people in need of protection. According to the Directive, individual examination of asylum claims is not applied in such cases. However, those who qualify for the temporary protection criteria receive temporary protection status in the EU as a group. Application of the Directive can be triggered by the European Council, following a proposal from the Commission (and thus the Member States), which decides that there is a mass influx of displaced people in need of protection that cannot be dealt with within the framework of the standard asylum procedures.

For over 20 years following the adoption of this directive, it remained inactivated. In response to start of war and the displacement of millions of people from Ukraine, on 4 March 2022, the European Council unanimously adopted the Decision on activation of the Directive.⁶¹⁶ The Directive establishes the rights of the beneficiaries of the temporary protection and the procedure for triggering the application of the Directive. However, the groups of people to whom the protection is applied are established by the above-mentioned Council Decision.

In the case of displaced persons from Ukraine, it was established that beneficiaries of temporary protection are: Ukrainian nationals, stateless persons, and third-country nationals who benefited from international protection, who were residing in Ukraine prior to 24 February 2022, and their family members. Each EU Member State could decide whether it would broaden these criteria by including other third-country nationals who were legally residing in Ukraine before that date. According to the Directive,

615 European Union, Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, 2001. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0055&qid=1648223587338>. Accessed on 22 June 2022.

616 Ibid.

beneficiaries of temporary protection have a right to legal residence in the EU (for a period of between one and three years), and should be granted access to all services enjoyed by other beneficiaries of the international protection, including housing, employment, health protection, etc.

11.1.4 Pact on Migration and Asylum

In September 2020, the European Commission presented the **New Pact on Migration and Asylum**.⁶¹⁷ The Pact represents a new approach to managing migration and asylum in the EU, putting in place a comprehensive and sustainable policy and providing for a humane and effective long-term response to the current challenges of irregular migration, developing legal migration pathways, providing framework for better integration, and deepening migration partnerships. The Pact proposed a package of nine instruments aimed at bringing greater cohesion in the integration of internal and external dimensions of migration:

- a) A new **Screening Regulation** to establish procedures for screening of third-country nationals at the external borders;
- b) An amended proposal revising the **Asylum Procedures Regulation**;
- c) An amended proposal revising **Eurodac Regulation**;
- d) A new **Asylum and Migration Management Regulation** – a common framework for the EU migration and asylum management, supporting solidarity;
- e) A new **Crisis and Force Majeure Regulation** – a solidarity mechanism, establishing specific derogations within established migration and asylum procedures in case of crisis and force majeure;
- f) A new **Recommendation on Resettlement and complementary pathways** to formalise existing ad hoc resettlement solutions, and establishing complimentary to protection legal pathways;
- g) A new **Recommendation on Search and Rescue** operation by private vessels to address the issues related to rescue operations of migrants at sea;
- h) A new **Guidance on the Facilitators Directive** to provide clarifications on non-

⁶¹⁷ European Commission, Communication from the Commission on a New Pact on Migration and Asylum, 23 September 2020. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0609>. Accessed on 22 June 2022.

penalisation of humanitarian activities.⁶¹⁸

The Pact also included a **Roadmap** which envisages a series of initiatives to complete the overall architecture. This includes issues related to integration and inclusion, the future of the Schengen area, voluntary returns and reintegration, operational strategy on returns, actions against migrant smuggling, and skills and talent.⁶¹⁹

11.2 Eastern Europe and Central Asia region

The worldwide stock of migrants of Eastern Europe and Central Asia (EECA) origin amounted to over **30 million in 2020**, an increase of 2.4 million compared to 2010⁶²⁰. Close to 54% of migrants of EECA origin are women, and this ratio has remained stable for the past 30 years. Significant inter-regional migration occurs with the EECA region, which is home to over 23 million migrants, most of whom originate from within the region.

In absolute terms, **Russia is the main country of origin and the main country of destination**, with an immigrant stock of 10.8 million persons and an emigrant stock of close to 12 million persons. Labour migration remains the most significant form of migration within the EECA region, with regional flows forming rather tenable labour migration corridors from Central Asia to Russia, Eastern Partnership (EaP) countries, and Belarus to the EU; particularly Poland, which hosts up to 85% of all migrants from Eastern Europe on the EU territory.⁶²¹

The **COVID-19** pandemic affected migration and mobility across the EECA region, as did developments in Afghanistan during 2021, with anticipated migration flows

618 European Commission, 'New Pact on Migration and Asylum: Questions and Answers', Press corner, 23 September 2020. Available at: https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_1707#contains. Accessed on 22 June 2022.

619 Ibid.

620 ICMPD, *ICMPD Migration Outlook. Eastern Europe and Central Asia 2022: Six migration issues to look out for in 2022*, 2022. Available at: https://www.icmpd.org/file/download/56967/file/ICMPD_Migration_Outlook_EasternEuropeCentralAsia_2022.pdf. Accessed on 4 July 2022.

621 ICMPD, *ICMPD Migration Outlook. Eastern Europe and Central Asia 2022: Six migration issues to look out for in 2022*, 2022. Available at: https://www.icmpd.org/file/download/56967/file/ICMPD_Migration_Outlook_EasternEuropeCentralAsia_2022.pdf. Accessed on 4 July 2022.

to Central Asian states, the migration crisis at the EU-Belarus border, geopolitical tensions, and a border dispute between Kyrgyzstan and Tajikistan constituting acute and potential drivers of migration within the region and internationally.⁶²² However, the most significant movement of people in the region was caused by war in Ukraine. It is estimated that more than 8 million people left Ukraine between February 2022 and April 2023, with the majority moving to neighbouring EU MSs (Poland, Slovakia, Hungary and Romania) and Moldova.⁶²³ By spring 2023, the Office of the United Nations High Commissioner for Human Rights (OHCHR) estimated that nearly 12.8 million people had been internally displaced since 24 February 2022.⁶²⁴

11.2.1 EU Eastern Neighbourhood: Georgia, Moldova and Ukraine

Citizens of three signatory states of the **Eastern Partnership (Georgia, Moldova and Ukraine)** with the EU enjoy visa-free regime to the EU, having signed bilateral Association Agreements. The respective Agreements significantly inform the national migration policies of each of these states. European Commission reports on the visa suspension mechanism analyse the continued fulfilment of visa liberalisation benchmarks in the respective partner state, and provide recommendations for further improvements in migration, asylum, and readmission management, among other areas.⁶²⁵

Ukraine submitted formal application for **EU Membership** on 28 February 2022, followed by Moldova's and Georgia's applications on 3 March 2022. The European Commission issued an opinion on the EU Membership applications in June 2022, recommending granting candidate status to both Moldova and

622 Ibid.

623 UNHCR, Operational Data Portal, Ukrainian Refugee Situation. Available at: <https://data.unhcr.org/en/situations/ukraine>. Accessed on 23 June 2022.

624 OHCHR, 'Ukraine: Millions of displaced traumatised and urgently need help, say experts', Press Releases, Special Procedures, 5 May 2022. Available at: <https://www.ohchr.org/en/press-releases/2022/05/ukraine-millions-displaced-traumatised-and-urgently-need-help-say-experts>. Accessed on 23 June 2022.

625 European Commission, Report from the Commission to the European Parliament and the Council under the Visa Suspension Mechanism, COM/2021/602, 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0602>. Accessed on 23 June 2022.

Ukraine, and confirming the perspective for candidate status to be given to Georgia “once a certain number of priorities will have been addressed”.⁶²⁶ The European Parliament adopted the corresponding resolution on Ukrainian and Moldovan **EU candidate status** on 23 June 2022; Georgia will be granted this status “once the government has delivered on the priorities indicated by the European Commission”⁶²⁷ (issues related to political polarisation, strengthening democratic institutions and anti-corruption measures, implementation of the judicial reform strategy, etc.).

Once a state is granted EU candidate status, the formal negotiation process for accession to the EU begins, involving adoption of established EU law and reforms necessary to properly apply and enforce EU legislation. The Union’s body of law, the EU *acquis*, comprises 35 chapters, all of which need to be complied with and approved for the accession negotiations to be successfully concluded. Relevant elements for the migration field include chapters on migration and asylum policies, migration legislation and implementation practices.⁶²⁸

Georgia and Moldova obtained observer status in the **European Migrant Network (EMN)** in March 2021, making them the first states from outside the European Economic Area to join the Network. Participation in EMN activities supports the exchange of good practices in migration management and improves mutual understanding of migration from the perspectives of EU MSs and EaP states.⁶²⁹

Georgia

626 European Commission, *European Commission Opinions on the EU Membership applications*, Press corner, Factsheet, 18 June 2022. Available at: https://ec.europa.eu/commission/presscorner/detail/en/FS_22_3863. Accessed on 23 June 2022.

627 European Parliament, ‘Grant EU candidate status to Ukraine and Moldova without delay, MEPs demand’, News, Press room. Available at: <https://www.europarl.europa.eu/news/en/press-room/20220616IPR33216/grant-eu-candidate-status-to-ukraine-and-moldova-without-delay-meps-demand>. Accessed on 23 June 2022.

628 European Commission, Chapters of the *acquis*, European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). Available at: https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/conditions-membership/chapters-acquis_en. Accessed on June 203, 2022.

629 European Commission, ‘EMN welcomes Georgia and Moldova’, Migration and Home Affairs, News, 12 March 2021. Available at: https://ec.europa.eu/home-affairs/news/emn-welcomes-georgia-and-moldova-2021-03-12_en. Accessed on 23 June 2022.

The latest **Migration Strategy** (covering the period 2021-2030) was approved at the end of 2020, and is being implemented by annual **Action Plans**.⁶³⁰ The overarching goal of the Strategy is to support and facilitate the mainstreaming of migration into development processes, taking into account national needs and interests, as well as challenges and opportunities at the local, regional and global level.⁶³¹

Responsibility for the area of migration and asylum management is divided in Georgia across **several ministries**, including the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, and the Ministry of Foreign Affairs, among others. Coordination issues are discussed within the **State Commission on Migration Issues of Georgia (SCMI)**,⁶³² the Secretariat of which is located within the Ministry of Justice.

Moldova

The **National Strategy on Migration and Asylum** of the Republic of Moldova was first implemented in 2011 and remained in effect until 2020.⁶³³ In 2021, work on the development of a new strategy continued, based on the evaluation of the implementation results of the previous strategy. In addition, in 2021, Moldova strengthened the rules of control over the activities of private employment agencies which organise recruitment of Moldovan citizens for employment abroad.⁶³⁴

The **National Commission on migration and asylum issues** is headed by the Deputy Prime Minister and composed of ministers of the relevant institutions dealing with migration and asylum. It holds meetings on a biannual or an ad hoc (on specific issues) basis.

630 SCMI, Migration Strategy. Available at: https://migration.commission.ge/index.php?article_id=216&clang=1. Accessed on 23 June 2022.

631 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

632 Read the latest English-language articles from the SCMI at: https://migration.commission.ge/index.php?article_id=1&clang=1.

633 Government of the Republic of Moldova, Decision No. 655 of 8 September 2011 on the approval of the National Strategy on Migration and Asylum (2011-2020), 2011. Available at: https://www.legis.md/cautare/getResults?doc_id=56020&lang=ro (in Romanian). Accessed on 23 June 2022.

634 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

The **Ministry of Interior** holds general responsibility for drafting policies on immigration, the status of migrants in Moldova, asylum issues, integration of migrants, readmission and return of persons, border management, counteracting illegal migration, trans-border crime, combatting trafficking in human beings (THB),⁶³⁵ and annual development of the Extended Migration Profile.⁶³⁶ The main subdivisions involved in the management and migration policies within the Ministry of Interior are:

- ◆ *Bureau for Migration and Asylum* – develops and implements migration policy, manages the integrated, automated information system “Migration and Asylum” (SIAMA);
- ◆ *Border Police General Inspectorate* – performs border checks of travellers, implements integrated border management, fights irregular and cross-border crime;
- ◆ *Centre for Combatting Trafficking in Persons* – investigates and prosecutes THB, implements preventive measures.

The **Ministry of Labour and Social Protection** (including its National Employment Agency) participates in drafting policy on labour emigration/immigration, assurance of migrant workers’ social security, and development of pre-emigration, post-emigration and migrants’ (re)integration policies.⁶³⁷

The **Ministry of Education and Research** deals with aspects related to recognition of skills of migrants and vocational training, and integration programmes for migrants.⁶³⁸

The **Ministry of Economic Development and Digitalization** develops policies on investments, use of remittances, and migrant’s reintegration into the national economy; the *Organization for Small and Medium Enterprises (ODIMM)* is a subordinate agency dealing with programmes related to investment of

635 Visit the Ministry of Interior website at: <https://www.mai.gov.md/>.

636 Extended Migration Profiles are developed according to Government Decision No. 634 of 24 August 2012 approving the list of indicators for data and statistics regarding emigration and migration in Moldova. The available Extended Migration Profiles for Moldova can be found at: <http://bma.gov.md/ro/documente/raport-analitic>.

637 Visit the Ministry of Labour and Social Protection website at: <https://social.gov.md/en/>.

638 Visit the Ministry of Education and Research website at: <https://mecc.gov.md/en>.

remittances of migrants and their relatives (for instance, through the programme “Pare 1+1”).⁶³⁹

The **Ministry of Foreign Affairs and European Integration** ensures the rights of Moldovan citizens residing outside the country, sets visa policy, and provides consular services, including the maintaining of relations with the diaspora. The Ministry is also the national coordinating authority of the EU-Moldova Mobility Partnership, launched in 2008.⁶⁴⁰

The **Bureau for Diaspora Relations** within the State Chancellery handles implementation of the Diaspora Strategy 2025 and relations with members of the diaspora and diaspora associations, programmes for diaspora consolidation, etc.⁶⁴¹

Ukraine

Migration management follows the **State Migration Policy Strategy**, approved in 2017 and valid until 2025.⁶⁴² However, the desire of the Ukrainian Government to protect the rights of Ukrainian labour migrants abroad, and facilitate their return, as well as the significant return of migrants during the COVID-19 pandemic, called for revision of state migration policy. A number of legislative changes were thus initiated in 2021, aimed at improving labour migration management. A number of these proposed changes have already been submitted to the Ukrainian Parliament, including changes pertaining to the introduction of non-repayable grants to returning migrants wishing to start a business in Ukraine; dual citizenship; and improved regulation of employment abroad.⁶⁴³

From February 2022 onward, Ukraine experienced mass outflows of people; by June 2022, the United Nations High Commissioner for Refugees (UNHCR) estimated that **more than eight million people** had left Ukraine. The majority

639 Visit the Ministry of Economic Development and Digitalization website at: <https://mded.gov.md/en/>.

640 Visit the Ministry of Foreign Affairs and European Integration website at: <https://mfa.gov.md/en>

641 Visit the Bureau for Diaspora Relations website at: <https://brd.gov.md/>.

642 Government of Ukraine, Order of the Cabinet of Minister of Ukraine of 12 July 2017, No. 482, on approval of the State Migration Policy Strategy of Ukraine for the period until 2025, 2017. Available at: <https://zakon.rada.gov.ua/laws/show/482-2017-%D1%80#Text> (in Ukrainian). Accessed on 23 June 2022.

643 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

of people moved to the neighbouring EU Member States (Poland, Slovakia, Hungary and Romania) and Moldova. However, as the war in Ukraine began to stall in the months after February 2022, many people started returning to Ukraine. UNHCR reports almost three million border crossings from EU neighbouring countries to Ukraine; however, this is no evidence on whether this return is sustainable.⁶⁴⁴

Even larger numbers of people are displaced internally, within Ukraine. The UN High Commissioner for Human Rights (UNHCHR) estimated that **nearly 12.8 million people were internally displaced** between 24 February 2022 and 5 May 2022, leaving “their home and everything behind in a desperate attempt to escape death and destruction”.⁶⁴⁵ The main priority for the country in such a situation is to ensure safe mobility for citizens, and provide assistance, including humanitarian aid, to internally displaced persons (IDPs). Sustainable and organised return typically starts once active war operations cease and return becomes safe.

11.2.2 Belarus and the Russian Federation

Belarus

After several years of close cooperation with the EU, including in the area of migration, border and asylum, Belarus suspended its participation in the EaP initiative in June 2021.⁶⁴⁶ This might be one of the reasons why the draft State Migration Policy Concept, elaborated by the Belarusian Ministry of Internal Affairs in 2019 with support from EU experts, was not approved.

However, in November 2021, the **Union State (of Belarus and the Russian Federation)** signed the joint Concept on Migration Policy.⁶⁴⁷ The Concept

644 UNHCR, Operational Data Portal, op. cit.

645 OHCHR, ‘Ukraine: Millions of displaced’, op. cit.

646 European Council, EU relations with Belarus, Policies, Eastern Partnership. Available at: <https://www.consilium.europa.eu/en/policies/eastern-partnership/belarus/>. Accessed on 4 July 2022.

647 RIA News, ‘Mezentsev spoke about the concept of migration policy of the Union State’, 5 November 2021. Available at: <https://ria.ru/20211105/mezentsev-1757782354.html> (in Russian). Accessed on July 4, 2022.

provides for certain control and preventive measures with regard to irregular migration from third states and underlines one of the fundamental principles of the Union State: free movement and employment of the citizens of Belarus and the Russian Federation within the territory of both states, without the need for additional permission or documentation. The joint Concept on Migration Policy demonstrates the accelerated and strengthened integration occurring within the Union State, first established in 1997.⁶⁴⁸

In 2021, Belarusian migration trends were primarily quoted in the context of **irregular transit from the Middle East** through the territory of Belarus to Poland, Lithuania and Latvia, and onward to other EU MSs, particularly Germany. The majority of recorded migrants came from Iraq, with sizeable numbers also originating from Afghanistan, Syria and other crisis-affected states. In total, 2021 saw more than 43,000 apprehensions at the border reported in Poland, and 4,200 in Lithuania; Germany recorded over 11,000 migrants using the route through Belarus to enter the country in 2021.⁶⁴⁹

Russian Federation

Migration policy in the Russian Federation is guided by the **State Migration Policy Concept for 2019-2025**.⁶⁵⁰ Adopted in 2018, the Concept recognises the demographic decline and the labour force shortage characterising Russian society, although the text of the Concept also states that “natural reproduction” should remain the main source of achieving the necessary population replacement rate. Migration is seen as a supplementary measure; moreover, voluntary resettlement to Russia with a view to full (re)integration is a favourable option, which does not,

648 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

649 Radio Free Europe/Radio Liberty, ‘Over 11,000 Migrants Entered Germany Via Belarus Route In 2021’, Regions, Belarus, 28 December 2021. Available at: <https://www.rferl.org/a/germany-belarus-migrants-poland-/31629033.html>. Accessed on 26 September 2023; ‘EU Readies More Belarus Sanctions Over Migrant Crisis, Document Reveals’, Regions, Belarus, 30 November 2021. Available at: <https://www.rferl.org/a/eu-belarus-sanctions-document-belavia/31586805.html>. Accessed on 26 September 2023; Situation in Belarus overview. Available at: <https://www.rferl.org/z/658>. Accessed on 26 September 2023.

650 Talukdar, I., ‘Russia’s State Migration Policy Concept 2019–2025’, Russian International Affairs Council, 25 June 2019. Available at: <https://russiancouncil.ru/en/analytics-and-comments/columns/asian-kaleidoscope/russia-s-state-migration-policy-concept-2019-2025>. Accessed on 26 September 2023.

however, exclude temporary labour migration.

The initial phase covered by the Concept was implemented by the accompanying **Action Plan**, which expired at the end of 2022, and the latest amendments to the Plan place stronger emphasis on labour migration.⁶⁵¹ Since the outbreak of the COVID-19 pandemic, the Russian Federation has sought to address challenges faced by labour migrants due to movement restrictions and the decline in economic activity experienced (through extension of work permits, regularisation measures, expulsion moratorium, etc.).

However, several **regulations approved in 2021** have strengthened the migration rules once again; for instance, supportive measures for labour migrants ceased to exist at the beginning of 2022; medical examinations and fingerprint registration are now obligatory for all migrants (except for citizens of Belarus); and patent (labour permission) payment has increased.

The **Ministry of the Interior** is currently working on a new migration law, which should replace current migration legislation in the country (the Laws “On migration registration of foreign citizens and stateless persons”, “On the procedure for leaving Russia and entering Russia”, and “On the legal status of foreign citizens in Russia”). The new law is due to come into force in 2024.⁶⁵²

As a result of war, **more than 1.4 million displaced persons from Ukraine** entered the Russian Federation.⁶⁵³ However, there is no data on how many Ukrainians have left Russia during this period, nor on what kind of protection status is granted to those displaced. In addition, a new migration wave from Russia emerged after the outbreak of the full-scale war in Ukraine.

According to various sources, **more than 300,000 people have left Russia** since February 2022; for different reasons, ranging from political persecution to efforts

651 Government of the Russian Federation, Order of the Government of the Russian Federation of 30 May 2020 N 1452-R “On Introducing Amendments to the Order of the Government of the Russian Federation of 22 February 2019 N 265-r”, 2020, Available at: <https://nalogcodex.ru/government/rasporuyazhenie-pravitelstva-rf-ot-30.05.2020-n-1452-r>. Accessed on 26 September 2023.

652 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

653 UNHCR, Operational Data Portal, op. cit.

to avoid sanctions.⁶⁵⁴ The majority of these emigrants travel to the neighbouring states of the EECA region: Georgia, Armenia, Azerbaijan, and Central Asian states, but also to states which do not require visas for Russian citizens, such as Türkiye.

11.2.3 Central Asian region: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan

Significant factors that continue to impact migration trends, and subsequently, migration policy, in this sub-region arise from its proximity to Afghanistan and other conflict-affected territories; sizable labour migration due to economic hardship; unemployment in the face of a growing working-age population; and the impact of climate change.⁶⁵⁵

The rapid withdrawal of troops from **Afghanistan** operating under the United States or North Atlantic Treaty Organization flag has had a direct impact on neighbouring Tajikistan, Turkmenistan and Uzbekistan, and, indeed, the Central Asian region as a whole. In this context, migration and border management, as well as general security regulations need to be adapted to take into account potential arrival of migrants from Afghanistan.

Given the current resistance of Central Asian countries to accepting migrants from Afghanistan, irregular migration flows might increase. In addition, the situation might be complicated in these states due to the return of their own nationals from Afghanistan. At least four states in the region – Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan – were actively involved in repatriating their nationals from Afghanistan (and also from Iraq and Syria). While each of these Central Asian states is implementing rehabilitation and reintegration programmes for those returning, they all face various difficulties in this area.⁶⁵⁶

Labour (out) migration and migrant remittances constitute a large share of the

654 Grozovski. B., 'Emigration 2022: A School of Democracy for Russian Refugees', Blog Post, 8 April 2022, Insight & Analysis, The Russia File: A blog of the Kennan Institute, Wilson Center. Available at: <https://www.wilsoncenter.org/blog-post/emigration-2022-school-democracy-russian-refugees>. Accessed on 4 July 2022.

655 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

656 Ibid.

economies of Tajikistan, Kyrgyzstan, and Uzbekistan – in 2021 the value of the flow of remittances into these three countries rose to approximately USD 2.3 billion, USD 2.5 billion, and USD 7.6 billion respectively, benefitting from the post-lockdown rebound in the Russian economy and higher oil prices.⁶⁵⁷ Moreover, Tajikistan and Kyrgyzstan are the two EECA states where the share of remittance in Gross Domestic product (GDP) is highest: in 2021, remittances constituted 30.1% of GDP in Tajikistan and 27.8% of GDP in Kyrgyzstan.

The Russian Federation remains the major destination for labour migrants from Central Asia. Some steps have been taken to diversify labour migration flows from Central Asia, for instance to Türkiye, South Korea, the United Arab Emirates (UAE), and the EU. However, these states remain insignificant destinations of labour migration when compared to the Russian Federation. It is important to note in this regard that the process of migrating for work has been simplified for Member States of the Eurasian Economic Union (EAEU) – Armenia, Belarus, Kazakhstan and Kyrgyzstan, Russia, with free movement and equal access to the EAEU labour market available to citizens of these states.⁶⁵⁸

Climate change significantly affects internal and external migration trends and policies in Central Asia, in different ways and on different levels. A gradual increase in temperatures is resulting in water shortages among both highland and downstream communities. This situation is aggravated by an increased risk of natural hazards. Climate change is thus seriously affecting the agricultural sector, which, combined with increased food security risk,⁶⁵⁹ is further stimulating internal and external labour migration from affected areas. The Central Asian

657 Ratha, D. 'Global Remittance Flows in 2021: A Year of Recovery and Surprises', World Bank Blogs, 17 November 2021. Available at: <https://blogs.worldbank.org/peoplemove/global-remittance-flows-2021-year-recovery-and-surprises>. Accessed on 26 September 2023.

658 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

659 The World Bank, *Climate Change in Central Asia: Illustrated Summary*, 2020. Available at: <https://zoinet.org/wp-content/uploads/2018/01/Regional-synthesis-Central-Asia-en.pdf>. Accessed on 5 July 2022

region may see up to 2.4 million climate migrants by 2050⁶⁶⁰.

The Fergana Valley, a densely populated intermountain territory shared by Kyrgyzstan, Tajikistan and Uzbekistan, will likely be particularly affected. With nearly one quarter of the overall population of Central Asia residing in this area, climate change may further stimulate the population growth experienced. In addition, some other regions of Central Asia with more favourable climate conditions (for instance, the area around Tashkent, lower-elevation areas of southern Tajikistan and settlements in northern Kazakhstan) may experience immigration from areas gravely by climate change.⁶⁶¹

Kazakhstan

The **Ministry of Health and Social Protection** is currently developing a new **Migration Policy Concept for 2022-2026**. Similar to Kazakhstan's previous strategic documents in the area of migration, the new strategy should further improve the situation of ethnic Kazakhs and their family members resettled in Kazakhstan (*kandases*, previously called *oralmans*).

The new strategy aims to improve the procedure for granting residence permits and citizenship to *kandases*, as well as employment and social protection procedures. Further, the Strategy focuses on provision of more favourable conditions for internal mobility from south to north.⁶⁶²

660 World Bank Group, *Groundswell. Acting on Internal Climate Migration. Policy Note #6: Internal Climate Migration in Eastern Europe and Central Asia*, 2020. Available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/36248/GroundswellPN-ECA.pdf?sequence=7&isAllowed=y>. Accessed on 26 September 2023; Murakami, E., *Climate Change and International Migration: Evidence from Tajikistan*, ADBI Working Paper Series, Asian Development Bank Institute. Available at: <https://www.adb.org/publications/climate-change-international-migration-tajikistan>. Accessed on 26 September 2023.

661 World Bank Group, *Groundswell. Acting on Internal Climate Migration. Policy Note #6: Internal Climate Migration in Eastern Europe and Central Asia*, 2020. Available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/36248/GroundswellPN-ECA.pdf?sequence=7&isAllowed=y>. Accessed on 26 September 2023; Murakami, E., *Climate Change and International Migration: Evidence from Tajikistan*, ADBI Working Paper Series, Asian Development Bank Institute. Available at: <https://www.adb.org/publications/climate-change-international-migration-tajikistan>. Accessed on 26 September 2023.

662 Ibid.

Kyrgyzstan

Approved by the Government of the Kyrgyz Republic in 2021, the **Concept of Migration Policy for 2021-2030** sets out the state's long-term vision for migration management. The document addresses, among other issues, protection of the rights of labour migrants, and emphasises the importance of facilitated return and sustainable reintegration assistance for returning migrants, particularly women and children.⁶⁶³

Tajikistan

The **Ministry of Labour, Migration and Employment of Population** has developed a draft **National Migration Strategy** intended to cover the period through 2030. However, this strategic document has not yet been approved. Migration policy in Tajikistan mainly focuses on increasing the positive impact of migration on development. Continuing in this vein, the draft Strategy provides comprehensive analysis of migration processes in Tajikistan, and focuses on streamlining these processes to increase the contribution of migration to the national development.

According to the draft Strategy, the main priorities of Tajikistan in the area of migration policy are to improve the management of labour migration from and to Tajikistan, as well as climate-induced and internal migration, and to ensure continued implementation of international obligations in the area of international protection.⁶⁶⁴

Turkmenistan

Discussions on the **development of a migration strategy** in Turkmenistan were initiated in 2021. Turkmenistan is continuing its efforts to integrate the principles established in the Global Compact for Migration into national

663 United Nations Development Programme Kyrgyzstan, 'Attracting the potential of labour migrants to development processes in Kyrgyzstan: presentation of research results', 29 September 2021. Available at: <https://www.kg.undp.org/content/kyrgyzstan/ru/home/presscenter/pressreleases/2021/09/migration-research.html> (in Kyrgyz). Accessed on 5 July 2022.

664 ICMPD, *ICMPD Migration Outlook. Eastern Europe*, op. cit.

development strategies.⁶⁶⁵

Uzbekistan

The organised **recruitment of labour migrants plays a central role** in Uzbekistan's national migration management framework. Uzbekistan has concluded bilateral agreements in this area with South Korea (in 2006), the Russian Federation (in 2016), and Japan (in 2019). The year 2021 saw negotiations commence with Poland, the UAE and Saudi Arabia.⁶⁶⁶

Generally, issues of labour migration in Uzbekistan are treated as part of the overall state employment strategy, which demonstrates the importance of the economic contribution of labour migrants and the Uzbek Government's recognition of this reality.⁶⁶⁷

11.3 Türkiye

For over a decade, Türkiye has hosted a very large number of refugees from the war in neighbouring Syria. **Over 3.7 million Syrians are registered under temporary protection** in Türkiye. Moreover, the Taliban takeover of state power in Afghanistan, in August 2021, has resulted in the **arrival of significant numbers of Afghans** to Türkiye. This development alongside consistently large numbers of applications for international protection from other major groups of migrants,

665 Turkmen Portal, 'Turkmenistan and IOM discussed the implementation of joint programmes', Blog, 2 April 2021. Available at: <https://turkmenportal.com/blog/34095/turkmenistan-i-mom-obsudili-realizaciyu-sovmestnyh-programm> (in Russian). Accessed on 26 September 2023; United Nations Economic and Social Commission for Asia and the Pacific, *Review of the progress on implementation of the GCM by Turkmenistan*. Available at: https://www.unescap.org/sites/default/d8files/event-documents/Turkmenistan_0.pdf. Accessed on 26 September 2023.

666 Ministry of Employment and Poverty Reduction of the Republic of Uzbekistan, 'On the results of the meeting with representatives of the diplomatic corps of the Republic of Uzbekistan in the Kingdom of Saudi Arabia, the United Arab Emirates and the Republic of Poland', News, 13 January 2021. Available at: <https://mehnat.uz/ru/news/ob-itogah-vstrechi-s-predstavatelyami-diplomatcheskogo-korpusa-respubliki-uzbekistan-v-korolevstve-saudovskaya-araviya-obedinennyh-arabskih-emiratah-i-respublike-polsha> (in Russian). Accessed on 26 September 2023.

667 Mirsabitovna, K. D., 'Reforms in Uzbekistan in the field of employment and labour migration', Articles and abstracts, 18 April 2021, Institute for Forecasting and Macroeconomic Research. Available at: <https://web.archive.org/web/20220518001158/https://ifmr.uz/publications/articles-and-abstracts/migration>. Accessed on 26 September 2023.

and notably large numbers of arrivals from Pakistan, Iraq, Iran, and farther afield.

The increasing numbers of arrivals are causing a gradual shift in migration policy priorities from integration to public security, which already presented significant challenges to the migration-development nexus. Policy and debate on migration in Türkiye also focuses heavily on return issues, as well as the fight against and prevention of irregular migration.⁶⁶⁸

The **Presidency of Migration Management (PMM)** – under the Ministry of Interior – is responsible for all issues related to migration governance. This institution was established in 2021, reorganising the General Directorate for Migration Management (established in 2013). The PMM is responsible for implementing policies and strategies in the migration field; facilitates inter-institutional coordination; implements procedures related to the entry to and stay of migrants in Türkiye, and their departure and expulsion; international protection; temporary protection; and protection of victims of THB.⁶⁶⁹

The PMM consists of one central authority, 148 District Migration Management Units, and 81 Provincial Migration Management Units. The PMM operates temporary accommodation centres, return centres, reception and accommodation centres, and a shelter for victims of THB. The overseas representatives of the PMM – migration counsellors and migration attachés abroad – are also subordinate to the central authority. For inter-institutional coordination issues at the strategic level, the Migration Board has been established within the Ministry of Interior.⁶⁷⁰

Within the central office of the PMM, along with the Legal Counsellor's Office, five General Directorates have been established, for combatting irregular migration; international protection; harmonisation and communication; migrants present on the national territory; and expulsion. This structural

668 ICMPD, *ICMPD Migration Outlook 2022. Western Balkans & Türkiye: Nine migration issue to look out for in 2022*, 2022. Available at: https://www.icmpd.org/file/download/57221/file/ICMPD_Migration_Outlook_WB%2526Turkey_2022.pdf. Accessed on 5 July 2022.

669 Government of the Republic of Türkiye, Ministry of Interior, Presidency of Migration Management, About Us. Available at: <https://en.goc.gov.tr/about-us>. Accessed on 5 July 2022.

670 Ibid.

breakdown is representative of the main directions of Türkiye's migration policy and management. Further, the upgrade of the PMM as an institution (from General Directorate to Presidency) indicates a strong basis for strengthening the institutional set-up for these thematic areas and further prioritisation of migration issues within the public administration.⁶⁷¹

Currently, an important area of migration management in Türkiye is regulated by the so-called **"EU-Turkey deal"**, signed in 2016 – a joint statement which activated the **2015 EU-Turkey Joint Action Plan**. Several key points were expressly agreed upon in the joint statement:

- ◆ All new irregular migrants crossing from Türkiye to the Greek islands as of 20 March 2016 will be returned to Türkiye;
- ◆ For every Syrian returned to Türkiye from the Greek islands, another Syrian will be resettled in the EU;
- ◆ Türkiye will take any measures necessary to prevent new sea or land routes for irregular migration from opening between Türkiye and the EU.

A specific mechanism was proposed to navigate a scenario where the irregular migration flows between Türkiye and the EU end or are significantly reduced, as well as visa liberalisation for Turkish citizens. Further, the EU proposed a scheme for allocation of funding to the Facility for Refugees in Türkiye.⁶⁷²

Since April 2021, citizens of Azerbaijan and Türkiye have been able to use biometric ID cards to undertake direct travel between these two states, with travellers permitted to stay in the receiving country for 90 days without a visa. The travel document presented at the border, i.e. identity card or ordinary passport (foreign passport), should be valid for at least 30 days from the date of entry to

671 ICMPD, *ICMPD Migration Outlook 2022. Western Balkans*, op. cit.

672 European Parliament, EU-Turkiye Statement & Action Plan, EP Committees, Foreign Affairs – AFET. Available at: <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-eu-turkey-statement-action-plan>. Accessed on 5 July 2022.

the receiving country.⁶⁷³

11.4 Iran

The Islamic Republic of Iran hosts **significant numbers of displaced Afghans**, including many in a situation of protracted displacement. In the months leading up to and following the seizure of state power by the Taliban in Afghanistan, the number of people in need of protection grew significantly. By the end of August 2021, the month in which the Taliban did ultimately seize absolute power, UNHCR had registered 780,000 Afghan refugees in Iran. However, the real number of displaced people is likely to be far higher.

According to different estimations, between 2.1 million and 2.25 million undocumented migrants from Afghanistan currently reside in Iran. The Norwegian Refugee Council estimate that up to 300,000 Afghans fled to Iran in the three months following the Taliban takeover, to November 2021. Despite limited means, 520,000 Afghan students continue to be educated through the Iranian education system and COVID-19 vaccine rates of its Afghan refugee population are on par with those of Iranian nationals.⁶⁷⁴

Iran has a sizeable diaspora, with estimates ranging from two to five million members across the globe. The contemporary Iranian diaspora has mainly been **shaped through three successive waves of emigration** from Iran in recent decades. These three periods can be roughly characterised as running from the *early 1950s to 1979*, comprised mainly of educational migration of youth from middle and upper-class families; emigration in the aftermath of the *1979* revolution, of liberal and educated people, students and academia, as well as those moving in response to military service requirements and gender restrictions; and the most recent wave, from *beginning of this century and until today*.

673 State Migration Service of Azerbaijan, 'As of April 1 citizens of Azerbaijan and Turkey can also use biometric ID cards for border crossing', Press room, News, 31 March 2021. Available at: https://migration.gov.az/en/news_detail/14495. Accessed on 9 January 2023.

674 ICMPD, *ICMPD Migration Outlook Silk Routes 2022. South and West Asia: Five migration issues to look out for in 2022*, 2022. Available at: https://www.icmpd.org/file/download/56997/file/ICMPD_Migration_Outlook_SilkRoutes-SouthWestAsia_2022.pdf. Accessed on 5 July 2022.

The current, third emigration wave has tended to include two main population groups: highly skilled individuals and low-skilled labour migrants and persons seeking international protection. Among the main destination countries for Iranian migrants stand the United States, Canada, Germany, Sweden, Israel, and the United Kingdom, with estimates placing Iran as the most affected state in terms of 'brain drain' – among developing and developed countries,⁶⁷⁵ a result of the specific makeup of Iranian emigration and the Iranian diaspora.

Climate-induced internal and external migration is another emerging policy challenge for Iran. For several decades, Iran has suffered from continued environmental crisis, due to constant drought-related water shortages and flooding throughout the country – largely caused by inefficient resource management and the effects which climate change is having on Iran's physical landscape. Should these trends continue, migration will likely increase, not only to the country's already overcrowded major cities, but also to destinations outside of the national territory.

Internal migration is already increasing ecosystem stress in certain regions of Iran, and prompting increasing numbers of human conflicts. Displacement to overcrowded cities creates additional pressure on infrastructure and resources, and constitutes an issue which requires strong governmental efforts if climate-induced internal migration is to be adequately managed.⁶⁷⁶

The above-mentioned migration trends influence the institutional set-up for managing migration in Iran. The main governmental body responsible for refugee matters is the **Bureau for Aliens and Foreign Immigrants' Affairs (BAFIA)** under the Ministry of Interior. The most important activity undertaken by the BAFIA with regard to refugees is the periodic renewal of (refugee) residency cards. Possession of this *amayesh* card grants refugees in Iran conditional freedom of movement, access to basic services and eligibility for temporary work permits.

675 Hakimzadeh, S, 'Iran: A Vast Diaspora Abroad and Millions of Refugees at Home', Profile, 1 September 2006, Migration Policy Institute, Migration Information Source. Available at: <https://www.migrationpolicy.org/article/iran-vast-diaspora-abroad-and-millions-refugees-home>. Accessed on 6 July 2022.

676 Brussels International Centre, 'Iran and Climate Refugees: an Alarming Situation', 22 May 2021. Available at: <https://www.bic-rhr.com/research/iran-and-climate-refugees-alarming-situation>. Accessed on 6 July 2022.

Other government bodies, such as the Ministry of Education, the Literacy Movement Organization, the Ministry of Health, the Technical and Vocational Training Organization, and the Iran Health Insurance Organization are involved in the provision of education, employment, and health and social services to refugees in Iran.⁶⁷⁷ The BAFIA is also responsible for the voluntary repatriation of refugees to their countries of origin. In the case that a refugee residing on the Iranian territory wishes to return voluntarily, the refugee cancels their *amayesh* card with the BAFIA and obtains an exit permit.

Concerning international agreements on return, the **Ministry of Foreign Affairs** is involved in their preparation. The International Organization for Migration (IOM) and UNHCR facilitate the voluntary repatriation of refugees from Iran. Apart from the Iranian Police, which carries out return procedures, it is unclear which authority is charged with making decisions on forced return. Regarding the return of Iranian citizens to Iran, the Ministry of Foreign Affairs issues the necessary documents, via its diplomatic representations abroad.

The **Immigration and Passport Police** is the body responsible for managing the entrance to, stay and employment in, and exit of foreign nationals from Iran. It is one of the specialised bodies under the intelligence and public security police forces of Iran. The Immigration and Aliens Police also acts as coordinator in matters related to foreign nationals involving police and different public bodies and institutions.

Responsibility for migration policy is shared among **various government ministries** – the Ministry of Interior, the Ministry of Foreign Affairs, and the Ministry of Labour.

Issues related to the diaspora currently fall within the competences of the **Consular Department** under the Ministry of Foreign Affairs. However, there is no single legal act regulating emigration or issues related to ties with the diaspora, with various scattered laws and regulations governing different aspects of Iranian emigration.

677 UNHCR Iran, *UNHCR Iran: Factsheet: April-June 2021*, 2021. Available at: <https://data.unhcr.org/en/documents/details/88456>. Accessed on 6 July 2022.

Given the significance of the diaspora, the Iranian Government has made efforts during the past decade to preserve ties with Iranian expatriates. Iranian officials have often stressed that public policy and diplomacy should adopt all necessary measures to maintain close interactions with Iranian expatriates, to reap benefit from their skills, competences and expertise for the development of the country. In line with this outlook, the Government's efforts in this regard tend to be directed more toward facilitation of return than regulating or facilitating emigration.

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This Migration Textbook was prepared within the framework of the EU-funded project “Support to the Implementation of the Mobility Partnership with Azerbaijan” (MOBILAZE 2), which took place in Azerbaijan from June 2021 to May 2024. This textbook is a methodological book of significance for those who seek to obtain more information about migration processes related to Azerbaijan, or who aim to study this issue thoroughly. Such a complex and academic work on migration has not yet been published in Azerbaijan. This migration textbook will be published in two languages: Azerbaijani and English. In addition, the migration textbook is based on an interdisciplinary approach to migration studies, and international migration as a global phenomenon is discussed from a scientific perspective.

The textbook aims to provide the reader with an up-to-date and comprehensive analysis of international migration. It was implemented by the International Centre for Migration Policy Development and the chapters were drafted by Azerbaijani and international academics, including ICMPD experts. This textbook will identify and strengthen the capabilities of the Azerbaijani academic community, which will improve teaching and research in the field of migration and deepen the knowledge of migration policy regulations specific to Azerbaijan. The guide is important not only for students, local and international non-governmental organisations, public agencies, and civil servants working on specific issues of migration management but also for the general public as a whole.



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