

**Szilveszter Póczik – Szilveszter Dunavölgyi (Eds.):**

**INTERNATIONAL MIGRATION - INTERNATIONAL RISKS  
(HVG-ORAC Publisher House, Budapest, 2008)**

– English summary –

In the last few years there was no other widespread research made in Hungary similar to that prepared upon the Attorney General's request in the National Institute of Criminology in 2007 which offered an overview of all the problems connected with the international migration. Such a deep elaboration of this topic was urging, because with Hungary's joining the border control and border information system of the Schengen treaty, the Northern and Western boundaries of the country became passable uncontrolled. From this situation not only institutional restructurings resulted, but it is impelling a further conception making as well, thus Hungary has to play today an initiative role on Union level. The studies in this book are introducing in detail the current tendencies, problems and solutions concerning the international migration. The authors draw conclusions and state concrete suggestions, with the goal, that these will be used in the practice of penal law, crime investigation and crime prevention. Szilveszter Póczik, leader of the research mentioned and one of the editors of this study book analyzed the basic migration-related problems based on the theoretical and special historic literature. Tamás Jagusztin and Gergely Bodnár describe the communal legislation, the immigration policy and the migration related legal institutions of the European Union, as well as the basic characteristics of the legal and illegal immigration. Szandra Windt analyzes the characteristics as well as the juridical and political tools of struggle against illegal migration based on the Italian, the Spanish, the German and the English statistical data in comparison, as well as the offenders and victims of the people's smuggling in Hungary. Lenke Fehér draws a general picture on forms of trafficking in human beings and of migration connected international organized crime. Szilveszter Póczik and Szilveszter Dunavölgyi give an overview on the formation of the immigration related institutional system in Hungary in the 20<sup>th</sup> century as well as the present statutory regulation of the Hungarian refugee system and the immigration trends after the political change of 1989. Szilveszter Póczik analyses the criminality committed by foreign citizens in Hungary based on the criminal statistical databases and figures.

**Szilveszter Póczik:**

**Tendencies of the transnational migration in the 20<sup>th</sup> and 21<sup>st</sup> century from  
theoretical and historical point of view**

Problems of the international migration, ethnic plurality, majority and minority appear all over the world. Migration passing the regional boundaries became by the turn of the 20<sup>th</sup> and 21<sup>st</sup> century a global circulation. As a demographic concomitant of global economic and political disparities, the highly developed world is being threatened from the population decline inside and from the overpopulation outside. In the highly developed Western societies, in connection with the immigration, the conception of the multicultural society has been formulated. The EU is not able to integrate the mass of the immigrants, in spite of that no appropriate demographic and immigration policy exists. Some immigrated ethnic and

minority groups are overrepresented in crime and penalty institutions. The jurisdiction punishes the underprivileged ethnic offenders unproductively, while the politics requires tolerance from the poor groups of the major society which are mostly threatened by crime. The conception of community policing and communal crime prevention came to be born on account of a more expeditious crime control, that indirectly is showing, that some steps are to be taken for correcting the ideology of the multicultural society which leads and came still into a crisis.

**Tamás Jagusztin – Gergely Bodnár:**

### **The European immigration policy, immigration law and general law practices**

This chapter of the book shows the basic features of the immigration policy and the legal proceeding of the European Union by the Community's acts on immigration. The immigration is an increasingly significant problem of the European Union and the policy-makers of the Community have recognized that the best solution for these problems will take place by the cooperation, only. It results a lot of legal regulations. This study offers a complete description of the most important questions and answers on immigration into the European Union and the related legal sources. Beside the review of common legal regulations the authors describe the social and political background of the legal acts as well. This chapter has got three parts. The first part is dealing with the special features of the European Union from the point of view of the international immigration. The second part contains the legal proceedings of the European Union and gives an overview of its immigration policy with reference to the interests of the society, and finally describes the cooperation programs between the European Union and other areas. The third part analyzes the Program of Hague and the Green Book, as well as the most important migration policy statements and their epitome and the possibilities and trends of the migration policy in the future.

**Tamás Jagusztin – Gergely Bodnár:**

### **The European Union fight to the illegal immigration by law and political means**

The study overviews the questions of illegal migration that according to special researches and experiences faded in the European public thinking from the end of the 90s. Why the European Union should draw up a special immigration policy? The free flow of labor-forces, that is a basic principle in the European Union, is growing in the global world. However, illegal immigration is closely connected to the latter, and it can violate the interest of Member States and citizens too. The efficiency of the measures against the illegal immigration can be proved by examining its results in the practice. The study analyzes the special features and motivations of the illegal immigration, as well as the social factors pulling the illegal immigration. The second part of the study presents shortly the legal proceedings in the field of illegal immigration and gives a history of former measures in the frame of internal affairs and foreign policy. After that, it lists the specific devices of the fight against illegal immigration. Finally, the study shows the long term plans of the European Union in this field.

**Szandra Windt:**

### **The criminological characteristics of the illegal migration in four European countries (Germany, Great Britain, Italy, Spain)**

Irregular migration, also described as illegal, undocumented or unauthorized migration is a complex and controversial issue. The complexity of its push and pull factors causes the greatest problem in studying irregular immigration and it makes difficult the continuous monitoring of the phenomenon in different countries. The study includes the most relevant data of foreigners and migrants in Germany, Great Britain, Italy and Spain, and summarizes the history of rules and law on immigration, minorities and citizenship in these countries. It also writes about the findings and questions of regularizations (legalization) of illegal migrants in Italy and Spain and shows the way how the countries mentioned try to solve their immigration and integration problems.

**Lenke Fehér:**

### **International trafficking in human beings**

In the recent years, illegal migration, smuggling and trafficking of human beings became a world-wide phenomenon. Among the causes of migration, several causes can be mentioned, as push or pull factors. In accordance to certain opinions, illegal migration and human trafficking can be regarded as effects of the restrictive migration policy. The international community, international organizations in particular from the years of 80-90 of the last century dedicate a special attention to the different aspects of this problem. In the legal literature however the correct distinction between the definition of smuggling and trafficking in human beings was stipulated only in the last few years and there are still quite a few complexes, interdisciplinary, comparative studies in this field. Trafficking in human beings should be regarded a serious crime, which is violating human rights, too. In the last decades, international community, international organizations made a lot of efforts to prevent and combat this crime. It resulted several recommendations, conventions and other international documents in which a consensus was reached concerning the definition as well as the means and methods of combating trafficking in human beings has been elaborated. This comparative study summarizes and analyzes the content of the main international documents, in particular the so-called Palermo Protocol, the Council of Europe Convention and the EU framework decision.

**Szilveszter Póczik:**

### **Formation of the immigration institutions in Hungary in the 20<sup>th</sup> century**

The World War I which closed the 19<sup>th</sup> century in a symbolic way can be seen as a landmark for the contemporary international migration in Hungary. After 1918, Hungary had to integrate a great mass of Hungarian refugees exiled from the so-called successor states of the Austro-Hungarian Monarchy. In 1930, the Central Office for Foreigners Supervision

(KEOKH) was established in the Ministry of the Interior to register foreign citizens. After World War II, in the era of the communist dictatorship the refugee policy had no clear legal background and official apparatus dealing systemically with refugees and immigrants. The new turn was coming up when a great number of Romanian citizens of Hungarian ethnic flowed from Transylvania to Hungary from the persecution by the brutal Ceaucescu regime. On 1<sup>st</sup> March 1989 Hungary joined the Geneva Convention of 1951, than became member of the UNHCR and the IOM. Until releasing the new law on refugees, the law on foreigners of 1993 gave a frame to the administrative work related to immigrants. This law itself and the connected practice challenged strong criticism. The asylum law passed in December 1997 undertook the clean-up with legal and practical deficits. It harmonized the regulations, authorities, practices scattered, as well as the elements of the Hungarian and international legal tradition. From October 1999, the Immigration and Citizens Agency overtook the place of the former Refugee and Immigration Office under the direction of the Ministry of the Interior.

## **Szilveszter Dunavölgyi:**

### **The present legal regulation of the migration institutions in Hungary**

The legal solutions of the treatment of migration problem in Hungary are harmonized with the democratic expectations and requirements of the EU. Despite the heaviest problem of the public life in Hungary, i.e. the sharp inner political splitting, the laws and other prescriptions regulating foreigner policy and migration issues got into harmony with the achievements of the European Communities and followed the Union's prescriptions of growing number. In Hungary, there is at this moment no any clear migration strategy but the politics-forming groups cannot delay for a long time to establish a proper immigration conception and an appropriate integration strategy for the immigrated population. Based on this study the reader learns more about the operational mechanisms of the elements and organizations of the institutional system, about the real impacts affected by changing regulations, about the integration processes, about the foreigner's legitimacies, obligations and allowances assured by laws (supplies, supports) as well as about the effectiveness and validity of the integration measures mentioned.

## **Szilveszter Póczik:**

### **Immigration in Hungary in the period of the social change**

In last third of the 1980's years Hungary had to face the administrative tasks related with the transnational migration. From 1987, asylum-seekers of Hungarian ethnic from Romania and a little bit later smaller groups escaping from the German Democratic Republic arrived to Hungary. In the years 1988--1989 34,000 asylum-seekers arrived from Romania, 67 percent of them illegally. Their average age was 31 years. 90 percent of them could find a long-term employment on the labor market. There were 3000 administrative operations started for family reunification. During the civil war in Yugoslavia, 48,000 persons escaped from the ethnic cleansing, mainly from Bosnia-Herzegovina, to Hungary, which gave shelter to them for humanitarian reasons. After the beginning of the Kosovo War in 1997 escaping Albanian,

Serbian and Hungarian asylum-seekers arrived again. Meanwhile, asylum-seekers from outside of Europe also appeared at a bigger number. According to the experience of the police authorities the majority of them wished to reach Western states through Hungary. In Hungary, the illegal networks for smuggling in humans were organized in parallel with the immigration waves. The smugglers, mostly Hungarian, Yugoslavian and Romanian citizens are acting well organized, professionally using modern technique. Between 1988 and 2007, Hungary offered safe living conditions to almost 200,000 asylum-seekers. In the period 1989--2000 almost 80,000 refuge applications were filed in Hungary, 33,000 procedures started, but only circa 10,000 persons received a refugee status, while 25,000 rejecting decisions were born. The total number of expelling procedures is around 4-5 thousand yearly. Since the mid 1990's approximately 6000--12,000 people filed an immigration plea every year, and until today, altogether circa 45,000 people immigrated legally. More than three-quarters of them are Romanian, Serbian and Ukrainian citizens of Hungarian ethnic. From 1997, Chinese also turned up in a magnitude of 500-1000 persons yearly. They have found employment in the field of small trade with cheap Eastern Asian mass products.

### **Szilveszter Póczik:**

#### **Foreign citizens registered in the criminal statistics of Hungary**

Based on the criminal statistics, the role of foreigners in the criminality in Hungary is not very considerable. From the mid 1990's until 2000 the foreign criminals represented about 3-4 percents of the registered offenders, and they committed round 2-3 percents of the registered crimes, i.e. 10-12.000 crimes yearly. From the beginning of the great social and political transformation the total number of the foreign criminals arose by circa 1000 in annual average until today but the number of their offences tripled. Foreign citizens committed in 1990 1.8 percents and in 1993 5.8 percents of all crimes, and this take off caused a panic. The principal sources of this growing were commitments against public order and property crimes. The six-times rising of crimes committed by foreigners against public administration from 700 to 4,200 in 2001 does not require further explanation if one knows the vast social and economic transformations has been happening in this period. Such commitment types – for example unauthorized border crossing, smuggling in humans, administrative and corruption crimes, giving misleading information to the authorities, bearing false witness, forgery – are very easily connectible with the social processes passed. By today the number of these crimes stabilized at a number of 1000 cases yearly. As compared to the early period of the social transformation and measured by the number of crime offenders, it could be stated, that the hierarchy of foreign crime groups changed as well. The Romanian citizens overtook the leading position from 1991 and they kept their place until today. About 2 thousand Romanian offenders commits yearly about 4–5 thousand crimes. We received information and data on Chinese offenders and their criminal activity since 1995. The number of crimes committed by them is slowly rising. In their social circle the criminal acts related with the migration and mercantile activity are typical.

**Szandra Windt:**

### **Smuggling in humans in Hungary**

The problem of smuggling in humans became an important issue in the debate on border police strategy worldwide. Hungary is a transit country. This study gives an overview of the organizational structures of human smuggling. The empirical results are based upon files of 193 complete court procedures. These cases provide information on 431 human smugglers and approximately 2500 persons having been smuggled. There are individual local smugglers, small smuggling groups organized on low level and sophisticated organized transnational smuggling groups. An important factor is the ethnic of both the smugglers and the smuggled migrants. Unlike other criminal organizations, in the majority of the human smuggling cases nobody has central control over the entire smuggling process. Thus, members of the mono-ethnic smuggling networks operate as residents and coordinators and at the same time principals of the local acting smuggling groups which implement the smuggling actions themselves.

**Lenke Fehér:**

### **Trafficking in human beings in Hungary**

The study discusses the legal provision of Hungarian Penal Code on trafficking in human beings, comparing the regulation of 1998 and the changes in 2002. The reason of the changes was the intent to harmonize our law according to the definition of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime. The Hungarian provision is sometimes more severe, sometimes slightly different comparing with the text of the Protocol. The study deals with the causes of these differences in detailed manner. Based on the analysis of the studied cases of trafficking in human beings could be stated, that the so-called 'inland' trafficking, which does not involve crossing the borders, occurred as often as its transnational form. The offenders mostly committed the crime in organized manner. Most of them had a former criminal record, with multiplied convictions. The victims were under threat and violation, moreover pressured by the offenders sometimes even during the criminal procedure, too. As a consequence, the victims and witnesses sometimes change the content of their witnessing, and this delays the procedure and creates difficulties in providing evidences. In the interest of effectiveness in investigation and improvement the willingness to provide evidences, the assistance, support and protection of victims and witnesses before, during and after the criminal procedure is of cardinal importance.

**Szilveszter Póczik:**

### **Conclusions and proposals**

The Euro-Atlantic World has to face heavy demographic and migration challenges. To the decline in population in the highly developed countries, the overpopulation of the Third World faces. Therefore, it is essential to improve the structure in age and fertility in the

destination countries of the international migration considerably. The expenses for education of children and the number of the abortions should decrease, the institution of marriage is to be strengthened, the invisible labor resources are to be mobilized, the demand for foreign manpower is to be reduced, the active working age is to be expanded, the schooling time is to be shortened, the drift of the qualified manpower is to be stopped, the quality of the professional trainings is to be improved, the regional disturbances on the labor markets are to be relieved. The immigration causes deep social changes in the societies of the European countries. The immigrants and their descendants get more and more in a disadvantageous position. Their integration becomes slow, they find less and less place on the labor markets or in the higher education, but they charge the systems of the social care and penal justice and weaken the general economic, technical and cultural level of these countries. Therefore, the creation of a constructive population politics and immigration strategy is extremely important. The elaboration of a geopolitical concept for Europe is essential as well, thus Europe plays no significant role at the moment in its geo-strategic area, although Europe could become the engine of the social and economic development of the large region of the Mediterranean Sea up to the Middle East. However, Europe should leave behind itself the politics of seeking immediate small economic advantages, the aversion against Islam, the rivalries within the EU and stop serving the military interests of the USA. The Europe of today could develop no state idea and no own political identity. The exclusive financial stimuli of the integration of the immigrants are not sufficient, because the metaphysical and cultural elements of the identity are missing. It is noteworthy that the decline of the fertility distresses less the countries having steady national and cultural identity. The main goal is the preservation of the demographic and cultural dominance of the European population. The families in the middle class are to be encouraged to educate more children, while the deprived social layers are to be motivated for a well-thought-out family planning and to the strengthening of their attempts for the integration on the labor market and in the society. Social aid and unemployed person's care must not finance luxury goods and a parasite lifestyle. The population is to be encouraged to accept jobs of lower prestige, too. In the underprivileged layers of the local and immigrant population, norm-compliant behavior patterns in the parent's and children's generation are to be recompensed, but norms-contrary behavior patterns are to be sanctioned more strictly. The rights of women's reproductive self-determination and the demand to special protection of the life in the womb are to be brought in balance, because the fetus is to be considered as a person from the time of the conception. Because the child shows an extraordinary social value, the mothers of many children are to be entitled to a privileged social state. Those immigration-willing populations are to be preferred which are close in their cultural standards to the populations of the host countries, represent less social risk factors and can be fast integrated. In contrast to the ideology of the multicultural society, it is to be stressed in theory and practice of the integration measures that the immigrants should identify themselves with the political and cultural community which hosts them: this is the main condition for their integration. The creation of a long-term population and immigration strategy cannot be postponed also in Hungary any more. Hungary was in the last 20 years a beneficiary of the immigration which considerably contributed to the preservation of the stability of its population position and labor markets, because the most immigrants were young, qualified adults of Hungarian ethnic coming from the neighboring countries. In knowledge of the crisis-like demographic situation of Hungary it is a disillusioning surprise that today in spite of warnings of significant scientists we cannot see any sign for the preparations to a proper concept.