

Policy Makers or Policy Takers?

Visegrad Countries Joining the EU - Selected Studies

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Preface

In the early 2002, almost a year before the conclusion of the EU accession negotiations at the Copenhagen summit, the CASE Foundation and its partners from the Visegrad countries developed the concept of a seminar series entitled 'New Community – Old Policies?'. The project reflected our belief that it was high time to shift from the 'pre-accession perspective' to a 'post-accession' one. We found it reasonable to stop measuring the readiness to join the European Union merely by the amount of directives incorporated in our legal systems and the number of staff hired by the administration, and instead to start discussing the future of Poland and other Visegrad countries as full-right EU Member States. Two questions seemed particularly important in that respect. Firstly, were the policies, as well as particular instruments, developed for the EU-15 suitable for the V4 countries, given their social and economic situation? And secondly, what would it take for the new Member States to modify the EU policies in their favour?

Four seminars organised in the framework of the project sought to answer the first question by discussing such topics as the European Employment Strategy, European regional policy, common immigration policy and the role of structural funds in improving the human capital in the V4. The final conference of the project dealt with the second of above formulated questions by attempting to assess the political, administrative and intellectual potential of the Visegrad countries as the factors determining expected quality of their European policies.

In the following book we decided to change the order and start with the paper on 'Formation of national European policy in the Visegrad countries' by Michał Sitek. Basing on an in-depth analysis of the experience of the V4 countries in co-ordinating their EU-related affairs throughout the pre-accession period, the author seeks to evaluate their chances to meet the political challenge of the membership. Three papers on specific EU policies follow. Magdalena Kaniewska employs most recent theoretical approaches and historical arguments to critically assess changes in the EU regional policy proposed recently by the European Commission. The Polish example is also considered. Mateusz Walewski discusses the prospects of applying the European Employment Strategy in the Visegrad countries by adopting the EES perspective in his careful analysis of their labour markets. The paper reveals interesting differences among the V4 countries. Finally, Joanna Apap presents

immigration policy of the Visegrad countries in light of the regulations for the current Member States and of the developments on the Community level. An interesting pilot project ran by the Czech government contrasts with the underdevelopment of immigration policy in Poland and Hungary.

The variety of the papers presented in this publication with their different thematic scopes and methodological approaches reflects the nature of this project. We did not attempt to conduct a systematic research programme but rather to draw attention to the necessity of this kind of studies by bringing an international group of experts and practitioners together to analyse selected policy areas of particular importance. We hope to have contributed to the adoption of 'post-accession perspective' among the experts, policy makers and civil servants of the accession countries.

On behalf of the CASE Foundation, I shall thank our partners: Institute of World Economy of the Hungarian Academy of Science, Academia Istropolitana Nova from Slovakia and the Civic Association 'Europeum' from the Czech Republic. We are most grateful to the International Visegrad Fund (www.visegradfund.org) which supported the 'New Community – Old Policies?' by with a grant.

Krzysztof Szczygielski

I. Formation of the National European Policy in the Visegrad Countries. The Challenge of Membership

*Michał Sitek*¹

Abstract

The paper analyses the problem of European policy co-ordination on the national level. It is argued that the membership brings the challenge to adapt the existing structures of policy-ordination in Visegrad countries. The author discusses difficulties arising from the character of policy-making in the European Union, with a special focus on the decision system of the Council of Ministers. Experiences of current Member States in co-ordination of their European policy are discussed. Furthermore, the experience of V4 from the pre-accession period is reviewed. Finally, the author evaluates prospects of Visegrad countries as members of the EU. Differences between different stages of accession are stressed. In the author's view the weak administrative capacity, as well as other problems related to the quality of governance may become a major obstacle in efficient participation in policy-making structures on the European level. In conclusion, it is argued that existing structures of EU affairs co-ordination are ill adapted to the task of formulating European policy.

Introduction

One of the main benefits of the accession to the European Union is the possibility to participate in the policy-making process on the European level. Membership in the EU poses, however, number of challenges. One of them is the ability to contribute new policy ideas and to articulate national interests in the policy-making processes of the European Union. Most of the existing discussions concern the effects of the European policies on the Member States, the phenomenon, which used to be described as the 'europeanisation'. Similar

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assumption underlies the debates on costs and benefits of the membership in the acceding countries. However, the membership is not only about adapting to and implementing old policies, but also about discussing and taking decisions on new ones. The ability of new Member States to influence European policies will have an important impact on the net benefits of the accession. Membership offers new opportunities and the position of the Member State differs significantly from the status of associated or applicant state, which Visegrad states experienced so far. Are they ready for the participation in the EU decision-making structures? Of what value are institutional structures and experiences of the accession process? How institutional structures for policy co-ordination should be arranged? The goal of this paper is to present an assessment of the policy-making environment of the European Union and to compare it with the experiences of both current and future member states in organising policy-making structures responsible for representation of national interests on the European level.

I. The challenge of co-ordinating European policy on the national level

Due to costs and benefits related to decisions adopted on the European level there are many incentives for the Member States to have a European policy on the national level. Such a European policy may merely be an attempt on the part of government officials to 'speak with one voice'. It may, however, also be the agreement on what a national government wants to achieve through the participation in the activities of the European Union. The term 'policy' assumes coherence (all actions fit together), instrumentality (they have a purpose) and hierarchy (they are determined by the authority) (Colebatch 1998: 3-4). In the European Union context, the best example of the product of such a policy is a clear instruction from the government or a ministry, which equips an official, who attends a decision-making body in Brussels with a specified list of national interests in the proposal discussed, arguments or proposed courses of action. Ideally, all such instructions are coherent and actions of various officials are co-ordinated

For a variety of reasons having such a European policy is difficult, if not impossible. As the European and national levels are increasingly entangled, Member States find it very hard to manage the relationship between the national and European level. For one thing, number of meetings that take place in Brussels makes it impossible to channel all contacts through the one institution and to keep track of what was said on every official meeting. Annually, there are four regular summits of heads of government and 50-60 meetings on the level of national ministers. Additionally, civil servants participate in the work of 200 working parties of the

Council of Ministers and some 250 committees of so called 'comitology': committees, which assist the Commission in fulfilling its functions in the legislative process (Nicolaidis 2003: 15).

Member States have to confront fluid, ambiguous and evolving structures (Kassim 2001: 85-97). Policy-making processes are regulated by a number of founding Treaties and a complex three-pillar structure². As a result, each policy area has its own specificity and different decision rules apply. A general, threefold typology of decision modes, proposed by Fritiz Sharpf (2001), includes³:

- supranational/hierarchical mode, in which policy choices can be unilaterally imposed by supranational actors (i.e., the European Court of Justice, the Commission; and the European Central Bank),
- intergovernmental mode, in which policy choices depend solely on the unanimous agreement of Member State governments (i.e., Treaty negotiations, the European Council),
- joint-decision mode, in which supranational actors play a significant role, but cannot act without the acquiescence of at least a qualified majority in the Council of Ministers.

Particular modes of policy-making differ in the potential of Member States to influence the outcome. In an intergovernmental mode, which is characteristic, for example, for the procedure of revision of treaties, each government can influence the outcome or, at last, can resort to veto. However, increasingly, decisions are subject to joint-decision mode (also referred to as 'the community method'). It stands in a sharp contrast with experiences of acceding states, which so far have been subject to intergovernmental and supranational modes. Joint decision mode represents a specific type of bargaining, which is deeply embedded in the fragmented and multilevel decision-making system of the European Union. It privileges those who are experienced and have an intimate knowledge of procedures, which can be gained only through experience, are privileged (Laffan 2001: 15-16).

Policy-making processes of the European Union are strongly sectoralised and weakly co-ordinated. They mirror national areas of government activities, but they also change the opportunity structures for the national actors. For example, perspectives on what constitutes national interest of, say, civil servants from the ministries of agriculture and health may naturally differ. On the European level, meeting in separate specialised committees, those officials may find themselves much more comfortable with opinions of their colleagues from other countries than with official opinion of their own government. They may be tempted to promote their views.

² In EU parlance, pillars divide policy competencies, institutional provisions and decision rules. Pillar one encompasses traditional areas of Community policy including Economic and Monetary Union and free movement of persons. Pillar two deals with the common foreign and security policy and pillar three, earlier encompassing Justice and Home Affairs, was limited by the Amsterdam Treaty to police and judicial co-operation in criminal matters. The draft of the of the Constitutional Treaty proposes to abolish the pillar structure.

³ The cited author also refers to two newer modes: a mode of 'open co-ordination' (defining common policy objectives and assessing national efforts to reach these objectives, used e.g. in the European Employment Strategy) and 'mutual recognition' (in which governments are affected by policies adopted by other Member States) (Sharpf 2001).

Additionally, the policy-making process is open to a multiplicity of actors of both public and private character and sub-national, national and supranational origin. They can all represent their interests through different routes of influence competing, at times, with national governments. Interests of a Czech car manufacturer, for example, can be much more in line with the position of the German government than the Czech one. While lobbying for a favourable regulation, a company may also bypass its own government and act alone or through the supranational organisations⁴. It is estimated that there are some 10 to 30 thousands lobbyists in Brussels, some 1 450 formal interest groups addressed to the EU, 171 offices of regions and 143 commercial public affairs consultancies (Greenwood 2003: 19).

2. Decision-making in the European Union

One of the most important arena and official channel of representing national interests in Brussels is the Council of Ministers, which comprises of national ministers and has a last say in the European Union legislative process. The effective power of the Council in the EU policy-making varies across policy areas and types of decision. It is most important in pillars two and three, which conform to more intergovernmental mode of policy-making. Its powers are limited under pillar one. Increasingly, the power of the Council of Ministers is shared with other institutions and, where the EU competencies exist, qualified majority voting and the procedure of the co-decision applies⁵.

The structure of decision-making machinery of the Council resembles a pyramid; at its apex are the meetings on the ministerial level, below the meetings of national ambassadors to the EU (who form the Committee of Permanent Representatives, so called Coreper) and at the bottom some 200 committees and working groups, which are attended by national civil servants. The structure reflects a decision-making process; a given dossier is firstly discussed at the level of working groups and committees, then it is tabled for the meeting of Coreper and finally it is decided by the Council. The government holding Presidency plays a special role and chairs the meetings at all levels.

It is estimated that 70% of decisions is reached at the lowest level, at the level of the committees or working groups composed of national civil servants, while further 15-20% of

⁴ To continue with the example, in 2002, the Czech Sdružení Automobilového Průmyslu (Automotive Industry Association) was accepted into the Association of European Automobile Manufacturers (ACEA). It is 'a professional body representing the interests and combined skills of thirteen European car, truck and bus manufacturers at European level and throughout the world' (www.acea.be).

⁵ The legislative procedure of co-decision is one of the three decision-making procedures in the EU: the other two are the procedures of consultation and co-operation. Co-decision procedure, introduced by the Treaty of Maastricht, changed the institutional balance between the European Institutions, primarily, by increased involvement of the European Parliament in EU legislation: In the co-decision procedure the Council acts as a co-legislator with the European Parliament. The Amsterdam Treaty simplified the procedure and extended its use to new policy areas. According to the draft of the Constitutional Treaty, co-decision would apply to all areas, which currently are subject to majority voting in the Council.

decisions are made by Coreper. The Council discusses only the most contentious issues and rubberstamps the rest of proposals (Kassim 2001: 24). This fact makes some authors conclude that the most relevant actors for influence (contrasted with formal power) are civil servants sitting in the working groups, who actually make a bulk of decisions that are later only formally approved on the ministerial level (van Schendelen 2002: 96).

Council currently operates in nine formations of which most important is the Council for General Affairs and External Relations, where foreign ministers meet, and the Council for Economic and Financial Affairs (so called EcoFin) which comprises of ministers of finances. Treaties provide for three basic modes of making a decision by the Council, prescribing in which cases a particular rule applies. The three modes are unanimity, qualified majority voting (QMV) and simple majority voting. Most Council decisions are presently subject to QMV, where out of total 87 votes, 62 votes constitute a qualified majority and 26 a blocking minority or, in other words, the minority, which can prevent accepting the proposal. The Nice Treaty regulated the changes to voting procedures due to enlargement. In the transitional period, from May to the end of October 2004, the total number of votes will increase to 125 and the decision will be taken by the majority of 88, which means that the blocking minority will equal 37 votes (Czech Republic and Hungary will have 5 votes each, Poland 8, Slovakia 3). Additionally, in cases when the Commission proposal is voted, support of 2/3 (17 out of 25) of Member States will be required. From November 1, 2004 number of votes and their weighting will change: qualified majority of 232 out of total 321 votes will be required. Additionally, support of countries, populations of which amount to at least 62% of the population of the EU will be required for a passage of the proposal⁶.

While formal voting power in the Council is important, its significance should not be exaggerated. It is estimated that only in about 10% of cases of Council decisions where QMV was possible, actual voting took place. Consensual decision-making is a key feature of the Council, although during the discussions the possibility of voting and presence of blocking minority is kept in mind (Nugent 2003: 173-174). However, ministers dislike revealing their positions. Votes are not secret and every state has to take into account the future pay-offs and consequences of its behaviour for the opportunities to form or join future coalitions. Negative voting is rare: between 1996 and 1998 Member State voted against a legislative proposal, on average, about 60 times a year and abstentions ranged from 14 to 34. Only some 22% of proposals were subject to negative voting or abstention (van Schendelen 2002: 74).

Coreper, which comprises of Permanent Representatives, heads of diplomatic missions of Member States to the EU, plays a key role in preparation of ministerial meetings. It meets once in a week and discusses almost all dossiers that are waiting for the decision of the Council. The agenda of the meeting may amount even to 40-60 points, prepared for 6

⁶ The draft of the EU Constitutional Treaty proposes to change, since 2009, the formula of QMV by eliminating the weights and using only two principles: majority of states and 60% majority of population.

formations of the Council, out of which 1/3 is subject of negotiation and discussion (Lewis 2003). Since 1962 Coreper has met in two formations as Coreper I (deputy permanent representatives) and Coreper II (permanent representatives). Coreper II usually discusses more sensitive issues, such as foreign or trade relations, while Coreper I deals with more 'technical' issues (internal market, environment, social affairs). A separate committee called Special Agricultural Committee traditionally prepares most agricultural matters. Some other Council formations, notably EcoFin, also use their own preparatory committees. However, in most cases this is Coreper, which constitutes a focal point in the decision-making process of the Council, where the technical level of decision-making meets a political one. It is therefore crucial for co-ordination efforts of national governments. A leading role is played by Permanent Representatives and other officials and diplomats from the Permanent Representations, who receive instructions from their capitals and participate in intensive exchange of opinions before a meeting of Coreper, as well as between Coreper meeting and the meeting of ministers.

The operation of Council of Ministers can be described from two opposing perspectives (Elgström and Jönsson 2000); the first one characterises Council as a bargaining arena, where outcomes reflect the lowest common denominator and in which central role is played by national interests expressed by state executives. Relative power and strategic rationality decide the outcome. The second perspective sees the Council as an arena of problem-solving, where focus is more on common than self-interest and which is characterised by friendly, integrative negotiations. Empirical studies have shown, for example, that the Council, and Coreper in particular, displays a dense normative environment of shared norms and collective identity of negotiating officials. Number of studies argue that the 'the culture of compromise' plays a crucial role, which consists of such norms as: 'diffuse reciprocity' ('The reciprocal scratching of back is important... One week it is country X with bloody silly instructions, and who needs a concession, and the next week it is country Y'), 'mutual responsiveness' ('there is a sense of understanding of the other delegations' interests', 'You can't state a problem, you must explain it') or 'the consensus reflex' ('[Qualified majority voting] is the last resort we go to. This has a profound effect on how the various levels are working') (Lewis 2000). Such a view is reinforced by the reported importance of the informal conduct of the meetings. In fact, many agreements are reached at the lunches, which often serve as an extension of ministerial meetings or during the breaks in proceedings, which help to explore possible settlements (Nugent 2003: 176). However, one has to have in mind that both formal and informal structures are constantly evolving. The enlargement poses a challenge not only to the future Member States, but also to the European institutions. Larger number of states translates into more divergent interests, less possibility of package dealing and other forms of informal bargains.

Formally, the Council of Ministers is the most important target of the national European policy. However, other stages and arenas of decision-making are of great relevance as well,

and the Council should be seen in a wider institutional context, in which the European Commission and the European Parliament play a special role. For example, as the importance of the European Parliament in formal procedures increased substantially in recent years, due attention is paid by lobbyists and national governments to its meetings and in all Permanent Representations there are posts for diplomats, who manage contacts with the Parliament.

The European Commission can play an equally important role as the Council of Ministers. Policy initiative stage is particularly important in the legislative process and in the first pillar this is the European Commission that has the monopoly to introduce proposals. The importance of this stage of the legislative process is best illustrated by a metaphor of the blank A-4 format piece of paper: 'At the end of the process this may be published, full of text, as a common decision in the Official Journal. The filling of the paper usually starts somewhere in or around the Commission. Insofar as the Council has the ultimate say over the proposed decision, it usually gives this only as a last say at the end, when the paper is already full of text' (van Schendelen 2002: 62).

Although precise figure may be debated, it is estimated that as much as 80 per cent of original proposal may survive in the final text (Kassim 2001). The formulation of the proposal includes extensive consultation, both formal and informal, during which at least defining and framing of an issue can be influenced, if not a part of the policy drafts. Measures introducing the openness and transparency of the Commission are promoted, such as a greater use of Green (consultative) Papers, measures to ensure that all relevant interest groups are consulted and extended availability of documents to the public (Greenwood 2003: 51).

Importance of external expertise stems partly from the fact that the Commission alone is unable to manage its tasks: its 20 thousands of civil servants constitutes less than larger municipal or regional administrations in the Member States. The mechanisms to increase the capacity of the Commission include primarily the use of committees. Most valued by the Commission are so-called expert groups of different status, composed of national officials and experts. Secondly, there are consultative committees that draw sectional interests. Altogether these committees total around a thousand in number and group at least 50 000 people drawn from the member countries and Brussels based organisations (van Schendelen 2002: 67; Greenwood 2003: 55-56). Another venue for the interest representation, primarily for the national governments, is the next category of committees: the so called 'comitology'. It comprises of some 250 committees staffed by people officially representing Member States. On the basis of Commission proposal they contribute to implementation of secondary laws, which form a substantial part of EU legislation. Influence on the outcome of the work of comitology may be important as it makes it possible to 'fine-tune legislative outcomes' (Kassim 2001: 25). In fact, some 80% of European binding acts are implementing measures adopted by the Commission following a comitology procedure. For most part these are 'routine' matters and only occasionally such highly sensitive issues like biotechnology regulation or BSE.

3. The formulation of the European policy in Member States

Current Member States approached the problem of co-ordination of European policy in different ways. Some common trends can be seen, however, such as (Kassim 2003: 90-91):

- strengthening of heads of government and their institutional support;
- continuation of central role played by ministers of foreign affairs, despite the increasing involvement of domestic institutions in the European policy-making;
- creation of specifically-devised mechanisms of inter-departmental co-ordination in a form of special administrative units and/or committees;
- creation of the posts of junior ministers for European Affairs;
- importance attached to the operation of the permanent representations in Brussels;
- a limited role of national parliaments in co-ordination of national European policy.

The most visible difference concerns the institutional location of the responsibility for co-ordination. In some Member States (e.g. Denmark, Portugal and Spain), the foreign ministry is the main locus of national co-ordination. In other countries the responsibility for co-ordination is located at the Prime Minister's Office (Italy) or the Cabinet Office (UK) or a separate institution (France). Finally, two ministries (Germany, Greece) may share responsibility for co-ordination.

On the most general level, one can distinguish two contrasting models (Laffan 2001: 28). In the containment model, a centralised focal point exists, which attempts to mediate the relations with the European institutions. On the other end of the continuum there is an internalisation model, in which the one department that leads a given dossier dominates and there is little oversight of the relations with Brussels. The existing structures fall in between: 'None of the Member States can completely control and contain the process of Europeanisation, and no state is willing to open the flood-gates to Europeanisation without attempting to mediate between the national and European systems' (Laffan 2001: 28). One can also think of policy co-ordination in terms of a scale, in which different states are able (and willing) to reach different levels (Metcalf 1994, 1996). One of such scales is reproduced in table 1. The lower levels show lower degrees of co-ordination and achieving higher steps requires that lower steps are firmly established.

Table 1. Capacities for policy co-ordination

9. SETTING GOVERNMENT PRIORITIES
8. SETTING CENTRAL LIMITS
7. ARBITRATION OF CONFLICTS
6. CONCILIATION (MEDIATION)
5. SEARCH FOR AGREEMENT (CONSENSUS)
4. SPEAKING WITH ONE VOICE
3. CONSULTATION (FEEDBACK)
2. EXCHANGE OF INFORMATION (COMMUNICATION)
1. INDEPENDENT POLICY MAKING BY MINISTRIES

Source: Metcalfe, International Policy Co-ordination and Public Management Reform, International Review of Administrative Sciences, Vol. 60, 1994.

The co-ordination starts with the exchange of information among ministries. Higher degree is achieved when mechanisms for consultation exist or when communication and consultation can result in reaching agreement and 'speaking with one voice'. In the highest levels there is a third party, which facilitates co-ordination, either in reactive (arbitration) or some more proactive form (i.e. setting guidelines or establishing priorities). It is crucial, however, not to confuse an efficient co-ordination with a central control (Metcalfe 1996). It is neither efficient nor possible to use the higher levels in every case. It is important to provide a degree of flexibility, which lets the ministries alone decide and involve higher levels only when it is necessary. Centralisation is not only costly, but it may have other disadvantages. For example, negotiation positions reached in extensive and formal consultation may lack flexibility, which in the context of the Council of Ministers is important, when the decision rule of unanimity does not apply.

Efficient co-ordination does not necessarily require large centralised structures. For years, France and United Kingdom have been recognised as having efficient and centralised structures and both are seen as representing the ambition to identify and co-ordinate their position on a given proposal on the early stage of the EU policy-making process. In the United Kingdom responsibility for overall co-ordination is assigned to the European Secretariat within the Cabinet Office. In France the main role is played by a separate institution called SGCI⁷. The two structures differ in size (some 25 officials in the UK and about 150 in France) and the style of operation. In the UK the role of the European Secretariat is more enabling than coercive, and the co-ordination function is often performed on the informal level. It is characterised by strong ministerial responsibility and greater role of the Permanent Representation in Brussels and Foreign and Commonwealth Office. French SGCI is more active and intervenes more frequently: developments within the European Union are monitored and formal co-ordination meetings are convened.

Member States differ in both the ambitions and capacities for co-ordination. Some states are perceived as particularly ambitious and able in their co-ordination efforts (France, the United Kingdom, and Denmark). Such an approach is influenced by number of factors, such as state tradition or general political and societal attitudes towards the European integration. Other states decide to stop only on the lower level of co-ordination scale or, for different reasons, cannot perform better. It also has to be noted that some countries consciously prioritise the policy areas, in which co-ordination seems crucial for their national interest and concentrate their co-ordination efforts only in these policy areas. It is also useful to distinguish different tasks of the co-ordination system such as foreseeing opportunities, anticipating new legislative proposals, elaborating negotiation strategy, ensuring that the national negotiator is well-briefed, etc. (Kassim 2001: 11).

⁷ SGCI (*Secrétariat général du comité interministériel*), established yet in 1948, is the largest and the most known institution responsible for the co-ordination of the national European policy in Europe.

Administrative and political constraints play important role in the national co-ordination of European affairs (Kassim 2003). Centralisation of the political system: strong position of the head of government, one-party government or a unitary character of the state, may facilitate co-ordination process. When power is divided the mechanisms for consultation are necessary and there are more risks of inconsistencies. For example, while France stands as a unitary and centralised state, it faces co-ordination problems related to unclear division of responsibilities in the field of foreign policy between the President of the Republic and the government. President represents France at the Intergovernmental Conferences, while the government, assisted by the SGCI, participates in the Council of Ministers system. Coalition character of government and principle of ministerial autonomy (*ressortsprinzip*) are important in Austria and Germany. As a result, there is no clear central co-ordination and, for example, German Permanent Representation receives two conflicting instructions. Another example is provided by Denmark, which not only has to solve the problem of political co-ordination within the government, but also has a pyramidal system of committees to co-ordinate negotiation positions with the parliament and social partners.

One of the crucial elements of the national co-ordination of European policy is the Permanent Representation in Brussels. Unlike a typical diplomatic institution, it is staffed by both diplomats and civil servants, the latter usually on secondment from their home ministries. Formally it is a official point of contact between the government and the EU and a 'postbox' through which all documentation passes. However, it serves number of additional functions such as providing negotiators at working-group level, providing information on the developments in Brussels, sensitising other Member States about the national position, influencing the EU policy agenda, maintaining contact with private interests and nationals working in European institutions. It is also the most important provider of information and advice on developments in the European Union to its national government (Kassim 2001: 34-36).

4. Experiences of the Visegrad countries in co-ordination of their European affairs

Development of institutional structures for co-ordination of European affairs in the Visegrad countries followed few stages that were marked, respectively, by signing of Europe Agreements, adopting the pre-accession strategy and opening of membership negotiations. The membership constitutes the final stage (Lippert et al. 2001). At every stage a need for effective policy co-ordination was increasing. It included number of tasks and occurred on different levels. There was a need, for example, to co-ordinate internal adjustments, to manage administrative co-ordination resulting from the Europe Agreement, to approximate

laws, to prepare positions for accession negotiations and to manage pre-accession funds (Pyszna 2002: 24). Gradually, one could observe the transformation of structures designed for the implementation of the Europe Agreements into structures for the management of pre-accession programs, and then the transition to the negotiation stage. It is likely that existing arrangements will affect the shape of institutional structures for co-ordination of EU affairs at the stage of membership.

So far, all stages have been characterised by asymmetrical relationship between EU and applicant countries. The phenomenon of 'europeanisation' in Central and Eastern Europe differed from the similar phenomenon, which is now widely discussed Europe (Grabbe 2001, 2003; Dimitrova 2002). On the one hand, when compared to current Member States, these countries tended to be receptive. They have been at a stage of seeking new institutional role models and the political and economic transformations made existing institutional structures less susceptible to path dependencies. On the other hand, in an unprecedented way European Union could exert influence on the administrative structures of the applicant countries and to intervene in their domestic affairs. Administrative issues were placed high on the enlargement agenda and the administrative capacity to take obligations of the membership was an important criterion for the membership. These countries, as some argued, were affected by the europeanisation to a greater extent than it was the case of the candidate states in previous enlargements (Ziller 1998; Grabbe 2001). This effect was diluted by the fact that the Commission lacked a coherent policy in the areas not covered by the *acquis* and its preferences were unclear and not fully specified (Grabbe 2001).

Multilateral relations between Visegrad countries and the EC started already in the late 80s. In the summer of 1988, the joint declaration was signed between the EC and Comecon. Trade and co-operation agreements were signed by Hungary in 1988, Poland in 1989 and Czechoslovakia in 1990 (Lippert et al 2001: 985). In the end of 1989 the Phare programme was established by the EU Council Regulation, initially to provide grant assistance to Poland and Hungary to support the processes of the economic transformation. Early on, diplomatic missions were established in Brussels: the Representation of the Republic of Poland at the European Communities (1989) and the Hungarian Mission (1990).

The Europe Agreements, signed by Czechoslovakia, Hungary and Poland in December 1991, constituted one of the first major incentives to create special institutional structures for the national co-ordination of the European policy in the Visegrad countries⁸. The Visegrad countries committed themselves to the incremental liberalisation of their trade relations with the EU and to the approximation of their economic laws to the European standards. An enhanced co-operation was declared and special joint bilateral institutions were created in order to facilitate the implementation of Europe Agreements and to permit

⁸ After the break-up of Czechoslovakia, Czech and Slovak Republics had to renegotiate the agreement. Europe Agreements were finally enforced on 1 February 1994 (Hungary, Poland) and on 1 February 1995 (Czech Republic, Slovakia).

discussion with major institutions of the European Union: Association Councils, Association Committees and Joint Parliamentary Committees (Rupp 1999; Lippert et al 2001). Already at that moment Agreements could be treated as transitory instrument towards the future membership. However, despite the fact that agreements had substantial implications for national policy domains, they did not confer rights to participate in the decision-making of EU institutions (Rupp 1999: 90).

The Copenhagen European Council in June 1993 was the next step towards the enlargement. The political promise on the side of the EU was made that 'the associated countries in Central and Eastern Europe that so desire shall become members of the European Union'. The pre-accession phase was still focused on bilateral arrangements between the EU and applicant states. It started around late 1994 under the German Presidency and was marked by official approval of the 'Strategy for Preparing Central and Eastern Europe Countries for Future Accession to the European Union' (pre-accession strategy) by the Essen European Council (Rupp 1999). It included Europe Agreements, Phare programme, extended and refocused to help countries prepare for EU accession, as well as further development of what was called 'structured dialogue'⁹. Partly in response to requests from Central European countries, The Commission's White Paper on internal market was adopted at the Cannes European Council of June 1995. It included a detailed list of legal changes needed to make economic laws of the associated countries compatible with those of European Union. In 1996, the Cannes White Paper was followed by extensive questionnaire covering 23 areas, which was sent by the Commission in order to assess applications for membership.

Already at that early stage of European integration there appeared a challenge of co-ordination of European affairs: the need to collect information and co-ordinate positions, as well as co-ordinate the process of implementation of legal obligations and other demands from the EU (Rupp 1999; Lippert et al. 2001). Responding to that challenge, special institutional arrangements were created.

Cross-country comparison shows both common developments and differences (see table 2). The notable similarities of the institutional developments in all Visegrad countries included the assignment of responsibility to the higher levels of seniority and more central role of Prime Ministers (Rupp 1999). Notably, co-ordination was placed more on political than administrative level. This trend is illustrated by the development of cabinet-level bodies for policy co-ordination (Verheijen 1998). Only Slovakia did not have a cabinet level body by the end of 1997: the existing Council of the Government for Integration of the Slovak Republic was composed of state secretaries and other representatives of state

⁹ The latter institution was an forum for exchange views and examination of progress. It included invitations of Heads of Government of CEECs to the European Councils for the second day of meetings, meetings with the Presidency of the Council (once in a presidency) on the second day of General Affairs Council and other formations (so called Joint Ministerial Meetings).

administration. It was elevated to a ministerial level and renamed into Ministerial Council for European Integration in December 1998. With exception of Czech Republic, where a special post of Deputy Prime Minister was created to co-ordinate European Affairs, Prime Ministers chaired cabinet-level bodies. Membership in these committees was usually limited to key ministers, although there was a possibility left for other ministers to attend depending on an issue under discussion. Additionally, committees on the lower level were created, which comprised state secretaries, deputy state secretaries and heads of departments. Here, the exception was Poland, in which only ad hoc bodies existed on the intermediate level¹⁰.

Differences concerned primarily the role of the foreign ministry in the co-ordination process. In Hungary, the minister of foreign affairs as well as strengthened State Secretariat of Integration of the Foreign Ministry played a key role. The Secretariat assisted the work of Inter-ministerial Committee and assumed a leading role in ensuring the internal and external coherence of EU-related policy-making. It was also responsible for management of EU funds. The Ministry of Foreign Affairs played similar role in Czech Republic, although from the beginning the responsibility seemed to be more decentralised than in Hungary. Slovakia and Poland provide the examples of contrary developments. In Slovakia, the key person was the Prime Minister and the Secretary of State that reported directly to him. Correspondingly, the general responsibility for administrative co-ordination was located at the Office of Government and its Department of Co-ordination of European Integration. Foreign Ministry played, however, an important role as a policy initiator. In Poland, the responsibility for the co-ordination of EU affairs were initially concentrated in the hands of the Plenipotentiary of European Integration and Foreign Assistance, who had his office in the Office of the Council of Ministers (later renamed into the Chancellery of the Prime Minister). In 1996 the responsibilities of the Plenipotentiary were transferred to a separate institution: the Office for the European Integration. It was directed by the Secretary of the Committee for the European Integration and served as the executive arm of the Committee. Its position in co-ordinating EU affairs was strengthened by the strict link between integration policy and European assistance. The Office was also responsible for checking compliance of laws with the *acquis*. As compared to the development in current Member States, ministries responsible for the economic affairs played a limited role in co-ordination of European affairs and in some countries an important role was played by Ministries of Justice, who were responsible for the process of approximation of laws (Czech Republic, Hungary) (Verheijen 1998).

¹⁰ This ad hoc committees and working groups formally comprised under-secretaries, but in practice often grouped directors of ministerial European Units. This was formalised only in January 2002, when so called Preparatory Group for the Committee for the European Integration started formally to operate. Currently, it meets before every meeting of the Committee of the European Integration.

Table 2. Co-ordination of European policy in Visegrad countries at the pre-accession stage

	Czech Republic	Hungary	Poland	Slovakia
Special cabinet-level bodies for the European integration	Government Committee for the European Integration (1994) chaired by Prime Minister (later by Deputy Prime Minister)	Cabinet for European Integration (1996) chaired by Prime Minister	Committee for the European Integration (1996) chaired by Prime Minister	-
Other co-ordination committees	Inter-ministerial Group and number of subgroups for special issues. Since 1995 Committee for the Implementation of the Europe Agreements	Inter-ministerial Committee for European Integration (1994) and network of expert committees; Strategic Task Force (experts and academics)	Ad hoc committees	Council of the Government for Integration of the Slovak Republic into the EU
Main institution responsible for co-ordination	Lack of co-ordination unit, increasingly Ministry of Foreign Affairs	Until early 1996 dual co-ordination by the Foreign Ministry and the Ministry of Industry and Trade (former Ministry for International Economic Relations). In 1996 organisational units merged into State Secretariat of Integration (SSI) of the Foreign Ministry	Office for the European Integration (1996)	Office of Government (Department of Co-ordination of European Integration)

Source: Verheijen 1998; Rupp 1999; Lippert et al. 2001.

The next stage in the development of institutional structures for the co-ordination of EU affairs was triggered by the start of the accession process¹¹. Visegrad countries presented official requests for accession already in mid-nineties¹². The Madrid European Council of December 1996 requested to evaluate the applications. In response, in July 1997, the European Commission published Agenda 2000, which incorporated its avis (opinions) on all applications. The Commission's recommendation were endorsed by the European Council in Luxembourg, which on 13 December 1997 decided to begin the negotiations with six candidate countries and to relegate Slovakia to a, so called, second group of candidates. The latter decision was justified on the grounds that Slovakia failed to meet the Copenhagen criterion of democracy, the rule of law, human rights, and respect for and protection of

¹¹ In most Visegrad countries it coincided with political changes; in Poland, following general elections of September 1997, coalition government of Solidarity Electoral Action (AWS) and the Freedom Union (UW) was formed and replaced ex-communist Democratic Left Alliance (SLD) and the Polish Peasants Party (PSL); Czech National Bank Governor Josef Tošovský formed a centre-right government, which ended the Vaclav Klaus era, and after the elections of June 1998 a minority Social Democratic of Miloš Zeman emerged. In Hungary, in May 1998 the centre-right Hungarian Civic Party (FIDESZ) defeated the governing socialists and the government of Viktor Orbán was formed in June. In Slovakia, after the 1998 elections, the coalition government was formed with the leading role of Slovak Democratic Party which ended a 4 years' long rule of Mečiar and his the Movement for Democratic Slovakia (HZDS).

¹² Hungary applied for membership in March 1994, Poland in April 1994, Slovakia in June 1995 and Czech Republic in January 1996.

minorities, which, in Commission's view, had to be fulfilled before the start of negotiations. Therefore, while official negotiations with Czech Republic, Hungary, Poland (as well as with Cyprus, Estonia and Slovenia), began formally on 31 March 1998 (effectively in autumn), Slovakia began to negotiate the EU entry in 2000 (with Bulgaria, Latvia, Lithuania, Malta and Romania). Slovakia was, however, included in a general accession process, which meant that the process of 'screening' could begin¹³. The decision to open negotiations with Slovakia was taken by the Helsinki European Council (December 1999). In particular, Slovakia benefited from the 'differentiation principle' adopted by the Commission and pursued by the Council, which allowed applicant countries to progress through the negotiations as quickly as it warranted by its own efforts, which meant a possibility to catch up with the countries that had already started negotiations. Formal negotiations with Slovakia were opened in February 2000 and Slovakia managed to conclude them with the rest of the Visegrad countries during the Copenhagen Council on 13 December 2002.

As envisaged at the Luxembourg European Council (December 1997), overall enlargement process included, a complex set of stages (Lippert et al. 2001)¹⁴. Applicant countries had to invest more time and resources in the interactions with the EU. The European Commission served only as an intermediary and every candidate country had to negotiate with every Member State. At times, it required effective diplomatic lobbying, which was crucial for the course of negotiation. Therefore, the importance of the diplomatic missions to the EU and other diplomatic services grew. At stake was the determination of the number, length and nature of transition periods, derogations from the general rules of the Treaties, as well as contribution of applicants to the Communities' budget and their participation in EU policies.

Not surprisingly, the start of accession negotiations triggered changes in institutional structures responsible for formulation of European policy. It both reinforced former structures and supplemented them with new elements. On the domestic level negotiations implied a necessity to co-ordinate a work of line ministries competent in the 29 substantial chapters into which *acquis* had been divided. Accession countries faced a dilemma of making arrangements on how to arrive at the negotiation positions on highly complex and technical chapters and decide them on the political level. In all countries final decision on negotiation positions was made by cabinet. However, with exception of Hungary, formerly established ministerial committees for co-ordination of EU-related decisions were preserved and played a role in arriving at negotiation positions. These developments are summarised in table 3.

¹³ Screening is a review of the law of a candidate regarding its compliance with the *acquis communautaire*. Screening ends with the bilateral sessions during which problems that require further negotiations are identified.

¹⁴ It included: the European conference that brought together all countries aspiring to join EU, the accession process (enhanced pre-accession strategy, the accession negotiations, screening of EC legislation and a review procedure) and, finally, the process of accession negotiations. In many ways, negotiations differed from the European Agreement experiences. Most importantly, there was a different scope of the tasks and different procedures.

Table 3. Co-ordination of European policy in Visegrad countries at the accession stage

	Czech Republic	Hungary	Poland	Slovakia
Chief Negotiator and his institutional affiliation	Pavel Telička, (Deputy Foreign Minister)	Endre Juchász (Hungarian Ambassador to the EU)	Jan Kutakowski* (State Secretary at the Prime Minister's Office, Government Plenipotentiary for Poland's Accession Negotiations to the EU)	Jan Figel (State Secretary of the Ministry of Foreign Affairs)
Special cabinet-level bodies for the European integration	Committee for European Integration (restructured) Discusses negotiation positions before they reach the Cabinet	- (Cabinet Committee for the European Integration abolished in 1998)	The position of the Committee of the European Integration preserved It gives opinion on negotiation positions before they reach the Cabinet	Ministerial Council of the Government for European Integration (created in 1998)
Other co-ordination committees	Committee for the Implementation of the Europe Agreements; since 2001, Government Working Committee for European Integration	Inter-ministerial Committee for European Integration (composed of deputy state secretaries)	Ad hoc committees	Working Committee and Consulting Committees (advises the Ministerial Council)
Working groups for negotiation positions	Working Groups headed by a representative of the Ministry responsible for a given chapter of <i>acquis</i> . Work in co-operation with external experts and civil servants in line ministries.	29 Expert Delegations (might include external experts and interest group representatives). Special role of the Ministry of Foreign Affairs, Ministry of Justice and Ministry of Finance	Inter-ministerial Working Groups (external experts consulted occasionally) Special role of the Ministry of Finance and Government Centre for Strategic Studies.	29 negotiation team's working groups. Consulting Committee

* On 31 October 2001 replaced by J.Truszczyński.

Sources: Brusis and Emmanouilidis 2000; Lippert et al. 2001.

First of all, there was a need to create or strengthen structures for ensuring that the objectives of government are appropriately translated into negotiation positions and, secondly, are effectively represented during the accession negotiations (Brusis et al 2000: 12). Negotiation Delegations were created to ensure the representation of members of government in the negotiation process. Differences concerned primarily institutional affiliation of the Chief Negotiator. Changes occurred primarily on the lowest levels, where additional structures were created to work out draft negotiating positions. The cabinet level bodies were usually preserved and played a role in discussing negotiation positions. The notable exception is Hungary, where the special cabinet level committee was abolished in 1998.

At around that time special parliamentary committees for the European affairs started to be established. However, they did not play special role in the formulation of the European policy; their activities have focused mostly on the approximation of laws.

Basic difference between the governments of the applicant countries concerned the choice between Prime Minister (Poland, Slovakia) and Foreign Ministry (Hungary, Czech

Republic) as the main locus of co-ordination (Lippert et al. 2001: 992). According to Brusis and Emmanouilidis (2000: 23), these governments faced also the second dilemma: whether to rely on political or administrative structures to elaborate negotiation position. On the basis of these two dimensions, four possible models of the institutional structures for policy co-ordination could be distinguished. Accordingly, the Czech Republic falls into the category of politically-focused and foreign ministry-led, Poland can be classified as politically-focused and Prime-Minister-led, while Hungary falls in the category of administration-focused and foreign-ministry led. All options, in the view of cited authors, have both advantages and disadvantages. Politicised co-ordination may guarantee consensus but may be risky in terms of stability. Co-ordination focused more on foreign policy bureaucracy may be more stable and is more compatible with experience of policy co-ordination in the EU, as well as more effective abroad. However, its disadvantage is that it may fail at home, as it tends to insulate the negotiation process from both government and society (Brusis and Emmanouilidis 2000).

Such a classification obscures number of real-life complexities. In Poland, for example, centralisation was only illusory. While it is true that the Prime Minister played a leading role, in practice, he shared his competencies with the Ministry of Foreign Affairs and Office of the Committee for European the Integration. Political rivalries further diminished the efficiency of the structure¹⁵. In its day-to-day operation, the negotiation process relied on a large group of civil servants in a position of the director of department or under-secretary of state (the latter being formally a political position) in ministries, who were responsible for the preparation of negotiation positions.

Secondly, in the last two years changes were introduced to the structures of co-ordination, which weakened their defining characteristics. In Poland, after the elections of 2001 changes were introduced to the system of co-ordination of EU policy. The role of the Ministry of Foreign Affairs in EU-related decision-making was strengthened and importance of the Prime Minister and its Chancellery diminished. This change affected more political than structural aspects of policy co-ordination (Pyszna 2002). From that time on, until mid-2003 Danuta Hübner, the Secretary of the Committee for European Integration was at the same time a secretary of state in the Ministry of Foreign Affairs. In June 2003, she was nominated a minister and member of the Council of Minister responsible for the co-ordination of European affairs. The introduction of Preparatory Group of the Committee for the European Integration has freed the Committee from some of its tasks and could be seen as a shift towards more administrative than political style of management of European affairs. Although is still political forum comprising under-secretaries of states (deputy ministers), it is often attended by civil servants on the director of department level. In Hungary, under the

¹⁵ For example, as a result of a coalition agreement of AWS and UW, the chairmanship of the Committee for European Integration was given not to Prime Minister, but to a member of the eurosceptic Christian-National Alliance (ZChN), which resulted in personal changes among the experts of the Committee. This immediately created conflicts with the Ministry of Foreign Affairs (Hausner and Marody 1999: 56-57).

Medygessy government formed in 2002, the responsibility over external economic relations were added to the responsibilities of the State Secretariat of Integration and it was renamed to the State Secretariat for Integration and Trade (Viga 2002: 60). ICEI meets only few times a year since, as it is argued, inter-ministerial co-ordination improved (Viga 2002: 61). However, there seems to be a trend of re-centralisation of European affairs at the centre of government, which complicates the architecture of the system for European policy co-ordination; on the cabinet level Integration Cabinet was re-established. It is chaired by the Prime Minister and serves as decision-preparing forum (Viga 2002: 63). In May 2003 Endre Juhász, the former Hungarian Chief Negotiator, was nominated for the newly created post of Minister without portfolio, which became in charge of European co-ordination. His tasks include the supervision of the National Development Plan and the preparations for Structural and Cohesion Funds, and the co-ordination of EU affairs across the Hungarian administration.

5. Co-ordination structures for the membership. Mission accomplished?

What are the implications of experiences of the Visegrad countries in co-ordination of the European policy? First of all, both pre-accession and negotiation stages promoted centralisation of policy-making. As Grabbe argued 'Accession process encourages the emergence of a strong, central team to manage the accession process, because the conditionality is based on implementing a vast array of legislation and procedural rules in order to comply with EU standards, which in turn depend on reporting from the centre of government to Brussels' (Grabbe 2003: 259). In the Polish case the creation of the Office of the Committee for the European Integration was seen as highly efficient solution, particularly from the EU perspective. One could find opinions that the structure is 'by far the most efficient in the V4' (cited in Rupp 1999: 100). In particular, efficient transposition of the EU legislation seemed to be correlated with the centralisation of the authority. Similarly, in Hungary the creation of the State Secretariat of Integration was praised as successful, as it amalgamated experts with diplomats and helped to prevent rivalries and overlapping competencies (Viga 2002: 59). In countries, with less co-ordination, exemplified by the Czech Republic, one could hear complaints that: 'To the EU representatives, the Czech position may sound rather like a polyphony, given the not-quite-identical opinions voiced by the Minister of Foreign Affairs, the Prime Minister, other state officials, and the occasional coalition squabble' (Šmejkal 1998: 122).

Similarity between present structures for co-ordination of EU affairs and those found in the Member States countries is only illusory. While there is no doubt that 'speaking with one

voice' is the most important rationale for the system of co-ordination of European policy on the national level, it is doubtful whether the existing form of centralisation is sustainable in case of co-ordinating structures for membership. As it was shown, the requirements of traditional intergovernmental mode of decision-making and the practice of policy-making on the European level differ substantially. Obviously, this does not mean that existing structures need to be abolished. The point is that must be reorganised and adapted to a new environment. In many ways, they may also serve other tasks related to the membership.

A quality of membership depends to a large extent on the quality of functioning of administrative structures. Although transition from the pre-accession to accession and, finally, to the membership may appear to be smooth and, supposedly, should provide a lot of useful experience, this is not exactly so. In the accession period the centralisation was accompanied by a relatively narrow policy network of top policy-makers and institutions. In the condition of membership, management of European policy cannot be confined to small teams. Paradoxically, structures which were less centralised (such as for example the Czech ones), which were seen as an inefficient at the accession stage may now promote efficiency. Of equal importance is the involvement of administrative rather than political level of decision-making (as in Hungary). This is because more institutions and lower levels of the administration gained experience through direct contacts with European institutions.

A notable characteristics of the administrative reform in Central and Eastern Europe was a tendency to create 'islands of excellence' in the public administrations: precisely as a response to demands and expectations of international organisations and foreign governments (Goetz and Wollmann 2001: 881). This concerned primarily institutions of fiscal policy, but as Barbara Nunberg testified (2000: 20), it also applies to the institutions responsible for the management of European integration: 'EU accession management capacity is notably greater at the central, higher levels of government than in line ministries (especially at lower echelons)'. Staffing needs in these areas were prioritised and more insulated from politicisation (Goetz and Wollmann 2001: 81). According to Nunberg (2000), accession institutions stand out from overall public administration organs in quality and efficiency, they are multilingual and have higher educational levels than general civil service staff. The problem of human resources is augmented by the fact that with growing opportunities for career in Brussels the public administrations of Visegrad countries have already started to experience the brain drain of those qualified and experienced in the European affairs.

The process of accession could be seen mostly as an administrative exercise and institutions were designed more for policy-taking than for policy-making. It had mostly reactive character: most activities were a response to subsequent initiatives of the EU. Membership will require more active participation, in which crucial element concerns the proper evaluation of costs and benefits of proposed regulations, defining national interest,

mapping stakeholders and preparing a good argumentation. In many ways this is an art rather than science, which cannot be learned overnight. Additionally, such a task requires not only necessary expertise and skills, but also a good judgement of interests of many stakeholders, which means a necessity to conduct consultations and to include interest groups and the wider public in policy debates.

Many policy debates are novel for the future Member States and their administrations. During the accession stage, Visegrad countries focused on the task of joining the EU and did not want to antagonise present Member States by participation in the internal EU debates (Podraza 2000: 107). Therefore, so far there have been rather little interest in policy debates, which in the coming years will result in substantive legislation. As one Polish journalist commented: 'In Brussels, one may have a feeling that what mattered for Poland was the membership, without troubling with the question of what character it could take' (Orzechowski 2003).

Government managed to be a gate-keeper of the integration process. Now it may experience rivalries in its own ranks as politicians and ministers will start to play their interests against each other. European policy has been so far insulated from such conflicts, but the nature of decision-making in Brussels makes it very likely that such problems may appear. Coalition partners and ministers may use the European level to impose their preferences. The practice of coalition government also worries. In Poland, problems already identified in the mid-nineties have persisted, such as intense controversies between coalition partners, which are not only made public, but also communicated via journalists, and frequent contradictions in legislative initiatives of government and the behaviour of its support base in the Parliament (Rydlewski 1998).

Visegrad countries and other acceding states have an opportunity to simulate their membership. Since December 2002 and effectively from January 2003, all future members have participated in, so called, the participation and consultation procedures. After the Treaty of Accession was signed on April 16, 2003 future Members participate as so called 'active observers' in the work of the Council and its preparatory bodies¹⁶. While formally these mechanisms are of limited importance, i.e. it is impossible to block a legislative process in the Council, the status of active observer is an apt opportunity to test one's abilities to act in a simulated condition of membership. In Poland, the system of co-ordination was specified in the document: 'The system of co-ordination of the European Policy in the Period Preceding the Membership of Poland in the EU' adopted by the

¹⁶ Participation and consultation procedure gives a future member a right to receive most of the documents accepted by the European Commission and discussed by the Council of Ministers on the level of Coreper and higher. In a special cases, after a justified motion is presented, there is a procedure to discuss opinions. Since April 2003 as active observers representatives of governments of future members participate in all meetings of the Council structure (they can voice their opinions, but they don't have a right to vote). Similarly, on May 1, 2003 parliamentary observers from future Member States were welcomed in the European Parliament.

government on March 4, 2003. It determined the flow of documents from the EU and institutional responsibilities related to the participation in the EU decision-making structures (Komunikat 2003a)¹⁷. It is interesting to see that the introduced structure is fairly decentralised and of low co-ordination ambition. A trend towards decentralisation can be observed in other Visgrad countries as well. Hungarian minister for European Affairs stressed, for example, that 'We need a rapid reaction co-ordination system. Decisions have to be made at the lowest possible level' (cited in Pócs 2003). In the Czech Republic, on the basis of government resolution of April 2003, ministerial co-ordinating groups have been set up in all ministries. On the inter-ministerial level the Committee for the EU is the main co-ordinator¹⁸.

In Poland, the flow of documents is co-ordinated by the Department of the Integration Policy in the Office of the Committee for the European Integration, which sorts out the incoming documentation and sends it to the proper institutions. The responsibility for formulating instructions, which are sent to the Polish mission in Brussels, is decentralised. After a given document is received by the ministry, it is responsible for preparation of the proposal of instruction and, if necessary, for conducting consultations with other interested parties and the Polish Representation in Brussels. In case of documents for the discussion at the Coreper meeting, instructions are sent to the Office of the European Integration and, before sending to Brussels, they are discussed by the Preparatory Group of the Committee of the European Integration. In other cases, the leading ministry sends the instruction directly to Brussels and its copy is sent to the Office of the Committee for European Integration.

Experiences are mixed. Danuta Hübner reported to the parliamentary European Committee in September 2003 that 'In the opinion of the officials of various levels, in work's of which we do participate, we are regarded as the most active and best prepared active observers' (Biuletyn 2003). However, insiders report number of inefficiencies. On the level of working groups, flow of information and co-ordination is insufficient, which results in situations in which the Polish Representation in Brussels does not receive instructions, or receive only a working copy of it, or the instructions for the ensuing meetings are inconsistent. It may lead to the situations, when Polish representative is absent or unprepared for a technical discussions and reports from the meetings are sometimes of poor quality. On the Coreper level problems appeared as well, and concerned primarily timely preparation of instructions and their quality.

¹⁷ The co-ordination was further specified in 'Informacja w sprawie wybranych aspektów stanu przygotowań Polski do członkostwa w Unii Europejskiej', adopted on April 29, 2003 (Komunikat 2003b).

¹⁸ The procedure was described in the document: 'The Institutional Capacities for the Czech Republic's EU Membership and Co-ordination of the Decision-making Process'.

Conclusions

Visegrad countries have gained a lot of useful experience in the pre-accession period in dealing with the EU. However, full involvement in the decision-making processes brings about a qualitative challenge. It requires a shift from policy-taking to policy-making on both institutional and mental level. As a consequence, existing institutions for policy co-ordination seem to be ill-adapted for the requirements of formulation of national interests and representing them on the European level. As it was argued in this paper the basic difficulty is related to the fragmented and multi-level character of policy-making in the European Union and its modes of decision-making. In particular, European policy no longer can be restricted to small teams of well-trained civil servants and diplomats of the centre of government or foreign ministry. Nor it is possible and efficient to use a strongly centralised structures of policy co-ordination. However, with the involvement of other ministries, parliaments and wider public, the deficiencies in the quality of public administration, political institutions and institutions of social dialogue will start to play a more decisive role.

Membership is both about shaping the decisions and policies in Brussels and enforcing and implementing them at home. The task of co-ordination of European policy adds to rather than replaces other important challenges that are faced by acceding countries, such as reaching targets defined in the pre-accession period, approximating laws and meeting other requirements related to the accession, as well as preparing for the implementation of policies and absorption of funds. Therefore, there exists a risk that a problem of policy co-ordination may be neglected in policy debates. This would be a substantial danger, as it threatens the accomplishment of so expected benefits of the European integration.

II. European and National Regional Policy

Look at the European and Polish experience through theoretical framework. An attempt to assess EU regional policy reform concepts

Magdalena Kaniewska

Abstract

The paper employs theoretical and empirical arguments to assess the prospects of successful implementation of the EU regional policy in Poland. It also evaluates the concepts of the reform of Structural Funds and the Cohesion Fund as presented recently by the European Commission. The paper discusses the current shape of the EU regional policy and presents the experience of some of the Member States in its adoption. In Poland, the divergence in the level of economic development of regions has been increasing during the transformation period of the 1990s. Regional policy tools should be implemented to stimulate economic growth of the regions and to reduce the gap between rich and poor regions. However, the Polish regional policy lacks both effective institutional framework and clear priorities and aims to achieve. As a result, the effectiveness of the programmes within the financial framework of the Structural Funds and the Cohesion Fund after joining the EU is uncertain. Moreover, the changes of the EU regional policy proposed by the Commission for the next fiscal period may potentially reduce the acceding countries' access to the financial tools of the common regional policy. These changes may also decrease the chances for cohesion within the enlarged EU.

Introduction

In each country there is a differentiation in regional development, which means that some regions experience higher growth, GDP and regional income due to relatively better

structures of their local economies. In some cases, governments conduct regional policy to reduce such regional inequalities because they regard regional divergence as an obstacle to achieve the aims of other policies, in particular:

- social policy – regional divergence in living conditions may cause social disturbance and impedes cultural and social cohesion of the society;
- ecological policy – poor regions are not able to maintain high environment standards whereas pro-ecological investments exhibit positive due to external effects;
- and macroeconomic policy – irregularities in supply and demand for labour in local markets cause inflationary pressure and distortions affecting economic growth rate.

Martin (1998), provides various arguments for pursuing the two levels of regional policy, namely the European and national regional policy:

- the ‘financial targeting’ argument – the poor member states are unable to target their regional problems themselves, thus the EU has to provide the necessary resources;
- the ‘external effect’ argument – solution solving the regional problems (or other problems, such as environmental, social) in one Member State will be beneficial for the union as a whole);
- the ‘effect of integration’ argument – when benefits of integration are not evenly spread across the EU, a redistribution mechanism is required to minimize the inequalities;
- the ‘effect of coordination of other policies’ argument – similarly to the argument above, some countries benefit relatively less from other policies (in particular from CAP and transport policy oriented on the Trans-European Transport Networks) and therefore the relative losers should be compensated by tools of the EU regional policy.

Two conclusions shall be drawn from the above reasoning. First, the Visegrad countries, as other acceding countries, should conduct their own national regional policy. Second, such policy has to be coordinated in its regulatory framework and priorities with the common EU regional policy. The harmonization of regulations and laws in the field of regional policy constitutes a framework for obtaining benefits from the mechanisms of the EU regional policy and acquiring subsidies channelled through the Structural and Cohesion Funds.

The paper is organized as follows: Section 1 presents the theoretical background of regional policy as a reaction to the results of the integration process; Section 2 describes the common regional policy in the EU and its evolution; in Section 3, some remarkable examples of European countries’ regional policy are shown; Section 4 introduces facts concerning current regional development and regional policy in Poland, and Section 5 assesses reform concepts of the EU regional policy in the Polish context and draws conclusions for future regional policy in Poland.

I. Theory and practice of integration and the regional policy rules

Economic theory deals with the spatial divergence problem. In the light of neoclassical economy the regional income inequalities are only transitional and decrease over time due to economic integration and the flow of goods and production inputs. The neoclassical model based on constant returns to scale, perfect competition, and the absence of transaction costs among the agents thus predicts a spontaneous convergence in regional income levels. The role of government is to speed up this natural tendency in a market economy by technology spill-over or stimulating factor mobility, in particular, by direct capital flows to the disadvantaged regions. The economists of the new economic geography have softened rather unrealistic assumptions of the neoclassical models and postulated for the inclusion of increasing returns due to specialization of production and external effects of some activities instead of constant returns to scale, and transportation costs. The existence of increasing returns of some industrial activities combined with transportation costs may, through a process of cumulative and circular causation, lead to the concentration of economic activity in a limited number of places. The industrialization and urbanization processes are reinforced by the existence of various types of externalities in agglomerations. For this reason the capital and labour flow from poor regions to the richer ones. Thus regional inequalities may increase even further if a high factor (capital and labour) mobility between localizations is allowed.

Despite relatively high financial resources devoted to regional policy within the European countries, regional programmes have proved their low efficiency in narrowing regional differences. Some authors have postulated for radical reforms in the implementation and regulation of regional policy. Martin (1998a) has recommended a deeper theoretical background for programming of the policy tools and goals. In his opinion, policy makers should emphasize the recommendations drawn from the new economic geography literature for regional policy.

Is convergence a spontaneous process in the economy?

In neoclassical growth model a country's *per capita* growth rate is inversely related to its starting level of income *per capita*. If regions are similar with respect to structural parameters for preferences and technology, which is often the case, then poor regions with low capital/labour ratio tend to grow faster than rich ones. Therefore, in a economy there is a force that promotes convergence in the levels of *per capita* income within a country. Such convergence is accelerated by factors mobility between regions. The key element of the neoclassical convergence hypothesis is the diminishing returns to capital. Poor regions have higher marginal product of capital and thereby tend to grow faster over some period of time, provided that inter-regional flows of capital and technology are allowed. Barro and Sala-i-

Martin (1992) proved the existence of convergence for the U.S. states over various periods from 1840 to 1988, where poor states tend to grow faster in *per capita* terms than the rich ones. Dowrick and Nguyen (1989) reported the same relationship for the OECD countries. Research conducted by Barro (1991) confirmed that the growth rate of real *per capita* GDP is negatively related to the initial level of real *per capita* GDP for 98 countries in the period 1960-1985 when human capital is included in the modified model. Thus, in this modified sense, the data support the neoclassical hypothesis on convergence. Barro (1991) concluded that a poor country tends to grow faster than a rich one, but only for a given quantity of human capital.

For a long time, physical capital was a central element of the convergence process in the neoclassical model. Flows of capital from regions with high capital endowment to the poor ones stimulate and increase the speed of the convergence. However, Barro, Mankiw and Sala-i-Martin (1995) report that the quantitative impact of this effect is likely to be small. In open economies, such as the U.S. states, convergence is only slightly faster than in more closed economies of the OECD. The rate of international flows of capital from rich to poor countries or regions is much smaller than the rate predicted from neoclassical model.

Regarding the role of human capital, Barro and Sala-i-Martin (1992) tested the role of labour mobility in the convergence of income levels. The estimated impact of income on migration in the U.S. was positive and statistically significant but very small. Even wide differences in regional incomes did not affect significantly the mobility rate, probably because of high private costs accompanying migration. The authors assumed that the convergence would be the same even in the absence of migration.

The mobility of labour force merits some more attention because usually the researchers omit the qualitative aspect of migration. The cross-country evidence confirms that the most educated and skilled employees are much more mobile and have higher propensity to change the place of residence than less educated workers. They constitute the majority of migrants and migration outflows from poor regions to the richer regions which offer higher wages and better work opportunities. Thus, the capital/labour ratio (physical and human capital) deteriorates even further in poor regions in relation to the more advanced regions. This phenomenon is called *backwash effects* according to the distinction proposed by Myrdal (1958).

The neoclassical theory predicts temporary divergence in income levels when the regions/countries have no access to the same technology, which is, however, exogenous to the model. If technology is not the same in each localization, initial regional inequalities can increase. These inequalities are subsequently reduced when underdeveloped regions obtain access to the best available technology. Assuming diminishing returns to the reproducible inputs, the factor mobility will eventually result in income convergence. However, the neoclassical hypothesis that natural forces in the economies promote spontaneous convergence seems to be inconsistent with the evidence for a broader samples of countries.

New economic geography

The criticism of the neoclassical convergence paradigm was proposed by Romer (1986) and Lucas (1988). The initial regional income differences may increase and then persist over time due to increasing returns to scale in manufacturing industries. The increasing returns are the effect of specialization, external effects of knowledge at the microeconomic level, and positive external effects among firms in one location. According to Lucas (1990) the new investments, contrary to the neoclassical predictions, have not flown into the poorer economies for the reason of low human capital or capital market imperfection, or both. The central idea of almost all post World War II development policies has been to stimulate, more or less directly, transfers of capital goods from rich to poor countries or regions. Insofar as marginal products on capital are not equalized among the countries, these capital transfers will be fully offset by reduction in private investments. However, we can expect some international transfers of capital to reduce the existing differences in factor prices. At the same time, policies aimed at affecting the accumulation of human capital seems to have larger equalization potential than stimulating capital flows.

New economic geography combines the theoretical framework proposed by new growth theory and new trade theory based on monopolistic competition framework and the transportation costs as its key elements. The central idea of the new economic geography is the existence of natural factors in the integrated economy which stimulate the concentration of economic activities in space. Brülhart and Torstensson (1996) in the empirical study on employment and trade in the EU, find that industries with increasing-returns tend to be highly concentrated in central EU countries. However in general, the EU economy is less geographically concentrated than the U.S. economy although income inequalities across the EU Member States are much wider than in the U.S. According to Puga (1997) these differences result from labour mobility. When the transport costs are high, economic activities are evenly distributed to meet consumer demand locally. Regional integration with free factor flows and falling transport costs creates, through the interaction of increasing returns of non-agricultural sector, a tendency for firms to cluster together in a limited number of places. Thus, the input-output (or backward-forward) linkages among firms are reinforced in agglomerations. The clustering of enterprises tends to raise local demand for labour causing the increase of wages. If workers are sensitive to wage differences, higher wages in agglomerations lead workers to relocate towards more industrialized regions, which intensifies the agglomeration and urbanization processes while reducing income differentials. If workers do not migrate across regions, inter-regional income differentials persist. In that case, firms are increasingly sensitive to wage differences among localizations, while further reductions in transport costs lead them to spread across regions. The labour migration is lower in Europe than in the U.S. The estimated wage elasticity of labour migration in the U.S. is 25 times higher than in the U.K. and even higher

in respect to the other EU countries. This explains why regional integration within EU Member States results in growing regional income differences while concentration of activities is rather moderate.

The mobility of labour should be discussed in a broader sense. Krugman and Venables (1995) propose to include workers' propensity to raise qualifications and skills as an important factor increasing labour mobility. Again, Europeans are less likely than Americans to upgrade their qualifications or change occupations.

Krugman (1991b) states that the interrelation of increasing returns, inter-regional labour migration and transportation costs lead to a formation of clusters of companies and labour. There is some evidence which conforms with the logic and predictions of the model proposed by new economic geography, in particular, when studying the relationship between integration and localization of activities. Hanson (1994a and 1994b) reported that Mexican firms when integrating with the U.S. economy within the North American Free Trade Agreement, relocated to the north, closer to the U.S. Trade liberalization has contributed to the employment growth in the agglomerations with upstream and downstream industries where firms were strongly linked to each other. Therefore it seems that the external location effects of linkages among the firms are strengthened by integration processes. The employment growth in the agglomeration of firms in the same industry was not significant.

The post World War II industrial policies in Europe focused mainly on transferring capital to the disadvantaged regions through direct and indirect subsidies to capital investments and assistance to capital flows. These policies also worked through implementation of adequate regulations aiming to discourage investing in developed regions. Inter-regional income inequalities were narrowed by general regulations so wages did not reflect its marginal product and the wage elasticity of labour migration decreased.

Transport costs play a crucial role in influencing industrial location because they constitute a great share in total costs. Authors such as Aschauer (1993) and the authors of a special World Bank report on infrastructure (1994b) underline the positive relationship between transport infrastructure and regional development and growth. However, the causation of this relation is not defined, so the productivity of transport investments is likely to be overestimated. The higher infrastructure investment drives faster growth and the higher development is related to higher rate of infrastructure spending. De Long and Summers (1991) find that machinery and equipment investment, including transport investment, has a strong association with growth: each extra percent of GDP invested in equipment is associated with an increase in GDP growth of one third of a percentage point per year. This relation is stronger than between GDP and any other type of investment so equipment investment has far more explanatory power for explaining national rate of productivity growth than other components of investment. The same results are drawn from Aschauer (1989), Munnell (1990) and de la Fuente, Vives (1995).

Telecommunications infrastructure has direct impact on factor productivity in the regions through reducing the communication costs and knowledge spill-over. In the special World Bank report entitled 'Knowledge for Development' (1999) telecommunications is seen as a means of fast acquisition and dissemination of information. Martin (1998b) using data on infrastructure spending in the EU during 1980s and 1990s drawn from a project conducted by Biehl, demonstrated positive and high impact of telecommunications endowments on regional growth. None of other infrastructure investments had a similar impact on regional growth in the EU. The same relation was tested for data on Polish regions during the period of 1989-1998 (Cieslik and Kaniewska 2003). The empirical results confirm that there exists a positive and statistically significant causal relationship between telecommunications endowments and regional income. However, the impact of transportation endowments on income of Polish region is not significant, and it reveals an ambiguous role of transportation infrastructure in promoting growth.

Cain (1997) concludes that infrastructure played a crucial role in explaining the growth of the U.S. in 19th century. However, recent evidence shows that this rule is no longer valid. Martin, in a World Bank report (2003) states that transportation infrastructure in some cases transforms a region into a 'core' region, doing more than just opening up a peripheral region. In such cases, new firms locate themselves in a region that has grown due to new public infrastructure investments and which is close to large markets. Firms then benefit from positive agglomeration effects (larger markets, strong backward and forward linkages), while at the same time they avoid some negative agglomeration effects such as relative higher real estates prices and wages. Yet there are cases in which removing barriers to trade and lowering transportation costs lead to economic decline of a region. The decline of the south of Italy¹ is seen as a consequence of a motorway construction linking northern and southern Italy (more on that case in Part 3 below). Such phenomena argument against globalisation and opening up of the underdeveloped countries. Underdeveloped regions have lower factor productivity thus integration may start their de-industrialization. Regional policy should focus on factors which increase labour and capital productivity.

What conclusions for regional policy, especially with respect to acceding countries, shall be drawn from the new economic geography? Despite the general criticism concerning the high level of abstraction which characterises the localisation economy, recommendations for regional policy are rather precise: reinforcement of natural tendencies toward agglomeration and clustering of workers and economic activities, lowering transactions costs of doing business, increasing mobility of labour and technology spill-over. These targets can be achieved with regional policy tools and programmes such as:

¹ The infrastructure investments are considered to lead to a crowding-out effect when public investments are financed from taxes. In Italy, however, regional policies failed and caused even further increase in income differences between northern and southern regions. Cellini (1994) and Cellini, Scorcu (1995) tested the relationship between public spending on infrastructure and economic growth in the 1970s and 1980s in Italy, and showed its negative correlation.

- providing firms with access to telecommunications services and other means of dissemination of knowledge and information;
- investing in transportation in and around agglomeration which enlarges effective market and stimulates positive external effects of agglomeration, better public transport facilities;
- increasing labour productivity through public education, subsidies to public libraries, etc., and encouraging workers to self-educate (tax exemption on training, courses, subscriptions to professional papers, etc.);
- increasing spatial mobility of workers through tailored housing policy, lowering costs of every-day work-related transport, removing the barriers to inter-regional flows of information on local demand for labour;
- assisting technology spill-over to private sector from the public R&D agencies and institutions.

Regional policy targeting the above goals does not guarantee convergence in the short term; regional inequalities may widen even further. However, when the integration proceeds, both within the Polish regions and the integration of Poland into the European economy, flows of capital and labour across regions may result in narrowing initial income differences.

2. Current scope and structure of the EU regional policy

Regional differences and structural problems in underdeveloped regions have been an issue of great concern within the EU from the very beginning. The policy targeting narrowing regional divergence and promoting cohesion within the Community was determined in the Treaty of Rome of 25th of March, 1957:

*'... Determined to lay the foundations of an ever closer union among the peoples of Europe,
Resolved to ensure the economic and social progress of their countries by common action to eliminate the barriers which divide Europe,
Affirming as the essential objective of their efforts the constant improvement of the living and working conditions of their people,
Recognizing that the removal of existing obstacles calls for concerted action in order to guarantee steady expansion, balanced trade and fair competition,
Anxious to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions...'*

Treaty of Rome, 1957

The main tool of the EU regional policy is the Structural Funds. The oldest tools, the European Social Fund and the European Agricultural Guidance and Guarantee Fund, aimed at increasing the employment and the geographical and occupational labour mobility. In 1975, the European Regional Development Fund was established to help redress the main regional imbalances through participation in the development and structural adjustment and in the conversion of declining industrial regions. The oil shocks and the acceding of the relatively poor new members into the European Community in the 1980s revealed that regions were not able to cope successfully with the structural problems and inter-regional development disparities became larger. The European Commission launched in 1985 the so-called Integrated Mediterranean Programmes for Italian, French and Greece regions. The target of the programme was political rather than promoting economic cohesion. The European Commission was determined to pursue more radical changes and to reform the system of regional policy. Another reason for the reform, according to Martin (1998) was the Single European Market launched with the Single European Act in 1986. The following year the legacy of regional policy was imported into the Single European Act (art. 130A-130E). The regional policy became one of the fundamental principles of the EU. The most important elements of the reform were arranged around four guiding principles, namely programming, concentration, additionality and partnership. Now these principles constitute the regulatory framework for the regional policy tools, that is for the Structural Funds. The principles of the EU regional policy implemented by the reform in 1988 were:

- programming – the principle of programming means that there is integration of different forms of regional support to improve the coherence between the individual measures and that coordination exists between all agents involved in the area and between the other policy targets in short and long term;
- concentration – this principle guarantees higher degree of concentration of financial means in the selected areas with narrowly defined targets;
- additionality – this principle was designed in order to provide national co-financing of programmes and initiatives;
- partnership – this principle was introduced in order to eliminate the asymmetric information problem by implementing close relationship and co-operation between European, national and sub-national authorities.

The resources of the European Regional Development Fund were originally allocated in the Member States on the basis of fixed quotas. In some cases, the system led to the reducing of national shares in total spending on regional projects, in contrary to additionality principle. Thus, total budget for such projects was diminished. The reform was introduced as an urgent response to such problems.

Regional policy aimed at economic and social cohesion has gained more importance after the treaty of Maastricht. A stronger cohesion and solidarity within the EU states have been considered as the driving force leading to more balanced economic growth and social progress. In the regulatory framework, two cohesion instruments were introduced: the European Investment Fund linked with the European Investment Bank and the Cohesion Fund designed to provide additional funding for infrastructure construction (in particular, support for TINA and TEN projects and environmental projects). The countries with a per capita GDP less than 90 percent of the EU average are eligible for financing from CF. Within the current CF regulatory framework beneficiary countries must present for approval and then implement a national convergence programme in order to qualify for the Economy and Monetary Union. At present, Spain, Portugal, Ireland and Greece are entitled to the support from this facility. The European Investment Fund supports peripheral countries with credits at a lower rate than a market credit rate for the risk projects.

The final changes to the regional policy in the EU in the 1980s and 1990s replaced the existing instruments related to fishing industry with a new SF called the Financial Instrument for Guidance in the Fisheries Sector and established the Committee of the Regions as the institutional representation of regional and local authorities.

The regional policy remains, beside CAP, a key policy in the EU. Almost 213 billion euro will be spent on regional projects in the fiscal cycle 2000-2006 in EU-15. This amount is almost one third of the total budget of the Community. 195 billion euro will be channelled to the Member States through SF, and 18 billion euro will be spent by the CF. Total budget of the SF is as follows:

- 70 percent for the development of less developed regions (objective 1);
- 11.5 percent for the economic and social conversion in regions experiencing structural difficulties (objective 2);
- 12.3 percent for the modernization of training system and the creation of employment (objective 3) in the regions not eligible for objective 1;
- 5.35 percent for the Community Initiatives (Interreg II, Urban II, Leader +, Equal);
- 0.5 percent for the adjustment of the fisheries structure outside the objective 1 regions;
- 0.51 percent for innovative actions targeting implementation of the new ideas on development.

The SF are oriented toward the multi-year programmes implemented jointly by the EU and national partners within Member States under the four principle framework, where the principles of additionality and partnership are the most important. The SF assist projects aimed at improving transport, energy and telecommunications infrastructure, upgrading human capital endowment, and technology spill-over in order to built the information society.

In 2002 at the Copenhagen Summit the acceding countries negotiated the total of 6.7 billion euro for 2004-2006. The sum is not large when comparing to what 'the old' members receive and when considering the needs of the CEEC.

Table 1. Regional policy funds in acceding countries, 2004-2006 (millions of euro)

	Total	Cohesion fund	Structural funds
New members	21530	7522	14006
Poland	11369	3733	7635
Hungary	2847	994	1853
Czech Republic	2328	836	1491
Slovak Republic	1560	510	1050
Lithuania	1366	543	823
Latvia	1036	461	575
Estonia	618	276	342
Slovenia	406	169	237

Source: World Bank, 2003.

Moreover, the reform concept recently presented by Commissioner Barnier is not favourable for the candidate countries (see below Part 5.).

3. Country experience in regional development promotion

The authors of *The Sixth Serial Report on Socio-economic Situation and Region Development* published in 1998 by a sub-committee responsible for regional policy in the European Commission stress the high level of technical infrastructure, high level of technological innovation, high staff qualification and high level of academic teaching as essential factors in economic development promotion in regions. The authors of the report conclude that region assistance programmes in the regions delayed in development should be aimed at the above mentioned areas.

The economic success of Ireland has its sources in adequate economic policy at the macroeconomic level, particularly following the strategy of low rate of corporate taxes aimed at FDI flows and the increase of the effectiveness of Structural Funds spending. Barry in a World Bank report (2003) finds that the increase of the elasticity of labour due to the Social Partnership agreements instituted in 1987 facilitated industrial peace and a return to labour market equilibrium. Low rate of corporate taxes, as well as high level of human capital (including readiness of communication in English) attracted high rate of FDI inflow. During the 1990s Ireland has converged on the OECD average in terms of employees with at least a university degree or equivalent, and has gone ahead in terms of workers with diplomas or equivalent for the population ages 25-34. Many infrastructure programmes (ferry and road transportation, sea ports, and telecommunications infrastructure, urban transport systems, airports) have received SF financing which has

allowed the reduction of central budget deficit. Grosse (2000) however, stated that direct governmental initiatives, oriented to stimulate high technology spill-over among domestic firms, have failed. Thus, Ireland's shift to high-tech industry should be associated with foreign-owned firms considered an indirect factor of technology progress. On the institutional level, Ireland has adopted a very effective way of coordination between central government and local self-governments on one hand and entrepreneurs on the other hand thanks to a system of local development governmental agencies. Ireland is considered to be the pioneer country which has introduced a set of evaluation procedures aiming at the effectiveness of the EU programmes. Prior to these evaluation procedures, a common practice was to monitor if funds were spent in accordance with regulations, while the effectiveness of investments was not questioned.

Greece, contrary to Ireland, is considered to be an example of a country that had implemented a negative model of regional development. The result is low effectiveness of programmes focused on promoting economic growth and poor choice of programmes' objectives. The source of Greek regional policy's failure should be sought in the institutional solutions and especially their following aspects (according to Grosse 2000):

- lack of strong and competent local and regional authorities and political elites, which resulted in finance and decision centralization on central government level;
- lack of cooperation with private entrepreneurs at the programming and implementation stages;
- low qualifications of public administration staff combined with corruptibility and pressure exercised by lobby groups of political and business nature, which led to employing financial measures according to the criteria of short-term political gains and not economic viability;
- lack of coherence of regional programmes with long-term country development strategies and non compliance with programming rule in drafting regional plans.

The example of Greece highlights the fact that there is no effective regional policy without stable legal and institutional framework. Large scale, costly infrastructure investments (highways, Athens airport) failed to provide the driving force for local or national development. Nevertheless, the projects won Brussels' approval and financial support due to the fact that conditions and formal procedures for filing the documentation favoured large projects as better prepared on legal and formal side than small-size local projects.

Public transportation infrastructure development in Italy, realized partly from the EU funds, could lead to the decline of the South because of capital outflow and the lack of jobs combined with the influx of goods produced in the more effective North. Direct government subsidies reducing the value of capital in the South accompanied by rigid labour market (collective bargain) favoured localization of capital intensive enterprises. Such enterprises, in many cases state-owned, did not generate significant number of new

jobs for local workers whose education (mostly in humanities) did not correspond to the job demand and did not contribute in a major way to combat unemployment. In addition, such politics did not create backward and forward links because the enterprises depended heavily on the cooperation with the North. The situation was further aggravated by the lack of democratic foundation of the country, namely the fact that administration was not able to curb corruption which resulted in the low effectiveness of the programmes. As a consequence, in 1992-1993, Cassa del Mezzogiorno, a centralized state agency managing both subsidies and infrastructure projects was brought to an end. The Italian experience shows clearly that direct governmental activities based on subsidies and provisions to firms attempting to create certain poles of growth have appeared ineffective. However, it should be stated that this model of regional direct policy had dominated the European regional policy since the 1930s and has had some extraordinary results on the local level in the past.

Regional policy in Poland in the 1990s was dominated by the concept of local economic poles created by the means of establishing 17 special economic zones. A survey conducted in 1999 referred to 56 companies out of 74 operating in 4 zones; these companies were expected to achieve better results than the rest of the group. On the basis of this study, Kryńska (2000) claims that in 50 cases the reason for undertaking economic activity in the zones was the legal persons' income tax relief and exemption available there. Much fewer respondents indicated as the main factor of establishing their activity the existing infrastructure workforce availability, business friendly environment including help from local authorities, cooperation with other companies, other forms of tax relief and exemptions (especially in property tax) or the proximity of eastern border of Poland (in one case). With the exception of one zone, the respondents have not mentioned market for their product as the basis for company localization. Among the 46 entities which had operated earlier, 15 moved their production to a given zone in part or entirely (most of them abandoned a seat on management board in the previous localization). In most cases, we deal with moving localization within the same country. Most of the surveyed companies were technologically advanced but they did not cooperate with the Polish research and scientific institutions to a large extent. Similarly, cooperation among the companies and relations with companies from outside the zone were also very weak. As a result, the zones did not become local economic growth poles. Such solutions rarely lead to success as they are accompanied by the crowding-out effect, which is often difficult to assess, and the effects related to the fact that numerous companies would establish themselves in the local market without state aid. The final conclusion is that the success of this type of direct actions in stimulating physical capital transfer is rather arguable.

4. Regional divergence and regional policy in Poland

The integration of Poland with the European Union and Poland's opening to world economy results in deepening of regional inequalities. The country faced structural challenges for more than a decade. Some regions have relatively larger difficulties than others. Situation in some local job markets is worsening, especially where such markets are dependent on declining sectors of industry and state-owned agricultural firms. A few agglomerations evolved into local economic recovery centres becoming the target of work migration, as well as foreign investment. However, such centres operate on a small scale.

Job market situation – regional unemployment rates

In Poland, regional diversification can be identified through interregional differences in unemployment rates and regional income levels *per capita*².

Table 2. Unemployment rate in Poland, 1998-2002³

	Regions	1998	1999	2000	2001	2002
	POLAND	10.4	13.1	15.1	17.5	18.1
1	Dolnośląskie	12.8	16.0	18.4	21.5	22.5
2	Kujawsko-pomorskie	13.9	16.9	19.2	21.9	22.6
3	Lubelskie	10.3	12.9	14.0	15.7	15.8
4	Lubuskie	13.2	17.5	21.3	24.4	25.9
5	Łódzkie	11.4	14.3	16.3	18.1	18.5
6	Małopolskie	7.6	10.2	12.2	14.1	13.9
7	Mazowieckie	7.6	9.5	10.8	13.0	13.9
8	Opolskie	10.5	13.2	15.7	18.2	19.3
9	Podkarpackie	12.3	14.5	16.2	17.4	16.9
10	Podlaskie	10.8	12.5	13.8	15.1	15.2
11	Pomorskie	11.0	13.8	16.6	19.6	21.2
12	Śląskie	7.3	10.4	12.9	15.7	16.5
13	Świętokrzyskie	12.1	15.1	16.6	18.4	18.5
14	Warmińsko-mazurskie	19.7	22.4	25.8	28.9	28.8
15	Wielkopolskie	8.0	10.5	12.5	15.4	16.1
16	Zachodniopomorskie	13.9	18.1	20.8	24.7	26.4

Source: CSO.

A gap between a maximal and minimal unemployment rate has been growing over time. High unemployment rates are the consequence of economic downturn, implemented structural reforms and demographic processes (young people from the demographic boom

² Methodological note: in 1999 Poland's territorial division was changed. As a result 49 voivodships (counties) established in 1974 were replaced with 16 voivodships, often referred to as regions (the term 'region' is used instead of 'voivodship' while previous voivodships were never given such term). The change spurred one basic problem: we cannot compare the data from before 1998 and after this date (as an exception the statistical data for year 1998 are presented for both administrative divisions). Because of the problem of availability of longer period data, year 1998 is mentioned as the first year of the data concerning 16 voivodships. Before 1998 analyses were prepared on the basis of data relating to 49 voivodships.

³ Rate of registered unemployment on 31st Dec.

have entered the job market). High unemployment rate is unfavourable and, from the point of view of regional policy, it is disturbing that some regions are more affected by national recession, which shows through above average unemployment rate, than others.

Table 3. Unemployment rate differentiation

	1998	1999	2000	2001	2002
Average unemployment rate	10.4	13.1	15.1	17.5	18.1
Maximum unemployment rate	19.7	22.4	25.8	28.9	28.8
Minimal unemployment rate	7.3	9.5	10.8	13.0	13.9
Difference between extreme rates	12.4	12.9	15.0	15.9	14.9

Source: CSO, own estimation.

The second feature of regional diversification of unemployment is its permanent nature, which means that regions facing difficulties at the outset of transformation period do not generate a large amount of new jobs even when the economic recovery occurs. Such situation calls for active regional policy.

Income level differences

General economic situation of the country, local job market situation and socio-economic policy of the government influence regional differences in domestic income level *per capita*.

Table 4. Regional GDP per capita as a percent of national average, in 1998 and 2000

Regions	1998	Regions	2000
Mazowieckie	146.1	Mazowieckie	151.6
Śląskie	111.9	Śląskie	110.1
Wielkopolskie	105.8	Wielkopolskie	106.6
POLAND	100.0	Dolnośląskie	103.4
Dolnośląskie	99.8	Pomorskie	100.6
Pomorskie	98.7	POLAND	100.0
Zachodniopomorskie	97.7	Zachodniopomorskie	98.7
Kujawsko-pomorskie	92.2	Kujawsko-pomorskie	89.7
Lubuskie	91.2	Lubuskie	89.7
Małopolskie	91.0	Małopolskie	89.3
Łódzkie	88.6	Łódzkie	88.7
Opolskie	88.3	Opolskie	85.5
Świętokrzyskie	77.2	Świętokrzyskie	78.2
Warmińsko-mazurskie	76.7	Warmińsko-mazurskie	74.5
Podlaskie	76.3	Podlaskie	74.3
Podkarpackie	75.9	Podkarpackie	71.1
Lubelskie	72.5	Lubelskie	68.5

Source: CSO.

The difference between the best developed voivodships and the worst developed ones is growing insignificantly. Czyżewski (1998) referring to the survey conducted by *Poland-European Union Task Force for Regional Development*, claims that regional differences in economic development measured by socio-economic indexes grew in the initial stage of

transformation 1990-1994. Such growth of differences, however, was not observed when comparing the GDP data *per capita* (Barbone and Czyżewski 1996, and Barbone, Czyżewski and Zalduendo 1996). Czyżewski (1998) points out that the regional diversification of the economic development level is in fact stronger than the one estimated on the basis of regional GDP *per capita* data or personal gross income (table 5).

Table 5. Gross personal income and gross disposable income as a percent of national average, in 2000

Regions	GPI	Regions	GDI
Mazowieckie	158.2	Mazowieckie	141.2
Śląskie	109.4	Śląskie	110.6
Wielkopolskie	103.3	Wielkopolskie	102.6
Dolnośląskie	100.5	Dolnośląskie	102.1
Zachodniopomorskie	100.3	Zachodniopomorskie	101.9
POLAND	100.0	POLAND	100.0
Pomorskie	96.1	Pomorskie	95.1
Łódzkie	89.8	Łódzkie	94.4
Lubuskie	88.7	Lubuskie	91.9
Małopolskie	88.5	Małopolskie	91.9
Kujawsko-pomorskie	87.0	Kujawsko-pomorskie	89.1
Świętokrzyskie	79.4	Świętokrzyskie	85.2
Opolskie	78.0	Podlaskie	80.6
Warmińsko-mazurskie	76.8	Warmińsko-mazurskie	80.6
Podlaskie	75.3	Opolskie	79.4
Podkarpackie	71.6	Lubelskie	77.1
Lubelskie	70.1	Podkarpackie	76.2

Source: CSO.

The poorest voivodships, i.e. voivodships with the lowest level of GDP *per capita* are the following: Lubelskie, Podkarpackie, Podlaskie, Warmińsko-Mazurskie, Świętokrzyskie and Opolskie. All of them are agricultural regions and all, except for the Warmińsko-Mazurskie voivodship, depend heavily on individual agriculture. Because individual agriculture is the main activity, the regions show low rate of unemployment (table 3). Hidden unemployment (people who are not necessary in individual farms) may be as high as 500,000-600,000. Deindustrialization of agricultural voivodships of the eastern part of Poland has increased employment in agriculture. With low job qualifications former workers-farmers are not able to find other jobs. Warmińsko-Mazurskie voivodship has the highest rate of unemployment which is due to the fact that after the collapse of the former state-owned communist agricultural cooperatives (PGR), new companies did not absorb the unemployed. The region is marked by high level of out-migration.

One of the reasons for the underdevelopment of rural areas is a low level of education of their inhabitants. According to the 1998 census, only 1.8 percent of people living in rural areas have university education, 13.1 percent secondary and post secondary education, 24.2 percent basic vocational education, and 60.9 percent primary or up to primary education. In the mid 1990s the percentage of people with secondary and post secondary education rose

to 15.4 percent, people with basic vocational education to 28 percent, the share of least educated people decreased. The low level of education among people living in the rural areas is an obstacle impeding structural changes and reinforcing dual nature of Poland's development.

As has been presented in the studies conducted with the use of data concerning retail sale of goods *per capita* in voivodship over the period of 1974-1997 (Kaniewska 2002), regional income diversification has deepened in the years of system transformation at the yearly rate of 9.7 percent. The regional divergence of population income among regions (voivodships) had been the strongest in the periods of economic stagnation.

Workforce migration

Workforce mobility both in spatial and vocational aspects is essential for improving the flexibility of a job market. Increased workforce mobility is achieved through upgrading workers qualifications, enhancing access to information on the situation in other job markets and aiming at expanding the natural migration processes based on the outflow of workforce from regions with fewer jobs to regions with a larger job supply. Upgrading of the qualifications of workers in a region threatened with unemployment is usually limited to implementing educational programmes aimed at the unemployed. Workforce education, however, is a long-term process that cannot be done through irregular short-term programmes. The level of workers' education is significant when it comes to size, impact and directions of migration. Well qualified workers in contrast to less qualified ones are more eager to meet the employers' expectations. They also more often decide to migrate when the conditions on the local job market change. Migrations of less qualified workers are lower.

In Poland migrations are small and each year starting from 1979⁴ the number of people migrating has been decreasing. Armstrong and Taylor (1993, p.115-131) note that in Great Britain migrations diminish at times of recession, which may support a general rule.

Table 6. Net migration in urban area, 1975-2001

	1975	1979	1981	1984	1987	1990	1993	1996	1999	2001
in thousand	251.1	210.5	163.5	118.7	64.5	112.6	59.9	23.3	2.8	- 6.5
per 1000 population	7.3	5.9	4.5	3.2	1.7	3.0	1.6	0.6	0.1	-0.2

Source: CSO, own estimation.

In Poland, the voivodships enjoying the best job market situation (the lowest unemployment) are the regions of in-migration, while the voivodships with the highest unemployment rate are marked by out-migration. However, at the time of a general economic breakdown there are no significant movements of surplus workforce to regions less prone to recession. In the 1990s, the biggest relative fall of migration activity was among

⁴ The data exclude difficult to assess unrecorded flow of people without formally registered place of residence as well as the influx of foreigners who rarely register their place of residence. Should these people be included, the size of migration would have been greater.

young people aged 15-29. The percentage share of people from older age migration groups rose what may be ascribed to higher employers' requirements and higher migration costs, possible to handle by older and better educated people. The reason of the fall in migration activity may be explained by overall economic situation, as well as changes of population age structure (ageing of the society) and a poor situation on the housing market in Poland. Lack of housing is halting migration especially from rural areas to towns and cities. It also impedes the movement of people from small and medium size towns to cities (it's impossible to swap flats or houses because of huge differences in price). Young people entering job market are also more affected by housing problems. The decline of migration from rural areas to towns and cities makes Poland a country with one of the biggest percentages of people living in rural areas (38 percent), and high employment in agriculture reaching almost 29 percent in 2001. The change in job demand in post industrial societies translates into stricter education requirements that cannot be met by the rural population and a higher migration cost, which partially explains the decline of migration activity in Poland.

Each year, the number of completed flats and houses decreases steadily, while the size of an average dwelling stock grows. Fewer flats are constructed yet they are more luxurious. In the 1970s, when the biggest number of houses was constructed, the average flat size was 58m²; in the 1990s the average was 86m². Country's dwelling stock grows slowly but steadily. In 1989 it amounted to 17.4m², in 1997 rose to 18.6m² per person and in 2001 reached 19.5m² per person, which still is the lowest figure among other applicant countries (for example, in the Czech Republic it amounts to 25m² per person). Still, 286 flats per 1000 people in Poland is a very low figure (in the Czech Republic this ration is 339 per 1000 people). New flats market is dominated by large urban agglomerations in whose surroundings large housing districts are constructed. Suburbs development together with improved transport and the fall in transport prices may increase the scale of shuttle migration.

In summary, migrations in Poland have been decreasing for at least two decades. The percentage share of young people participating in the migration has been falling while the migration of older (over 30) and better educated people is on the increase. Such tendencies are also pan European. At the same time, in Poland a dual structure of migration has been preserved. The studies comparing the spatial range of migration types conducted for years 1988 and 1994 (Golinowska et al. 1996a,b) show that the voivodships in western Poland (territories incorporated after World War II) in spite of diminishing migration are still specific in their structure and have higher migration activity. There are small migration trends which head for voivodships leading in structural transformation with large urban agglomerations, and on a local scale for western border areas⁵. Such division of migration into two different types is also characteristic for the EU Member States. According to studies by Neven and

⁵ The data are based on official statistics and do not include a difficult to assess unregistered migration flow. It heads for best job market areas and consists mainly of young people including foreigners. It is estimated that seasonal job migration to the EU countries plays a significant role in shaping local job markets and diminishing unemployment.

Gouyette (1994) the population of countries of the south of the EU is less flexible in salary, which means that the wage elasticity of labour is smaller, comparing to the population of the north. In other words, migration in the southern Member States is relatively lower than in richer northern regions. Migrations fall especially in times of economic depression. Southern states are economically weaker and for years have been receiving the EU aid within the framework of regional development policy.

The leading role of large urban agglomerations in promoting development is further supported by the data on direct foreign investment. Between years 1989-1996, three (former) voivodships with large agglomerations (Warszawskie, Poznańskie and Katowickie) drew as much as 50 percent of all foreign capital investment. Foreign capital polarization in these three agglomerations proves that regions without large agglomerations are not competitive enough to encourage potential investors to invest in economic activities on their territories.

Poland experiences diverse economic development. During transformation, the processes of regional income divergences intensified especially in times of economic stagnation. Yet relative internal diversification is not large when compared to the one in the EU countries. However, an immense development gap exists between Poland and the EU. All our regions have *per capita* income below 75 percent of the EU average.

Table 7. Regional GDP *per capita* as a percent of EU average

		2000
	EU average	100
	Poland	41
1	Dolnośląskie	42
2	Kujawsko-pomorskie	37
3	Lubelskie	28
4	Lubuskie	37
5	Łódzkie	36
6	Małopolskie	37
7	Mazowieckie	62
8	Opolskie	35
9	Podkarpackie	29
10	Podlaskie	30
11	Pomorskie	41
12	Śląskie	45
13	Świętokrzyskie	32
14	Warmińsko-mazurskie	31
15	Wielkopolskie	44
16	Zachodniopomorskie	40

Source: World Bank, 2003.

Regional disproportions are caused by market structures. Multifunctional regions with large urban agglomerations equipped with research centres, large market and relatively better job opportunities attract foreign investment and well qualified employees. Such regions have higher than average income level and regional production level *per capita*. By

contrast extensive agriculture regions of north eastern Poland have the lowest regional income and product *per capita*. Polish economy has many barriers that impede economic growth and, in the context of economic theories mentioned above, slow down a positive process of circular causality aiming at strengthening the centre-peripheries structure.

Regional policy in Poland

There is evidence that current Polish regional policy does not guarantee effective actions and as a result financial means committed to regional policy will not bring desired outcome. Also, the European Commission questions the way in which pre-accession aid was used and doubts Poland's capability to absorb measures committed by Structural Funds and Cohesion Fund after joining the EU. The main obstacles in utilizing the aid committed by the EU within the framework of common regional policy measures and optimizing its full outcomes in Poland are of the following nature:

- institutional (centralized institutional and legal solutions, government as the main decision-making body, distribution of measures);
- content (mainly large road infrastructure construction projects, social and not economic objectives).

The institutional framework of the regional state policy and the development of policy for the voivodships was mainly created by legislation on regional development support adopted in May 2000 and on voivodship self-government adopted in 1998. On one hand, they make voivodships responsible for regional development policy. On the other hand, they indicate government as the body implementing regional policy and supporting regional development with a newly introduced tool of voivodship contracts which serve as an agreement between the two sides. Such provisions clearly define the subjects of regional policy in an EU Member State. Government competencies have been centralized as far as a regional policy and regions' development are concerned. However, so far the decision makers have focused on the administrative aspects of state reform neglecting its socio-economic side. The reform has become an aim in itself instead of increasing the effectiveness of the economic policy supporting regional economic growth. The statement made by Gilowska (1996) that decentralization of government tasks and competencies does not and should constitute the sole aim of reform is still valid. Similarly, an abstract development of territorial self-government and related to it state administration restructuring should not be the only aim of the reform Poland has chosen a model of economy based on self-government trusting that such model is more effective than a model based on centralization within central government. The sixteen voivodships were formed reinforce the state and to provide institutional support for economic development; they were not specifically designed to adjust state structures to operate within the EU common regional policy. Yet, the reforms conducted to date lack real decentralization of public finances which would endow the self-

governments of voivodships and poviats with their own financial measures, a basis of self-governing and self-development. In 2001 the total revenue in voivodship budget was as follows: only 13.3 percent of the total was voivodship own revenue from local taxes, almost 82 percent came from the state budget (subsidies, etc.), remaining 4.8 percent was derived from other resources. Until a law on the self-government financing is implemented, the situation will not change and self-governments will depend financially on central budget and in reality will realize development strategy drafted by government. Such situation also opens the way for pressures exercised on government by local elites competing for budget subsidies through political tenders. Legislation is needed to allow financing regional development not only from country's resources but also from the SF. The priority is decentralization of public finances. At the present stage, the EU aid is in majority at exclusive discretion of central government.

Together with public finances, decentralization rules and institutions exerting external control over self-governments should be introduced. It is worrying that as early as now some self-governments incurred high debts preventing them from participation in programmes co-financed by the SF. The system of local democracy in Poland is young and that is why there are no effective methods of control and execution.

The role of government in regional development, as expressed by Hausner in Schomburg (2001) is limited to a few types of activities, including: establishing appropriate legal grounds including regulations in fields essential for regional development (telecommunications, energy market), supporting organizations working towards regional development and implementing infrastructural programmes. The last activity provides reasons for concern. Judging by the actions of the Polish government regarding the current project on highway construction presented by minister Pol, it is evident that the government has no concept of financing the Polish part of this project, especially that in case of toll highways the EU will not finance as much as 75 percent of the project. Since the law on public-private partnership has not yet entered into force, financing other projects is also questionable. Loans for budget are not taken into consideration because the World Bank, a potential creditor, expressed an unfavourable opinion on highway construction in Poland. In the opinion of the author of this paper, the majority of decisions concerning public infrastructure in regions should depend on self-governments. To be able to launch larger projects, self-governments could enter into agreements so that their position, also as government partner, becomes stronger. Government's role should consist of harmonizing the objectives and tools of regional policy with other sector policies such as transport, environment, industry, etc. It should also set the priorities of regional policy in documents specified in the legislature and in particular create coherent objectives for the National Strategy of Regional Development. Government should support self-governments in implementing regional policy (according to the provisions of law on supporting regional development, adopted in May 2000) and tackle other issues arising in

broadly understood regional policy i.e. finalize an appropriate law on public procurement and financially support self-governments and other entities at the preparatory stage of the drafting of programmes (such help is much needed due to very high EU requirements). The basic role of government is to lay down a proper legal and institutional basis and support self-governments in implementing regional objectives.

Yet another problem is the lack of clearly defined regional policy objectives. The objectives of regional policy outlined in the legislature on supporting regional development propose only a very general approach to this problem. They only touch on the improvement of life quality and living conditions of the populations in rural areas; they barely treat the reduction of inequalities in the development processes in different parts of the country which do not give equal opportunities to the citizens regardless of their place of residence; they only mention improving the situation in regions underdeveloped and with less favourable development conditions and enigmatically suggest satisfying the needs of self-governing communities and creating conditions for increasing competitiveness of self-government communities. Almost all documents that have entered into force (law on supporting regional development, National Development Programme, National Strategy for Regional Development, National Support Framework, Integrated Regional Development Plan) define in a very broad sense regional policy objectives in both strict economic and social terms, such as public health care system objectives.

According to the World Bank (2000) the basic challenges facing Poland in the process of integration which require the biggest financial effort are associated with the following:

- improving environment protection standards;
- enhancing education and qualifications of workers;
- improving transport infrastructure.

As far as environment protection is concerned, Poland is obliged to comply with a number of directives on the environment after the end of the transition period and these directives have to be followed. The majority of the Cohesion Fund measures and possibly some part of the Structural Fund (compliance with the standards in agricultural production and food processing) will be transferred directly to implement clearly defined programmes. Improving environmental protection standards, especially those related to drinking water and sewage treatment, is a considerable financial burden for central and voivodships' budgets.

Enhancing human capital within the framework of regional activities is limited to programmes aimed at the unemployed. Reforms of the whole education system supported by more funds are indispensable in order to guarantee that in the long run Polish workers will become more productive and more competitive compared with other EU Member States' workers. Unfortunately, the current framework of common regional policy does not envisage such actions and education is still in the hands of local country authorities. Low level of worker qualifications influences work supply flexibility and affects the possibility to improve qualifications according to

the changes in job demand as well as job migrations. In comparison to the EU countries, Poland has a very low percentage of people with high education. The indicator of a secondary comprehensive students schooling⁶ rose from 18.7 percent in 1989 to almost 37 percent in the academic year 2001/2002. The number of graduate students increased significantly. In the academic year 1989/1990 slightly more than 378 000 students attended 97 graduate schools. In 2001/2002, 1,706,455 students studied in 334 graduate schools. Both the education reform conducted by minister Handke and the introduction of private, also graduate, schools into the market changed the Polish education system. Unfortunately, the changes affected mainly urban inhabitants. Rural area inhabitants profited only in a small degree from the overall positive trends in education. The authors of a report entitled *The Polish Rural Areas* (Polska Wieś, 2002) estimate that rural area youth constitute about 10 percent of the general number of daily course studies students at state universities, and about 6-7 percent of evening and weekend course studies. Most likely the percentage is higher for private schools located outside large agglomerations; however, the number of rural area youth who continue their studies at the university level is too low comparing to the needs. The main obstacle is the lack of funds of local self-governments responsible for primary education and insufficient financial means of rural area inhabitants, which prevents the young from continuing their studies. Apart from marginal programmes, education on all levels does not fall into the scope of regional policy responsibilities. In the nearest future, crucial structural changes will not occur nor will the surplus of workforce leave the rural areas. The overpopulation and low effectiveness of Polish agriculture continue to reinforce regional discrepancies in Poland. The European Commission pays considerable attention to the quality of university studies as a factor of regional development.

Improving transport infrastructure consists of the following actions: highway construction plan (employing the Cohesion Fund measures) and the construction and modernization of national road network (employing the Structural Fund measures in a total available amount). As already mentioned above, there are several issues associated with highway construction. In the light of financing problems for such projects and economic theories, road and highway construction may not necessarily lead to regional development whereas it may cause economic slow down if an increase in tax charges is used as means of financing. To date, the European Commission recognizing that the Ministry of Transport cannot find the source of financing for its share in the project, has withdrawn from these parts of projects within the framework of TINA and TEN corridors which traverse Poland. Conclusions from the above arguments would suggest that Poland should concentrate its efforts on projects in which it has only 25 percent share and not pursue costly highway construction.

⁶ As the percentage of secondary comprehensive schools students measured against the number of teenagers aged 15-18. In year 2001/2002, schooling indicator was approximated as the ratio of secondary comprehensive student number to teenagers aged 15-17 (currently secondary schools last three years).

The Polish regional policy also includes a support for the health system. Such support includes voivodship-level contracts on construction of hospitals (the construction concerns mainly finishing projects started in the past). Regardless of whether such projects have a chance for funding from the Structural Funds, the situation sheds light on yet another problem. The Polish regional policy does not focus on activities enhancing the economic growth, instead mixing social objectives with the economic ones. The public health care system in Poland requires a profound reform not within the framework of regional policy instruments and not at its expense.

5. Proposed reforms of the EU regional policy and their assessment. Conclusions for the European and national regional policy

One of the foundations of the EU regional policy is the solidarity principle. Each policy involves those who pay more than they receive and those who contribute less while obtaining more. With the idea of integration in mind, transfers from richer to poorer countries and regions constitute the tool for the removal of existing obstacles in the less developed areas in order to guarantee steady expansion, balanced trade and fair competition within the EU. In such understanding of the problem, the benefits are mutual and one should keep that in mind when considering the changes to the EU regional policy after the upcoming enlargement. The budget for the next fiscal cycle 2007-2013 remains undisclosed yet two opposite models of the future regional policy have been proposed. One model has been recommended by a High-Level Study Group appointed by the President of the European Commission to review all the economic instruments that currently exist at EU level and assess their suitability as proper instruments of economic governance in the context of enlargement. The group was chaired by Prof. André Sapir and it suggested implementing radical changes to strengthen the economic growth, the cohesion process and the success of the enlarged EU (Sapir 2003). In his opinion, the next budget for EU-25 should be regrouped into three main funds:

- a growth fund for stimulating the economic growth, this would be subdivided into R&D and innovation, education and training, and infrastructure connecting national markets;
- a convergence fund aimed at the development of the less developed countries and at the economic convergence within EU, it would be divided into two main areas: institutional-building and investments in physical and human capital;
- a restructuring fund targeting resource allocation after the enlargement, it would consist of two main parts: aid to the agricultural sector and aid to the displaced persons.

The most radical recommendation in the plan presented by Sapir's group is a very sizeable reduction in the amount devoted to agriculture. What does it mean for the acceding countries and Poland in particular? Regardless of the revolutionary proposal on the CAP future (such suggestion demands a broader discussion), it is evident that the development of the new Member States could be immensely stimulated through the concentration of financing means in these countries. The effectiveness of the EU-25 economy would be more likely to rise in a changed framework of regional policy because almost half of the budget would be spent directly on projects promoting economic growth and development. The 'social cohesion' would be achieved through the optimal choice decisions of the unemployed in the regions as funds would be distributed to the individuals rather than to public agencies.

Great Britain and Spain reportedly support similar solutions (Niklewicz 2003). They opt for limiting the funds for development to the countries with GDP less than 90 percent of the EU average *per capita*. Instead, they propose stronger national policies (agricultural, regional, industrial, etc.). As a result of the decreasing scope of the implemented interventions, the budget of the EU would diminish as well.

At the Informal Ministerial Meeting on Cohesion Policy in Rome, 20.10.2003, Michel Barnier the commissioner responsible for regional policy, proposed rather minor changes to the model of the common regional policy after enlargement. The future regional policy commitments would be as follows (Niklewicz 2003; Barnier 2003):

- funds for the regions with GDP less than 75 percent of the EU-25 average *and* regions which were eligible for the objective I regions before the enlargement but due to the 'statistic effect' would be no longer under the 75 percent limit;
- 'Competition and employment funds' aimed at implementing the Lisbon Strategy in order to improve the effectiveness of the EU economy and to promote employment through innovative actions in combating unemployment, education, environmental projects, investments in high technology;
- 'Cooperation funds' for trans-borders projects.

The current Commission proposals exclude new members from obtaining the Competition Fund measures, which is contrary to the proposals of Sapir's group. Financial resources for the development of the less favoured regions are strongly dispersed over many regions, thus, the total budget for new members is relatively small. It is probable that new members would benefit from the third of the fund, but its scope of interventions is alleged to be very limited as there is no urgent need for projects in this field. It is difficult to describe the kind of policy model at which the European regional policy is aiming. It is also problematic to assess the possible scenarios of integration in this field. In general, the Commission proposals, when comparing to the recommendations by Sapir's group, seem to be much less favourable for new members.

Establishing the 'competition and employment' fund in order to strengthen the competitiveness of the EU economy could be advantageous for the Visegrad countries. There is little justification for the current Commission proposal under which the new Member States would not be eligible to obtain funds from this fund. Technological innovation promotes economic development by increasing the productivity of private production factors in the underdeveloped regions which helps to diminish the distance gap to rich regions; it also strengthens internal cohesion. This is a reason why programmes supporting innovation should be a priority. Ireland's case shows that central innovation management turned out to be far less effective than spreading technology via private companies, mainly foreign ones. Sapir's group proposals take into consideration the needs of poor countries for advanced technologies and activities aiming at improving productivity. This concept is supported by the fact that current cohesion countries (Greece, Spain and Portugal) benefited from such programmes in previous years. The European Commission supported telecommunications infrastructure development in cohesion countries through programme STAR⁷ launched in the 1980s and its continuation – the Telematique programme. The Commission has concluded that access to advanced telecommunications technologies will speed up information exchange between companies and other market participants and will strengthen relations among them which translates into a significant increase in their productivity. The fact that telecommunications infrastructure was accepted as a regional development factor and included among regional policy priorities allowed cohesion countries to obtain more financial measures. Unofficial comments of EC delegates indicate that the programmes did not obtain positive final assessment mostly because of their low effectiveness in Greece, which is the reason for Commission not to support similar programmes in the new Member States.

One more issue should be included in this discussion, i.e. the enhancement of the human capital by improving education levels, trainings, etc. The current model of financing common regional policy and the prospective changes suggest that there are no major possibilities to support national policies with subsidies from the EU budget. The entire financial effort in the field of education, especially primary and secondary education, has to be borne by national authorities. Poland's only chance seems to be to apply for programmes designed for tertiary education, although such programmes have a small budget and limited scope.

Indirect impact of the EU regional policy on the Polish regional policy

As it was said earlier, major barriers for increased effectiveness of regional actions in Poland are (i) the improper institutional conditioning of regional policy and (ii) the poor

⁷ STAR programme was launched pursuant to Council Regulation (EEC) No. 3300/86 of 27 October 1986 instituting a Community programme for the development of certain less-favoured regions of the Community by improving access to advanced telecommunications services (STAR programme) and was to improve access to advanced telecommunications services for SMEs. Project description in CEC (1997b).

choice of objectives and priorities of regional activities. Can the barriers be overthrown by including Poland in the common regional policy? This question merits more attention, even though there is no direct impact of the common EU regional policy on national regional policy, neither in its institutional aspect nor in its objectives.

Each Member State has adopted various institutional solutions for their respective national policies. The accession into the EU may result in an increased effectiveness of regional policy if monitoring procedures and the evaluation of projects implemented within the framework of SF grants is adopted. Consequently, it may also influence certain institutional solutions in this area and lead to more effective solutions. However, similarly to Ireland, Poland too has to impose certain procedures which would eliminate waste of financial resources (e.g. through eradicating corruption and private interest on central and local authority level). Merely observation of the EU rules cannot solve such problem.

An indirect consequence of joining the EU is the impact of general priorities of common regional policy on setting the priorities of national regional policy. However, in case of a general framework (i.e. improving environmental protection standards, the level of available transport infrastructure and enhancing human capital), the European Commission is not clear.

As far as environmental protection is concerned, the EU countries are directly interested in lowering the pollution levels and will press on Poland's compliance with all Directives in this respect. Very high expenditures on improving environmental standards are thought to translate into higher income from tourism. Nevertheless, the costs-to-benefits ratio is very high.

The author of this paper suggests that current priorities set by the Polish government should be reconsidered and the priority for highways should be critically examined. However, the European Commission is willing to co-finance such projects only if Poland can ensure co-financing. Co-financing seems to be an essential problem, especially in the case of toll highways construction. Surely, the barrier for regional development is the insufficient infrastructure of large urban agglomerations. Overall economic trends and the role of agglomerations as implied in integration theory lead to a conclusion that retarding agglomeration development is ineffective from the point of view of the country as a whole. Increasing the level of available technical infrastructure in agglomerations adds to positive external effects and makes the effective markets larger. Regional actions should aim at upgrading existing transport infrastructure, including public transport in the dominant urban areas which constitute the driving force of local development. At this point the problem of finances resurfaces because self-governments may not be able to provide sufficient resources to finance their own shares in the construction of town bypasses or bridges. A possible solution is to lower own share in local transport projects, to increase the number of small projects applying for funding and to increase the financial measures for such projects in acceding countries. Yet, in the light of the Commission proposals concerning regional policy reform there is very little chance that the abovementioned postulates will be implemented.

III. European Employment Strategy – a Policy for Visegrad Countries?

Assessment of the V4 labour markets given the objectives and priorities of the reformed EES

Mateusz Walewski

Abstract

The paper examines the situation on the labour market of the Visegrad countries in light of the priorities set up by the European Employment Strategy. Several labour market characteristics are compared within the V4 group and contrasted with the respective data for the EU-15. The study reveals considerable differences existing among the Visegrad countries in virtually all labour market parameters. The study is concluded by a summary table, indicating that while Hungarian and Czech problems (low activity of population, low level of adaptability) can be addressed by the means of the EES, Slovakia and Poland are lagging behind the EU in practically all labour market indicators. These two countries will remain unable to meet the EES objectives in the nearest future thus they should prioritise their efforts on attaining a strictly limited number of aims.

Introduction

After the accession to the European Union, the Visegrad countries will be formally obliged to follow the guidelines of the European Employment Strategy (EES). The countries have been reforming their policies toward that end since the late 1990s and these reforms have been assessed jointly by the respective governments and the European Commission in the so called Joint Assessment Papers on Employment Policies (JAPs). Moreover, the Commission has evaluated the adopted labour market policies in its regular Reports on Countries Progress Towards Accession, as well as in the assessment of reforms' progress specified in JAPs, published in February 2003. All these

documents constitute a baseline for this paper which has been constructed to imitate the frames of analytical part of NAP-like document created for the Visegrad countries. After a brief characteristic of the EES, the main features of V4 countries labour markets and labour market polices are presented from the viewpoint of objectives and priorities of the European Employment Strategy.

I. Brief characteristics of the European Employment Strategy

The European Employment Strategy (the EES) was conceived in 1997. The strategy is a strategic framework to solve the non-employment problem in Europe and is based upon the four pillars of a pro-employment policy: employability, entrepreneurship, adaptability and equal opportunities. Each year the European Commission prepares a set of several policy guidelines for member countries. The guidelines are being constantly reformed to follow current needs of the European labour market. Based on these guidelines, all the member countries prepare annual National Action Plans (NAP) presenting planned activities and goals of the labour market policies in the frames of the EES.

During the Barcelona European Council in March 2002 it has been decided to reform the EES to make the process more simplified and better governed. As a consequence of that decision and since Brussels European Council in March of 2003 the structure of the strategy has been changed. Four pillars have been replaced by three overarching objectives of:

- full employment;
- quality and productivity at work;
- cohesion and an inclusive labour market.

The number of Guidelines has been lowered from 18 in 2002 to only 10 now:

1. Active and preventive measures for unemployed and inactive.
2. Job creation and entrepreneurship.
3. Address change and promote adaptability and mobility in the labour market.
4. Promote development of human capital and lifelong learning.
5. Increase labour supply and promote active ageing.
6. Gender equality.
7. Promote integration of and combat discrimination against people at a disadvantage in the labour market.
8. Make work pay through incentives to enhance work attractiveness.
9. Transform undeclared work in regular employment.
10. Address regional unemployment disparities.

Additionally, the guidelines, instead of only describing the main directions of measures to be taken by the Member States, specify precise objectives to be reached in consecutive years.

2. Main goal of the EES and the situation in the Visegrad countries

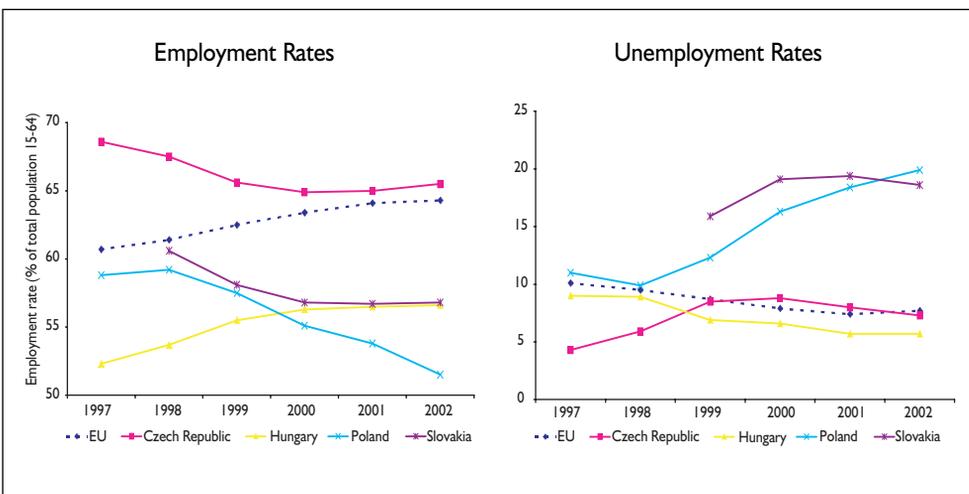
Full employment is the main and most general goal of the EES. Precise objectives and dates to achieve on the European level have been agreed during the Stockholm and Lisbon European Councils. These are:

- increasing the total employment rate to 70% in 2010 and 67% by 2005;
- increasing the women employment rate to 60% in 2010 and to 57% by 2005;
- reaching the 50% employment rate for older persons, aged 55-64.

The current situation in the Visegrad countries is vastly differentiated. Only in the Czech Republic the situation is similar to the EU average and somehow paradoxically it is the only one of the Visegrad countries where the situation started to improve in recent years, after the period of deterioration that had begun during the Czech crisis in 1997.

Poland is an opposite case. Since 2001 the employment rate has been the lowest of all V4 countries and the unemployment rate currently reaches 20 percent. Additionally, the situation is currently deteriorating very rapidly indicating the need for a quick action to reverse the trend.

Chart I. Employment and Unemployment Rates in the EU and the Visegrad countries



Source: EC Report – Employment in Europe 2003.

In Hungary and Slovak Republic the employment rate seems to have stabilised on a low level (given the ambitious objectives) of 57 percent. The reasons for this stabilisation are, however, different. In Slovakia, stabilisation can be the first step towards success, while in Hungary it should be a warning sign for authorities. The situation in these two countries is also different when considering other labour market indicators. The unemployment level in

Slovakia reaches 20 percent, whereas in Hungary it is only 6 percent. It indicates a strong problem of low activity of Hungarian population. Actually, the economic activity rate¹ in Hungary in 2002 was only 60% comparing with 65% in Poland and around 70% in the Czech Republic, Slovakia and the EU.

Not surprisingly, the Visegrad countries differ also in terms of other two general employment objectives of the EES. Again, the best situation is in the Czech Republic with employment rate for women reaching 57 percent and for the elderly 41 percent, both numbers being higher than respective EU averages. Poland is a country with the lowest employment rate for women, only 46 percent, whilst Slovakia is the worst performing country with respect to employment of older people, with only 23 percent the Slovakian elderly working. We will come back to both of these issues later in this text.

3. Education and life-long-learning

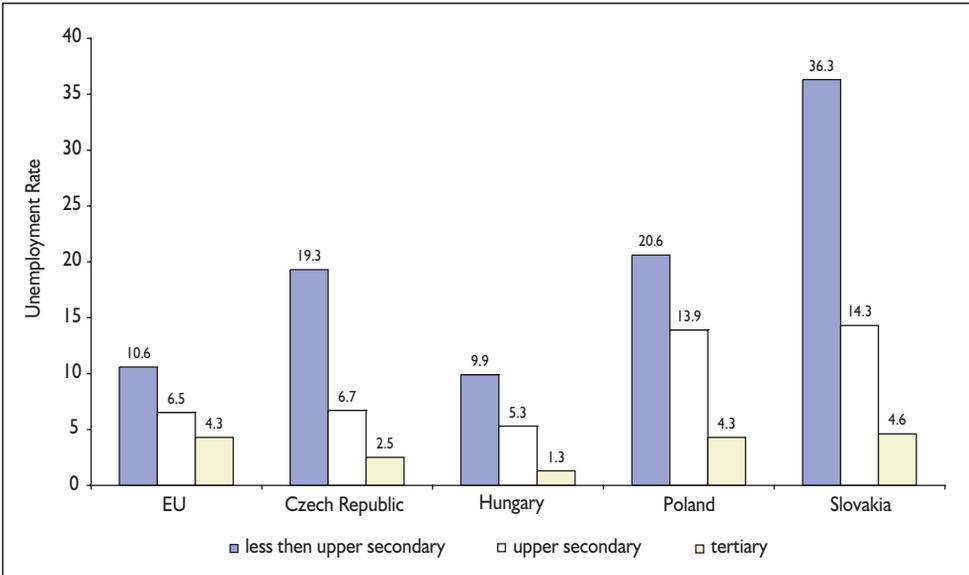
Well functioning education system matching the needs of the modern labour market is a key issue for ensuring the increase in the employment rate of the population in the long run. Only highly educated employees will be able to cope with challenges of the modern knowledge-based society. There are fewer and fewer jobs for poorly qualified blue-collar workers who are replaced by robots and other machines. It is especially evident in manufacturing. The number of jobs for qualified workforce, on the other hand, continues to increase, as does the number of jobs in trade and services. Therefore education is an absolutely necessary foundation for the future success on the labour market. For these reasons the analysis of education and life long learning performances of the Visegrad countries has been put forth as most important in this text, although it appears only as the fourth priority in the reformed EES guidelines for 2003. The importance of education, especially in the Visegrad countries, is best illustrated with respective unemployment rates according to education level.

The difference between unemployment rates for poorly and highly skilled labour force is much higher in the Visegrad countries than in the EU (Chart 2). This difference originates from the shortage of highly educated persons on the Visegrad labour market, as well as from old-fashioned curricula in basic and vocational schools. This problem is often mentioned in the EC documents dealing with necessary labour market policy measures in the Visegrad countries (EC, JAP Assessment 2003). Consequently, reforming the educational system has been proposed as one of the basic priorities in Joint Assessment Papers signed by all Visegrad countries in years 2000-2001.

¹ Economic activity rate the share of employed plus unemployed in the total working age population.

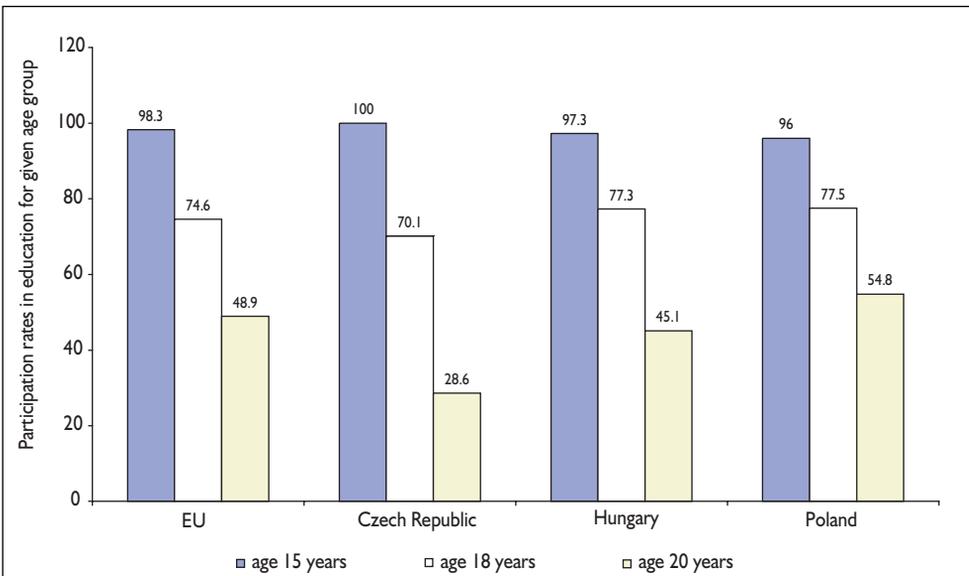
Chart 2. Unemployment rate in the EU and the Visegrad countries depending on education level.

Data for 2000



Source: OECD Employment Outlook 2002.

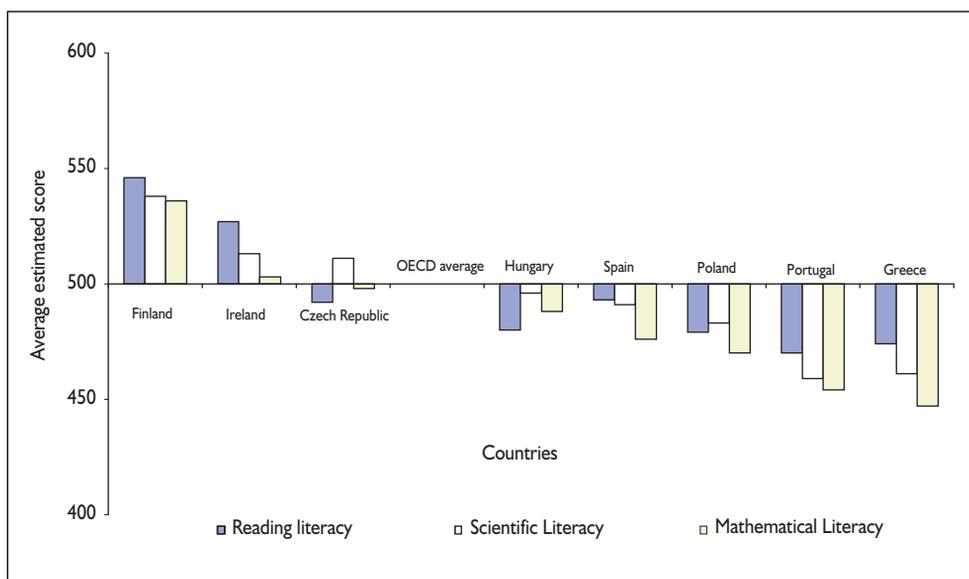
Chart 3. Participation in education in the EU and the Visegrad countries for given age groups



Source: EC report – Employment in Europe 2002

Participation in higher-than basic and vocational education is, however, neither the only nor the most important problem. Official data (Chart 3) about the participation in education system seem to suggest that the Visegrad countries are not much behind the EU average in this respect. The participation rates in these countries is, with the exception of the Czech Republic, similar to the EU average (in the Czech Republic the participation rate of the youth age 20 is much smaller). However, bearing in mind the ambitious EES objective of having at least 85% of 22-years olds with at least upper-secondary education, the picture becomes less optimistic. For example, in Poland in 2002 only 62%² of people of that age reached the minimal level of secondary education. If the current tendency of high and increasing participation in education system will continue, reaching of the EES target will not be impossible.

Chart 4. Selected results of OECD PISA research showing the practical literacy of students from different countries. Year 2000



Source: OECD, PISA 2000.

The problem of the above chart is that data are not correlated with real literacy of students from the Visegrad countries. The results of the OECD – PISA study of real applied knowledge of students show that the Czech Republic is the only Visegrad country placing above the OECD average in at least one field of knowledge (Chart 4). Other countries are close to the level of less developed EU countries.

The reform of teaching programs is strongly needed especially in Poland as it is the worst performing Visegrad country (the study did not include Slovakia which was not an OECD

² According to LFS, II'2002

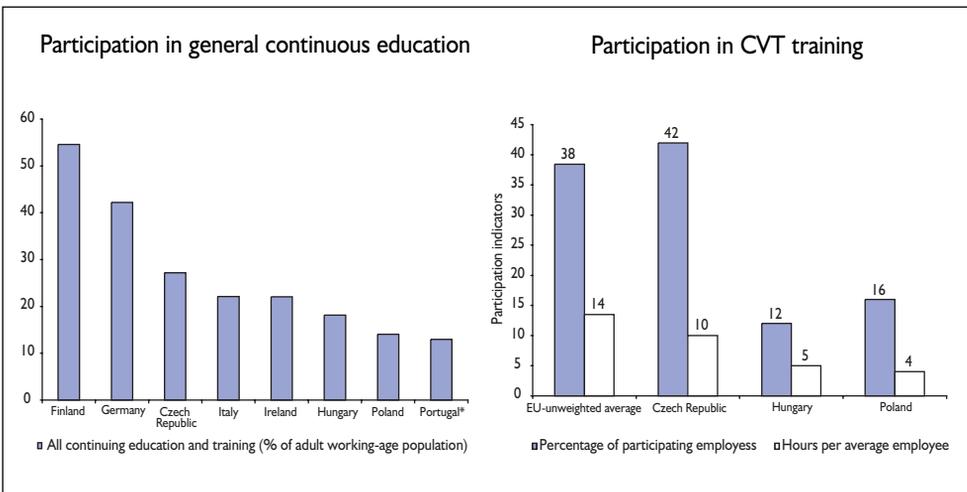
member at that period). The educational reform started in 2000 has been an attempt to address this need. Unfortunately, as the EC Regular Report 2002 noted, recently the reform is being reversed. Reforms of education systems, especially of Vocational Schools' programmes, are also strongly suggested in 2003 JAP in Slovakia.

Continuous education

Being a graduate of a high-quality school is still not enough to ensure a successful career on the labour market. The modern labour market with quickly changing technologies and constantly increasing skill intensiveness requires even well educated adults to continue learning during their entire career. Therefore, achieving the objective of at least 12.5% of adult working-age population (between 25 and 64) participating in lifelong learning has been placed in the 2003 reformed EES guidelines.

The problem of adult education is even more important in the Visegrad countries experiencing an unprecedented process of economic restructuring and institutional transformation. All V4 countries have plenty of poorly educated adult workers with relatively specialised qualifications who had been laid off from restructured enterprises. Yet, lifelong learning institutions are strongly underdeveloped and this fact has been noticed during the pre-accession process. The necessity to build such institution is one of the basic priorities agreed between the EC and the V4 governments in JAPs and then in the JAP assessment papers. This underdevelopment results in low participation rates in continuous education registered in the Visegrad countries (Chart 5).

Chart 5. Participation rate in continuous education and in Continuous Vocational Training (CVT) in the Visegrad countries and in selected EU countries



Source: OECD, EC report – Employment in the Europe 2002

The Czech Republic is the only country where participation in the general continuous education is comparable to the EU average. Participation in the job-related education in that country even exceeds the EU level. Participation rates both in Poland and Hungary are close to those observed in the least developed EU Member States, such as Portugal and Italy, and it seems that the need for skill enhancement and changing qualification of labour force is not duly appreciated in those countries.

4. Youth and long-term unemployment

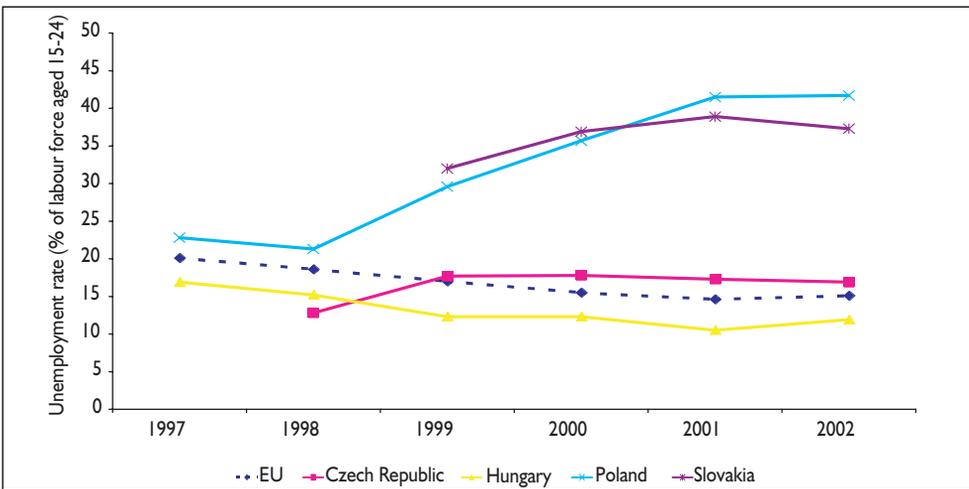
It is not a coincidence that analysis of youth and long term unemployment follows the part devoted to education and life-long learning. Overall situation of the young on the labour market is strictly related to the quality of the education system in a country. The most effective way to escape the long-term unemployment is participation in training or other forms of skill building.

Limiting unemployment among the youth is one of the basic objectives of the EES. Therefore, already in 2002 all Member States were obliged to provide every unemployed young person (aged 15-24) with an active measure to increase her/his chances for being employed within the period of 5 months since the beginning of the unemployment spell. The limit for all the other unemployed was 12 months, which illustrates a special treatment of the young unemployed. Since the entire EES puts a special weight on skills, adaptability and professional mobility issues, also in this case training, retraining and on-the-job training are the preferred measures.

The situation of the youth on the labour market is always strictly related to the overall condition of the labour market and it is always much worse than that of an average worker. This is also the case for the EU and for the Visegrad countries.

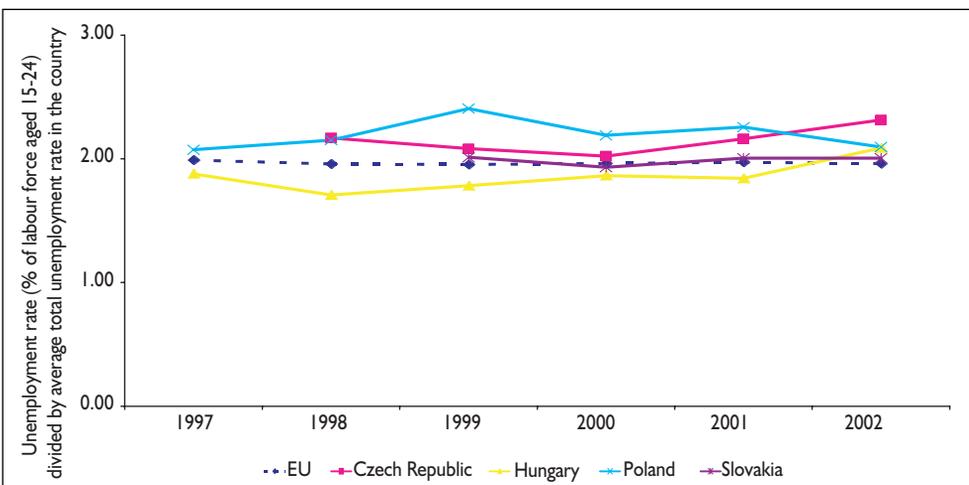
The absolute unemployment rate (Chart 6) for the young population is especially alarming in Poland in Slovakia. Unemployment rate for this group in both countries is reaching 40 percent; in Poland it is even slightly higher. In both countries, however, the situation seems to have improved in 2002. In Poland it might have been a result of a special active employment program for youth, in Slovakia it is most probably strongly correlated with generally decreasing unemployment in that year. In Hungary and in the Czech Republic youth unemployment rates are close to the EU average, as is the case with the overall unemployment rates.

The relative situation of youth on the labour market (Chart 7) is very similar in all V4 countries proving a strong dependence of the situation of youth on the general condition. In Poland it remains slightly worse, most probably due to the demographic circumstances. Sharp relative improvement in 2002 proves the policy driven character of absolute improvement. Relative situation of the youth is deteriorating in the Czech Republic and in Hungary. In the latter case a sharp rise of the minimum wage might be a possible explanation.

Chart 6. Youth (age 15-24) unemployment rate for EU and the Visegrad countries

Source: EC report, Employment in Europe 2003.

One should bear in mind that the young unemployed constitute a particular part of their age group, namely the least active and consequently the least educated ones (This is so because most of the inactive young people are still going to secondary and post-secondary schools). Therefore, taking into account the strong relationship between educational attainment and labour market situation the high unemployment rate within this group is not unexpected. Relative unemployment rates for youth across all countries regardless of differences in scale and level of sophistication of special measures directed to the young unemployed between the EU and the Visegrad group are very similar. It seems that improving the general labour market situation is the most effective way to combat youth unemployment.

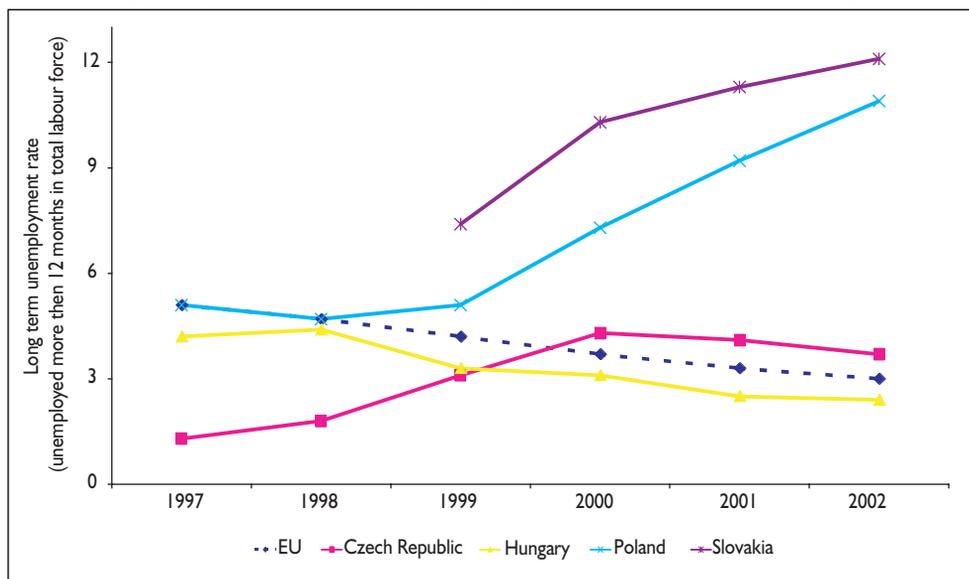
Chart 7. The relation of youth unemployment rate to overall unemployment rate in the EU and the Visegrad countries

Source: Own calculation based on data as for Chart 6.

Long-term unemployment is also a serious problem in the Visegrad countries, especially in Slovakia and to some extent in Poland where both actual long term unemployment rates (Chart 8) and share of long term unemployed in total unemployment (Chart 9) has been increasing constantly since 1999. High long-term unemployment indicates the relative importance of structural mismatches in both countries.

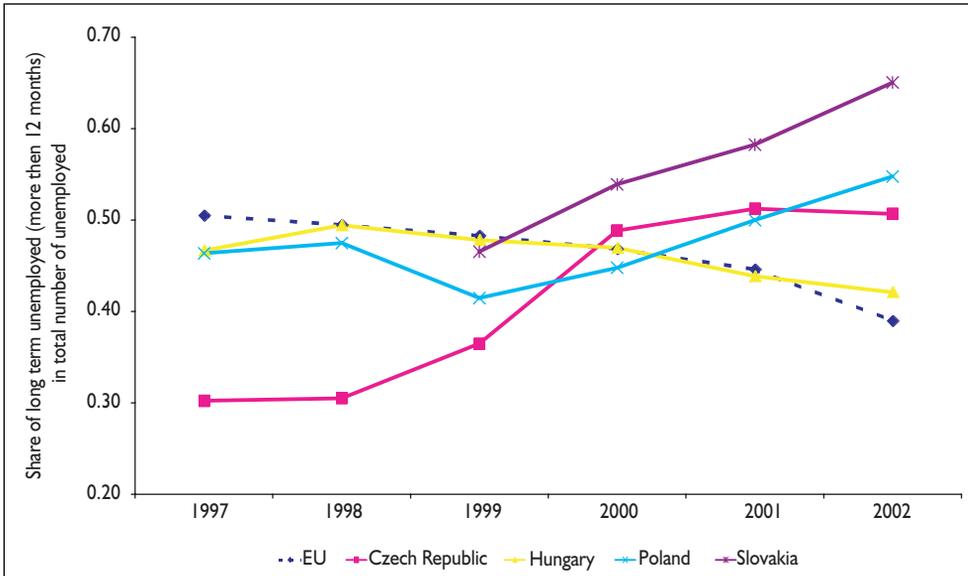
On the other hand, in Hungary and in the Czech Republic the level of long term unemployment is actually falling following the general labour market position. However, both countries differ in the relative numbers of long term unemployed. In the Czech Republic the share of long-term unemployed in total unemployment was increasing as a result of the crisis until 2001 indicating that structural realignments were the main source of the unemployment rise in this country. In Hungary, the share of long-term unemployed in total employment has been constantly falling. Yet, the true meaning of this decrease becomes questionable if one takes into account that employment rate in Hungary ceased to increase in 2001 and that the general unemployment rate has not been falling, either. Such developments suggest that the falling number of long term unemployed is more strongly related to quitting the labour force than to becoming employed.

Chart 8. Long-term (more than 12 months) unemployment rates in the EU and the Visegrad countries



Source: EC report – Employment in Europe 2003.

Chart 9. Proportion of long-term (more than 12 months) unemployment in total unemployment in the EU and the Visegrad countries



Source: Own calculations based on data as for Chart 8.

5. Active ageing

A practice of pushing older part of labour force to inactivity in order to decrease tensions on the labour market existed in the OECD and in the Visegrad countries at the beginning of market reforms in the region. Early retirement schemes, various systems of pre-retirement allowances and benefits, unreformed pension systems and excessively easy access to disability benefits constituted main tools of that policy. In the short run it indeed led to a fall of registered unemployment. In the long run, however, it resulted in decrease of dependency ratios. Booming of non-wage labour costs had to be the obvious consequence of this policy.

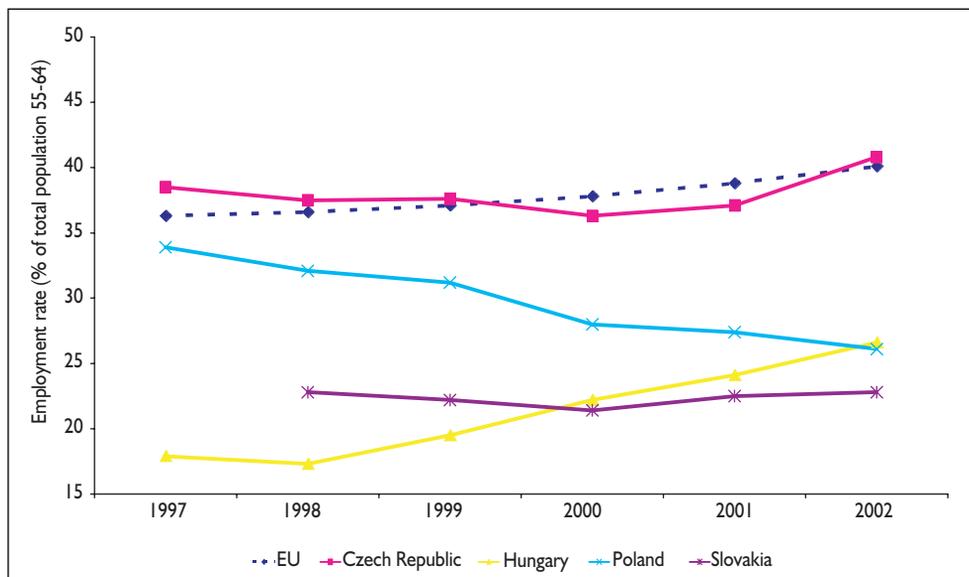
Such policies have been strongly criticised in Joint Assessment Papers for all the Visegrad countries. Only in Hungarian JAP such recommendation has not appeared in the final set of priorities, although this problem has been mentioned earlier in text as well. It has been agreed that tax and benefits systems of the V4 countries would be reconstructed in order to make early retirement or other forms of inactivity less attractive and/or to make employing this part of labour force more attractive.

Such reforms have been adopted in the Czech Republic, Slovakia and more recently in Poland. The situation however is improving in a stable manner only in Hungary, where the

starting point (as for the year 1997) in this country was extremely low. Poland is the opposite case. Employment rate for elderly people is constantly decreasing, following the general labour market situation. In both Czech Republic and Slovakia situation started to improve in recent years.

Leaving aside the last improvements, the Visegrad countries, except the Czech Republic, are still far from reaching the objective of the EC Guidelines which assumes achieving the employment rate of 50% for elderly persons aged 55-64 already in 2010.

Chart 10. Employment rates for the elderly (population aged 55-64)



Source: Employment in Europe 2003, EC-report.

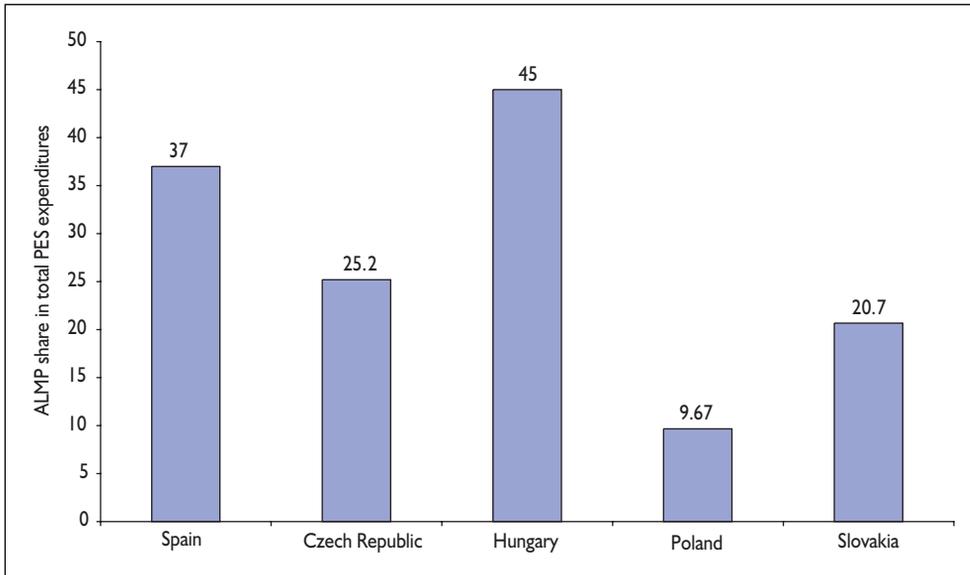
6. Active Labour Market Policies (ALMP)

The use of Active Labour Market Policies is strongly supported by the EU. They are regarded as a very important measure helping not only in improvement of the employability of the unemployed but also in a better social inclusion. This view is manifested in the new EES. The first guideline states that every unemployed should be offered an activation measure within the first 12 months of the unemployment spell. Moreover, 25 percent of long-term unemployed should participate in any active measure by 2010.

Training and other similar measures aiming to enhance the employment potential of an unemployed person seem to be the most effective of the Active Measures. Subsidised jobs or

public works seem to be much less effective. EC guidelines declare training as the most preferable measure, although in the reformed EES this view is not expressed as clearly as earlier i.e. until 2002. Previous versions of the EES guidelines insisted that spending for these measures should have constituted at least 20% of all Public Employment Services (PES) spending.

Chart 11. Expenditures for Active Labour Market Policies (ALMP) as a share in total expenditures of Public Employment Services in the Visegrad countries and in Spain. Various years 1999-2001



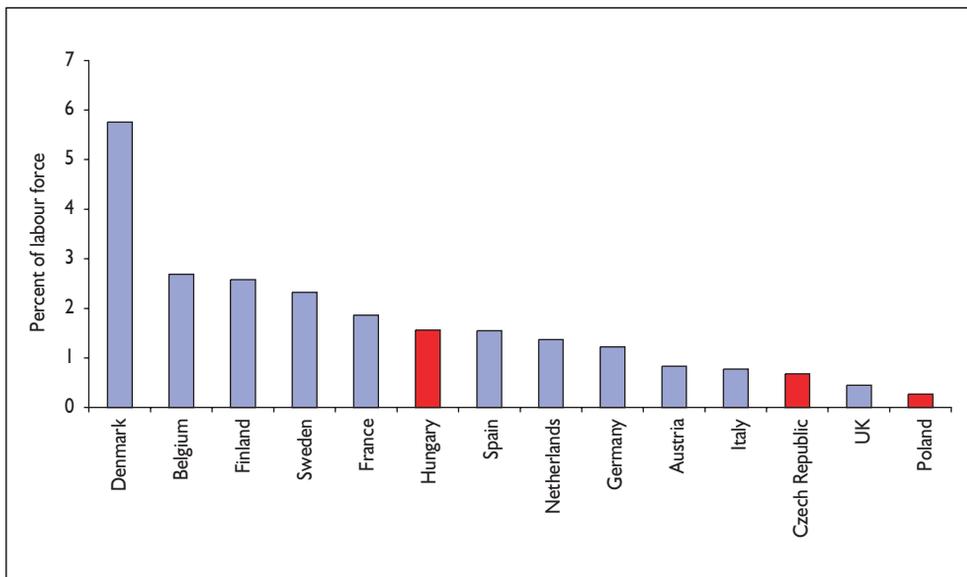
Source: NAP for Spain, year 2000; JAP – Czech Republic, 1999; JAP – Hungary, 2000; Sectoral Operational Program for HRD, Poland, 2001; National Strategy for HRD in Slovakia, 2001.

Poland is a country in which the share of the ALMP in total PES spending is certainly too low (see Chart 11), as compared to the historical EES objective. The budget of the PES in Poland is not following the dramatic changes in the labour market situation and therefore expenditures for passive policies such as unemployment benefits and pre-retirement schemes³ are gradually crowding out the active policies.

All V4 countries (according to EC Regular Reports for 2002) should increase the proactive role of PES. Only in the Slovak JAP there has been a clear recommendation to provide unemployed with more training at the expense of other measures such as sponsored jobs or public works that are also calculated as active policies in official statistics. Nevertheless, it is also a problem for other countries, especially Poland, where the number of the unemployed participating in training is particularly low (see Chart 12). This number would be even more worrisome if one related it to the overall unemployment rate.

³ As already mentioned earlier in this text, in 2002 the Polish government initiated a reform aiming at limitation of expenditures for pre-retirement schemes.

Chart 12. Number of participants of training programs for the unemployed as a share of total labour force in selected OECD countries, including Czech Republic, Hungary and Poland



Source: OECD Employment Outlook 2002.

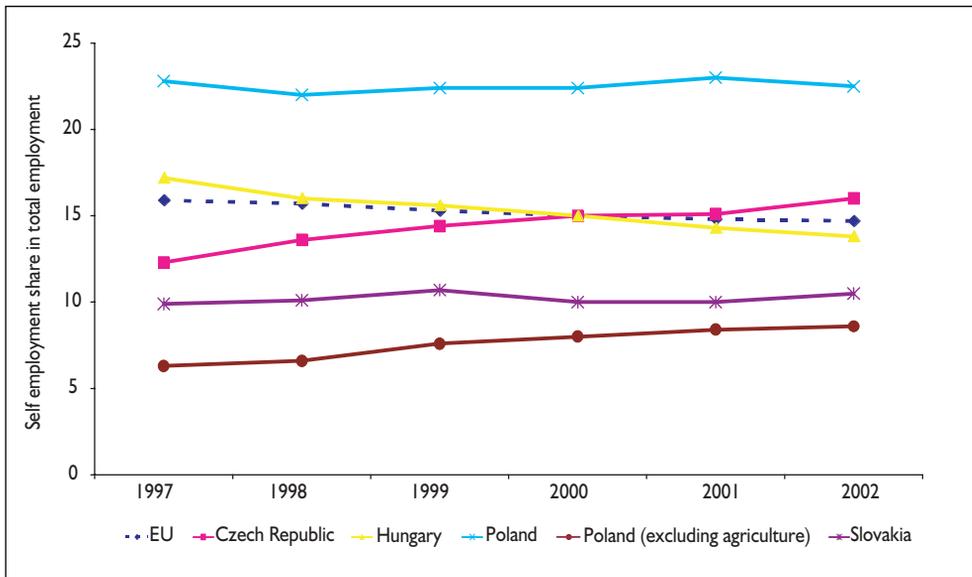
7. Job creation, entrepreneurship and making work pay

In a modern economy job creation takes place mainly in the service and high-tech sectors, especially the former being dominated by small and medium enterprises. As a consequence, job creation is closely correlated with entrepreneurship and with state policies toward entrepreneurs. Creation of friendly environment for the entrepreneurs was one of the four pillars of the old EES and in the reformed system it is the 2nd of 10 main priorities. This priority seems to be particularly important for the Visegrad countries, where shrinking of industry and/or agricultural sectors is supposed to be especially rapid.

The share of self-employment in total employment may be treated as a good proxy for the stage of development of entrepreneurship in a country. This data are presented on the Chart 13.

The results for Poland have to be presented separately for the entire employment and then without agriculture due to a large number of individual farms, the owners of which are treated as entrepreneurs in the Polish LFS.

The level of entrepreneurship in Hungary and in the Czech Republic according to this very simple measure is similar to that observed in the EU. Figures for Slovakia and for Poland

Chart 13. Self-employed as the percentage of total employment

Source: EU report – Employment in Europe 2003. For Poland own estimations based on officially published LFS results various years.

(when agriculture is excluded) are much lower. Additionally, when we take into account that overall employment is falling in the latter country we will conclude that absolute number of entrepreneurs in Poland has to be falling as well.

The Visegrad countries have been criticised in the JAPs and in the EC Regular Reports of 2002 for their policy toward the development of small and medium enterprise (SMEs). Insufficiently transparent registration procedures for new firms, lack of sufficient system of financing for SMEs, fiscal and labour market regulations ignoring the specific characteristics and needs of that sector are the most pronounced points of this critique.

In recent years all the countries have introduced or are planning to introduce a series of programmes aiming to facilitate SME development in their countries. Polish government introduced in 2002 the labour code reform where some regulations have been simplified for firms with less than 20 employees. The Polish government is also planning to introduce a new law on 'economic freedom' aiming to reduce administrative burden for the entire enterprise sector. Hungary will be reducing the rates and simplifying regulations concerning the flat 'health contributions' from entrepreneurs. Nevertheless one will have to wait for any clear results of these programs.

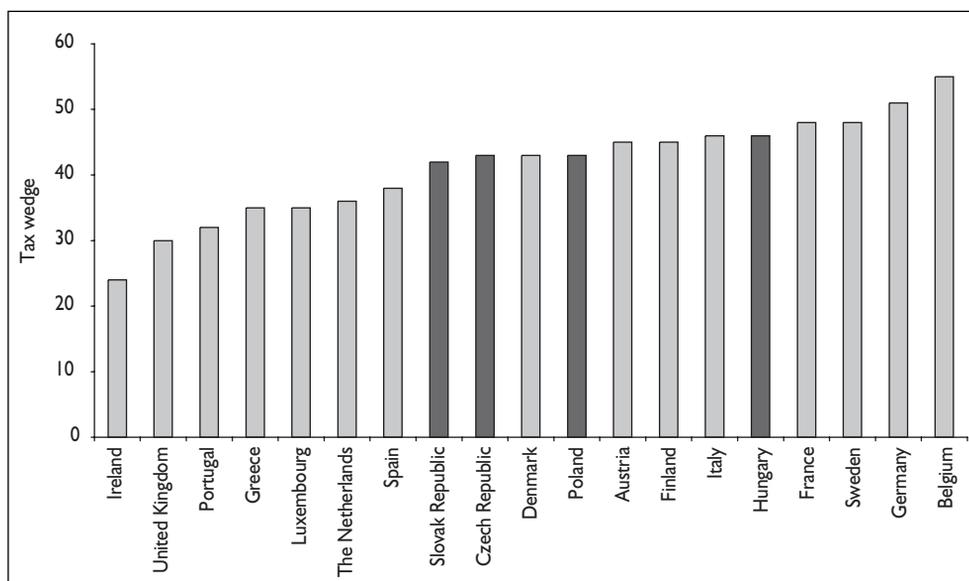
Regional authorities should also actively support the development of SME and they should co-operate closely with PES to constantly verify the needs of the local labour markets in order to be able to adopt the most appropriate measures. Regional pacts for employment designed by local authorities, PES and other local social partners are strongly supported in

the documents of the European Commission and of the OECD documents. This co-operation is especially important when designing the mechanisms of SME and start-up financing and their intellectual support on regional level.

High tax wedge on the labour costs is one of the most important obstacles for entrepreneurship and it is common for the entire group. Combined income taxes and social contributions from employees and employers in the Visegrad countries are among the highest in OECD and on the average European level (see Chart 14). Furthermore, the difficult fiscal situation in all countries does not allow much space for simple tax cuts without more profound reforms of the entire social system.

Chart 14. Tax wedge in the EU and the Visegrad countries as the percent of total labour costs.

Data for 2002



Source: OECD, Taxing Wages 2002.

The profound reform of the social system, however, is not only a necessary condition to lower the labour costs and to boost entrepreneurship. It is also an inevitable step if one wants to increase work attractiveness for the least qualified and consequently low paid workers with which the V4 countries are abundant. Making work pay is the 8th of 10 priorities of the reformed EES guidelines. All European countries are encouraged to undertake reforms resulting in 'significant reduction of marginal effective tax rates and, when appropriate, in tax burden on low paid workers' (European Council 2003).

Currently the Visegrad countries (JAP reports 2003) are criticised for excessively generous systems of welfare payments accompanied by high and flat tax burdens on labour costs resulting in low paid work being unprofitable for less educated part of labour force. For

example, in the Czech Republic in 2002 the difference between the minimum wage and the general subsistence level, which for many families was the expected income from social system, was only 20%. The situation is similar in all the Visegrad countries.

The authorities unanimously admit existing of the high tax wedge problem. However, the policies addressing it do not live up to the expectations. Hungary and the Czech Republic, for example, experienced in recent years significant increases of minimum wage. The results of these reforms are yet not examined, however, it does not seem probable that one can solve the tax wedge problem with such policy.

The fact that high tax burden on low paid jobs combined with relatively high expected income from the welfare system discourages people to accept low-paid jobs represents only the supply side effect. On the demand side, however, this situation encourages to offer undeclared jobs in shadow economy, which becomes an additional source of income for the officially unemployed or inactive. Rising minimum wages is not a good measure against this kind of microeconomic behaviour as it may even become counterproductive by pushing some of entrepreneurs and their low-paid workers out of the legal labour market.

Transforming undeclared work into regular employment is the 9th priority of the reformed EES. Authorities of the Visegrad countries are strongly encouraged by the Commission to undertake the reforms of tax-benefit system. These reforms should be aimed at reduction of tax wedge, especially for low-paid jobs so as to increase the demand for legal low-paid workers. They should also lessen the attractiveness of welfare systems encouraging labour market activity.

8. Adaptability

Modernising the work organisation is also one of the challenges of the modern labour market and this challenge has been taken into account in the 3rd priority of the reformed EES. The development of the service sector and the increasing share of small companies in total employment indicate that both the number of employees and the organisation of labour time have to respond timely to a changing situation. The structure of work organisation and the nature of employee-employer relationship have to change. The management structure becomes horizontal and teamwork is increasingly popular. Workers independence increases but at the same time they have to accept more responsibility. A worker or a group of workers (team) is transformed into an independent 'small firm within the firm' – it is a type of internalised outsourcing. At the same time, such practice increases the number of workers in real small enterprises, where the work schedule, duties and payment are strictly dependent on often and rapidly changing market situation. The full-time standard jobs are

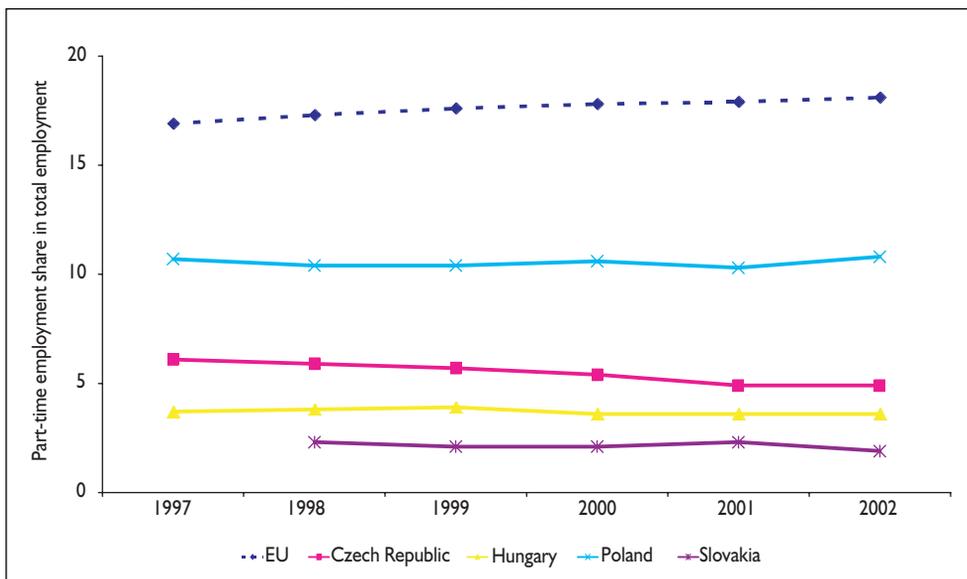
being replaced by new forms of contracts: task-based, self-employment, part-time and fixed-term. The last form may be treated both as '*signum temporis*' and as a negative consequence of relative excessiveness of permanent contracts regulations.

Part time employment share in total employment is much smaller in the Visegrad countries than in the EU (see Chart 15). In the EU it is above 15 percent and rising. In most of the Visegrad countries, except Poland, it is less than 5 percent with additionally decreasing tendency in the Czech Republic. In the rest of the countries, the share of part-time workers in total employment is stable. Poland is the only Visegrad country where more than 10 percent of employees work on part-time basis.

In the 2002 Regular Report for Slovakia the EU experts expressed the view that the increase in the number of part time contracts might slightly improve the labour market situation in this country. In the 2003 JAP Assessment for Czech Republic it is explicitly stated that flexibility in this respect is blocked by fears that employer will abuse this possibility. Czech authorities, however, have recently emphasised the promotion of flexibility in the area of contractual agreements. Also Poland liberalised the regulations concerning the working time organisation in the labour code reforms of 2002. Hungarian authorities are proposing to introduce changes to Employment Act boosting the part-time employment, as well as tele-working.

The situation with fixed-term contracts is somewhat different (see Chart 16). The number of fixed term contracts in Poland is currently higher than the European average.

Chart 15. Percentage of part-time jobs in total employment in the EU and the Visegrad countries

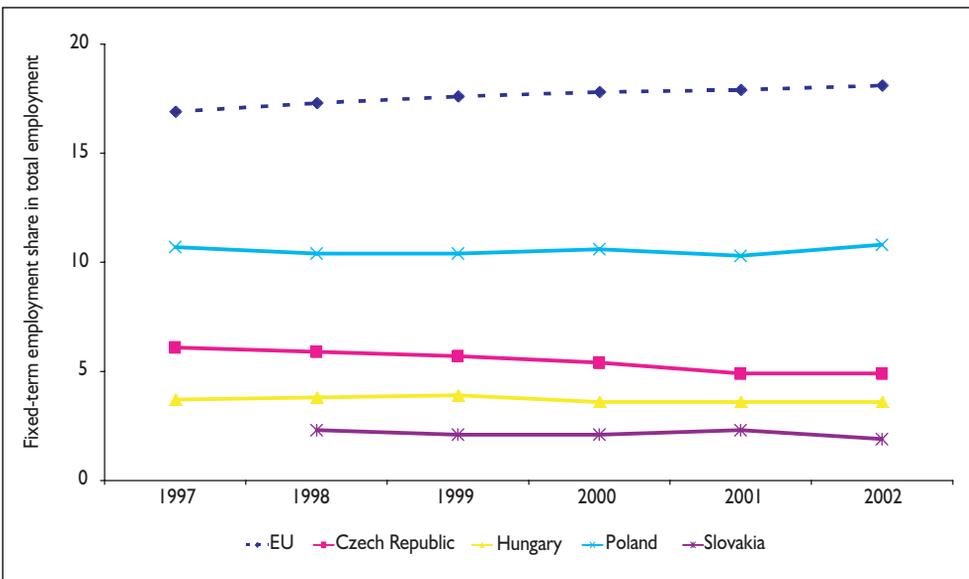


Source: EC report – Employment in Europe 2003.

Although the first steep increase in the year 2001 was the effect of a change in statistical definition of fixed-term contract, such was no longer the case in 2002 when it was still rapidly increasing. In the rest of the Visegrad countries the share of fixed-term contracts is also increasing though not as dramatically as in Poland.

A high number of fixed-term jobs may be both treated as a positive and as a negative phenomenon. An analysis of the Polish case may explain the nature of this dilemma. The rapid development of the fixed-term contracts may be, on one hand, a result of very hard situation on the labour market accompanied by the recent changes in labour code which liberalises the protection of temporary employment. On the other hand, it may be an illustration of a more long-term phenomenon demonstrating the development of modern labour relationships. A high share of involuntary fixed-term contracts (around 54%) and an even higher one among low-skilled employees (around 68% for employees with vocational education only) suggest the first explanation. It means that although the development of fixed-term contracts may be related to the modernisation of the labour market relationships, it is not the case or at least it is not a dominating factor in Poland.

Chart 16. The share of fixed-term contracts in total employment in the EU and the Visegrad countries



Source: EC report, Employment in Europe 2002.

Among the European countries, fixed-term contracts are most popular in Spain, constituting 31.0% of all the jobs in 2002. Most of the fixed-term workers have been forced to accept such contracts and take low-quality jobs. In 1997 the share of fixed-term contracts in total employment was even higher – 33.8%. The government perceived this as a significant problem and liberalised the permanent contracts' protection legislation and

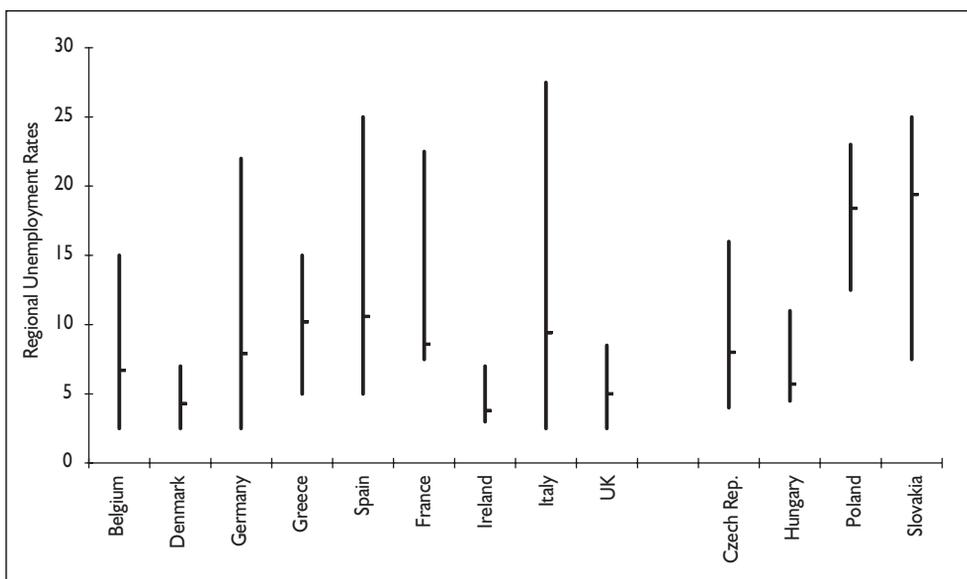
reduced payroll taxes to bring this high number down. The remedy seemed to be effective. The share of fixed-term contract decreased and total employment rate grew rapidly – from 49.4% in 1997 to 58.4% in 2002.

Obviously, increasing the number of part-time or even fixed-term jobs is not the only policy to improve labour market adaptability. Flexibility of working time arrangements, favouring career progression, access of workers to training, increasing work safety and successful dissemination of new work organisation knowledge enhancing productivity are other policy measures listed in the priority 3 of the reformed EES guidelines. Last but not least, it is the increase of spatial mobility of the labour force as well, which is also related to regional disparities.

9. Regional disparities and spatial mobility of labour force

Addressing regional employment disparities is the last priority in the reformed EES. The issue of regional employment disparities is one of the most severe problems for some of the current EU Member States such as Italy, Spain or even Belgium and Germany. The variation of unemployment and employment rates among regions within single countries is higher than similar coefficient across countries.

Chart 17. Regional unemployment rate disparities in selected European and the Visegrad countries. Data for 2001

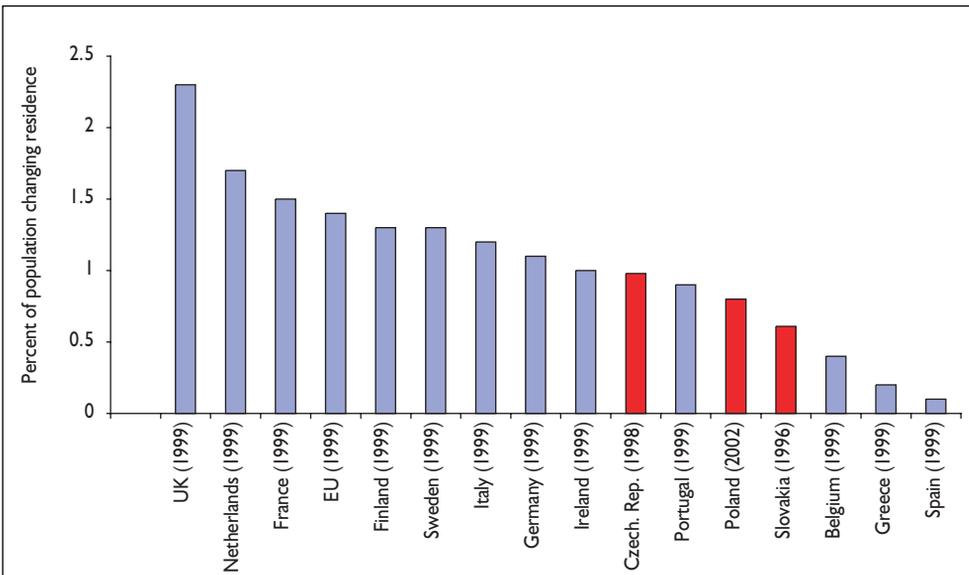


Source: EC report, Employment in Europe 2002.

Visegrad countries are not free from this problem (see Chart 17). Slovakia is most severely hit by regional disparities; Hungary is in the best situation. None of the Visegrad countries is similar in this respect neither to the Netherlands (the least regionally differentiated country in the EU) nor to Italy (the most differentiated one). In the current EU states, with the exception of Belgium, serious regional disparities may be observed practically only in territorially large states. Visegrad countries present still another model.

Such situation is most likely related to a much lower population's mobility in the Visegrad countries. The underdeveloped of transportation infrastructure and lower real personal incomes, which territorially limit the job search and the reallocation capacity are simplest explanations for low mobility. Housing problems such as insufficient development of market and high differences in rental prices between poorer and wealthier regions are also to be blamed.

Chart 18. Percentage of working age population changing residence in a given year in the selected EU and Visegrad countries. Various years



Source: Fidrmuc 2002 for Czech Republic and Slovakia, own calculations based on LFS for Poland, EC Employment in Europe 2001 report for all other countries.

The comparison of Charts 17 and 18 clearly shows that regional differences in current Member States are also correlated with immobility. Belgians, Spaniards and Greeks are the least mobile nations in Europe and their countries suffer from relatively high regional disparities. In fact, Belgium is the only small European country suffering from significant regional disparities. Regional disparities are also high in Italy and Germany where migrations are on average level. One has to remember, however, about the traditional Italian North-South diversity and about special situation in Germany after re-unification. As far as the Visegrad countries are concerned,

Slovakia is the country with highest regional disparities and lowest labour force mobility. Regional disparities are similar in the Czech Republic and in Poland. Hungary seems to be the most homogenous country in this respect.

Both JAPs and last EC Regular Reports stress the need for the improvement of regional mobility in all the Visegrad countries. Special regional development measures have been set as priorities for Slovakia and Poland. The role of regional job creation policies, especially in least developed regions, is also underlined in EC documents. Active attitude of the local authorities, with rising competencies and responsibility will allow for effective use of Structural and Social Funds after the EU accession.

10. Equal opportunities

The promotion of equal opportunities for men and women was one of four pillars of the old EES and currently it is the 6th priority of the reformed EES. Promoting equal opportunities is also the general rule, which the employment policies all European countries are encouraged to follow. The employment rate targets to be achieved by member countries for women are 57% in 2005 and 60% in 2010. Hence, it is still assumed that women will be less active on the labour market than men.

The employment rate showing the effective economic activity of women and the unemployment rate showing the relative position of women on the labour market are the main measures of labour market gender gaps. The employment rate for women is lower than for men in all countries. In the Visegrad countries, however, this difference is smaller than in the EU, although obviously (with the exception of the Czech Republic) the absolute values for both sexes are lower the EU average. Nevertheless, it means that the relative share of women in the employed population is higher in the Visegrad countries than on the EU average.

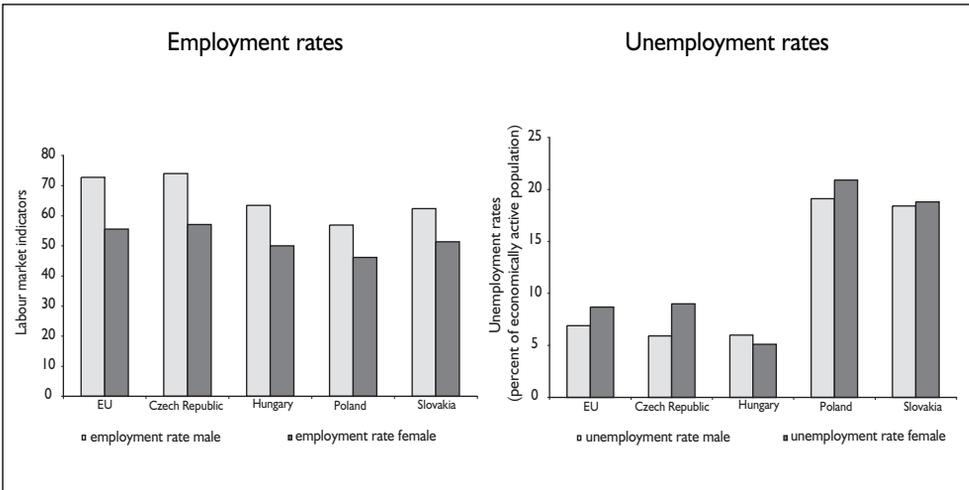
The relative position of women looking for a job looks similar. Unemployment rate for women is lower than for men in Hungary; both numbers are very close to each other in Slovakia. Obviously, taking into account the differences in employment rates, the numbers indicate large inactivity of women in these two countries.

It seems that the relative situation of women on the Visegrad labour markets is not relatively worse than the EU average. The EC stresses the need of minor legal or institutional changes concerning the equal treatment policies in all the countries.

One may not forget, however, that we have not analysed gender wage differences. According to OECD data (OECD Employment Outlook 2002) the average hourly wage gap across the Member States reaches 15%. The most pronounced difference is found in Switzerland (24%) and the smallest one is in Portugal (only 8%). The highest difference in

current EU countries is observed in Austria (21%). Unfortunately, we do not have reliable data from the Visegrad countries, except Poland, where the average wage gap in 2001 has been estimated to be at 18%.⁴

Chart 19. Employment rate and unemployment rate gender gaps in the EU and the Visegrad countries. Data for 2002



Source: EC – report, Employment in the Europe 2003.

Summary table and conclusions

The above analysis shows that labour markets of the Visegrad countries clearly are not homogenous. The differences become apparent when most general measures of employment and unemployment rates are taken into account and they are more or less visible across all analysed labour market characteristics. It is therefore impossible to find a single problem about the Visegrad countries' labour markets that could be addressed and successfully solved by a common set of labour market policies.

Nevertheless, one may define common steps to be taken by the Visegrad countries in order to make their labour markets more competitive after the EU accession. For instance, these are lowering the tax wedges and reforming tax-benefits system in order to make low paid jobs more attractive for unskilled labour force.

The reform of the education system is also a common problem for the V4 countries. However, the priorities of the reform would be different for different Visegrad countries.

⁴ Polish Statistical Office, Mały Rocznik Statystyczny 2002.

Given the relatively high unemployment rates among blue-collar workers, the reform of vocational education seems necessary in the Czech Republic, Poland and Slovakia. It does not seem to be the most urgent problem in Hungary. The results of functional literacy study indicate that there is a need for reforms in general curricula in Hungary, and even more in Poland, while it does not seem to be the basic priority in the Czech Republic.

The deeper the analysis of the main priorities for the Visegrad countries, the greater the difference between problems and the more diverse the appropriate policies. The below table of priorities for the Visegrad countries (Table 1) would hopefully make this analysis more transparent.

Table 1. The Visegrad countries main priorities taking into account their relative position vis a vis current Member States*

The EES objective/priority	Measures	Czech Republic	Hungary	Poland	Slovakia
General Employment Rate	Employment Rate		+ much lower	+ + much lower and decreasing	+ much lower
Active and preventive measures for the unemployed and inactive	ALMP spending in total PES budgets			+	
	Percent of labour force participating in training	+		+	NA
	Share of long term unemployment in total unemployment	+		+ +	+ +
Job Creation and entrepreneurship	Self employment in total employment			+	+ -
Address change and promote adaptability and mobility in the labour market	Part time employment in total employment	+ + lower then 5 percent, when more then 15 in Europe	+ + lower then 5 percent, when more then 15 in Europe	+ around 10 percent	+ + lower then 5 percent, when more then 15 in Europe
	Share of fixed-term contracts	+	+	? – are they not abused in Poland	+
Promote development of human capital and lifelong learning	Participation in education system	+ Participation in tertiary education should be increased	All close to European averages		
	Results of test for functional literacy		+	+	NA
	Unemployment differences according to educational attainment	+		+	+ + Unemployment rate for the unskilled 2.5 times as high as for the medium-skilled
	Adults' participation in continuous education and CVT		+	+	NA

Table 1. The Visegrad countries main priorities taking into account their relative position vis a vis current Member States*

The EES objective/priority	Measures	Czech Republic	Hungary	Poland	Slovakia
Increase labour supply and promote active ageing	Total economic activity rate	Activity rate similar to EU average (70%)	+ + activity rate 60% only	+ activity rate around 65%	Activity rate similar to EU average (70%)
	Employment rate of the elderly		+	+	+
Gender Equality	Women employment and unemployment rate	Relative situation of women on the labour market according to these indicators is not worse than the EU average in all the Visegrad countries.			
Promote integration of and combat discrimination against people at a disadvantage in the labour market	No indicators in our text		+ Address problems related to Roma minority		+ Address problems related to Roma minority
Make work pay through incentives to enhance work attractiveness and transform undeclared work in regular employment	Total tax-wedge and other characteristics of tax-benefit system.	Tax wedge on the European average being very high for OECD standards. Flat social contributions combined with relatively generous systems of welfare payments discourage from taking low paid job in the legal sector. +			
Address regional unemployment disparities	Regional unemployment rate disparities				+
	Indicators of spatial mobility	+	NA	+	+ +

Source: Own analysis.

* '+' indicates that situation in given country is much worse than the EU average and indicates for rapid measures, ++ mean especially aggravated problem. NA – information unavailable. Empty cell means that given indicators are close to the EU average; it does not mean, however, that the problem is not existent.

The table has been constructed according to the 2003 guidelines of the reformed EES. Therefore, the order of problems differs from the main part of this paper. The '+' symbol in the table means that the country's situation in the given field is much worse than the current EU average indicating a need for rapid adjustment. A double '+' signifies an especially aggravated situation. Since the table is a result of the analysis in this text, the set of proposed measures is of course different than the set of similar indicators proposed by the Commission in official documents. In the table, there also appears a priority of integrating disadvantaged groups omitted in our main analysis due to lack of relevant data. The '+' signs in this case mean that such problem has been noticed by EC experts in respective JAPs and subsequent reports.

The above table shows that the labour market situation in the Czech Republic seems to be closest to the European average from the point of view of the EES. Promoting adaptability, new forms of labour contracts and spatial and professional mobility of the labour force should be the most important priority for Czech authorities. The need to increase participation in higher education is also clearly visible. The most apparent Hungarian problem is extremely low activity of population and similarly as in the Czech Republic promotion of labour market adaptability.

Distinguishing such most evident needs in case of Slovakia and Poland is practically impossible. Labour markets indicators in both of these countries are seriously lagging behind the European averages. The shape of labour market policies, however, does not seem to be the most important factor to be blamed for this situation. It seems that structural features of these labour markets, such as excessively developed heavy industry and not reformed agriculture, inherited after communism are the most important factors. A difficult labour market situation is a consequence of rapid restructuring of our economies and it is a necessary consequence of economic and political reforms.

A simple observation that V4 labour markets do not resemble those of the rest of Europe does not mean that the EES cannot be introduced in Poland and Slovakia. It seems obvious, however, that governments of these countries will not be able to achieve all the EES parameters in the nearest future and consequently they should not be trying to allocate their scarce resources equally to all EES priorities. The order of priorities to be implemented is the most important decision to make.

IV. Shaping Europe's Migration Policy

A comparative analysis of a selection of Member States and Visegrad countries' 'Green Card' and equivalent legislation: a comparison of strategies in Germany, Sweden, the Netherlands, the UK, Czech Republic, Hungary and Poland

*Joanna Apap** **

Abstract

During the 1990s, Justice and Home Affairs (JHA) moved to centre stage in the European debate. Concern had been growing about immigration policy since the Maastricht Treaty institutionalised the third pillar of the European Union (EU). This concern had been stimulated by several factors – the persistence of irregular migration and tragic incidents, such as the one in Dover in July 2000 in which 58 Chinese nationals lost their lives trying to enter illegally into the United Kingdom, the need for immigrant workers in some sectors, and the spectre of an ageing European population. More generally, the Treaty of Amsterdam, since its entry into force in 1999, represented a major development in the overall JHA arena, and the implementation of the treaty provisions in these areas was described as the next major EU initiative after the single currency. Moreover, the Conclusions of the Tampere European Council, 15th and 16th October 1999, gave an additional push for the adoption of the measures considered to be necessary for the realisation of an area of Freedom, Security and Justice.

In March 2000, a very controversial report of the United Nations based on demographic considerations was published (UN Secretariat ESA/P/WP.160). Resting on the analysis of the current population trends in the world and projections for the period 1995-2050, this report

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Krzysztof Szczygielski (Poland).

pleaded for 'replacement immigration' in order to compensate for the inevitable population decline in Europe and in other parts of the world. The 'provocative' observations of the report stimulated an intense public debate in the European press on this question, but, more importantly, they also contributed to re-open the debate on immigration within the European institutions and Member States at a time of reflection on how to implement the new Amsterdam provisions. A proposal for Directive dealing with the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities was published on 11 July 2001, the same day as the publication of a Commission Communication on an open method of co-ordination for the Community immigration policy. Migration alone is unlikely to be the answer to Europe's demographic problem. Policies for legal migration of labour may also be coupled with other 'less politically sensitive' initiatives, which could indeed reduce the governments' costs of an ageing population, such as increasing labour force participation among older people and women in the labour market. Some EU Member States have already developed concrete policy initiatives to address on one hand labour market shortages as well as the increasing demographic issue.

This paper will analyse to what extent Member States are simply left up to devising their policies. What is being developed at EU level and to what extent are we heading towards a 'patchwork' Europe. Also, we will assess, looking at the upcoming EU enlargement, the legal framework on foreign labour migration in a selection of three acceding Visegrad countries, i.e. Poland, Czech Republic and Hungary. We will analyse the rules/laws (if any) governing high skilled labour and complimentary provisions with regard to labour immigration in these states, which while endorsing the JHA acquis, are still (re)defining and developing their own policies on these issues. Most of the new acceding countries under study have not yet established concrete policies facilitating the entrance and stay of high skilled immigration into their labour markets. This may be due to their brand new status as receiving immigration states, and the emerging new internal debate on the development of a coherent national migration policy facing the migration flows into their territories and the potential needs of their labour markets.

The approach used in this paper thus constitutes an examination of the evolving laws in the field of labour immigration in four EU Member States: UK, Germany; Sweden and the Netherlands, as well as in three selected acceding countries: Poland, Czech Republic and Hungary, while at the same time situating those policies in the overall European context and debate.

I. Introduction: an historical overview

During the 1990s, Justice and Home Affairs (JHA) moved, in an unexpected way, to centre stage in the European debate. Concern had been growing about immigration policy

since the Maastricht Treaty institutionalised the third pillar of the European Union. This concern had been stimulated by several factors – the persistence of irregular migration and tragic incidents, such as the one in Dover in July 2000 in which 58 Chinese nationals lost their lives trying to enter illegally into the United Kingdom, the need for immigrant workers in some sectors, and the spectre of an ageing European population. More generally, the Treaty of Amsterdam, since its entry into force in 1999, represents a major development in the overall JHA policy, and the implementation of the treaty provisions in Justice and Home Affairs have been widely described as the next major EU initiative after the single currency.

Moreover, the Conclusions of the European Council in Tampere, 15th and 16th October 1999, gave an additional push for the adoption of the measures considered necessary for the realisation of an area of Freedom, Security and Justice, reaffirming traditional and integrating new principles in these fields.

In fact, the debate at European level on immigration and free movement had commenced in the early 1980s and developed in the run-up to the Schengen Agreement of 1985. A general formula was agreed in the Single European Act Art. 7a (Art 14), which stated:

The internal market shall comprise an area without internal borders in which the free movement of goods, persons, services and capital is ensured in accordance to the provisions of this Treaty.

This article gave rise to different interpretations of who has freedom of movement rights, and on the methods, including the compensatory measures involved, of implementing free movement of persons. The Single European Act did not clarify the question of the institutional framework of the compensatory measures for free movement of persons. Whilst the programme of the Commission in this area had to be carried out according to Community standards and by the Community method, some Member States considered that only the 'intergovernmental method' was acceptable in matters at the core of national sovereignty. Progress has been made, however, in that Member States have agreed on a common approach to foreigners' rights.

Omissions and ambiguities in the Single European Act led to conflict between the Commission and certain Member States on the competence of the Community Institutions with the result that Member States decided policy mainly by the intergovernmental method; a good example of the latter was the Schengen Agreement of 14 June 1985, followed by a Convention of 19 June 1990. Various episodes of the conflict about competence even provoked disagreement between Community Institutions. Worn down by these disputes and the systematic blocking by the Council of Ministers, the Commission for the most part conceded the intergovernmental method in the field of JHA, in the hope that a pragmatic stance would make progress possible in these sensitive fields. The European Parliament suffered most because it was for the most part excluded from the decision-making process.

The Maastricht Treaty, signed in 1992, gave comfort to the partisans of the intergovernmental method over those who were in favour of a more communitarian /supranational approach. The new Title VI called '*Cooperation in the fields of Justice and Home Affairs*' was nothing other than the formalisation of very slightly modified intergovernmental cooperation. The policy sectors covered by Title VI were referred to simply as '*matters of common interest*' in Art. K.1. This weak statement of intent was scarcely developed by Art. K.3, which only stated that '*Member States shall inform and consult one another within the Council with a view to coordinating their action*'. There was no clarification of whether JHA cooperation is intended to provide for and/or encourage *legislative initiatives*, or whether practical, *operational cooperation* was the real objective (Den Boer 1996). Rather than a clear distinction between supranational or intergovernmental cooperation, the Third Pillar occupied (and, what remains of it, still occupies) a half-way house, struggling to reconcile two very different institutional patterns, neither with primacy.

In the Maastricht Treaty, Member States seemed happy though to have included a reference to the principle of subsidiarity (Art. 3b [now Art. 5]). This article reads that the EC shall act:

only if ... the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action be better achieved by the Community.

With the Amsterdam Treaty, the transfer of competence of the third pillar towards the first pillar seemed impressive: all the matters listed under Art. K.1 of the Maastricht Treaty were transferred to Pillar I, except for the police and judicial cooperation in penal matters which remains in the third pillar. The new Title IV '*Visas, asylum, immigration and other policies related to free movement of persons*', which brings together the most important provisions, is subject to a special institutional mechanism providing for derogation on numerous points from the supranational approach (Art. 67) and allowing for a transition period – 5 years after the entry into force of the Treaty before majority voting is introduced. Policy towards third country nationals until Amsterdam was one clear example of the limits of European integration. Amsterdam tries to address the various lacunae by assigning to the Community objectives to be achieved within a fixed timetable. Parliament may eventually be involved if the Council of Ministers accepts the co-decision procedure. Furthermore, the transfer of competence to the Pillar I implies recognising the authority of the European Court of Justice (ECJ) in the new areas of Community competence.

2. Supranational and national competencies and the status of third country nationals

In the provisions of the Treaty of Amsterdam, third country nationals have finally found their place in Community law. Certain categories of third country nationals already benefited from the protection of Community law. These are:

- members of the family of an EU national;
- nationals of states connected to the EU by an association or cooperation agreement; *and*
- workers of a company on whose behalf they carry out services in another Member State (according to the Vander Elst principles).

These three categories of third country nationals were *privileged* – the provisions of Community law did not cover other third country nationals until the entry into force of the Amsterdam Treaty.

The heading of the new Title IV is significant. It does not mention a common immigration policy, but provides a partial inventory of elements of such a policy: '*visas, asylum, immigration and other policies connected with free movement of persons*'. Whereas Art. K.1.3 of the Maastricht Treaty aimed at '*immigration policy and policy with regard to third country nationals*' before listing '*measures concerning immigration policy within the following areas*'. In three sectors, Art. 63.3, the more detailed specification of these sectors and the level of competence accorded to the EU in migration matters do not live up to the statement of the intent to introduce a comprehensive and coherent immigration policy. Also the second subparagraph of Art. 63 stipulates that:

Measures adopted by the Council pursuant to points 3 and 4 shall not prevent any Member State from maintaining or introducing in the areas concerned national provisions which are compatible with this Treaty and with international agreements.

The tendency in recent years by the Member States to interpret restrictively the competencies of the European Union, contributes to a genuine doubt about when the European level of decision-making applies. Only recourse to Article 308 (ex Art. 235) of the Treaty makes it possible to avoid a purely intergovernmental approach, by transferring the provisions concerning immigration policy from the third to the first pillar (Hailbronner 1998).

Despite the significant progress that the Treaty of Amsterdam represents for the European Union, it is only the beginning of a move towards a genuine European immigration policy. It remains uncertain whether, at some time in the future, it will become a supranational competence. Article 61 provides that the Council will adopt '*within a period of five years after the entry into force of the Treaty of Amsterdam the measures aiming to ensure free movement of persons in compliance with Art. 14*'. This illustrates the resistance of the Member States to further European integration in this field. Art. 14 is a re-statement of Art.

7 A of the (1986) Single European Act, which instituted an area without internal borders and with free movement of persons by 1st January 1993. The Treaty of Amsterdam complements the Single Market by security and justice supports for free movement. The compensatory measures intended to complement free movement of persons, alluded to in the Single European Act, became explicit in Art. 61(a), Amsterdam Treaty.

3. The current Post-Amsterdam Debate

In March 2000, a very controversial report of the United Nations based on demographic considerations has been published (UN Secretariat ESA/P/WP.160). Resting on the analysis of the current population trends in the world and projections for the period 1995-2050, this report pleaded for 'replacement immigration' in order to compensate for the inevitable population decline in Europe and in other parts of the world. According to this report, the number of immigrants necessary to avoid a *decline of the total population* of the EU in the 50 years ahead is approximately comparable with the immigration rate of the 1990s, i.e. average annual net migration of 857,000 persons. However, the report stipulates that, in order to prevent a *labour force decline*, the number of migrants entering each year should double.

The 'provocative' observations of the report stimulated an intense public debate in the European press on this question, but they also contributed to re-open the issue on immigration in the European institutions and Member States at a time of reflection on how to implement the new Amsterdam provisions.

One of the first post-Amsterdam initiatives proposed by the Commission on the ground of migration is the draft Directive *on the right to family reunification*, submitted to the Council on 1 December 1999, which has been finally adopted on 22 September 2003 (2003/86/EC, OJ L 251/12, 3.10.2003). This Directive is the first of a series of draft Directives on the admission of third country nationals for various purposes, which represent the 'communitarisation' of the draft Convention on the admission submitted by the Commission to the Council before the entry into force of the Treaty of Amsterdam. This project was followed by a draft Directive *on the status of third country nationals who are long-term residents* in the Union, presented on 13 March 2001, which has not been so far adopted.

A proposal for a Directive dealing with *the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities* was published on 11 July 2001, the same day as the publication of a Commission Communication *on an open method of coordination for the Community immigration policy*. Furthermore, the Commission presented a proposal of Directive *on the admission of third country nationals for studies, vocational training or voluntary service*, COM (2002) 548. Two other directives

approved by the Council, respectively in June and November 2000, are closely connected with the questions of migration, but deal more specifically with the fight against discrimination, racism and xenophobia.

With respect to the fight against illegal immigration and to the management of migratory flows, a particularly important instrument is the Council Framework Decision of 19 July 2002 *on combating trafficking in human beings*, 2002/629/JHA. In addition, a Communication proposal from the Commission to the Council and to the European Parliament covering the *common fight against illegal immigration* has been prepared and this was followed up by a Council Action Plan *on fighting illegal immigration*. Several proposals have also been submitted by the Member States, which share with the Commission a right to take initiatives in this field (Art. 67.1 TCE). The French Presidency, in particular, presented several initiatives in the second half of 2000 covering primarily the means of preventing and of fighting illegal immigration. These initiatives include:

- the Council Directive *defining the facilitation of unauthorised entry, transit and residence*, 2002/90, 28 November 2002;
- A Framework Decision *on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence of third country nationals*, 2002/946 of 28 November 2002;
- a draft Directive relating to the *harmonisation of the legislation of the Member States as regards liabilities imposed to the carriers for the territory of the Member States of the nationals of third countries stripped of the documents required to be allowed there*; and
- Council Directive *on the mutual recognition of decisions on the expulsion of third-country nationals*, 2001/40, 28 May 2001.

Moreover, the French Presidency was particularly active to revive the general debate on immigration which had been started by the above-mentioned report of the United Nations: discussions on this subject were held at the informal ministerial meeting in Marseilles (in July 2000) and at three conferences on Co-developments and Migrants (6-7 July), on Illegal Migration Networks (20-21 July) and on the Integration of Immigrants (5-6 October).

The Commission intervened in this discussion in November 2000 with a Communication analysing the state of the debate on immigration. In this Communication *on a Community immigration policy*, the Commission states as a starting point that 'there is a growing recognition that the 'zero immigration policies' of the past thirty years are no longer appropriate' in the current economic and demographic context of the European Union and of the countries of origin, and argues for a 'new approach' of immigration, according to which channels for legal immigration should be made available, especially for labour migrants.

However, the Communication takes clearly its distance from the adoption of a policy of replacement migration as proposed by the UN report on Replacement Migration as a possible scenario to counteract demographic decline. The Commission believes that 'while

increased legal immigration in itself cannot be considered in the long term as an effective way to offset demographic changes, since migrants once settled tend to adopt the fertility patterns of the host country'.

Nevertheless, it considers that many *'economic migrants have been driven either to seek entry through asylum procedure or to enter illegally. This allows for no adequate response to labour market needs and plays into hands of well organised traffickers and unscrupulous employers'*. It stresses the need for an approach *'based on the recognition that these migratory pressures will continue'*. Moreover, it stresses the fact that *'the opening up of channels for immigration for economic purposes to meet urgent needs for both skilled and unskilled workers has already begun in a number of Member States'*.

In this context, the Commission underlined the need to have a 'proactive' immigration policy, i.e. a policy which instead of focusing on vain attempts aiming to prevent and stop immigration by creating a 'Fortress Europe', would try to control immigration according to needs of the European labour market (see the proposal of directive of 11 July 2001).

Moreover, the Tampere European Council itself stressed, in paragraph 20 of the Presidency Conclusions, the need for an *'approximation of national legislations on the conditions for admission and residence of third country nationals, based on a shared assessment of the economic and demographic developments within the Union, as well as the situation in the countries of origin'*.

The Commission does not propose any 'quota system' on a European scale, which would be 'impracticable', but rather some 'indicative targets', a system based on periodic reports of the Member States, re-examining the impact of their immigration policies during the past period and making projections on the number of economic migrants they would need in future (including their qualification levels). These indicative objectives would not only take into account the labour market needs of each Member State, but also take into consideration the agreements in place with countries of origin of the migrants, the public acceptance of additional migrant workers in the country concerned, the resources available for reception and integration, the possibilities of cultural and social adaptation, etc.

This process should take into account the development of the general employment situation in the EU, and in particular the progress achieved in the implementation of the European Strategy for employment, defined by the European Councils of Luxembourg (1997) and Lisbon (March 2000). The mechanism proposed by the Commission leaves therefore to the Member States the last word on the admission of the migrants, but the various migration policies will however be coordinated at European level.

It is obvious that the approach defended in these texts represents a clear rupture with former immigration policies on EU-level. The question is to know if Member States will follow the Commission on this way, considering the sensitivity of the question at the national level as well as the differences of approaches and policies in this field.

In presenting its proposals, the Commission intends to establish a coherent framework that would determine the basic conditions and procedures to be applied. This framework approach would be based on the following principles:

The granting of a work permit should be simple, rational, flexible, on the basis of verifiable and objective criteria, delivered within a short time and the procedure should be transparent.

Applicants should preferably have an employment contract or a recruiting promise. However, this should not be an obligation. In addition:

- Member States should have the possibility of establishing quotas responding to their specific needs.
- The response on the request for the work permit should be delivered in a 180-day maximum delay (although this period is certainly not optimal for industry).
- The reason for refusals should be clear.
- The work permit should not be limited to only one employer, but should be related to the sector of specialisation of the migrant worker or even to the region of his/her residence for a 3-year duration, with a possibility of prolongation.

The question of competence to grant or refuse a permit arises then: according to the *principle of subsidiarity*; this one should be delegated to the Member States. This will give more coherence between the employment and immigration policies.

The objective would be to give a secure legal status for temporary workers who intend to return to their countries of origin, while at the same time providing a pathway leading eventually to a permanent status for those who wish to stay and who meet a certain number of criteria.

The proposal for a Directive of 13 March 2001 *on the status of third country nationals who are long-term residents* supplements the other initiatives. The main idea is a differentiation of the rights according to the length of stay. The principle that the length of residence has an influence on the rights of persons has a long tradition in the Member States and is referred to on the Tampere conclusions. Within five years, they will be allowed to move freely on the territory of the Union with the aim of seeking employment in another Member State.

Migration alone is unlikely to be the answer to Europe's demographic problem. Policies for legal migration of labour can also be coupled with other less politically sensitive ways which could reduce the governments' costs of an ageing population, such as increasing labour force participation among older people and women (OECD 2001).

4. A comparison of strategies in Germany, Sweden, the Netherlands, the UK, the Czech Republic, Hungary and Poland to promote selective labour migration of third country nationals

As we will show in this section in the four EU Member States' legal systems under analysis, there are clear signs that they recognise the existence of a labour shortage in their markets, particularly in specialised sectors. The four countries have thus tried to develop attractive packages to attract specialised/high skilled labour migration. However, in all four cases, prior to granting the necessary permits for skilled candidates from outside the European Union, it is normally necessary to show that attempts have been made to fill the position from the resident and EEA labour markets. These attempts should include advertising and the local employment service, which will run searches using *the European Employment Services placement network* (EURES). Usually the training of existing employees should also have been investigated.

Looking at the upcoming EU enlargement, it is also highly interesting to compare the developments in current EU Member States with measures underway with regard to the management of foreign labour migration in a selection of acceding countries, i.e. Poland, Czech Republic and Hungary. We will thus analyse the laws (*if any*) governing labour migration, particularly focusing on high skilled labour migration. The three countries, while endorsing the JHA *acquis*, are still (re)defining and further developing their own policies on this sensitive policy area. Indeed, most of the acceding countries have not yet developed policies on the facilitation of third country nationals' employment, and in particular high skilled ones, into their national markets. This fact may be due to their new position as receiving migration states, and the emerging new debate on the needs of migration flows in Europe as well as on the development of comprehensive national migration policies in their challenging labour markets and economies.

In this section, I attempt to answer the following key questions:

- Which are the main legal provisions governing the entry and residence of foreigners under the new evolving schemes?
- What are the main aims of the new provisions on employment of third country nationals?
- What are the criteria for eligibility?
- How is the country making the scheme attractive both to the employers and to the potential employee?
- Which is the competent authority issuing/dealing with such permits?

4.1. Germany

In Germany, **the Ordinance Governing Stays for Employment Purposes**, which was adopted on 18 December 1990, represents the main regulatory text for recruitment of foreigners in the German labour market. By a decision of the Federal Government of 1 August 2000, **the Green Card Regulation**, which is made up of ordinances regulating residence and work permits, was introduced to admit IT specialists for businesses and to address the emerging need for specialists in other industries. This marked the beginning of a new policy to regulate migrations.

In Germany, the law of 9 July 1990 governs the entry and residence of foreigners. **The Ordinance Governing Stays for Employment Purposes**, which was adopted on 18 December 1990, constitutes however the main regulatory text for recruitment of foreigners.

Over the last two years it was recognised that despite the general policy to limit immigration of unskilled workers, however there is a distinct need for qualified workers in specific areas of industry, particularly IT companies. By a decision of the Federal Government on 1 August 2000, the Green Card regulation, which is made up of ordinances regulating residence and work permits, was introduced to admit IT specialists for businesses and to address the emerging need for specialists in other industries. This marked the beginning of a new policy to regulate migration. These ordinances allow companies to employ up to 20,000 IT experts from non-EU states, to which end a fast-track procedure is applied. The foreigners concerned are also given more favourable conditions in terms of foreigners' law.

According to this regulation (2000), foreign experts who have been promised or granted authorisation to work are given a residence permit for a maximum of five years – together with their spouses and minor children, as the case may be.

Apart from applications from abroad, young and upcoming foreign IT experts who have successfully obtained a degree in the field of information and communications technology, from university or higher technical colleges may also benefit from the Green Card regulation. The receivers of the Green Card could also change employers once in Germany.

This Green Card mechanism is modelled on the US green card. To qualify, the applicants must fulfil the following criteria:

- successfully obtained a degree in the field of information and communications technology, from university or higher technical colleges may also benefit from the Green Card regulation, or received a job offer with a gross salary of at least 51,200 euro (once 100,000 DM);
- reside outside the European Union or the European Economic Area; and
- have a good grasp of the German language or be able to speak English well.

On 3 August 2001, Germany's interior minister, Otto Schilly, announced an overhaul of the German immigration regulations. This revision of the regulation is designed to relax the rules for immigration for skilled staff, especially those in the IT and telecomm industries. However this was counterbalanced with a tightening of regulations for unskilled workers as well as a proposal to introduce tougher measures for asylum seekers and those under deportation orders.

The main points of this revision of the German Green Card system are as follows:

- Immediate permanent residency for IT professionals and other highly skilled staff with valid job offers (to replace the 5 year Green Card).
- Points-based system for skilled immigrants without job offer (similar to the Australian system).
- Immediate granting of work permit for dependents of skilled immigrants.
- Combined residence and work permit.
- Automatic one-year residence permit for graduates of German universities (to be extended if the applicant finds work in this time).
- Compulsory integration courses for new migrants.

The competent authority dealing with all immigration aspects is the Independent Commission on Immigration set up by the Federal Minister Schilly in September 2000. This will eventually become a Foreigners' bureau at the Federal level.

As of August this year 15,511 green cards have been issued (mostly in the South of Germany), of which Indians represent a 26 per cent, and Eastern Europeans a 29 per cent. The government decided to launch the Green Card project to make up for the domestic shortfall of computer personal. At that time Germany had some 75,000 vacant computer positions before the launch of the project. At the beginning, the German government planned to stop issuing green cards by 31 July 2003, however, it has been finally decided to extend the IT-Regulation application until 31 December 2004.

4.2. United Kingdom

The Highly Skilled Migrant Programme (HSMP)

The foundation of the United Kingdom's (UK) immigration law continues to be **the Immigration Act** of 1971. However, the work permit regime was subjected to a thorough review announced in November 1999 of UK – **Immigration and Asylum Act** 1999.

The Home Secretary David Blunkett announced that one of his priorities was to introduce a scheme for independent migration to the UK (Green Cards). This scheme, which

has been revised on 28th January 2003, has been put in practice since 28th January 2002 and it resembles the Australian 'points based' migration scheme.

This scheme is a proposed new category of permits which allows certain individuals, with exceptional high skills and experience, to be granted a work permit in their own right without the need for there to be a supporting employer, provided the individual *meets three out of the four criteria set out below*.

Their leave will be for one year in the first instance, extendible by a further three years providing the criteria continue to be met. The scheme is a pilot one, lasting for twelve months in the first instance. To qualify for it one does not need to have a concrete offer of employment.

To get a 'full' work permit, one needs to score 75 points or more by meeting three of the four following criteria:

- hold a PhD or equivalent qualification;
- have five years recent graduate experience (or three years if a PhD is held), two years of which should have been at senior level;
- have been earning at least £40,000.00 (64,000 euro) in the previous year or an adjusted salary which was equal to the top 5% of the wage earners in the country in which the last employment took place (the amount which is equivalent to the top 5% of salary differs from country to country – lists explaining such can be downloaded from the British Home Office website); and
- be able to demonstrate a significant achievement in their field.

The sectors experiencing labour shortages in the UK are mainly IT, health (doctors and nurses), and higher education academic staff. For one to have one's application considered, one must complete the HSMP form and the IM2A entry form.

The foundation of the UK immigration law continues to be *the Immigration Act of 1971*. However, the work permit regime was subjected to a thorough review announced in November 1999 of UK – *Immigration and Asylum Act 1999 (c33) – 3/4/99* main provisions.

The dependents of work permit holders are entitled to remain in the UK during the period for which the permit is valid, providing they can be supported without recourse to public funds.

The competent authority in charge of issuing such permits is **the Immigration and Nationality Department of the British Home Office**. The Home Office/FCO Joint Entry Clearance Unit administers entry clearance.

4.3. The Netherlands

The Law governing legal residence of foreigners for the purpose of employment activities in the Netherlands is the *Vreemdelingenwet* – **Aliens law** of 2000, which came into force on 1st April 2001. Article 13 represents the key provision of this law.

The Netherlands has experienced sustained growth over the past few years partly due to its favourable position within Europe and its flexible labour force. It remains an attractive country for investment and for foreign nationals to work.

Due to a recent acknowledgement by the Netherlands authorities of the shortages in some types of IT and Telecomm skills, work permit applications can be made for relevant IT/Telecomm positions without showing details of the above detailed recruitment search.

The Law governing legal residence in the Netherlands is the recent – *Vreemdelingenwet* (Aliens law) of 2000 which came into force on 1 April 2001. Article 13 represents the most important clause in this respect.

Unfortunately, the application process for Netherlands work permits often means that candidates cannot even visit the Netherlands to attend meetings while the Netherlands work permit application is being processed.

To be suitable to hold a Netherlands work permit, the candidate should be a professional and have the skill set necessary to fill a post that has already been unsuccessfully advertised in the Netherlands, or which is subject to recognised shortages. There is a legal requirement that the candidate is between 18 and 45 years of age, however it is unlikely that a candidate below 23 would have attained a skill set necessary to fill a professional position.

For nationals of all other countries not exempt from requiring a residence visa, the candidate should apply for a residence permit (MVV), which is the authorisation for temporary stay, at the Netherlands Embassy in their normal country of residence before a work permit application is made. The candidate is then prohibited from travelling to any Schengen state party until a decision is made on the application.

It is important to note that on the contrary to the two previous schemes, a Netherlands work permit is employer-specific. If a candidate has a permit to work for one company, and they want to work for another Dutch company, this would not be possible – unless/until the new company has obtained another work permit. The employer needs also to guarantee a salary above the minimum wage.

Unless the candidate is exempted from the MVV requirement (i.e. is a national of: Norway, Iceland, Liechtenstein, Switzerland, Japan, New Zealand, Australia, Canada or the United States), the first stage of the process involves the candidate to making an application for a temporary residence permit (MVV) through his/her local Netherlands embassy. The application goes then to at the Regional employment board (RBA) who approve it initially and

pass it to the national employment board (AFB) who make the final decision, taking into account the national and EU labour markets. When the work permit is approved, the residence permit is issued by the embassy and the candidate may travel to the Netherlands and start work.

One attractive aspect of employing foreign nationals in the Netherlands is that many *will qualify to receive 35% of their income tax free*. The effect of this is to make the overall tax burden similar to that faced in the UK.

The Dutch Embassy has to obtain approval for the issuance of a temporary residence permit from the immigration authorities in the Netherlands. It is important that one applies for the temporary residence permit at least three months prior to one's intended stay in the Netherlands. The Netherlands Embassy has to obtain approval for the issuance of a temporary residence permit from the immigration authorities in the Netherlands. It is important that you apply for the temporary residence permit at least three months prior to your intended stay in the Netherlands.

After 3 years in the Netherlands on a work permit, it is usually possible for an individual to have free access to the labour market. Thereafter they are free to take up any lawful employment and no longer require an employer-sponsored work permit.

If one is working and holding a valid work permit and holds a temporary residence visa (MVV) for 5 years, then one can automatically gain permanent residency in that country. The competent authority is **the Immigration and Naturalisation Service (IND)** within the Ministry of Justice.

4.4. Sweden

The legal principles for labour immigration in Sweden are mainly regulated in **the Aliens Ordinance**, and only to a lesser degree in **the Aliens Act**, being based on a Government Bill of 1968.

Swedish regulation on employment of third country nationals and labour related immigration has traditionally been restrictive. One task of migration policy is however at times to enable migration to supply additional labour to the national labour market. National regulations as well as international agreements on the free movement of persons may help to even out imbalances of labour supply and demand in the labour market. Among those seeking to move to the EU, there are many that are mainly looking for work. In Sweden, it is believed that the forthcoming enlargement of the EU will alter the balance of labour supply and demand. In a longer perspective, the ageing population in Europe will require additional labour force.

The principles for labour immigration, mainly regulated in the Aliens Ordinance and only to a lesser degree in the Aliens Act, are based on a government bill of 1968. It was then established that as a general rule, it should not be possible in the Swedish labour market to use foreign workers to regulate the demand for labour. This should be done instead mainly through labour market policy measures such as training of the unemployed, relocation within the country etc.

Residence permits purely for labour market reasons are granted in principle to other non-Swedes only if the need for manpower cannot be satisfied within Sweden or the EU/EEA. In 2000, 433 permanent residence permits were granted for labour market reasons. The largest groups for such permits were citizens from China, Russia and the United States. In addition, about 19,400 temporary work permits were granted in 2000. This represented a considerable increase from 15,000 the previous year. These permits are mainly granted with reference to temporary shortages of labour force and international exchange. Permits are granted mainly to experts and key people in industry, research, culture and sports in the cases where it is not possible to find equivalent competence in Sweden or within the EU/EEA area.

People in the professions and self-employed business people may also be granted such permits, if they fulfil certain conditions. In addition, a far greater number of *work permits for limited periods are granted for such people as fitters, various specialists, artists and sportsmen. For all categories of employment, the permit may only be granted on condition that there is an offer of employment and housing arranged beforehand. The permit must be issued before entry into Sweden. Permits are granted for the duration of between 1 day (e.g. artists and athletes) and up to 18 months regarding labour shortage and up to 48 months regarding international exchange.*

The Migration Board (Mv) – which is the competent central authority in aliens affairs – handles and decides on work permit cases and permits regulated in the EEA agreement. The Board determines whether the applicant may have other reasons than labour market reasons for being granted or refused a residence permit (e.g. family ties). The Labour Market Board (AMS) carries out a labour market examination and the Migration Board must in principle consult with the county employment boards in all cases. AMS may also issue general guidelines. Before AMS issues guidelines the labour market parties (employers and employee organisations) must be given the opportunity to state an opinion.

Group of persons concerned

Applicants in the cases related to job-finding can be divided into different groups:

- If the work is part of an international exchange between i.e. an international company or the like the applicant is entitled to stay in Sweden for a total of four years at the most. Since April 1, 2002, a specialist employed by an international organisation and travelling to and from Sweden for definite periods of time will not need a work permit

if his/her stay does not exceed 3 months each time. However a residence permit needs to be granted before the person can take up employment.

- Permits can also be granted to persons for a maximum of 18 months altogether if the employment is due to a temporary labour shortage.
- Also can be mentioned the group of persons who participate in an organised exchange programme within the framework of different countries (trainees).
- One can also mentioned work permits for seasonal employment which can be granted for three months at the most.

There are substantial differences between applications lodged from abroad and applications filed by foreigners already presents in Sweden. The initial application should be submitted to a Swedish embassy or consulate in the country of origin or the country of domicile. The permit thus must be granted before entry in to Sweden. To obtain an extension of the permit one must show that he/she still is employed. One has also the possibility to change status of the permit while being in Sweden, i.e. from permit for studies to permit based on an offer of employment.

Prerequisites

To obtain a work permit the applicant must have:

- a written offer of work and employment in Sweden within the above-mentioned categories;
- the employer must guarantee a minimum salary of SEK 13.000 = 1,311.64 EUR (15,740 euro annually), per month before tax or a salary in accordance with a Swedish collective wage agreement;
- accommodation must have been arranged in Sweden before entry;
- be prepared to leave Sweden if the contract expires;
- the National Labour Market Board always should give their approval.

To make the package more attractive, as in the case of the Netherlands:

- the tax reform lowering marginal taxes continues;
- employer-related bureaucracy is being simplified; and
- benefits (board and lodging) received by household employees are favourable.

Legal remedies

In the event that the Migration Board is considers expelling someone their need of a lawyer is assessed and a decision is taken in this respect. It is always up to the Migration Board to decide whether legal aid should be provided or not. It should be noted that a decision to deny an application of work permit cannot be appealed against if the decision not is connected to a decision of expulsion.

4.5. Czech Republic

The main legal instruments within the Czech Legal system dealing with foreign labour migration are the following, though none of them dealing specifically with highly skilled labour migration:

- **The Employment Act** No. 1/1991, (*Zákon o zamestnanosti*) which lays down the main conditions for the employment of foreign workers in the territory of the Czech Republic; and
- **The Act on Residence of Aliens in the territory of the Czech Republic** and Amendment of other Acts, No. 326/1999.

The Local Labour Office, within whose district the employment is to be performed, is the core competent authority to issue the working permit, also called labour permit (*pracovní povolení*), following the Section 2a.1 of the Employment Act 1/1991.

There are no specific legal provisions or incentives regarding high skilled migrants in the Czech legal system so far. The *core procedural steps* for issuing a work permit may be summarized as follows:

The employer may submit the application to hire a foreigner to the Local Labour Office where the employment is going to be mainly carried out. Following Section 19.3 of the Act of Employment, the employers need first to get the required authorization or permission from their respective competent labour office in order to be able to import foreign labour force in to their region.

The Law provides for the possibility to hire foreigners only when the job vacancy cannot be filled by a Czech citizen, in particular by a 'Czech job seeker'. The employer needs to notify the existence of the vacancy to the Local Labour authority, which will develop a labour market test. Additionally other requirements must be fulfilled in relation to the foreigner, as for instance, that s/he will enjoy the same salary conditions as a Czech citizen, and that s/he will enjoy social and health cover, etc., before entering the country.

Then, the Labour Authority, which may ask beforehand the employer to present a draft labour contract, may deliver a permit to the employer to hire people from outside the Czech territory. This permit will entail the employer to fill the vacancy with foreign workers.

The Local Labour authority will then issue the specific work permit, Section 2a.2 of the Act of Employment, for the foreigner involved as well as a residence permit for the purpose of employment, which are necessary before the migrant enters the Czech territory due to employment purposes. The foreigner will be able to apply for the work permit him/herself. The granting of a work permit to a foreigner is subject to an administrative fee under other statutory provisions. The work permit will be issued for a fixed period of time not exceeding one year. Following Section 2a.2 of the Act of Employment, the work permit will provide

information about the place where the work will be developed, the type (sector) of work, the employer's designation (name), address of main office, or place of stay (residence), as well as an identification of the employer. Therefore, the employment permit is employer specific, being thus not possible for the foreigner to change employer, region or specific job. The expiration of the work permit will result in the automatic expiration of the visa, so the migrant worker will be required to leave immediately the Czech territory. However, this will not be the case when one work permit is replaced by a new one based on the same purpose of residence, i.e. employment. The foreigner will have the possibility to apply for a permanent residence permit after ten years of uninterrupted residence within the Czech territory.

The possibility to apply for family reunification is recognized within the Czech legal system, in particular under The Act No. 326/1999, on Residence of Aliens in the territory of the Czech Republic and Amendment of other Acts, of 30th November 1999. Family reunifications are thus possible in practice. Family reunification is one of the purposes for issuing of visa for stay of over 90 days, following Section 32 of the Act. Family members have extended possibilities to apply for such a visa from within the territory or to change the purpose of residence there as well. Nevertheless there is no individual right for a visa to be issued though.

Regarding anti-discrimination law, migrant workers are protected by the Czech legislation as there are general anti-discrimination provisions and migrant workers are considered to have the same legal position as nationals at the labour market provided that they obtain work permit or permanent residence. Some distinctions are nevertheless made and migrant workers with working permit are not entitled to use public employment services and their right to unemployment benefit is limited as well. In the whole area of labour law, there is no distinction between nationals and non-nationals and both groups are protected in the same way. **The Labour Code, No. 65/1965, *Zákoník práce***, in Section 6 stipulates that it '*shall govern labour relations between employees and foreign (non-resident) employers in the Czech Republic, as well as those between foreigners employed in the Czech Republic and employers in the Czech Republic, unless Private International Law determines otherwise*', and it is the responsibility of the employers in the first instance to ensure equal treatment of all employees.

The following table provides the number of valid work permits issued for foreigners in the Czech Republic, data of Ministry of Labour and Social Affairs:

Status as at 31.12.	1997	1998	1999	2000	2001	2002
Valid foreigner employment permits	61,044	49,927	40,312	40,080	40,097	44,621

Following five years of permanent establishment on Czech territory, the foreign worker may apply for Czech citizenship under the Act on gaining and losing citizenship of the Czech Republic, 40/1993, 29th December 1992, in particular Article 7, citizenship by conferment.

The Ministry of Labour is currently planning a draft amendment to the Law on employment, which would 'improve' employment of migrant workers needed particularly at the local labour market within the country. The work permit would be extended depending on the length of stay – three major changes may be highlighted as far as the new amendment of the law is concerned. It will also secure the immigrant's status by granting his/her a work permit across his/her sector of expertise.

4.6. Hungary

The primary rules on entry, stay and establishment of foreigners in Hungary, which do not deal only with highly skilled labour migration, are mainly:

- **The Act XXXIX of 2001 on the entry, stay and immigration of foreigners to Hungary** (Aliens Act). On 29 May 2001 the Hungarian Parliament adopted a set of legislative proposals on migration and asylum issues. This new Act took effect as from 1st January 2002, and it replaced the former Act of Aliens of 1993 XXXVI; and
- **The Act IV of 1991 on the Support of Employment and Benefits for Unemployed Persons** amended in 2002 by the Act LIII.

The office of the labour centre (*employment centre*) (in the area where it is intended to employ foreigners) is the main competent authority to issue the mandatory work permits to be issued for foreigners in order to carry out employment activities in Hungary.

The Act XXXIX of 2001 on the entry, stay and immigration of foreigners to Hungary (Aliens Act) represents the main legal source on labour migration within Hungary. On 29 May 2001 the Hungarian Parliament adopted a set of legislative proposals on migration and asylum issues, so-called '*Alien policing law package*', which have raised many criticisms due to its apparent rather restrictive nature justified mainly in order to combat illegal immigration in the country and on behalf of EU accession. Following the main provisions stated on the Aliens Act, there are *three different types of work permits* that may be issued upon application by the specific employer to the local employment centre:

1. *Individual work permit*. This permit is employer specific, thus providing not only the particular employer who is going to hire the foreigner, but also the place where the job will be developed, the labour sector, the precise duration and the level of wages received by the foreigner. The requirements to be fulfilled in order for a foreigner to obtain an individual work permit may be summarized as follows:

- a. The employer must first issue a valid labour request (*workforce requisition*) before applying for the issuing of the work permit for a non-national;

- b. Proof needs to be shown that no Hungarian job seeker (meeting all the conditions required by the employer in order to carry out the job) applied and was eligible to fill the vacancy in that period of time; and
- c. The foreigner's background and experience fully meets the job conditions presented in the first instance by the employer, the legal requirements, as well as that s/he meets health and medical standards.

Furthermore, the employer has to submit the workforce requisition to the employment centre between 30 and a maximum of 60 days before carrying out the submission of the work permit in order to hire a non-resident.

The foreigner will be allowed, looking at Section 12.2 of the Aliens Act, to ask for a *residence visa for employment purposes* only after the individual work permit has been granted. In addition; Section 13.4 of the Aliens Law provides that '*when the purpose of stay is the performance of work or any other income generating activity, the permission to stay may be issued on the first occasion for a term of maximum four years*'. However, in practice the permission to stay is often issued for a term of maximum one year duration, which may be further prolonged.

Following Section 7.6 of the **Act on the Support of Employment and Benefits for Unemployed Persons**, the Minister of Economic Affairs may provide the maximum number of work permits to be issued to foreigners to work within the Hungarian territory, separately for the entire country, for the counties and for Budapest, and also concerning each profession, as well as those professions for which no work permit will be required. The Hungarian government set up for the first time an annual quota on 2002, i.e. 81,000 max. (*Joint Decree of Minister of Economy, Foreign Affairs, and of Youth and Sport No. 2 of 29 January 2002*). Thus, the number of work permits granted to non Hungarian nationals in order to carry out employment activities in Hungary may not exceed the monthly average number of workers requested by employers as reported during the previous year. The maximum number of foreigners hired inside Hungary also includes those foreigners employed under any international or bilateral agreement. Additionally, Section 7.7 of the same Act states that '*a preliminary opinion of the county (e.g. Budapest) labour council of competence shall be obtained when establishing the maximum number of work permits to be granted to foreign nationals for employment purposes in Budapest and other counties*'.

2. *Collective frame permit*. The employer will submit an application in order to obtain this permit if in the interest of the performance of the contract offered by the employer several or a group of foreigners is needed to be employed. Before this permit may be issued, the local labour centre may receive the Employment Office's opinion in that regard; and

3. *Individual permit based on a collective frame permit*, which will be granted to each of the foreigners composing the group requested.

The possibility to apply for family reunification exists within the Hungarian legal system, in particular under Section 14 of the Aliens Act, which stipulates that a foreigner who is residing in Hungary upon a *residence or immigration permit* or who has been recognized as a *refugee* in Hungary may request family reunification of the following family members:

- The spouse;
- The child under the age of majority. Also the minor child of the spouse (including the adopted child) shall — upon his/her request — be entitled to a permission to stay with a view to family unification *when*:
 - s/he has a valid residence visa issued for this purpose;
 - his/her livelihood in Hungary is assured out of the income or property of the spouse staying in Hungary or in the case of minors the income or property of the parent or his/her own means; and
 - s/he has comprehensive health insurance cover or financial coverage commensurate to making use of health care services, as well as appropriate accommodation for the family unification is guaranteed.

As a general rule, the period of validity of the permission to stay issued to the spouse and the minor child shall not exceed the period of validity of the permission to stay enjoyed by the foreigner.

Regarding anti-discrimination law, Section 5 of **the Labour Act** (Act XXII. of 1992) establishes as a general rule the prohibition of discrimination with regard not only to the employment itself, but also concerning procedures in stages previous to the employment itself. The employer will have to prove that there has been no discrimination during the whole procedure.

Following three years in Hungary a foreign worker can apply for a *residence permit* which will entitle him/her to stay in Hungary for an unspecified period of time. According to Section 18 of the Aliens Act, the foreigner may be granted a residence permit, if s/he:

- has legally and regularly lived in Hungary without interruption for at least three years from his/her entry except if the purpose of legal stay has been to pursue studies;
- his/her accommodation and livelihood in Hungary is guaranteed;
- against him/her excluding reasons specified in this Act do not obtain; or
- his/her residence has been permitted by the minister of the interior for exceptional reasons.

After applying for the residence permit, s/he has to spend 8 years within the Hungarian territory following the date of obtaining the residence permit in order to have the possibility to apply for Hungarian citizenship. Additionally, *the Act LV on Citizenship* of 1993 (Section 4) stipulates that in general terms a foreigner may apply for Hungarian citizenship not less than after eight years residing continuously in the territory.

4.7. Poland

There are two key legal instruments within the Polish legal system on labour migration. However, none deals specifically with high-skilled labour migrants:

- **The Act on Aliens** of 13 June 2003 (Journal of Laws of 2003, No. 128, it. 1175); and
- **The Act No. 1 of 14 December 1994 on Employment and Counteracting Unemployment**, Journal of Laws, 1995.01.06, No. 1, represents one of the key legal instruments regulating employment of foreign workers in Poland. The last version is the Act of 22 June 2001 (Text No. 973).

The main competent authority on labour migration is the so-called *wojewoda* (voivod), who is the chief of the State Administration in each of the sixteen voivodships in which the Polish territory is administratively organized. *The Act on Voivodship Self-government* of 5 June 1998, which delineates the competences delegated to the voivodship, 'addressing unemployment and stimulating the local labour market' needs to be emphasized for the purposes of this paper. The final decision to grant a work permit will be taken by the voivod competent with respect to the place of a foreigner's intended residence in order to carry out the specific labour activity. Currently, within the Polish legal system there is not either any legal instrument or incentive dealing specifically with high skilled labour migrants.

The *main stages* of the procedure may be summarized as follows:

The employer may turn to the Voivod's Office (*Urząd Wojewódzki*) with a particular request for a promise of a work permit for a particular alien he would like to employ (written declaration confirming intention to employ the foreigner). The granting of a Polish visa for the purpose of carrying out work by the Polish representation abroad will be based on the promise to issue the work permit given by the Polish employer. Article 32 of the Act on Aliens of 13 June 2003, Chapter 3, Visas, provides that:

1. *The residence visa for the purpose of carrying out work may be issued to an alien who presents a promise to issue the work permit on the territory of the Republic of Poland or an employer's written declaration confirming the intention to employ an alien if the work permit is not required.*
2. *The visa referred to in sec. 1 shall be issued for the period of residence not exceeding one year, relevant to the period indicated in the promise or the employer's written declaration.*
3. *If an alien intends to carry out, within the fixed period of time, seasonal work on the territory of the Republic of Poland, the visa referred to in sec. 1 shall be issued for the period indicated in the promise to issue the work permit, not exceeding 6 months within the 12 month period, counting from the date of the first entry.*

Once the foreigner has received the visa, the Polish employer needs to go back to the voivod in order to obtain the effective issuing of a work permit (*zezwole nie na pracę*). Then, the voivod turns to the *starosta*, Head/Chair of the executive organ of the county, in order to obtain information about the labour market situation in that particular county. The local Labour Office will first seek to fill the vacancy by a Polish citizen through publishing the job offer and only if there is no response to it, it will give a positive answer to voivod concerning the possibility to hire the foreigner. The employment of foreigners in the Polish labour market is considered to be of a complementary nature. There should be no competition between foreigners and Polish citizens, the latter should be in a more advantageous situation.

Before the work permit is effectively issued, the employer has to pay an extra fee to the Labour Fund (part of the social security funds). The fee is equal to a one-month minimal wage. The fee for the extension of the work permit is half the minimum wage.

Finally, the voivod will issue the work permit, which will be 12 months. The permit can be prolonged for an unlimited number of times. The work permit holds for one concrete employee and for one concrete employer, being employer specific, except for those holding a permit to settle provided by Article 64 and ss of the Act on Aliens, which may be issue if the foreigner fulfils a series of requirements:

1. Prove the existence of a permanent family or economic link binding him/her to the Polish territory;
2. That s/he has secured accommodation and maintenance; and
3. Five years of uninterrupted/permanent residence in the territory before the submission of the application, by holding a residency permit (or 1 year a visa and 4 years a residency permit).

Article 53 of the Act on Aliens governs the residence of a legally employed foreigner and stipulates that may be the residence visa or a residence permit may be issued for a fixed period of time. The period of validity of the residence permit granted to the foreign worker will be from 3 months up to a period not exceeding 2 years, following Article 56 of the Act on Aliens. Also in Article 62.2 it is provided that the foreigner may also apply for the residence permit through the consul, before entering the Polish territory.

The table below shows the number of work permits (employment of foreigners) in Poland, data of Ministry of Economy, Labour and Social Policy:

Year	1995	1996	1997	1998	1999	2000	2001	2002
Number of Work permits	10,441	11,915	15,307	16,928	17,116	17,802	19,086	22,776

A foreigner residing on the territory of the Republic of Poland may apply for family reunification on the basis of Article 54 of the Act on Aliens. Also, Article 56 of the Aliens Act stipulates that the residence permit to family members will not exceed the period of validity of the residence permit given to the foreign employee. In those cases where the alien has

been granted a permit to settle, the member of the family will be granted with a permit for a fixed period of two years. Moreover, a foreigner who has been residing within Polish territory for a period of time of three years based on a residence permit granted on grounds of family reunification may obtain a residence permit to settle independent from the one of the applicant of family reunification following Article 64 of the Act on Aliens.

Regarding anti-discrimination law, any person legally employed falls within the protection provided by Article 11.3 of the Labour Code of 26th June 1974, which prohibits any discrimination based on national or ethnic origin.

Any foreigner who has resided in Poland as a lawful permanent resident may apply for the Polish citizenship, which is formally granted by the President of the Republic, after five years of living in the Republic of Poland.

5. What can one deduce from the above seven cases?

The policy evolution in the four selected current EU countries is certainly pointing towards an explicit recognition of shortages of specific skills in their labour markets. Germany and the UK seem to favour the Australian system of points, which would lead to a relatively more independent status for the potential candidate. Those applicants who score sufficient points – on the basis of an accumulation of the criteria to be met – will have a work permit in their own right independent of the employer, which will allow them the possibility of changing employment.

Sweden and Netherlands on the other hand have both reviewed their regulations related to the employment of foreigners to make the labour market more accessible to persons with required skills, however, they emphasise that their policy remains rather restrictive, even though they could also be moving towards the 'green card system' and their priority is to first recruit their own nationals, other EU/EEA citizens or third country nationals already residing on their territory. On the other hand, both these two countries promote interesting expatriate tax status to attract potentially suitable candidates.

In the four EU Member States, policies for entry and residence seem to place a lot of emphasis on the need of the applicant to be integrated. They recognise that the greater the possibility of integration and eventual accumulation of rights, the more they would manage to attract the specialised labour they require. Therefore they consider that integration may be promoted if the family of the worker can join the applicant and if the applicant can obtain more secure residence rights after a certain period of time on the territory, with a possibility to naturalise if s/he so wishes. Apart from offering a structured package of rights, which eventually could bring the status of the specialised third country national workers very close

to that of EU citizens, language courses and information about the host country's culture are also offered. Indeed studies have shown that the greater the integration of the persons participating in the host country's labour market, the more beneficial it is for the economy of that country. However the real limits of the integration condition/requirement' implementation need to be settled carefully.

The general legal framework on labour migration, which exists in the three Visegrad countries analyzed in this paper, appears to be quite representative of immigration policies being developed also in other candidate states. Except for the case of the Czech Republic with the so-called '*Pilot Project of Active Selection of Qualified Foreign Workers*', conducted by the Czech Ministry of Labour and Social Affairs, policy debates on labour migration into their national economies, and particularly on the need for high skilled migrants, seems to be almost non-existence. This is also clear looking at their particular legal systems and their rather 'protectionist/restrictive' rules dealing with migration and the possibilities/channels for employment of foreigners in their specific territories. It will be however striking to see how these three Visegrad countries will face their emerging labour needs and future problems in a short term perspective, and the specific mechanisms which will be settled to deal with that. It is probable that developments at EU level will be reflected in policy developments in current EU Member States as well as in the acceding states including the 3 Visegrad countries studied as similarly to South Europe, the Visegrad states are staring to experience a transformation from countries of emigration to becoming also countries of immigration. The Czech Republic as stated above has the most developed policies with respect to labour migration from the 3 Visegrad states studied, but in our opinion, similarly to South Europe, it will be only a matter of time before further analysis takes place in each of these countries and further policy is developed to match developments on the one hand at EU level and on the hand, the evolving situation at national, regional and local level.

Similarly to the four Member States studied, value is also placed on family reunification rights and anti-discrimination rules which parallel the provisions developed for labour migration.

Indeed, factors such as the fact that these states may in the near future become 'countries of destination' for migration flows, that they will also share and suffer the current EU labour market gaps and inefficiencies, and that therefore there will be a need to activate their legislative machinery as soon as possible to deal with their specific 'challenging needs (labour shortages) and problems (illegal immigration)', will influence in a decisive manner the priorities of their policy agenda at all the levels on these rather sensitive issues.

6. The paradox between the debate about a more open immigration policy for labour reasons and the provisions underway for freedom of movement of workers from the CEECs

A clear demonstration of the Member States' reserve, towards particularly migration of lower-skilled persons, is the attitude towards the separate but related question of the extension of freedom of movement for the workers coming from the Central and Eastern European countries (CEECs) after enlargement. On this topic, which one cannot develop fully here, a plethora of studies and reports were already produced, presenting rather different (and sometimes contradictory) figures, forecasts and scenarios.

The German government for instance, proposed a seven-year transitional period before extending to the nationals of the CEECs the right to freedom of movement for the workers, although the Commission had submitted an 'information Note' in March 2001, which concluded that there would be no spectacular increase in East-West migration and that the overall impact on the European labour market would be limited, even if certain Member States could be affected more than others.

This document suggested five possible options to deal with this issue:

- a total closure of the Community labour market for a limited period to the workers of the CEECs;
- a complete liberalisation from the accession onwards; and
- three intermediate approaches: a quota system; a safeguard clause and a flexible system of transitional schemes.

The option retained ultimately by the Commission envisages a general transitional period of five years, with a possible individual extension by each Member State for a period of maximum two years. However, after the first two years, an automatic review is envisaged, resting on a report submitted by the Commission to the Council: at that moment, it would be possible to decide to shorten or raise the transitional period, while leaving to the Member States the possibility of maintaining a more restrictive procedure if they wish to. The discussions on the question remain open and the result of the debate will depend without any doubt on the overall agreement on the package deal of accession.

One must bear in mind that the end of the Cold War precipitated a new liberalised era for the free movement of people: not only between Eastern and Western Europe, but within Central and Eastern Europe itself. Open borders policy within CEE has helped to break down stereotypes and hostilities in the region, as between Poland and Russia, has helped foster contacts between national minorities, such as between Hungarians in Ukraine, and has generated spheres of economic activity and cooperation within the region. The EU accession of Baltic and Central European States threatens this. In February 2000 the Czech Republic

announced visa regimes for citizens of the Ukraine, Russia and Belarus, with Slovakia following suit. In September Estonia introduced full visa regimes for Russian citizens, following the termination in March of the two countries agreement on simplified border crossings. Lithuania has warned that it may have to rule out its agreement allowing for visa free travel of Kaliningrad citizens by 2003. And while the implementation of the Schengen acquis creates tensions along between candidate countries and their eastern neighbours, candidate countries will only be able to reap the benefits of freedom to take up employment in present member countries after a 'transition' period of several years.

It is clear that the present implementation of the Schengen criteria will have an adverse effect on the free movement rights of citizens along the EU's future border: both in the freedom to travel and the freedom to reside and work. Meanwhile the question of whether visa regimes could have the effect of not curbing crime while making travel and work difficult for most normal citizens remains unanswered. Moreover, the new security agenda in the wake of September 11th will in all likelihood make the process of obtaining a Schengen visa even more difficult, and could exacerbate existing tendencies in the lack of transparency in the administration of visas. Increasingly the obtaining of a visa could become a privilege, not a right. Keeping in mind that the border regions are not only linked through economic ties, but often of family and national identity – as with the Russian population living on both sides of the Narva-Ivangorod border between Estonia and Russia – it is clear that a hostile visa regime could infringe on the basic rights of citizens.

These opposing tendencies have highlighted an existing contradiction in the EU's eastern policy. On the one hand EU external relations have focused on encouraging cooperation between the EU and its future Eastern neighbours, on the other, the logic of EU enlargement and the demands made on candidate and accession countries to adopt the Schengen criteria lead to an exclusionary situation on the EU's future border. The incorporation of Central European and the Baltic States in to the EU has the marked potential of drawing new dividing lines across Europe: undoing the progress which has been achieved over the last decade.

One must not forget either that the future members of the EU have also started to experience similar demographic problems as the current EU members. Therefore, they too will be thinking of participating in a controlled open immigration policy addressing their own needs.

7. A common european policy on immigration: the way forward

The topic of immigration is very sensitive, as it has an impact on a wide range of areas (social, cultural, economic and legal). It is therefore difficult to reach an agreement on this debate. Although the latest developments and the partial change of attitude on European

level can give rise to moderate optimism on the future of a European policy on immigration, the principal following points remain highly controversial.

The EU should publish a declaration espousing the principle that the territory of the EU is a common immigration area, which needs to be endorsed by all the Member States.

Europe should not back into future. If we really want to stop with the 'zero immigration policies' of the early 1990s, which did not work well or address the current demographic situation and labour market needs, then we should not be afraid to declare our objective of defining Europe as 'an area of immigration'. We need to bear in mind that the definition of an area of immigration does not necessarily involve the granting of free and generalised access to the labour markets, as the examples of the United States and Australia show. However, it would probably be the first step towards a clear and coherent policy of management of migratory flows, which should supplement the measures intended to fight against illegal immigration, smuggling and the draft of human beings.

The European Union must grant rights to third country nationals who reside legally on the territory of one of the Member States that are 'as near as possible' to those enjoyed by EU-citizens. The importance of fair treatment of third country nationals has been underlined by the European Council in Tampere, in which the need of an '*approximation of the legal status of third country nationals to that of the Member State's*' was acknowledged (paragraph 21), and the objective that '*long-term legally resident third country nationals be offered the opportunity to obtain the nationality of the Member State in which they are resident*' was endorsed. However, EU immigration policy has not, so far, incorporated steps to ensure that migrants benefit from comparable living and working conditions to those of nationals. We must think very clearly before defining a status for long-term third country nationals which falls short of the objectives set out in Tampere as otherwise we risk institutionalising discrimination.

By way of conclusion...

It is undeniable that the enlarging EU both at supranational and at national level is advancing progressively towards developing proactive immigration policies which make a break with the previous policies based on a premise of zero-immigration. However to what extent will this lead to a coherent framework on immigration at supranational level is still an open matter. If the answer is affirmative, then the question is to know when and, one could add, how, such a framework will be set up. The answer to these key questions may be given by the work developed within the European Convention and by the adoption of a (near) future European Constitution, in which the role of the European Commission needs to be

substantially increased in importance, and the decision-making will be based mainly on qualified majority voting. It seems clear that policy makers in the Council need more 'decisive political courage' to move towards a greater convergence.

Indeed, although the Treaty of Amsterdam, the Vienna Action Plan and the Tampere Conclusions fix precise deadlines for the adoption of the majority of the measures, this process has seen some delays and encountered a number of difficulties. One can only hope that the new attitude towards the immigration of third country nationals combined with the new competencies of the Community in the field of immigration will finally reflect the 'good intentions' expressed in the several documents and action plans in this policy area and that the outcome would be at the same time concrete, effective and democratic.

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