

# **The Dublin System and its Impact on the Migration Flows and the Normative Landscape in Hungary, Poland and Slovakia**

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Submitted to  
Central European University  
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In partial fulfilment of the requirements for the degree of Master of Arts

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Word Count: 17032

Budapest, Hungary  
2011

## **Abstract**

This paper analyzes how the Dublin System, which in the EU provides a framework for deciding about the responsible state for processing an asylum application, is affecting irregular and asylum migrants passing through the three Central Eastern European states – Hungary, Poland and Slovakia. Moreover, I explore what effects this system has on the three mentioned states. Combining information from scholarly works, reports and statistics concerning the Dublin Regulation as well as irregular and asylum migration in Hungary, Poland and Slovakia, with interviews with experts in the researched field, the paper argues that irregular and asylum migrants are affected by the existence of this system. However, there is a problem with the measurement of this impact which is caused by the impossibility to obtain the exact data. Nevertheless, it is argued that this effect can be described as “large” since the Dublin System binds the asylum and irregular migrant to a certain state and therefore also to its whole asylum system. Furthermore, the importance of the impact can be concluded from the behavior of apprehended asylum and irregular migrants. On the other hand, the effect of the Dublin System on states is small. This is the result of the overall decreasing number of asylum seekers and of the fact that the asylum capacities of these states are projected for much larger numbers of asylum seekers.

## Acknowledgements

First and foremost, I would like to thank Professor Boldizsár Nagy, whose challenging classes and helpful advice were the major source of inspiration for this thesis.

I would like to also thank my interviewees who shared with me their noteworthy observations.

Especially I want to thank Agnes Ambrus for her constant willingness to assist me and kind words of advice, and Jana Feriancova who helped me better understand the Dublin System as it functions from the inside. I feel also thankful to Robin Bellers for his time, patience and numerous comments concerning the structure and language of this thesis.

Last but not least I want to thank to my family for their love and support.

Milovaní rodičia, Evička, drahé babičky a môj úžasný dedko.

Ďakujem Vám!

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## List of Abbreviations

AS	Asylum seeker
ASs	Asylum seekers
CEE	Central and Eastern Europe
DC	Dublin Convention
DR	Dublin Regulation
DS	Dublin System
DT	Dublin Transfer
ECRE	European Council on Refugees and Exiles
EU	European Union
Eurodac	European Dactyloscopy
Frontex	European Agency for the Management of Operational Cooperation at the External Borders of the Member States
IOM	International Organization for Migration
MIPEX	Migrant Integration Policy Index
Mixed migrant	Asylum and irregular migrant
MS	Member State
MSs	Member States
NGO	Non-governmental organization
OECD	Organization for Economic Co-operation and Development

## Introduction

Both asylum<sup>1</sup> and irregular<sup>2</sup> migration are major issues for the European Union and its Member States. The importance of these topics started to increase in the mid-80s when the European Communities realized that the policies aiming at the solution of the issues connected with asylum and irregular migration must be an integral part of the creation of a smoothly functioning common market.<sup>3</sup> This consideration combined with the elimination of internal borders led to the adoption of various measures which in the long run can lead to the creation of a common European asylum policy.

One part of the European asylum policy consists of rules according to which the state responsible to process the asylum application is determined. The evolution in this particular field started with the 1985 Schengen Agreement, continued with the 1990 Dublin Convention and culminated with the adoption of the 2003 Dublin Regulation. The Dublin Regulation emanates from the same principle as its predecessors when usually the responsible Member State is the one through which the asylum seeker first entered the European Union.<sup>4</sup> This rule passes a large burden to the Member States with EU external borders.

After the 2004 EU enlargement the new Member States became automatically an integral part of this system. Hungary, Poland and Slovakia (CEE states) as the states on the outer rim of the EU became subsequently recipients of asylum seekers from all Europe. Because these

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<sup>1</sup> Asylum migration is defined as “a movement that takes place outside the regulatory norms of the sending, transit and receiving countries“. See Stephen Castles and Sean Loughna, “Trends in Asylum Migration to Industrialized Countries: 1990-2001, Discussion Paper No. 2003/31,“ World Institute for Development Economics Research, Apr. 2003, (<http://www.diaonet.org/wps/cas02/cas02.pdf> (accessed May 6, 2011), 2-3.

<sup>2</sup> Irregular migration is defined as “a movement undertaken for the purpose of, or with the consequence of, seeking asylum in another state“. See International Organization for Migration, *Glossary On Migration* (Geneva: 2004): 34, [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published\\_docs/serial\\_publications/Glossary\\_eng.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/Glossary_eng.pdf), (accessed May 6, 2011) .

<sup>3</sup> Gregor Noll, *Negotiating Asylum: the EU Acquis, Extraterritorial Protection, and the Common Market of Deflection* (The Hague: M. Nijhoff, 2000), 123.

Eiko R. Thielemann, “Between Interests and Norms: Explaining Burden-Sharing in the European Union." *Journal of Refugee Studies* 16, no. 3 (2003): 270.

<sup>4</sup> Rosemary Byrne, "Harmonization and Burden Redistribution in the Two Europes." *Journal of Refugee Studies* 16, no.3 (2003): 353-54.

states asylum systems were at that time relatively new, there were fears whether these countries can maintain such a large influx of asylum seekers.<sup>5</sup> However, as Garlick shortly after the enlargement states in respect to the impact of the Dublin System, the caseloads in these countries did not reach crisis levels.<sup>6</sup> Why the predicted situation did not occur and generally how the CEE states were affected by the Dublin System will be one of the focuses of this thesis.

However, this system does not put pressure just on states, it also created large problems for irregular<sup>7</sup> and asylum<sup>8</sup> migrants' heading usually towards Western Europe through Eastern or Southern EU Member States. The migrants' issues are connected with the existence of unequal asylum systems throughout Europe, as well as different economic conditions in particular states. Furthermore, as Garlick notes, this system does not take into consideration the wishes and cultural background of the migrants.<sup>9</sup> Battjes adds that because of the Dublin System the asylum seekers are *de facto* deprived of procedural rights to which they are entitled under international law through prescription of mutual recognition of negative asylum decisions.<sup>10</sup>

As is clear from the above mentioned, the Dublin System is a target of a strong critique. Peers marks the Dublin rules as an expensive waste of time which at the end applies - because of its ineffectiveness - to only a small portion of asylum seekers.<sup>11</sup> Foster also criticizes the system and recommends developing one which brings solutions to the refugee crisis by creating policies truly concerning the human rights and need of refugees.<sup>12</sup> Garlick concludes that the Dublin System is an unsatisfactory solution both for EU Member States as well as for people who are,

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<sup>5</sup> Ulrike Brandl, "Distribution of Asylum Seekers in Europe? Dublin II Regulation Determining the Responsibility for Examining an Asylum Application," in *The Emergence of a European Asylum Policy / L' Emergence D'une Politique Europeenne D'asile*, ed. Philippe De. Bruycker (Brussels: Bruylant, 2004), 61.

<sup>6</sup> Madeline Garlick, "The EU Discussions on Extraterritorial Processing: Solution or Conundrum?" *International Journal of Refugee Law* 18, no. 3-4 (2006): 609.

<sup>7</sup> Irregular migrant is defined as "Someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorized to remain in the host country. See Glossary for Migration, 34.

<sup>8</sup> Someone who undertakes the migratory movement for the purpose of, or with the consequence of, seeking asylum in another state.

<sup>9</sup> Garlick, 605-606.

<sup>10</sup> Hemme Battjes, "Balance between Fairness and Efficiency - The Directive on International Protection and the Dublin Regulation," *European Journal of Migration and Law* 4, no. 2 (2002): 191-92.

<sup>11</sup> Steve Peers, *EU Justice and Home Affairs Law* (Oxford: Oxford University Press, 2011), 362.

<sup>12</sup> Michelle Foster, "Responsibility Sharing or Shifting? "Safe" Third Countries and International Law," *Refuge: Canada's Periodical on Refugees* 25, no. 2 (2008): 73.

because of its existence, caught in limbo or denied their rights.<sup>13</sup> Moreover, international organizations as well as non-governmental organizations strongly criticize the Dublin System for the same reasons.<sup>14</sup>

All these problems created by the Dublin System affect the irregular and asylum migrants, who are trying to adapt to its existence. This adaptation consists of finding holes in it as well as in the changes in the migrant's transitory routes, which should head through a state with a more favorable asylum system. Jandl, for example, notes that one such reaction is the decrease of deliberate approaches of authorities with the intention of application for asylum.<sup>15</sup>

From all this it is clear that the situation in Central and Eastern Europe, in which the EU border is guarded by the new Member States, is an ideal area for the research of the Dublin System. Therefore the thesis aims within this region to analyze the changes in the migratory flows and in the migrants' behavior which are connected with the existence of the Dublin System. Moreover, it examines the challenges which Hungary, Poland and Slovakia (CEE states) are facing with respect to this system. The main issue is, therefore, to investigate how the Dublin System has affected asylum and irregular migration as well as states in Central Eastern Europe. With these issues is closely interconnected the question whether the Dublin System has successfully fulfilled one of its main tasks – to stop the secondary migratory movements. To answer these questions, the thesis looks mostly at trends and estimates, because - as I later explain - it is impossible to obtain clear and precise answers due to the hidden nature of irregular and asylum migration.

The main assumption from which the thesis starts is that the Dublin System has an effect on the irregular and asylum migrants and that this system is responsible for changes in asylum

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<sup>13</sup> Garlick, 628.

<sup>14</sup> See among others: UNHCR, "The Dublin II Regulation. A UNHCR Discussion Paper," (April 2006) <http://www.unhcr.org/refworld/docid/4445fe344.html> (accessed February 9, 2011).

Paul McDonough, Magdalena Kmak and Joanne Van Selms, "Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered," (ECRE, 2008) [http://www.ecre.org/files/Sharing%20Responsibility\\_Dublin%20Reconsidered.pdf](http://www.ecre.org/files/Sharing%20Responsibility_Dublin%20Reconsidered.pdf) (accessed April 30, 2011).

<sup>15</sup> Michael Jandl, "Irregular Migration, Human Smuggling, and the Eastern Enlargement of the European Union." *International Migration Review* 41, no.2 (2007): 308.



and irregular migration flows, as well as in the behavior of concrete individuals. This I will demonstrate through concrete cases in which the migrants adapted their behavior to avoid being registered in the system. Moreover, evidence is provided through the interviews with state and UNHCR officials as well as NGO and EU experts who list the Dublin System as one of the factors impacting the decision-making of the irregular and asylum migrants. Furthermore, the combination of scholarly works, reports and statistics also support this claim.

In contrast to this, the effect of the Dublin System on the researched states is limited because of the overall decrease in asylum seekers and their unwillingness to stay for a longer period in these countries. The evidence for this claim is provided by interviews with experts, as well as by analyzing the statistics concerning asylum and irregular migration.

This thesis contributes to the ongoing debate that has emerged in the EU asylum literature in various ways. First, by combining diverse sources it shows the complex effect of the Dublin System on the mixed<sup>16</sup> migration heading to the three CEE countries. To my knowledge, no research has been conducted in any of these states looking at the Dublin System from such a complex perspective.<sup>17</sup> Second, by comparing these three states I point out differences in the practice of asylum systems and show how the irregular and asylum migrants perceive each of them and whether there are any differences in their attitude towards any of the three CEE states. This part enhances the discussion about the aspects which are influencing the decision-making of migrants. Moreover, the conducted research adds new impulses to the discussion whether the Dublin System is effectively fulfilling its goals. In the thesis I argue that one of the main objectives of the whole system – to stop the secondary movements of asylum seekers has not been fulfilled. On the contrary, by preventing the asylum seekers from reaching their destination country, it even encourages these movements. Furthermore, as a secondary outcome, because the

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<sup>16</sup> Asylum and irregular migration

<sup>17</sup> In 2011 a report was prepared by a legal clinic in Poland handling the functioning of the Dublin Regulations in various Polish provinces in connection with the work of border guards and non-refoulement principle. However, this thesis has broader concentration. See: Agnieszka Gorlach and Katarzyna Przybylska, "Report on Application of Dublin Procedures in Poland - Dublin II Mechanism versus the Non-refoulement Principle," (Rep. Halina Nieć Legal Aid Center, 2010).

thesis encompasses Hungary, Poland and Slovakia it gives information about the asylum policies on the majority of the Eastern Schengen border and collates the practices in each state. Lastly, I am convinced that thanks to its extent which looks at the effects of the Dublin System from several angles, the thesis can be used as an additional source in the discussion about alterations in the Dublin System.

To investigate my research questions in the first chapter I present the definitions and the classification which I utilize. This step is necessary because of various classifications in the field of international migration. Moreover, in this chapter I show the connection between both asylum and irregular migration and human smuggling. After this I explain that due to human smugglers and the network of migrants who are residing in the transit and destination countries, migrants do have knowledge about the Dublin System as well as the asylum systems in various states. Then, in Chapter 2, I turn my focus on Europe and the Dublin System in particular. In the first part of the second chapter I describe how the system works and what its aims are. After that in the second subchapter I indicate the problems connected with the system – in particular I explain the philosophy on which the system is built, the discussion about the problems which it creates for asylum seekers and about the missing burden sharing, which even resulted in a debate about the system's amendments. This dispute is explored in the last part of the second chapter.

In the last chapter I focus on my three cases. The starting point for answering the main empirical question is provided by the interpretation of statistics related to all three states. First I present statistics which show the long-term development in the field (2000-2010). After that I display more detailed up-to-date figures (2008-2010) which not just confirm the trend, but also explain the current situation in asylum systems in Hungary, Poland and Slovakia. Here I clarify these statistics with the intention to highlight the differences between particular countries.

In the last three sections of the thesis - each dedicated to one state - I offer a more detailed explanation of the developments. The primary means used here to answer my research question is the content analysis of experts' interviews. Moreover, I also use reports investigating

the irregular and asylum migration with the intention to enrich the information.<sup>18</sup> By combining analysis of accessible statistics and the use of interviews with experts in various positions with different perspectives, I present an accurate picture about the changes in irregular migration in CEE countries and how the Dublin System affects them.

However, this picture does not present exact numbers and figures neither is it the intention to do so, nor is it possible in any work of this magnitude. This is the result of the nature of irregular and asylum migration which mostly takes place in hiding. Therefore, there are no exact numbers about the magnitudes of irregular or asylum migrants passing through the CEE countries. The magnitudes of these flows can just be estimated from the numbers of apprehended migrants or from the amount of asylum seekers. Moreover, because the irregular and asylum migrants are reluctant to participate in research<sup>19</sup> and human smugglers are also not interested in exposing themselves to publicity,<sup>20</sup> it is impossible to assess precisely the importance of particular factors on the migrant's decision making. Therefore both the changes in migratory flows as well as the influence of various factors on deviations in the attitude of irregular and asylum migrants will be just estimates deduced from secondary sources.

Furthermore, the exact impact of the existence of Dublin Regulation on a state is impossible to evaluate in a paper of this extent. This is from a large part the result of statistics. Although the CEE countries became EU members in 2004, a slow advance in the uniformity in methodology is visible just from 2008. Therefore all the data showing the situation before the 2008 serve predominately as information about the trends. In addition, the post-2008 statistics which show the same indicators and for creation of which should have been used the same

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<sup>18</sup> See among others: Krystyna Iglicka and Katarzyna Gmaj, "Undocumented Migration. Counting the Uncountable. Country Report – Poland," Clandestino, November 2008, [http://dandestino.eliamep.gr/wp-content/uploads/2009/10/dandestino\\_report\\_poland\\_final\\_2.pdf](http://dandestino.eliamep.gr/wp-content/uploads/2009/10/dandestino_report_poland_final_2.pdf), (accessed May 30, 2011).

Jozef Divinský, "Undocumented Migration. Counting the Uncountable. Country Report – The Slovak Republic," Rep. Clandestino, December 2008, [http://dandestino.eliamep.gr/wp-content/uploads/2009/10/dandestino\\_report\\_slovak-rep\\_final3.pdf](http://dandestino.eliamep.gr/wp-content/uploads/2009/10/dandestino_report_slovak-rep_final3.pdf) (accessed 30 May 2011).

<sup>19</sup> Franck Duvell, "Ethical Issues in Irregular Migration Research," Clandestino, October 2008, ([http://irregular-migration.hwwi.de/typo3\\_upload/groups/31/4.Background\\_Information/4.1.Methodology/EthicalIssuesIrregularMigration\\_Clandestino\\_Report\\_Nov09.pdf](http://irregular-migration.hwwi.de/typo3_upload/groups/31/4.Background_Information/4.1.Methodology/EthicalIssuesIrregularMigration_Clandestino_Report_Nov09.pdf) (accessed May 29, 2011), 7- 9.

<sup>20</sup> Matthias Neske "Human Smuggling to and through Germany, " *International Migration* 44, no.4 (2006): 131.

methodology as defined by the EU legislature, sometimes have a different methodology. Therefore in most cases it is not possible to make any comparison between the Dublin transfers/requests and asylum applications, because they both count different units – individuals or various defined cases. Furthermore, because of the same issue it was not possible to do the data comparisons between the different states. To do this, it is necessary to have access to the complete records of the Dublin Units in all three researched countries. Moreover, the various providers of the data – Member States, Eurostat, UNHCR and European Migration Network are using different methodologies and therefore their statistics are often unsuitable for a comparison.

However, the impact of the Dublin Regulation on the CEE states is measured through the use of different methods – predominately through the analyses of expert interviews and the EU impact assessments. The three states were chosen because of their geographical and historical proximity. Together they represent 2362 kilometers of overland Schengen border. Moreover, all three started to build their asylum policies after 1989 and entered the EU and subsequently the system created by the Dublin Regulation in 2004. Furthermore, another step which they made together was the accession to the Schengen area. On the other hand, these countries differentiate in many important factors influencing the decision making of asylum and irregular migrants, as are the recognition rate and different usage of detention. These differences are utilized throughout the thesis to measure the importance of the Dublin System.

# 1 Irregular and Asylum Migration

This chapter introduces the definition of migration, its particular types and presents the connection between irregular and asylum migrants. For the definitions and classification I decided to utilize predominately the frameworks created by the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR) because of their common and worldwide usage. Furthermore, this chapter shows the process of decision-making of an irregular and asylum migrant about the destination country and the utilized route. Moreover, this part of the thesis explains the distinction between human trafficking and migrant smuggling and connects the latter to irregular and asylum migration.

## 1.1 Migration and its types

The twentieth century was a century of migration. This was due to international wars, internal conflicts, large economic disparities and the unprecedented evolution of the technology movements which were before unimaginable. The increase in international migration stimulated a need for a system of rules under which this type of migration occurs. Because of this new- post Second World War system a strong need for exploring migration and its types evolved and various definitions and classifications emerged. It is not the goal of this thesis to present them. However, there is a necessity to introduce the definitions of the terms I will use throughout this work because various explanations of specific terms exist and these are sometimes even in conflict.

According to the IOM, migration can be defined as a

*process of moving, either across an international border, or within a state. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes...*<sup>21</sup>

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<sup>21</sup> *Glossary On Migration*, 43.

Even when speaking only about international migration - on which I will focus in this work - which includes movements of "*persons who leave their country of origin or their habitual residence, to establish themselves either permanently or temporarily in another country*"<sup>22</sup> the figures are enormous. According to the United Nations, the number of international migrants reached 214 million in 2010.<sup>23</sup> Naturally, these figures are just estimates, because the possibility to calculate the accurate number of migrants is very limited.

International migration can be divided into different types. Here the terminology is not clear and various terminologies and definitions are used in statutes or in the international and academic field. For this thesis I will utilize the classification of international migration into regular, irregular and asylum, with the main focus on the latter two. Regular immigration, also called legal or documented, occurs through legal channels. This is its main feature and because this work is not handling this type of migration, this crucial distinction between this and other types is sufficient.<sup>24</sup>

As stated before, the terminology of international migration which occurs not through legal channel is not unified. The most used adjectives for migration which occur not through regular channels are irregular, undocumented, unauthorized or illegal and the same adjectives are used for persons affected by this phenomenon.

However, sometimes the terms illegal, irregular, unauthorized and undocumented are used interchangeably,<sup>25</sup> in most cases the meaning being different. Because the understanding of the terms irregular migrant and irregular migration is crucial for this thesis, in the next part I will define these terms and explain how a migrant becomes irregular.

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<sup>22</sup> *Glossary On Migration*, 33.

<sup>23</sup> The Department of Economic and Social Affairs of the United Nations Secretariat, "Trends in International Migrants Stocks: The 2008 Revision," 2009, [http://www.un.org/esa/population/migration/UN\\_MigStock\\_2008.pdf](http://www.un.org/esa/population/migration/UN_MigStock_2008.pdf) (accessed May 6, 2011), 11.

<sup>24</sup> *Glossary On Migration*, 56.

<sup>25</sup> Ellen M. Brennan, "Irregular Migration: Policy Responses in Africa and Asia," *International Migration Review* 18, no. 3 (1984): 410.

For the definition of the term irregular migrant I utilize the definition created by the International Organization for Migration (IOM). According to it, an irregular migrant is defined as:

*someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorized to remain in the host country.*<sup>26</sup>

From this definition refugees and asylum seekers (ASs) are excluded. Both these terms are explained in the next section. Subsequently the term irregular migration can be defined as “movement that takes place outside the regulatory norms of the sending, transit and receiving countries.”<sup>27</sup> As noted above, there is no universally accepted definition of this term and sometimes it overlaps with the definition of illegal migration. Nowadays, there is a tendency to narrow the term illegal migration to negative effects connected with irregular migration, as are cases of smuggling of migrants and trafficking of persons.<sup>28</sup> This tendency also has an effect on the term illegal migrant, which in time took on a negative connotation.<sup>29</sup> Moreover, there is a risk that migrants identified as illegal can be viewed as denied their humanity.<sup>30</sup> For these reasons I use the terms illegal migration and illegal migrant in the cases where I write about the negative aspects of irregular migration.

When focusing on the term undocumented it is possible to state that it is too ambiguous. It sometimes incorporates migrants who have not been documented and sometimes it comprises just migrants without documents.<sup>31</sup> However, the terms undocumented migrant and undocumented migration are frequently used with the terms irregular migrant and irregular migration interchangeably and therefore I use this term in this way. In contrast, I will not utilize

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<sup>26</sup> *Glossary On Migration*, 34.

<sup>27</sup> *Ibid*, 34-35.

<sup>28</sup> *Ibid*, 34.

<sup>29</sup> Khalid Koser, "Irregular Migration, State Security and Human Security," International Organization For Migration, September 2005, [http://iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy\\_and\\_research/gdm/tp/TP5.pdf](http://iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gdm/tp/TP5.pdf) (accessed May 3, 2011), 5.

<sup>30</sup> *Ibid*.

<sup>31</sup> Koser, 5.

in a similar manner the term ‘unauthorized migrants’ because not all irregular migrants can be characterized as unauthorized.<sup>32</sup>

At the EU level, the terms irregular migration and migrant are commonly used. However, at the level of Member States, the terms are not uniform and adjectives irregular, undocumented and illegal are common. Furthermore, at this level each of these adjectives can have a different meaning in a particular country. In Hungary, Poland and Slovakia all three variations are used, which is both the result of language specialties and the absence of a clear classification even on the level of a particular country.

There are various ways in which a person may become an irregular migrant. The first possibility is to stay after the permission to stay has expired or applications to stay have been refused and the person stays. The next possibility is to enter the country illegally. This option includes various possibilities, from using forged documents to not telling the truth about the reason for entering.<sup>33</sup> The third option is being born to irregular migrants. Another reason is to not comply with the conditions attached to “*leave to remain*” or the purpose for which “*leave*” was granted. This possibility also includes the case when a regular migrant starts to work without permission.<sup>34</sup>

## 1.2 Asylum migration

After the definition of irregular migration I will in this part present the definition of the terms asylum migration and refugee. Furthermore, I will explain the relationship between irregular and asylum migration and irregular and asylum migrants to emphasize the reason for my adopted classification.

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<sup>32</sup> Meaning entering the country by unauthorized means.

<sup>33</sup> Migrants’ Rights Network, “Irregular Migrants: Migrants’ Rights Network Working for the Rights of All Migrants the Urgent Need for a New Approach,” May 2009, [http://www.migrantsrights.org.uk/downloads/policy\\_reports/irregularmigrants\\_fullbooklet.pdf](http://www.migrantsrights.org.uk/downloads/policy_reports/irregularmigrants_fullbooklet.pdf) (accessed May 6, 2011), 4-5.

<sup>34</sup> Ibid.



Asylum migration can be defined as *"a migratory movement undertaken for the purpose of, or with the consequence of, seeking asylum in another state."*<sup>35</sup> I decided to utilize this definition because - with the usage of both the terms purpose and consequence – it indicates that in many cases it is problematic to conclude whether the migrant is really a genuine asylum migrant who is seeking protection in the sense of the 1951 United Nations Refugee Convention (Refugee Convention).<sup>36</sup> Thanks to the existence of this Convention the terminology in the field of asylum migration is clearer than in the case of irregular migration. According to the Convention a refugee is:

*a person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*<sup>37</sup>

The decision on refugee status is a declaratory act. However, for the time until the official decision about the state of the asylum migrant is made, I will utilize the term asylum seeker – a person who has fled their own country and applies to the government of another country for protection as a refugee.<sup>38</sup> Furthermore, ASs may not obtain just refugee protection in the meaning of the 1951 Convention. After the asylum process they can acquire also other types of protection, e.g. subsidiary protection or protection because of humanitarian reasons. Although after the decision in the asylum process these people are not refugees under the meaning of the Convention, since they are applying for asylum they are asylum seekers. Therefore I include them in the group of asylum migrants.

The distinction between refugees and irregular migrants is in theory clear, however in practice it sometimes disappears. As The Office of the United Nations High Commissioner for Refugees (UNHCR) states, these two groups are fundamentally different and are treated differently under international law. They move because of different motives, but they increasingly

<sup>35</sup> Castles and Loughna, 2-3.

<sup>36</sup> The United Nations Convention Relating to the Status of Refugees.

<sup>37</sup> Article 1A of "The United Nations Convention Relating to the Status of Refugees as amended by the 1967 Protocol."

<sup>38</sup> Australian Human Rights Commission, "Asylum Seekers and Refugees," [http://www.hreoc.gov.au/human\\_rights/immigration/asylum\\_seekers.html](http://www.hreoc.gov.au/human_rights/immigration/asylum_seekers.html) (accessed May 31, 2011).

make use of the same routes and types of transport to get to their destination.<sup>39</sup> Therefore many asylum seekers' movements are irregular, because they often occur without the required documentation, involve smugglers and use unauthorized border crossing points.<sup>40</sup> The international regime is created on the principle of different handling for refugees compared with other migrants. Today, not just in Europe, there is a tendency to label also genuine asylum migrants as irregular migrants who abuse the asylum process. This is connected with anti-immigration policies in many states of the EU. These anti-immigrant feelings led to restrictive entry rules which cause genuine refugees a problem to claim asylum because they are not able to enter the potential reception country. Therefore they utilize the services of people smugglers. Because of this, the distinction between ASs and irregular migrants becomes even more blurred.

Another reason why this categorization is in practice not so clear is that many irregular migrants apply for asylum after their apprehension, with the intention to stay in the country as long as possible or to - after a certain period - move more easily to another country. This is because the current policies *de facto* do not give them any other chance when they want to arrive and stay in their destination country. Furthermore, an additional problem is connected with the situation when an AS also becomes due to certain reasons, an irregular migrant. This happens when the AS violates the asylum rules of the reception state e.g. when he departs from its territory to seek protection from another state or when he starts to work illegally. The former situation is labeled as irregular secondary movement. This occurs when asylum seekers and refugees "...move in an irregular way from a country where they have already applied for asylum or been granted refugee status."<sup>41</sup> However, the fact that they become an irregular migrant does not usually change their status of being an asylum seeker. This change can happen in the case in which the country

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<sup>39</sup> UNHCR, "Mixed Migration," UNHCR Welcome, <http://www.unhcr.org/pages/4a16aad66.html> (accessed May 6, 2011).

<sup>40</sup> UNHCR, "Asylum and Migration," UNHCR Welcome, <http://www.unhcr.org/pages/4a1d406060.html> (accessed May 6, 2011).

<sup>41</sup> UNHCR, "Summary Conclusions on the Concept of "Effective Protection" in the Context of Secondary Movements of Refugees and Asylum-Seekers - Proc. of Lisbon Expert Roundtable," Lisbon, February 2002, <http://www.hrcr.org.au/roundtable.htm> (accessed May 3, 2011).

where the asylum seeker violates the rules denies him/her automatically asylum protection because of the violation of asylum rules.

### **1.3 Destination country, transitory routes and the role of human smugglers**

As stated above, there is in theory and in international law a clear distinction between irregular and asylum migrants. The motivation of refugees is to seek protection against persecution for the reasons defined in the 1951 Convention. Irregular migrants travel because of other motives - principally economic, or for family reunification. However, both these groups travel on their journey together. The routes they choose are influenced by many factors. Because of the problems they may encounter, both tend to utilize the services of human smugglers. The goal of this section is to present the elements which influence the decisions of migrants about the destination country and about the route and show the influence of human smugglers on this decision. This will enable me to present other reasons, apart from the Dublin System (DS), which influence the decision to enter the EU through the CEE countries; however this concrete topic will be elaborated in the second and third chapter. Moreover, this subchapter will show that migrants often have extensive knowledge about the conditions in both destination as well as transfer countries.

Before the journey the migrant usually makes two decisions, about the country of destination and about the route which should be used. The factors which influence the decision about the destination country are diverse and depend strongly on the type of migrant. Whether asylum migrants are sometimes pursued from their homes in a rush and without the possibility of prior deliberation, irregular migrants typically have this possibility.

Therefore, the first factor which influences an asylum seeker is the effort to find protection against persecution. This is why ASs tend to flee to countries with better human

rights' records than exist in their country of origin.<sup>42</sup> However, after the protection factor other influences are similar for both groups. Väyrynen notes between the most important factors which influence the decision of migrants about the country of destination the existence of large immigrant communities in the country of destination, and the language knowledge of the migrants.<sup>43</sup> This is connected with the cost of migration – according to network theory, a higher number of ASs from a certain state lower the costs of migration for those left behind.<sup>44</sup> This is because after a certain period of time the system of facilitators emerges which makes the journey easier. Moreover, existing groups of migrants from a particular country tend to help their fellow citizens.<sup>45</sup> This certainly multiplies in the case when the main goal of the migrant is family reunification.

Geographical proximity is another reason for choosing the country of destination. This is because most of the migrants do not have adequate financial means to travel to distant countries.<sup>46</sup> Neumayer concludes that for asylum migrants a very important factor is the recognition rate of refugees.<sup>47</sup> This obviously also applies to irregular migrants who want to utilize the asylum system of a reception country as a means for staying. The studies conducted about asylum migration to developed countries show that economic factors are also important factors when deciding about the country of destination.<sup>48</sup> This factor multiplies in the case of irregular, especially economic migrants. Thielemann speaks about five types of factors - economic, historic, political, geographic and policy related, which pull the migrant to the reception country. According to him, the key determinants are economic, historical and

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<sup>42</sup> Eric Neumayer, "Bogus Refugees? The Determinants of Asylum Migration to Western Europe," *International Studies Quarterly* 49, no. 3 (2005) : 394.

<sup>43</sup> Väyrynen, Raimo. "UNU-WIDER : Illegal Immigration, Human Trafficking, and Organized Crime." UNU-WIDER : UNU-WIDER. WIDER - World Institute For Development Economic Research, October 2003, [http://www.wider.unu.edu/publications/working-papers/discussion-papers/2003/en\\_GB/dp2003-072](http://www.wider.unu.edu/publications/working-papers/discussion-papers/2003/en_GB/dp2003-072) (accessed May 3, 2011), 17.

<sup>44</sup> Douglas Massey, et al., "Theories of International Migration: A Review and Appraisal," *Population and Development Review* 19, no .3 (1993): 448-49.

<sup>45</sup> Neumayer, "Bogus Refugees?" 393.

<sup>46</sup> Ibid.

<sup>47</sup> Eric Neumayer, "Asylum Recognition Rates in Western Europe: Their Determinants, Variation, and Lack of Convergence," *Journal of Conflict Resolution* 49, no. 1 (2005): 49– 50.

<sup>48</sup> Neumayer, "Bogus Refugees?" 395.

reputational factors, which with its influence can overcome also the negative factors introduced by policymakers to decrease migration.<sup>49</sup> The latter is supported by the research conducted by Holzer, Schneider and Widmer, who show that deterrence factors are successful in discouraging the application for asylum in certain states. However, the effect of these measures is limited to an extent when there are strong factors in nearby regions e.g. humanitarian crises.<sup>50</sup>

All these factors pull migrants from their countries of origin to certain countries of destination. However, many countries implement deterrence measures which intend to prohibit the coming of migrants. This affects both irregular and asylum migrants and therefore a large portion of them utilize the services of human smugglers.<sup>51</sup> Another factor which influences the decision of migrants to use migrant smugglers is the length of journey and potential dangers which they may encounter during it.

Migrant smuggling is defined in Article 3 of so called Migrant Smuggling Protocol. According to it, smuggling of migrant means:

*the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.*<sup>52</sup>

From the above it is possible to conclude that human smuggling is closely tied to irregular and asylum migration. Human smuggling enjoys a strong interest from researchers. However, because of its characteristics which are closely connected with organized crime, smugglers do not expose themselves to publicity.<sup>53</sup> Therefore the acquisition of relevant data is very hard. Hence researchers mostly rely on secondary data provided by experts or police.<sup>54</sup>

<sup>49</sup> Eiko R. Thielemann, "The Effectiveness of Governments' Attempts to Control Unwanted Migration," in *Immigration and the Transformation of Europe*, ed. Craig A. Parsons and Timothy M. Smeeding (Cambridge: Cambridge UP, 2006), 2-4.

<sup>50</sup> Thomas Holzer, Gerald Schneider, and Thomas Widmer, "The Impact of Legislative Deterrence Measures on the Number of Asylum Applications in Switzerland (1986-1995)," *International Migration Review* 34, no. 4, (2000): 1205.

<sup>51</sup> John Morrison and Beth Crosland, "The Trafficking and Smuggling of Refugees: the End Game in European Asylum Policy? Working paper no. 39," UNHCR, April 2001, <http://www.unhcr.org/3af66c9b4.html> (accessed May 5 2011), 19.

<sup>52</sup> Article 3A of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>53</sup> Neske, 131.

<sup>54</sup> UNODC, "Smuggling of Migrants - A Global Review and Annotated Bibliography of Recent Publications" (Vienna, 2010), 26.

Mavris notes that the sophistication of smugglers activities has greatly increased over the years – they now possess the latest communication technology, they are very flexible and are able to change routes depending on the situation and restrictive measures.<sup>55</sup> This increase in sophistication is not just the result of the need to adapt to better protection at the borders. It is also the outcome of the high competitiveness between the migrant smugglers. As Liempt and Doomernik note, there is an open competition and aggressive advertising in this market.<sup>56</sup> However, despite this, the migrants are also heavily influenced by experience of others from the same community.<sup>57</sup> Therefore the smugglers try to improve their services. These include not just the border crossing, but also preparations of forged documents and provision of various kinds of information. Moreover, the delivery of information about the reception country is included in these services. According to Bilger, Hofmann and Jandl, many smuggled migrants are often given detailed instructions by their smugglers on how to use the asylum system as part of their migration strategy.<sup>58</sup> Smugglers even channel the migration through specific transitory countries to particular destination countries because of specific aspects of the asylum system in these countries.<sup>59</sup>

From the above it is clear that smugglers are strongly connected with the mixed migration and that the smugglers have information also about the asylum situation both in transitory as well as destination countries. Therefore they also have a detailed knowledge about the functioning of European policies in the field of asylum and about the existence of the DS and that this information is channeled towards migrants. Moreover, migrants have also detailed information

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<sup>55</sup> Lejla Mavris, "Asylum Seekers and Human Smuggling: Bosnia and Former Yugoslavia as a Transit Region," July 12, 2002, <http://www.mmo.gr/pdf/library/Balkans/asylum%20+%20smuggling%20in%20Bosnia%20and%20FRY.pdf> (accessed May 5, 2011, 9).

<sup>56</sup> Ilse Van Liempt and Jeroen Doomernik, "Migrant's Agency in the Smuggling Process: The Perspectives of Smuggled Migrants in the Netherlands," *International Migration* 44, no. 4 (2006), 179.

<sup>57</sup> Ibid.

<sup>58</sup> Veronika Bilger, Martin Hofmann and Michael Jandl, "Human Smuggling as a Transnational Service Industry: Evidence from Austria," *International Migration* 44, no. 4 (2006): 16.

<sup>59</sup> Nilger et al, 16.

from the migrant communities present in the destination countries. Without any doubt all this information affects migrants' decision-making about the route.

Having shown that the state, and in the case of the EU also the supranational policies, have an effect on migrants' decisions, it is time to switch from the general level to the European one and focus on the policies of the European Union in the field of asylum and especially on the Dublin Regulation and the system which it created. This will enable me later to explain its impact on the mixed migration towards the CEE countries and also show how these countries are affected by the existence of the DS.

## 2 The Dublin System

The Dublin System (DS) is a result of a slow evolution of the European cooperation in the asylum field. In the first part of the first section I present very briefly this evolution. Subsequently I explain the aims of both the Dublin and the Eurodac regulation and successively show how the DS functions. In the second part, I address the problems connected with the DS and its future. Here I mostly concentrate on issues which have the potential to affect the CEE countries. Moreover, at the end of this section I introduce the recasts which should change the DS. This all helps to prepare the soil for the last chapter in which I explain how these problems affect CEE countries and the mixed migration towards them. Because of its content this chapter is more descriptive and presents mostly EU legislation and current literature in this field.

### 2.1 The functioning of the Dublin System

The DS is an important part of the European cooperation in the asylum field. In the mid-1980s economic integration came to a level in which it also started to influence areas which do not relate the common market directly. The necessity for cooperation in the asylum field therefore emanated through a spillover effect caused by the economic integration and the abolition of internal borders. Because of this I support Noll when he notes that the harmonization of asylum law on the European level was not aimed at being comprehensive solution to the issues of refugee protection.<sup>60</sup> However, with the deepening integration the need for this type of solution increased.

As stated above, it was the abolition of internal borders which represent the prerequisite for cooperation in asylum field. The 1990 Convention implementing the Schengen Agreement, which drew up a framework for the elimination of border controls between the participating countries, included parts regarding the processing of asylum applications. However, these

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<sup>60</sup> Noll, 123.



provisions were replaced in 1990 by the Dublin Convention (DC). This Convention handled exclusively the parts concerning asylum – more precisely the rules according to which the state responsible to process the asylum application is determined - and therefore its focus was much narrower than in the case of the Schengen Agreement. The DC entered into force in 1997 and its main tasks were *de facto* identical to the objectives of the Dublin Regulation (DR) which I will describe shortly. After its adoption the DC was exposed to immense criticism, because of its ineffectiveness, the existence of the possibility of refoulement and its general unusability. For these reasons in 2000 the European Commission prepared a working paper with the title “Revisiting the Dublin Convention” and a year later proposed a new regulation that should replace the DC. The outcome of this process is the 2003 DR – the building stone of today’s Dublin System.

The Dublin Regulation was adopted with the same aim as the DC – “*to allocate responsibility for examining an asylum application to the Member State which has played the most important part in the entry or residence of the person concerned.*”<sup>61</sup> Thus with this the DR introduces the one chance only principle according to which asylum seekers should not have a possibility to apply consecutively or simultaneously to another Member State (MS).<sup>62</sup> Moreover, the DR sets up the obligation of the MS responsible to complete the examination of the application. This obligation supplements the principle of exclusive responsibility and helps the avoidance of the refugees in orbit phenomenon.<sup>63</sup> This term is related to asylum seekers who are transferred between states with no state willing to take responsibility for examining their claim. Furthermore, the DR aims to decrease the secondary movements of asylum seekers between MS. On the other hand, the DR does not handle the question of burden sharing in respect to the influx of ASs and does not entail

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<sup>61</sup> Commission of the European Communities, "Evaluation of the Dublin Convention. Working paper no. SEC(2001)756," (June 13, 2001), <http://www.statewatch.org/sem/doc/assets/files/commission/SEC-2001-756.pdf> (accessed May 9, 2011), 3.

<sup>62</sup> Brandl, 35.

<sup>63</sup> Mathias Hermann, "Asylum Law: Council Regulation (EC) No 343/2003," in *EU Immigration and Asylum Law – Commentary*, ed. Kay Hailbronner (München: C.H. Beck, 2010), 1377-1378.

any provision that could be applied in the case when a MS would deal with a large influx of asylum seekers.<sup>64</sup>

The DR in Articles 6 to 14 lists the hierarchy of criteria according to which the state responsible for processing the asylum application (responsible state) is determined. These criteria are applied sequentially, in the order in which they are listed in the regulation.<sup>65</sup> These criteria and the DR itself – with the exception of the criteria which take into account family unity, the interests of minors and the humanitarian clause - emanate from the principle that the AS is a burden and therefore it is necessary to punish the state which let him enter the EU. The problems connected with this principle are addressed in the next section.

Because of the sequence of criteria, after the mixed migrant encounters' – voluntarily or involuntarily – the authorities, it should be first established whether he is an unaccompanied minor.<sup>66</sup> If he comes under this category, the responsible state which should process his application is the one in which his family<sup>67</sup> resides.<sup>68</sup> If there is no such country, the state is responsible where he lodged his application.<sup>69</sup>

Article 7 of the DR handles the case when the applicant has a family member, who has been allowed to reside as a refugee in a MS. In such a case, this state is responsible for processing the application.<sup>70</sup> The next criterion is connected with the existence of a valid residence document – if there is one, the state which issued it is responsible for the examination of the asylum application.<sup>71</sup> Analogically, the state, which issued the visa for the applicant is responsible.<sup>72</sup> If the applicant is in possession of more than one visa or valid residence permission, the regulation lists criteria according to which the responsible state is decided – these

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64 Hermann, 1380-1381.

65 Article 5 (1) of the Regulation (EC) No 343/2003 of 18 February 2003, OJ [1992] L 50.

66 Article 6 of the Regulation (EC) No. 343/2003.

67 Spouse of the applicant or his or her unmarried child who is minor under eighteen years, or his or her father or mother where the applicant is an unmarried child who is minor under eighteen years. See Article 4 of the Regulation (EC) No. 343/2003.

68 Ibid.

69 Ibid.

70 Article 7 of the Regulation (EC) No. 343/2003.

71 Article 9 (1) of the Regulation (EC) No. 343/2003.

72 Article 9 (2) of the Regulation (EC) No. 343/2003.

incorporate the length of permitted residence, the expiry dates of the permit or the period of visa validity.<sup>73</sup>

Article 10 handles the most common condition according to which the responsible state is determined – the case when the applicant has illegally crossed the border into the EU.<sup>74</sup> In such a case the MS thus entered is the responsible state.<sup>75</sup> This responsibility terminates 12 months after the date of illegal border crossing.<sup>76</sup> If a MS cannot be held responsible according to the previous rule, and the applicant has meanwhile resided in the territory of another MS for five months, the state of residency should be responsible for examining the asylum application.<sup>77</sup> If the applicant has been living for periods of time of at least five months in several MS, the one where this has been most recently the case shall be the responsible state.<sup>78</sup> In the case that the applicant entered the EU through a country in which the visa need for him is waived, this MS is responsible for the application.<sup>79</sup> Furthermore, when the asylum application is made in an international transit area of an airport, the MS of the airport location is the responsible state.<sup>80</sup> If no MS responsible for examining the application for asylum can be determined on the basis of regulation, the first MS with which the asylum application was lodged shall be responsible for examining it.<sup>81</sup>

This list of rules is supplemented in Article 15 by the Humanitarian clause, according to which any state which is not responsible according to the criteria may bring together family members, as well as other dependent relatives, on humanitarian grounds.<sup>82</sup> This clause is used as the legal basis allowing states to comply with their human rights obligations.<sup>83</sup>

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<sup>73</sup> Article 9 (3) of the Regulation (EC) No. 343/2003.

<sup>74</sup> Article 10 (1) of the Regulation (EC) No. 343/2003.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Article 10 (2) of the Regulation (EC) No. 343/2003.

<sup>78</sup> Ibid.

<sup>79</sup> Article 11 of the Regulation (EC) No. 343/2003.

<sup>80</sup> Article 12 of the Regulation (EC) No. 343/2003.

<sup>81</sup> Article 13 of the Regulation (EC) No. 343/2003.

<sup>82</sup> Article 15 of the Regulation (EC) no. 343/2003, sometimes also called the sovereignty clause.

<sup>83</sup> Brandl, 55.

To implement the DR it was necessary to create a system which will store the data of the AS and which will identify the applicants who applied repeatedly for asylum. This system was created by the Eurodac regulation,<sup>84</sup> which establishes a fingerprint database for asylum seekers and unauthorized entrants to the EU and which together with two implementing regulations<sup>85</sup> creates the DS.

According to the Eurodac regulation, fingerprints are gathered from every asylum applicant over fourteen and similarly from every third-country national who crosses a border irregularly.<sup>86</sup> MS also take fingerprints from third-country nationals ‘found illegally present’ to control whether these apply previously for asylum in another MS.<sup>87</sup>

Eurodac data do not exclusively decide about the possible Dublin transfer (DT). Other data which are used as proof when deciding about the responsible state are defined in detail in the Annex II of the Regulation (EC) No 1560/2003. These include valid visas and residence documents as well as document proving that the applicant has a family member in another MS. However, when dealing with these data, the process is longer and the possibility of dispute is more probable.<sup>88</sup>

In practice, when determining the responsible state the decisive date for the designation of responsibility is the one where the applicant applies for asylum for the first time in a MS. The DR itself contains detailed provisions about the time limits and procedures when deciding on the asylum application.

After an AS lodges his application the state where the application was lodged should consider whether it or another state is responsible for its examination. If another MS is designated responsible under the criteria determined in the DR, that MS is approached to take charge of the AS and examine the application. If the MS thus approached accepts its

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<sup>84</sup> Regulation (EC) No 2725/2000 of 11 December 2000, OJ L 316.

<sup>85</sup> Regulation (EC) No 1560/2003 of 2 September 2003, OJ L 222., Regulation (EC) No 407/2002 of 28 February 2002, OJ L 062.

<sup>86</sup> Preamble of the Regulation (EC) No 2725/2000.

<sup>87</sup> Peers, 364.

<sup>88</sup> Polish Dublin Unit expert, Interview by author, Warsaw, April 20, 2011.

responsibility, the first MS must transfer the AS to that MS. The DR distinguishes the previous situation from one in which MS has already examined or begun to examine an asylum application. In this case that MS may be requested to take back the asylum seeker who is in another MS without permission. The DR for both situations prescribes procedures together with time limits.

In the first case, if the decision is made that another MS is responsible, the state where the application was made should, within three months of the application, call upon the other state to take charge of the applicant.<sup>89</sup> If this fails to happen, the state where the application was lodged remains responsible.<sup>90</sup> The requested MS has to decide within two months – if it fails to act – it becomes responsible for processing the claim.<sup>91</sup> The transfer itself must be carried within six months from the date of the acceptance of responsibility.<sup>92</sup> If this fails to happen, the responsibility stays with the MS where the application was lodged.<sup>93</sup>

In the second case, the MS called upon to take back the applicant must reply within a month.<sup>94</sup> When the request is based on data obtained from the Eurodac system, this limit is reduced to two weeks.<sup>95</sup> In the case the requested state does not communicate its decision within the period, it is considered to have agreed to take back the AS.<sup>96</sup> An MS which agrees to take back an AS is obliged to readmit that person to its territory.<sup>97</sup> The transfer itself must be carried out within six months from the date of acceptance.<sup>98</sup> The applicant must be notified by the requesting state about the decision concerning his transfer to the responsible state.<sup>99</sup> This

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<sup>89</sup> Article 17 (1) of the Regulation (EC) No. 343/2003, Regulation (EC) no. 343/2003.

<sup>90</sup> Ibid.

<sup>91</sup> Article 18 of the Regulation (EC) No. 343/2003.

<sup>92</sup> Article 19 (3) of the Regulation (EC) No. 343/2003.

<sup>93</sup> Article 19 (4) of the Regulation (EC) No. 343/2003.

<sup>94</sup> Article 20 (1)(b) of the Regulation (EC) No. 343/2003.

<sup>95</sup> Ibid.

<sup>96</sup> Article 20 (1)(c) of the Regulation (EC) No. 343/2003.

<sup>97</sup> Article 20 (1)(d) of the Regulation (EC) No. 343/2003.

<sup>98</sup> Ibid.

<sup>99</sup> Article 20 (1)(e) of the Regulation (EC) No. 343/2003.

decision is subject to an appeal and review; however, these do not suspend the implementation of the transfer except in the case when the court or competent body decides otherwise.<sup>100</sup>

## 2.2 The Dublin System and its problems

After explaining the functioning of the DS, especially the criteria for decision about the responsible state and the time limits for each part of the process, it is time to present the ongoing debate associated with this topic. To address this I identify the problems connected with the principles on which the system stands and about the problems the DS causes to ASs. Moreover, I will emphasize the non-existent burden sharing and the systems ineffectiveness.

Since its adoption, the DS creates large controversies concerning its principles, effectiveness, conformity with international refugee law and uneven burden sharing between the MSs. The debate is conducted between academics, institutions of the EU and non-governmental and international organizations concerned with refugees. However, the system itself is perceived as necessary, which can be demonstrated by the fact that none of the interview respondents questioned its necessity.

According to the European Commission's June 2007 evaluation, "*the Dublin Regulation is in general being applied in a satisfactory manner and it does provide a workable system for determining responsibility for the examination of asylum applications.*"<sup>101</sup> Moreover, the Commission concludes that the objectives of the DS "*have, to a large extent, been achieved.*"<sup>102</sup>

These statements were even at that time in contrast with the predominant perception of the majority of scholars and officials of most international and non-governmental organizations. The system has been criticized for many reasons as it worsens the situation of asylum seekers in the way that it prolongs the asylum process, creates the possibility of refoulement, deprives them

<sup>100</sup> Article 20 (1)(e) of the Regulation (EC) No. 343/2003.

<sup>101</sup> Commission of the European Communities, "Report from the Commission to the European Parliament and the Council on the Evaluation of the Dublin System. Rep. no. COM(2007) 299 Final," June 6, 2007, (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0299:FIN:EN:PDF>), Accessed May 18, 2011, 6.

<sup>102</sup> Ibid., 13.

of procedural rights to which they are entitled under international law or because it is generally ineffective.

These conclusions are shared by the European Council on Refugees and Exiles (ECRE), which is a pan-European network of 69 refugee-assisting non-governmental organizations, which in its 2008 report states that “[at] best, the Dublin Regulation adds a lengthy, cumbersome procedure to the beginning of the asylum process.”<sup>103</sup>

From the above it is clear that the DS is connected with a large variety of issues. These start with the principle on which the whole system stands. It is questionable because all the MS are parties of the Refugee Convention in which they accepted their responsibility for protection of refugees. In contrast to this obligation, the system which relocates the AS to other MS without the evaluation of the asylum application can raise questions about how the EU states want to fulfill their responsibilities which emerge from the Refugee Convention. In its judgment *T.I. v. U.K.*<sup>104</sup> the European Court of Human Rights pointed out that, at least in some instances, MS have to consider whether the expulsion of an applicant to another MS complies with its obligations under the European Convention on Human Rights. However, the obligation for an MS to consider the merits of asylum applications for which they are not responsible would be contrary to the principle of the DC.<sup>105</sup> Moreover, as UNHCR presents in its report, because of the absence of a positive obligation for a MS to not transfer the asylum seeker to a third state before a substantive examination, a situation may occur which can be defined as *refoulement*. This can happen because some MSs close the asylum case after the AS absconds and there is no guarantee that after his/her return the cases will be reopened.<sup>106</sup> Battjes furthermore argues that because of the DS, asylum seekers are *de facto* dispossessed of procedural rights to which they are

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<sup>103</sup> Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered, 11.

<sup>104</sup> European Court of Human Rights, *T. I. V. The United Kingdom*, Application No. 43844/98.

<sup>105</sup> Battjes, 160.

<sup>106</sup> The Dublin II Regulation. A UNHCR Discussion Paper, 56.

entitled under international law through prescription of mutual recognition of negative asylum decisions<sup>107</sup>.

Ineffectiveness is one of the main issues criticized both by scholars as well as international and non-governmental organizations. The numbers presented by the Commission in its 2008 Impact Assessment documenting the period March 2003 – December 2005 show an increase in number of transfers in comparison to the number of transfers under the DC<sup>108</sup>. However, as ECRE counters in its report, the MS in reality during this period made an agreement to transfer less than 7% of the asylum claims lodged within the EU<sup>109</sup>. Moreover, just 41,9% of agreed transfers really occurred.<sup>110</sup>

From this it is possible to make two conclusions. First, the system is still relatively ineffective, because the number of executed transfers is low. However, as I will write in the next chapter, the number of executed transfers has, according to recent statistics, increased. Nevertheless, it is impossible to credibly conclude whether the effectiveness has truly risen. This is caused by a 2008 change in counting. Until that time the statistics of some states mentioned cases, however from 2008 the statistics should count - according to the Regulation (EC) No 862/2007 - the number of persons transferred.<sup>111</sup> Moreover, the prior-2008 statistics are at least in certain countries unreliable<sup>112</sup> and also today there are some practical problems when counting the number of transferred people.<sup>113</sup>

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<sup>107</sup> Battjes, 191-92.

<sup>108</sup> Commission of the European Communities, "Proposal for a regulation of the European Parliament and of the Council Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-country National or a Stateless Person (recast) Impact Assessment," December 3, 2008, [http://www.ulb.ac.be/assoc/odysseus/CEAS/SEC\(2008\)2962.pdf](http://www.ulb.ac.be/assoc/odysseus/CEAS/SEC(2008)2962.pdf) (accessed May 20, 2011), 9.

<sup>109</sup> Commission of the European Communities, "Commission Staff Working Paper Accompanying the Communication on the Evaluation of the Dublin System SEC(2007)742 ('2007 Evaluation Annex')," Brussels, June 6, 2007, [http://www.unhcr.de/no\\_cache/recht/i2-europ-fluechtlingsrecht/22-asyl.html?id=3149&did=7116&sedhash=cf35847e](http://www.unhcr.de/no_cache/recht/i2-europ-fluechtlingsrecht/22-asyl.html?id=3149&did=7116&sedhash=cf35847e) (accessed May 20, 2011), 17.

<sup>110</sup> Ibid.

<sup>111</sup> Article 4 of the Regulation (EC) No 862/2007 of 11 July 2007, OJ L 199.

<sup>112</sup> Slovak Dublin Unit expert, Interview by author, Bratislava, May 9, 2011.

<sup>113</sup> Polish Dublin Unit expert, Warsaw, April 20, 2011.



Second, from the numbers of ASs, agreed transports and especially executed transports, it is clear that the AS are living for a long time in a state of tension which arise from doubts about the future decision. This uncertainty is even intensified by the fact that even time limits as defined in the DR are missed and sometimes the realized transfers are connected with errors.<sup>114</sup> This conclusion is supported also by the UNHCR, which criticizes both time limits as well from this resulting anxiety and uncertainty.<sup>115</sup> Peers also speaks about the DR and the system which it created as an *“expensive waste of time applying only to a small percentage of asylum seekers imposing an extra cost on top of the cost of considering each asylum application.”*<sup>116</sup>

Moreover, according to ECRE, the Dublin System did not stop the problem of multiple asylum applications. This can be concluded from the rising number of EURODAC hits in the period 2003-2006.<sup>117</sup> In 2009, 23,3% of asylum applications were multiple asylum applications.<sup>118</sup> This represents a rise of 5,8% compared to the previous year.<sup>119</sup> While in the initial period of the system the permanent rise can be ascribed to the gradual creation of the database, after such time it can be concluded, that the system does not act preventively and does not discourage migrants from lodging repeated asylum applications.

However, as the European Commission notes, even these statistics are partly spoiled, because some MS fingerprint upon "take back" under the Dublin Regulation results. This practice alters the statistics on multiple applications because taking and transmitting again the fingerprints of the applicant upon arrival after a transfer under the DR falsely indicates that the applicant applied again for asylum.<sup>120</sup>

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<sup>114</sup> Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered, 11-12.

<sup>115</sup> The Dublin II Regulation. A UNHCR Discussion Paper, 46.

<sup>116</sup> Peers, 362.

<sup>117</sup> Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered, 3.

<sup>118</sup> Second or more. See: European Commission, "Annual Report to the European Parliament and the Council on the Activities of the EURODAC Central Unit in 2009," August 2, 2010, [http://ec.europa.eu/commission\\_2010-2014/malmstrom/archive/1\\_EN\\_ACT\\_part1\\_v1.pdf](http://ec.europa.eu/commission_2010-2014/malmstrom/archive/1_EN_ACT_part1_v1.pdf), (Accessed May 18, 2011), 7.

<sup>119</sup> Ibid, 8.

<sup>120</sup> Annual Report to the European Parliament and the Council on the Activities of the EURODAC Central Unit in 2009, 7-8.

The number of repeated asylum applications is connected with the problem of secondary migration movements. Because no prior-2003 statistics concerning these movements are available, it is not possible to make long-term conclusions. However, Hermann, after evaluating the data from Eurodac, notes the DS did not restrain the secondary movements.<sup>121</sup> ECRE reports that the operation of the DS without the harmonization of asylum policies across the MS exacerbates the protection for asylum seekers.<sup>122</sup> AS, despite their knowledge about the DS, are still trying to get to their country of destination because e.g. higher recognition rate or better reception and living conditions. These differences encourage secondary migration movements and for a large part are the reasons for asylum shopping. A partial solution to this problem could be the creation of a common European asylum policy in which the refugees in all MS would be handled equally. However, even a fully harmonized system would not change that certain EU states will be still more attractive for AS.<sup>123</sup>

In addition to the critique concerning the effectiveness of the DS and its effect on the AS, there is another discussion which concentrates on the Member States level and relates to the question of burden sharing. As stated above - the responsible party for evaluating the asylum application is predominately the MS, through which border the asylum seeker entered the EU. This places a large burden on the MS which are located on the EU external border because they are naturally the place of first entry. The Dublin Regulation alone does not have any provision in respect to burden sharing and therefore it does not help the border MSs on the outer rim to manage the influx of asylum seekers which are returned because of its existence. In contrast with the abovementioned statements, the European Commission in its Report from 2007 claim, that that overall allocation between border and non-border MS was in 2005 balanced.<sup>124</sup>

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<sup>121</sup> Hermann, 1378.

<sup>122</sup> Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered, 16.

<sup>123</sup> Hermann, 1381.

<sup>124</sup> Report from the Commission to the European Parliament and the Council on the Evaluation of the Dublin System. Rep. no. COM(2007) 299 Final, 51.

This is questioned by ECRE, according to which in 2005 each border state, except Estonia, reported more incoming than ongoing transfers.<sup>125</sup> The absence of a burden sharing mechanism and the burdening of frontier states is a matter of fact also for scholars. Foster notes that even though the system created through the DR due to its voluntariness at least theoretically secures responsibility sharing between the states, because it does not contain any mechanism for ensuring responsibility sharing in equitable manner, fails to produce a just burden sharing in the field of asylum.<sup>126</sup> Also Garlick identifies the system as a challenge for external-frontier MSs.<sup>127</sup> Despite the need for burden sharing, an effective burden sharing mechanism has hardly been discussed.

Because of the extent of criticism the European Commission suggested changes in the DS. The future of the Dublin System is not the main topic of this work, but because through the proposed changes it is possible to identify the perception of the Commission about the problems connected with the system I will very broadly, and just in respect to the topics presented in the next chapter, speak about proposed amendments.

In its 2008 impact assessment the Commission identifies various clusters of issues. Among them stand out problems connected with the solution of disputes between the MS, potential overburdening of certain states and the potential loss of protection for ASs because of the conducted transfer.<sup>128</sup> For these reasons the Commission submitted in December 2008 a recast of the Dublin Regulation. In 2008 the Commission also published a proposal to amend the Eurodac Regulation. This proposal was replaced in 2009 by a new version.

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<sup>125</sup> Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered, 13.

<sup>126</sup> Foster, 73.

<sup>127</sup> Garlick, 609.

<sup>128</sup> Commission of the European Communities, "Proposal for a Regulation Of The European Parliament and of the Council Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third Country National or a Stateless Person - Summary of the Impact Assessment. Working paper no. SEC(2008) 2963," Brussels, 2008, [http://www.europarl.europa.eu/registre/docs\\_autres\\_institutions/commission\\_europeenne/sec/2008/2963/COM\\_SEC\(2008\)2963\\_EN.pdf](http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2008/2963/COM_SEC(2008)2963_EN.pdf), (accessed May 11, 2011).

The proposal amending the DR aims to increase its efficiency and the protection of the persons affected by the system.<sup>129</sup> Moreover, the proposal tries to improve situations of particular pressure at reception facilities and asylum systems.<sup>130</sup> However, the proposal does not change the philosophy and principles on which the DS lies – therefore the main responsibility for examining an AS application, as the Commission notes will stay with the MS which played the greatest part in the applicant's entry into or residence in the territories of the MS.<sup>131</sup>

This chapter showed the history and the functioning of the DS. It demonstrated that the system has many problems which are affecting both migrants as well as states. In the next chapter I will focus on the three researched countries and present how the problems connected with the DS are affecting them. Moreover, I will explain how the DS as a whole is affecting mixed migration flows toward the CEE.

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<sup>129</sup> Commission of the European Communities, "Proposal for a Regulation Of The European Parliament and of the Council Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-country National or a Stateless Person. Rep. no. 2008/0243 (COD)." December 3 2008, [http://www.ulb.ac.be/assoc/odysseus/CEAS/COM\(2008\)820.pdf](http://www.ulb.ac.be/assoc/odysseus/CEAS/COM(2008)820.pdf) (accessed May 18, 2011), 5- 13.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid., 5.

### 3 The Dublin System and Central and Eastern Europe

In the first chapter I concluded that mixed migrants are aware of the situation in the transit and destination countries. Because a large number of them have detailed information it is certain that they are also conscious about the existence of the Dublin System (DS). Since they have this information this system affects their behavior. In this chapter I explain how and in what way this happens. Moreover, I address how the system influences them regardless of their knowledge about its existence.

In the second chapter I explained the functioning of the DS and addressed issues connected with its principles and functioning. Moreover, I presented the conjecture, according to which the EU border states may become overburdened because of the DS's existence. In the following sections I analyze how Hungary, Poland and Slovakia are affected by the DS.

This chapter is divided into four parts. In the first I initially deal with all three researched states as one entity. However, I later emphasize the differences between them by presenting various statistics concerning mixed migration. Here I explain predominately the general trends. In the next three sections I focus on each state separately. In these sections I present the data obtained during my interviews and combine them with various reports handling mixed migration in the CEE countries. I especially focus on the issues connected with the behavior of migrants, detention and on how the DS affects these states. In this part the problem is to distinguish various factors and assign precise importance to the DS; this issue is supported by data obtained in interviews. The purpose of these three sections is to present how the DS influences mixed migration flows to CEE countries. Moreover, it shows how the behavior of migrants is affected by this system and how this system is affecting the researched states.

### 3.1 The irregular and asylum migration in Hungary, Poland and Slovakia

Hungary, Poland and Slovakia had very similar starting positions in the field of mixed migration. Until 1989 they were the countries of origin for many refugees but after the fall of communism this changed and they started to produce mostly migrants who left their countries for economic reasons. Simultaneously these states became transit countries for mixed migrants and due to the EU accession they are transforming into countries of destination.

Because of the change of circumstances at the end of the 1980s Hungary, Poland and Slovakia started to build their own asylum systems compatible with the international standards and in relation to the approaching EU accession they adopted rules which made their asylums systems fully compatible with European norms.<sup>132</sup> Moreover, with respect to the Schengen accession these states adopted various measures to fight irregular migration; especially they improved their protection on their east borders which together constitute 1909 km of the EU east border.

With the EU accession were associated many predictions. As written in the preceding chapter there was an expectation that these countries will experience a large influx of mixed migrants. The exact numbers connected with irregular migration are hard to assess because of its illegal nature. However, the numbers of apprehended migrants at the borders and the number of ASs can at least partly illustrate, whether predictions about a large influx flowing to these countries were accurate.

Table 3.1.A, located in Annex 3 shows that there is no common trend in the number of border apprehensions in 2000-2010 for these three countries. However, it is clear that the numbers have altogether decreased. Table 3.1.B shows the number of submitted applications in the three CEE countries between 2000-2010. Again no common pattern can be observed and an obvious tendency is visible only in the case of Slovakia, where the drop is strong. In the next

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<sup>132</sup> Rosemary Byrne, Gregor Noll, and Jens Vedsted-Hansen, *New Asylum Countries? Migration Control and Refugee Protection in an Enlarged European Union*, (The Hague: Kluwer Law International, 2002), 5-10.

sections I argue that the mixed numbers are the result of external events as well as internal policies and that the latter also presumably influenced the decision-making of mixed migrants in correlation with the DS.

As stated in the first chapter, mixed migrants have good information about the asylum system in transit and destination countries. Therefore, one of the important factors when planning the route is the recognition rate.

Because of the problems with available statistics it is not possible to create a long term table which would show the clear numbers as in the two previous cases. This is a result of various asylum systems, different definitions about what a positive decision in an asylum case means and different data gathering. However, when joining the data from various sources a clear picture can be shown about the asylum systems in CEE countries.

Table 3.1.C located in Annex 3 shows the percentage of positive decisions made in the EU, Hungary, Poland and Slovakia in 2005-2007. It demonstrates the distinction between Slovakia and Hungary on one side and Poland on the other. While the percentage of Polish positive decision is above the EU average, in the case of Hungary and Slovakia this percentage is under the average. Especially Slovakia is a special case when in 2006 the percentage of positive decisions was lowest among the entire EU with the exception of Estonia.

Tables 3.1.D, 3.1.E and 3.1.F located in Annex 3 present detailed information about the provided protection for ASs in 2008, 2009 and 2010. These show the decreasing recognition rate in Poland, relatively stable level of recognition in Hungary and increasing percentage of successful applications in Slovakia. Although Table 3.1.F consists of data about the first instance decisions and tables 3.1.D, 3.1.E include also the final decisions on appeal, from this information it is possible to create table (3.1.G) which illustrates the recognition rates between 2008- 2010.

Table 3.1.G shows the increase of recognition rate in Slovakia and Hungary in comparison to 2005-2007. An opposite effect is visible in Poland. This is caused by the low recognition rate since 2009 when Polish authorities changed their attitude to Russian ASs and

started to perceive Russia as a “safe country.”<sup>133</sup> The decrease is connected also with the low recognition rate of Georgians who became a significant part of asylum seekers in Poland. Therefore the country of origin has a major impact on recognition rates. This is demonstrated in Table 3.1.H which shows the nationalities of the main ASs groups in the three CEE countries between 2007- 2010.

From the above it is clear that no large increase occurred after EU accession. Moreover, from the statistics no clear connection between the three countries is shown when a drop in one state does not imply a subsequent increase in other state. Conducted interviews revealed that the fluctuations which occurred in the numbers of ASs and apprehended migrants are a reaction to internal as well as external events. These events are presented in the next three parts.

### 3.2 Hungary

Hungary has become a transit country of international migration after the political changes of 1989 and this situation still persists. The non-regular migration coming to Hungary can be divided into three groups – irregular and asylum transit migrants, irregular circular labor migrants and irregular migrants residing in the country for a longer term.<sup>134</sup> From these three I focus on the first one, the second which consisted before the 2007 EU enlargement mostly from Romanians and today is represented predominately by Ukrainians, and third, which includes mostly citizens of China and Vietnam, will be recalled just when necessary. This I am doing because the second and the third group have totally different aims in comparison to the first group.<sup>135</sup> For them the destination country is, because of economic reasons, Hungary. Therefore it can be presumed that for these people the DS does not have a large importance and are predominately using the institute of asylum just as a means to prolong their stay.

<sup>133</sup> Polish UNHCR expert, Interview by author, Warsaw, April 21, 2011.

<sup>134</sup> Peter Futo, "Undocumented Migration Counting the Uncountable. Data and Trends across Europe - Country Report Hungary," Clandestino, November 2008, [http://dandestino.eliamep.gr/wp-content/uploads/2009/10/dandestino\\_report\\_hungary\\_final\\_3.pdf](http://dandestino.eliamep.gr/wp-content/uploads/2009/10/dandestino_report_hungary_final_3.pdf), (accessed May 30, 2011, 19- 20).

<sup>135</sup> Futo, 19- 20.



Table 3.1.A presenting numbers in border apprehension indicates the trends in mixed migration flows since 2000. According to it, the numbers decreased dramatically in 2007, which is connected with the fact that in 2007 Romanian citizens obtained the right of free movement in Hungary.<sup>136</sup> Also the number of asylum applications can in the Hungarian case reliably illustrate the developments in mixed migratory flows, because the overwhelming part of ASs enters the Hungary illegally with the intention to cross it<sup>137</sup> and around 95% of asylum seekers applied for asylum after they were apprehended.<sup>138</sup> From the numbers presented in the Table 3.1.B it is hard to make any conclusions about the trends in asylum applications. The number of ASs decreased since 2002 however this decrease is not as strong as in the case of Slovakia and the statistics show sinusoidal development. Therefore it is possible to support the statements of a principal NGO expert who speaks about “*hectic numbers*” and “*no trends*.”<sup>139</sup>

These are the result of domestic policy changes and external factors.<sup>140</sup> They include the length of detention, recognition rate, and potential for a successful integration into the society.<sup>141</sup> Furthermore, another factor which is strongly connected with all three previous cases is the existence of the DS.<sup>142</sup> The external factors are represented by asylum policies in neighboring countries or situations which can produce a mass influx of ASs as was in 1990s the Yugoslav war. However, in the case of the last factor generally the previous aspects play a large part when choosing the route.

Hungary in 2011 uses detention in larger number than Slovakia or Poland. The number increased with the introduction of a new asylum law which came into force in December 2010.<sup>143</sup> This law prolonged the maximum length of detention from 6 to 12 months – which means that Hungary has returned to the situation from before 2007. There are signs that the length of

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<sup>136</sup> Futo, 18.

<sup>137</sup> Ibid., 50.

<sup>138</sup> Hungarian UNHCR expert, Interview by author, Budapest, May 9, 2011.

<sup>139</sup> Hungarian NGO expert, Interview by author, Budapest, May 4, 2011.

<sup>140</sup> Ibid.

<sup>141</sup> Hungarian UNHCR expert, Budapest, May 9, 2011.

<sup>142</sup> Ibid.

<sup>143</sup> Hungarian NGO expert, Budapest, May 4, 2011.

detention plays a crucial role in the decision-making of migrants heading through Hungary to Western Europe.<sup>144</sup> In 2009, 46 % of the persons apprehended for illegally entering the territory of Hungary applied for asylum status under the immigration control proceedings conducted by the police.<sup>145</sup> However, there are signs that this number is decreasing. The migrants apprehended on the main route heading from Serbia through Hungary to Western Europe do not apply for asylum because they prefer to be returned back to Serbia where the detention is shorter. After the detention they can repeatedly try to utilize the same route.<sup>146</sup> However, there is also another explanation to this phenomenon. In practice only those apprehended migrants are fingerprinted who are not sent back to other country immediately – therefore those who do not apply for asylum and are returned immediately after apprehension are not fingerprinted.<sup>147</sup> There is a possibility that they do not want to apply for asylum because of their knowledge about this practice with the intention not to be registered in Eurodac. Also the Hungarian Office of Immigration and Nationality supports this claim, when noting that most of the applicants do not want to be subject of the Dublin transfer, because it would be a setback for them to reach their destination countries.<sup>148</sup>

Another indication of the unwillingness to be fingerprinted in Hungary is the practice of destroying minutiae which has been registered among the apprehended migrants. However, it can be presumed that the unwillingness to be registered is also dependent on the citizenship of the apprehended migrant. As stated in Table 3.1.E large numbers of ASs in Hungary originate from Serbia/Kosovo. However, as it is clear from Table 3.1.F these are generally not granted any

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<sup>144</sup> Hungarian NGO expert, Budapest, May 4, 2011.

<sup>145</sup> Európai Migrációs Hálózat Magyarország, "Hungary Annual Policy Report 2009," March 2010, <http://emn.intrasoft-intl.com/Downloads/download.do?sessionId=D41CFB5577333A439876BE2560892687?fileID=977> (accessed May 31, 2011), 27.

<sup>146</sup> Hungarian NGO expert, Budapest, May 4, 2011.

<sup>147</sup> Agnes Ambrus, (ambrus@unhcr.org), "Thank you," Private e-mail message to author, (ondrus.j@hotmail.com), May 26, 2011.

<sup>148</sup> Office of Immigration and Nationality, (nef@bah.b-m.hu). "Question," Private e-mail message to author, (ondrus.j@hotmail.com), June 1, 2011.

type of protection. Therefore this and other groups not receiving protection have a larger motivation to not to be fingerprinted for Eurodac.

Recognition rates and other components of asylum process are strongly connected with the decision-making of mixed migrants. In this aspect it is very interesting the comparison with Slovakia, which has a “*direct connection with Hungary*.”<sup>149</sup> The recognition rates in Slovakia are higher than in Hungary. Furthermore, until December 2010 the system in Hungary was in many aspects – detention, conditions – similar to the Slovak. According to the NGO expert, the tightening of the asylum system in one country creates an increased pressure on the other.<sup>150</sup> However, as I will show in the last section, the number of Slovak ASs is for a long term declining and this presumed impact never shows up in Slovak annual statistics. Therefore it would be interesting to research what will be the effect of the new law in Hungary on the mixed flows to Slovakia. Because these changes have been introduced recently, it is not possible to make any credible conclusions about this issue. However, the quarterly Slovak statistics do not show any change in the long-term trends<sup>151</sup>.

Another reason for the unwillingness to be connected with Hungary through the DS is the possibility of integration into society. In the MIPEx index<sup>152</sup> Hungary shares the 18<sup>th</sup> place with Romania among the EU states. The MIPEx report states that Hungary is lacking comprehensive integration strategy for all groups, its integration policies are inconsistent and are only halfway favorable.<sup>153</sup> Certainly, this index which is handling legal migrants does not give a full picture about the conditions of mixed migrants, however it shows the problems they face

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<sup>149</sup> Hungarian NGO expert, Budapest, May 4, 2011.

<sup>150</sup> Ibid.

<sup>151</sup> Migration Office Slovak Interior Ministry, “Statistická Správa Marec 2011 - Statistical Report March 2011,” <http://www.minv.sk/?statistiky-20> (accessed June 1, 2011).

<sup>152</sup> “a reference guide to assess, compare and improve integration policy. It measures integration policies in 31 countries in Europe and North America by using 148 policy indicators the MIPEx creates a rich, multi-dimensional picture of migrants’ opportunities to participate in society by assessing governments’ commitment to integration.” See: Thomas Huddleston et al., “Migrant Integration Policy Index III,” (Brussels, British Council and Migration Policy Group, February 2011), [http://www.mipex.eu/sites/default/files/downloads/migrant\\_integration\\_policy\\_index\\_mipexiii\\_2011.pdf](http://www.mipex.eu/sites/default/files/downloads/migrant_integration_policy_index_mipexiii_2011.pdf) (accessed May 20, 2011), 10.

<sup>153</sup> Huddleston, 103.

when they become legal migrants. Also the size of the migrant community which could facilitate the integration of migrants into society is relatively low. Most migrants living in Hungary are from EU states or from neighboring countries. The latter group consists predominately of people of Hungarian origin.<sup>154</sup> Moreover, also the Hungarian language, which is very different from native languages of ASs plays its role in their chances to integrate<sup>155</sup>.

All these factors influence the decision-making of mixed migrants about the route and about whether to apply for asylum in Hungary. Therefore, the DS affects not only migrants, but also it affects Hungary. Although the lack of accessible statistics does not enable me to make conclusions about the precise effect of the DS on Hungary, when looking at Table 3.1.G it is clear that until 2009 the number of persons transferred to Hungary was low and just since that year the numbers of transfers have risen. Because of different methodology when counting asylum applications and Dublin transfers and since there is a problem that states sometimes count Dublin returnees as new ASs, it is impossible with available data to measure any more detailed connection between the numbers of Dublin returnees and ASs.<sup>156</sup> However, the Commissions 2007 evaluation of the DS counts that Dublin transfers increased in the case of Hungary the number of ASs by around 10% and that if the system were fully effective and all transfers occurred, this increase would be around 40%.<sup>157</sup>

With the accessible Hungarian statistics it is possible to conclude that even in 2010 the system was ineffective, when just around half of the agreed transfers occurred. When evaluating the situation in 2010 the effect of the DS on Hungary is just limited. This is not just because of its ineffectiveness, but also because of the decreasing numbers of ASs.<sup>158</sup> This conclusion is supported also by the interviews according to which the effect of the DS on Hungary is negative,

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<sup>154</sup> Huddleston, 5-6.

<sup>155</sup> Frontex Risk Analysis Unit expert, Interview by author, Warsaw, April 19, 2011.

<sup>156</sup> The Hungarian Dublin Unit, (nef@bah.b-m.hu). "Question," Private e-mail message to author, (ondrus.j@hotmail.com), June 1, 2011.

<sup>157</sup> Report from the Commission to the European Parliament and the Council on the Evaluation of the Dublin System. Rep. no. COM(2007), 12-13.

<sup>158</sup> Frontex Risk Analysis Unit expert, Warsaw, April 19, 2011.

because of the geographical location but is far from unmanageable since the whole asylum system is created for a far larger numbers of ASs.<sup>159</sup>

From the above it is clear, that mixed migrants have in relation to Hungary changed their behavior because of the existence of the DS. This can be supported with the cases, when apprehended migrants did not want to apply for asylum with the intention to be returned to the third country. Even if the immediate cause of this behavior could be the frequent use of detention by the Hungarian authorities, the effect of the DS is still visible, when the apprehended migrant do not want to be in future connected with Hungary. On the other hand, it is impossible to exactly measure the changes in the volume of mixed flows and the effect of the DS on Hungary. However, in the second case the impact can be described just as limited.

### 3.3 Poland

Poland - the biggest of the three countries studied - is a distinct case from both Hungary and Slovakia. It is neighboring three Slavic countries with relatively similar culture and language. This to a large extent determines the mixed migration towards it. While in Slovakia and from a lesser part in Hungary, ASs originate from diverse countries, in Poland a large majority of ASs typically come from Russia, especially Chechnya.<sup>160</sup> Nevertheless, since the 2008 Georgian-Russian War the number of ASs from Georgia increased radically. This is largely due to the political support which Poland provided to Georgia during this conflict.<sup>161</sup>

Apart from a 2009 increase table 3.1.B shows two other major increases. First between 2002- 2004 caused because of the DS<sup>162</sup> and subsequent improved border protection after the EU accession,<sup>163</sup> the second the result of the 2007 Schengen accession.<sup>164</sup> Both are therefore a result of fears from changes.

<sup>159</sup>Hungarian NGO, Budapest, May 4, 2011.

<sup>160</sup>Polish UNHCR expert, Warsaw, April 21, 2011.

<sup>161</sup> Ibid.

<sup>162</sup> Iglicka and Gmaj, 12.

<sup>163</sup> UNHCR Poland, April 21, 2011.

As seen from tables 3.1.C, 3.1.D and 3.1.E Poland's recognition rate was in the long term very high and in 2008 it was even the highest in the EU. Bearing this in mind mixed migrants did not have a reason to cross Poland if their main purpose was to obtain protection or utilize the Polish asylum system to prolong their stay. All interviews conducted in Poland confirm this statement. According to the interviews, 90% of ASs apply voluntarily at Terespol border crossing with Belarus and 95% of applicants are of Chechen origin.<sup>165</sup> These people were generally given tolerated stay status for humanitarian reasons.<sup>166</sup> Yet this situation started to change in 2010 when the number of positive decisions declined sharply because the Polish authorities started to perceive Russia as a "*safe country*."<sup>167</sup> Through the migrants channels this became well known knowledge in the Chechen community and is the reason behind the decline of the number of ASs in Poland in 2010.<sup>168</sup>

Although most of the ASs apply for asylum voluntarily, Poland is not the destination country for most of them.<sup>169</sup> They perceived it as a layover place for a certain period of time. After this break they move to the Western Europe. The existence of the DS makes these efforts more difficult. According to the experts, the DS literally increases the secondary migration movements of ASs.<sup>170</sup> These, after being apprehended in Western Europe are returned to Poland. Because Poland uses detention just exceptionally, returnees after their return abscond again.<sup>171</sup>

The effort to leave Poland is the result of numerous factors. Firstly, because of the severe economic situation. However, among irregular migrants there is a large group which constitutes an exception to this rule and which chooses Poland precisely for labor market possibilities.<sup>172</sup> This category consists mostly of Vietnamese and Ukrainians who have just a minimum chance to obtain any type of protection and therefore they do not usually apply for asylum. However, if the

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<sup>164</sup> Iglicka and Gmaj, 2008, 12.

<sup>165</sup> UNHCR Poland, April 21, 2011.

<sup>166</sup> Iglicka and Gmaj, 2008, 36.

<sup>167</sup> UNHCR Poland, April 21, 2011.

<sup>168</sup> Polish NGO expert, Interview with author, Warsaw, April 20, 2011.

<sup>169</sup> Iglicka and Gmaj, 2008, 12.

<sup>170</sup> Polish NGO expert, April 20, 2011.

<sup>171</sup> Polish UNHCR expert, April 21, 2011.

<sup>172</sup> Iglicka and Gmaj, 2008, 14-15.

members of this group are apprehended for the reason of prolonging their stay, they often lodge an asylum application.<sup>173</sup>

Another reason why a large portion of ASs leave Poland is because of small prospects to integrate into the society. Those who do not obtain the relatively rare refugee protection have just a limited opportunity to take part in integration programs and the support from the state for them is restricted. Therefore a part of them end in shelter for homeless.<sup>174</sup> According to the MIPEX index Poland shares in the EU with Austria 20<sup>th</sup> place when integrating migrants into society.<sup>175</sup> Moreover, the effort to integrate is also worsened by the size of the Polish immigration population. Poland has one of the lowest shares of immigrants – approximately 0.1% and this small number is why the ASs can obtain just a limited help from their co-citizens when trying to integrate into Polish society.<sup>176</sup>

As stated before, the probability of secondary migration movements is augmented by the low practice of ASs detention by the Polish authorities. On the other hand, these movements are just the reactions to the system, which returns them to Poland. As Table 3.3.A shows, the number of returnees to Poland have increased dramatically since 2005 - from 200 to around 2000. However, it is impossible to measure how the share of realized accepted requests increased during time because of different measurements units- transfers count individuals and requests can count both individuals as well as an adult with several minors as one. Furthermore, it is not possible to count precisely the percentage which Dublin returnees represent among the total number of applicants because they may be counted two or more times. However, when realizing that in 2009 10,587 individuals applied for asylum and 1,948 returned back as Dublin returnees, it is possible to conclude that the number of returnees represent approximately 20-25% addition to the total number of ASs. The Commission in its 2007 Report monitoring 2005 concluded that in

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<sup>173</sup> Polish NGO expert, April 20, 2011.

<sup>174</sup> Ibid.

<sup>175</sup> Huddleston, 15.

<sup>176</sup> OECD Publishing, "International Migration Outlook 2007," June 25, 2007, [http://www.keepeek.com/Digital-Asset-Management/oecd/social-issues-migration-health/international-migration-outlook-2007\\_migr\\_outlook-2007-en](http://www.keepeek.com/Digital-Asset-Management/oecd/social-issues-migration-health/international-migration-outlook-2007_migr_outlook-2007-en) (accessed May 25, 2011), 330.

the case of Poland, the DS increased the total numbers of ASs around 20% and in the case of fully functioning system this increase would represent 40%. However, according to interviews in 2011, the officials in Poland do not perceive the DS as a problem.<sup>177</sup> This has been confirmed also by an interview with an official of the Polish Dublin Unit, who perceives the system as an obligation connected with EU membership.<sup>178</sup> The main reason is that the asylum system in Poland is prepared for a massive influx of ASs and although the number of returnees is high, because of the decrease of ASs in Poland it does not represent a problem.

Influence of the DS on mixed migration towards Poland is different from Hungary and Slovakia because of previous high recognition rates and low use of detention. Because of this the migrants apply for asylum protection voluntarily and do not have problem to be tied with it. However this situation is changing and there is a probability that the impact of the DS on mixed migration will increase as the migrants will try to pass through it undetected. The number of returnees to Poland is high. However, because the Polish asylum system has capacities to handle large numbers of ASs current numbers of returnees together with the new ASs do not present a serious threat to the polish asylum system.

### 3.4 Slovakia

Since the fall of communism Slovakia is used as a transit country. As is possible to conclude from Table 3.1.A the largest pressure on its borders it witnessed between 2001- 2003 and since then the number of apprehensions is declining. Table 3.1.B shows that also the number of asylum applications is declining since 2004. The drop between 2004 and 2005 is almost 70%. However the real drop was much lower because the statistics include repeatedly the same people who were returned to Slovakia under the DS.<sup>179</sup> Despite this, the decline both in asylum applications as well as in border apprehensions is striking in the difference between 2005 and

<sup>177</sup> Polish UNHCR expert, April 21, 2011.

<sup>178</sup> Polish Dublin Unit expert, April 20, 2011.

<sup>179</sup> Slovak UNHCR expert, Interview by author, Bratislava, May 10, 2011.



2011 which is almost 85 percent. On the other hand, although the number of apprehensions has fallen sharply with regard to its length, the Slovak part of the Schengen border is still under strong pressure and therefore the previous numbers were perceived as extremely high.<sup>180</sup>

Reasons behind this decrease can be multiple. As Divinsky notes, in Slovakia there is a “*quite strong*” correlation between asylum and irregular migration, especially the extent and character of the irregular migration has a strong effect on the asylum migration.<sup>181</sup> Mixed migrants enter Slovak territory first as transiting migrants, but after apprehension they often immediately apply for asylum not to be removed from the country.<sup>182</sup> This is also supported by the Dublin Unit expert according to whom the distinction between asylum and irregular migrants in Slovakia blends.<sup>183</sup> However, because the border protection improved dramatically and the mixed migrants do not want to be bound to Slovakia through the DS they utilize different travel routes. This is the main reason behind the long-term decline of ASs.<sup>184</sup>

Furthermore, there are also other aspects which stand behind the decrease of ASs and border apprehensions. One of them is the missing integration policy.<sup>185</sup> This can be supported by MIPEX index in which Slovakia occupies among the 27 EU countries 25th spot.<sup>186</sup> Inability to integrate into Slovak society is also connected with the lack of foreign residents living in Slovakia, which is one of the smallest in Europe.<sup>187</sup> Migrants therefore have just limited possibilities to utilize the help of established migrant networks for facilitation of integration.

As stated before, there is a possibility that migrants are using routes bypassing Slovakia because their unwillingness to be fingerprinted in Slovakia. The importance of the DS was also demonstrated when in 2005 Austria did not perceive Slovakia as a safe country and therefore it

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<sup>180</sup> Frontex Risk Analysis Unit expert, Warsaw, April 19, 2011.

<sup>181</sup> Divinsky, 23.

<sup>182</sup> Ibid.

<sup>183</sup> Slovak NGO expert, Interview by author, Bratislava, May 02, 2011.

<sup>184</sup> Slovak Dublin Unit expert, May 10, 2011.

<sup>185</sup> Slovak UNHCR expert, May 10, 2011.

<sup>186</sup> Huddleston, 15.

<sup>187</sup> Divinsky, 10.

was not returning ASs to Slovakia. This caused at that time a rise in utilization of the route through Slovakia.<sup>188</sup>

From this is clear that mixed migrants have knowledge about the DS. This can be confirmed by the situations in which they were claiming to be underage with the goal not to be recorded in the system. Situations also occurred in which they declared they were under 14 years old. Possibly they were doing it with a detailed knowledge about the functioning of Eurodac which stores fingerprints of migrants over fourteen.<sup>189</sup> This is connected with the fact that due to financial reasons Slovak authorities rarely use special techniques for age determination and all unaccompanied minors are transported to West Slovakia to a relatively open facility. From there the crossing to Austria is, due to non-existent border controls, easy. Asylum seekers often cross the border to Austria being aware that the recognition rate there is higher than in Slovakia.<sup>190</sup> The absconded migrants do believe that there is a possibility that Austria will not transfer them back to Slovakia due to humanitarian reasons, even in a case of a Eurodac hit.<sup>191</sup> Those who claimed being younger than 14 would be even in a better situation because they would not have any Eurodac record. Therefore in their case the determination of the responsible state will be difficult.<sup>192</sup>

Not just with minors, but in general Slovakia does not utilize detention as a common practice in contrast to Ukraine, where detention is relatively frequent and long.<sup>193</sup> This may be why the apprehended migrants prefer to lodge the asylum claim in Slovakia. After their transfer into the asylum center they do not have a problem to leave and to continue on their way to Western Europe with the hope that they will not be returned despite the DS. Furthermore, also the Dublin returnees are not in detention and therefore they do not have a problem to abscond repeatedly.

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<sup>188</sup> Slovak NGO expert, May 2, 2011.

<sup>189</sup> Slovak UNHCR expert, May 10, 2011.

<sup>190</sup> Slovak NGO expert, May 2, 2011.

<sup>191</sup> Ibid.

<sup>192</sup> Ibid.

<sup>193</sup> Slovak UNHCR expert, May 10, 2011.

As is possible to conclude from Table 3.4.B, the chance that absconded AS will not be returned is still high, because between 2008- 2010 on average just around 60% of accepted transfers were realized. In contrast, in the same period almost 84% of agreed outgoing transfers occurred. This could indicate a certain unwillingness to receive returnees under the DS. However, when comparing the percentage of both accepted incoming as well as outgoing requests the numbers are almost the same; therefore it is not possible to speak about a clear reluctance of Slovakia to accept responsibility for ASs.

However, unwillingness can be perceived through other channels e.g. Slovakia never voluntarily accepted responsibility for an asylum seeker (AS) because of humanitarian reasons.<sup>194</sup> Slovakia usually claims the responsibility of the other state- even in a situation, when it would be better for the AS to stay in Slovakia – e.g. Slovakia tried to return an AS to Austria, despite the person having children in Slovakia.<sup>195</sup>

Generally the number of Dublin returnees does not represent a large burden for Slovakia. This can be concluded from all interviews and also when looking at presented numbers. Because the Dublin returnees could be counted repeatedly into the statistics as new ASs, it is not possible to say what is the precise impact of the DS on the numbers of ASs. Provided data also do not show how many individuals were transferred – they count persons, however do not show how many times the same individual was returned. However, a picture can be made from the 2007 Commission report, which states that Dublin transfers increased the number of ASs by around 20% and a fully effective DS would increase the number by around 40%.<sup>196</sup> Nevertheless, the impact on the state would be also in this case far from disastrous. Slovak reception facilities are projected for much higher numbers and although the budget for these facilities has been lowered this did not affected their preparedness. For example, in one reception center there are today 80

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<sup>194</sup> Slovak UNHCR expert, May 10, 2011.

<sup>195</sup> Slovak NGO expert, May 2, 2011.

<sup>196</sup> Report from the Commission to the European Parliament and the Council on the Evaluation of the Dublin System. Rep. no. COM(2007) 299 Final, 12-13.

people taking care of 20 ASs.<sup>197</sup> Certainly, the situation can change in the case of any extraordinary situation which may result in a large influx of mixed migrants passing to/through Slovakia.

From the above it can be concluded that the effect of the Dublin returnees on Slovakia is limited. However, the DS as a whole is the reason – combined with the increased border protection – behind the long-term decrease of ASs in Slovakia. ASs are, for a large part, aware of this system and therefore they try to utilize other routes or change their behavior in a way to not be registered in the Eurodac and therefore not be tied to Slovakia.

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<sup>197</sup> Slovak UNHCR expert, May 10, 2011.

## Conclusion

The Dublin System is generally understood as an important part of the European cooperation in the asylum field without which the aims of the European integration would be threatened. However, this system faces strong critique from all sides for its ineffectiveness, negative influence on asylum seekers and the overburdening of the EU border states.

This thesis has explored how this system is affecting the irregular and asylum migration in three new EU Member States. Moreover, it examined whether Hungary, Poland and Slovakia were put under strong burden because of the existence of the Dublin System. The thesis argues that the fact that the system created by the Dublin Regulation binds the apprehended irregular migrants and asylum seekers to a certain Member State has a large influence on their decision-making. The impact which the system has on the three researched countries is limited because their asylum systems were designed for larger influxes of asylum seekers. Another reason why this effect is relatively small is the combination of economic factors combined with the small potential for integration of an asylum seeker into the society.

The thesis has shown that the three states have certain common features, as is the preparedness of their asylum systems for massive influxes and poor integration possibilities for asylum seekers. Furthermore, for asylum as well as for irregular migrants these states are just transit countries on their way to Western Europe. They are perceived as a part of a larger complex route.

On the other hand, these states can be distinguished by several factors. The most important difference is the perception of the asylum system. Up until 2009, Poland was unique because of the composition of its asylum seekers who were almost exclusively Russians citizens. They knew that they would receive protection, therefore, they applied voluntarily for asylum. Slovakia and Hungary are different because most of the asylum seekers, knowing about the low

recognition rate, applied for protection only after they had been apprehended by the border patrol or police.

The thesis demonstrates using interviews combined with reports and statistics that the Dublin System has an impact on the behavior of irregular and asylum migrants. In countries where the asylum systems do not provide protection, social benefits and potential for integration, asylum seekers act in a manner to avoid being fingerprinted and subsequently connected with these states through the Dublin System. In Poland where there was a high probability to obtain protection, the same phenomenon was not observed.

Furthermore, the thesis shows how the Dublin System influences the irregular and asylum migrants after they become registered in Eurodac. Despite their knowledge about the system and about the possibility of being returned, they leave for their original destination countries. However, after apprehension they are transferred back in high numbers to the country from which they have absconded. This process can repeat several times. By creating this situation, the Dublin System itself negates one of its main objectives – to stop secondary migratory movements.

In addition, the thesis demonstrates that the Central and Eastern European states did not become overburdened because of the existence of the Dublin System. This is a result of a combination of factors: the asylum systems of these states are prepared for massive influxes and the relative ineffectiveness of the system causes that the numbers of returnees are not extremely high. Another reason is a steady – although with deviations - decreasing number of migrants utilizing the route through these states. Moreover, all three states until recently did not apply detention as a frequent method to maintain the asylum seekers on their territory, therefore, the applicants did not have problems to abscond and in this manner to alleviate the asylum system.

However, the thesis is unable to show the exact impact of the Dublin system on the decision-making of migrants and the precise burden which the system places on the researched states. The first point is the consequence of the impossibility to obtain exact data because of the

secretive nature of both irregular and asylum migration. The second point is connected with different methodologies used in particular Member States when creating the Dublin statistics. This prevented a more detailed comparison between the three researched countries. Because the measurement units have changed during the existence of the Dublin System, it was not possible to make a long term impact assessment from available data.

The thesis shows that the Dublin System has become a very important phenomenon which affects both states and people. Therefore, it is very surprising that its research is – at least in respect to the Central and Eastern Europe – so neglected. I believe that with this thesis I have significantly contributed to the research on the Dublin System in Central and Eastern Europe and shown how negatively the system influences the situation of asylum and irregular migrants.

## Appendices

### Appendix 1 List of interview respondents

- 1 Roman Fantini Strategic Analyst, Risk Analysis Unit, Frontex.

*Interview Conducted:* Warsaw, April 19, 2011.
- 2 Agnieszka Kunicka Acting Head, Refugee and Repatriates Counseling Centre.

*Interview Conducted:* Warsaw, April 20, 2011.
- 3 Małgorzata Stelmaszewska Senior specialist in Polish Dublin Unit.

*Interview Conducted:* Warsaw, April 20, 2011.
- 4 Maria Pamula Assistant Protection Officer, UNHCR Poland.

*Interview Conducted:* Warsaw, April 21, 2011.
- 5 Miroslava Mittelmanova Attorney, The Human Rights League, Slovakia.

*Interview Conducted:* Bratislava, May 02, 2011.
- 6 Jana Feriancova specialist in Slovak Dublin Unit.

*Interview Conducted:* Bratislava, May 10, 2011.
- 7 Barbora Messoval Assistant Protection Officer, UNHCR Slovakia.

*Interview Conducted:* Bratislava, May 10, 2011.
- 8 Andras Kovats Director, Menedek, Hungary.

*Interview Conducted:* Budapest, May 4, 2011.
- 9 Agnes Ambrus National Protection Officer, Head of Hungary Unit, UNHCR.

*Interview Conducted:* Budapest, May 9, 2011.



## Appendix 2      Interview questions

### **Interview structure:**

Place, date and time:

Interviewee:

Organization/institution:

### **Background information:**

1. Tell me a little more about the duties of your present/last job and what are/were the major responsibilities in your present/last job? How long do you/did you work in this field?
2. What is your opinion about the Dublin System? (goals, effectiveness, principles)  
What is the number of effective transfers when there is an acceptance of responsibility?  
Is there any preference on the side of the requested states? What happens, when a dispute arises (especially if there is no Eurodac hit)?

### **General comparison between the pre- and post-EU accession situation:**

3. Have you witnessed any changes in irregular and asylum migration flows in comparison with the period before the 2004 EU enlargement? (changes in numbers and routing) Are statistics reflecting reality?
4. Do you see any changes in the behavior of irregular migrants/refugees in comparison to the period before the 2004 EU enlargement? Do the apprehended irregular migrants apply for asylum protection more often than before? What is the ratio between the applicants who apply before the apprehension (voluntary) and the ones who apply after the apprehension)

### **Present situation:**

5. Are you familiar with the situation in the three countries under research? Do you see any differences in the behavior of irregular migrants/refugees in relation to particular states? Do you see any differences in the behavior of authorities? What about the implementation of national rules, are there any differences?

6. What is the relation between irregular migration and asylum migration in your country/three countries under research
7. In your opinion, what effect has the Dublin Regulation on your country/the three countries under research? What is the long term net balance?
8. Please compare the scenario of a fully effective Dublin System with the current situation. What impact would have a fully functioning Dublin System on the three countries under research/your particular country?
9. As far as you know, are the irregular migrants/refugees aware of the existence of the Dublin Regulation before they cross the EU border?
10. According to the statistics there is a trend of increased utilization of smuggler services for crossing the borders. How familiar are the smugglers with the situation in particular states? (about particular asylum procedures, percentage of successful asylum applications)
11. In your opinion, what are the other factors apart from the Dublin regulation which influence the irregular and asylum migration to CEE? Which are the most important of them? How significant are they compared to the Dublin regulation?

**Future situation:**

12. According to you, how do you see the future of irregular/asylum migration to the three countries under research / to your particular country (trends)?
13. What is your general impression about the future of the Dublin System?
14. In your opinion, is there a fairness and efficiency on the European level in the field of asylum? Do you see a potential for improvements in future? Should there be a common European asylum policy?
15. Is there anything I did not ask about, but you think is important and I should be aware of?

## Appendix 3 Tables and Figures

**Table 3.1.A: Border apprehensions in Hungary, Poland and Slovakia (2000-2010)**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Hungary	19,717	16,637	15,976	12,990	13,103	18,294	16,508	8,779	5,187	5,948	1,278
Poland	5,500	6,075	4,269	5,063	6,012	3,231	2,741	2,117	4,661	3,422	3,994
Slovakia	6,062	15,548	15,235	12,493	8,334	5,178	4,129	6,761	2,355	1,785	1,474

### Notes:

**Hungary:** 2000-2006 including apprehensions within the country, otherwise only border apprehensions

**Poland:** 2005 and 2006 figures exclude readmission, Dublin II transfers, Polish and other EU citizens.

### Sources:

**Hungary 2000-2006:** Hungarian Office of Immigration and Naturalization in Peter Futo, "Undocumented Migration Counting the Uncountable. Data and Trends across Europe - Country Report Hungary," Clandestino, November 2008, [http://dandestino.eliamap.gr/wp-content/uploads/2009/10/dandestino\\_report\\_hungary\\_final\\_3.pdf](http://dandestino.eliamap.gr/wp-content/uploads/2009/10/dandestino_report_hungary_final_3.pdf), (accessed May 30, 2011), 75.

**Hungary 2007:** Hungarian Office of Immigration and Naturalization in Futo, 18.

**Hungary 2008:** Európai Migrációs Hálózat, "Hungary Annual Policy Report 2008," March 2010, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D8FBC35752FD2EC00077915D83ADA8F0?fileID=926>, (accessed May 30, 2011), 27.

**Hungary 2009:** Európai Migrációs Hálózat, "Hungary Annual Policy Report 2009," Európai Migrációs Hálózat, accessed March 2010, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D8FBC35752FD2EC00077915D83ADA8F0?fileID=968>, (accessed May 30, 2011), 26.

**Hungary 2010:** European Migration Network, "Hungary Annual Policy Report 2010," April 2011, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D8FBC35752FD2EC00077915D83ADA8F0?fileID=1977> (Accessed May 31, 2011), 61.

**Poland 2000-2006:** Polish Border Guards in Futo, 75.

**Poland 2007-2008:** Polish Border Guards in Krystyna Iglicka and Katarzyna Gmaj, "Irregular migration in Poland CLANDESTINO Research Project, Policy Brief – Poland," Clandestino, November 2009, [http://irregular-migration.hwwi.de/typo3\\_upload/groups/31/4.Background\\_Information/4.2.Policy\\_Briefs\\_EN/Poland\\_PolicyBrief\\_Clandestino\\_Nov09\\_2.pdf](http://irregular-migration.hwwi.de/typo3_upload/groups/31/4.Background_Information/4.2.Policy_Briefs_EN/Poland_PolicyBrief_Clandestino_Nov09_2.pdf), (accessed May 30, 2011), 19.

**Poland 2009:** Polish National Contact Point to the European Migration Network, "Annual Policy Report for Poland 2009," March 2010, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D8FBC35752FD2EC00077915D83ADA8F0?fileID=968>, (Accessed 31 May 2011), 24.

**Poland 2010:** Polish National Contact Point to the European Migration Network, "Annual Policy Report for Poland," May 2010, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D8FBC35752FD2EC00077915D83ADA8F0?fileID=1997> (Accessed May 31 2011), 50.

**Slovakia 2000-2006:** Slovakian Border Guards in Futo 75.

**Slovakia 2007:** Divinsky, 27.

**Slovakia 2008:** Zuzana Bargerova and Zuzana Stevulova, "Annual Report on Migration and Asylum Policies - Slovak Republic," European Migration Network, January 2009, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D41CFB5577333A439876BE2560892687?fileID=918>, (Accessed May 31, 2011), 31.

**Slovakia 2009:** Ivana Potockova, "Annual Report on Migration And Asylum Policies 2009 Slovak Republic," European Migration Network, June 2010, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D41CFB5577333A439876BE2560892687?fileID=1030>, (Accessed May 31, 2011), 25.

**Slovakia 2010:** Ivana Potockova, "Slovak Republic Annual Policy Report on Migration and Asylum," European Migration Network, April 2011, <http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=D8FBC35752FD2EC00077915D83ADA8F0?fileID=1484>. (Accessed May 32 2011), 69.

**Table 3.1.B: Asylum applications submitted in Hungary, Poland and Slovakia (2000 – 2010)**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Hungary	7,800	9,550	6,410	2,400	1,600	1,610	2,120	3,430	3,120	4,670	2,460
<b>Poland</b>	<b>4,590</b>	<b>4,510</b>	<b>5,170</b>	<b>6,910</b>	<b>8,080</b>	<b>6,860</b>	<b>4,430</b>	<b>7,210</b>	<b>7,200</b>	<b>10,590</b>	<b>6,540</b>
Slovakia	1,560	8,150	9,700	10,360	11,390	3,550	2,870	2,640	910	820	540

**Sources:**

**2000 – 2001:** UNHCR, "Asylum Level and Trends In Industrialized Countries 2004," March 1, 2005, <http://0/www.unhcr.org/422439144.html>, (Accessed May 31, 2011), 8.

**2002-2006:** UNHCR, "Asylum Level and Trends In Industrialized Countries 2006," March 23, 2007, <http://www.unhcr.org/460150272.html>, (Accessed May 30, 2011), 10.

**2007-2010:** UNHCR, "Asylum Level and Trends In Industrialized Countries 2010," March 28, 2011, <http://www.unhcr.org/4d8c5b109.html>, (Accessed May 31, 2011), 15.

**Table 3.1.C: Total number of decisions and the percentage of positive decisions made in EU-27, Hungary, Poland and Slovakia in 2005-2007**

	2005		2006		2007	
	Total number of decisions	% positive	Total number of decisions	% positive	Total number of decisions	% positive
<b>EU-27</b>	<b>376,587</b>	<b>15</b>	<b>290,688</b>	<b>17</b>	<b>267,059</b>	<b>24</b>
Hungary	1,654	12	2,018	10	3,592	7
<b>Poland</b>	<b>8,841</b>	<b>24</b>	<b>7,285</b>	<b>34</b>	<b>5,826</b>	<b>51</b>
Slovakia	3,782	0,66	2,814	0,28	2,966	3

**Source: EMN NCP**

European Migration Network, "Annual Report on Asylum and Migration Statistics 2007," December 2010, [http://extranjeros.mtin.es/es/RedEuropeaMigraciones/Informe\\_Anual\\_Estadisticas\\_Migracion\\_Asilo/EMN\\_Synthesis\\_Report\\_Asylum\\_Migration\\_Statistics\\_2007.pdf](http://extranjeros.mtin.es/es/RedEuropeaMigraciones/Informe_Anual_Estadisticas_Migracion_Asilo/EMN_Synthesis_Report_Asylum_Migration_Statistics_2007.pdf), (Accessed May 31, 2011), 28.

**Table 3.1.D: Total decisions, positive decisions, refugee protection, subsidiary protection and protection for humanitarian reasons in EU-27, Hungary, Poland and Slovakia in 2008**

	<b>Total decisions</b>	<b>Positive decisions</b>	<b>Refugee protection</b>	<b>Subsidiary protection</b>	<b>Humanitarian reasons</b>
	Number	Number	Number	Number	Number
	Percentage	Percentage	Percentage	Percentage	Percentage
<b>EU-27</b>	281,120	76,320	40,040	25,455	10,825
	<b>100</b>	<b>27,15</b>	<b>14,24</b>	<b>9,05</b>	<b>3,85</b>
<b>Hungary</b>	965	400	175	65	160
	<b>100</b>	<b>41,45</b>	<b>18,13</b>	<b>6,74</b>	<b>16,58</b>
<b>Poland</b>	4,425	2800	195	1,080	1,526
	<b>100</b>	<b>63,28</b>	<b>4,41</b>	<b>24,41</b>	<b>34,49</b>
<b>Slovakia</b>	445	100	20	70	5
	<b>100</b>	<b>22,47</b>	<b>4,49</b>	<b>15,73</b>	<b>1,12</b>

**Author's calculations. Source: Eurostat**

Piotr Juchno, "75 Thousand Asylum Seekers Granted Protection Status in the EU in 2008," EUROSTAT, 2009, [http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-SF-09-092/EN/KS-SF-09-092-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-09-092/EN/KS-SF-09-092-EN.PDF), (Accessed June 1, 2011), 3.

**Table 3.1.E: Total decisions, positive decisions, refugee protection, subsidiary protection and protection for humanitarian reasons in EU-27, Hungary, Poland and Slovakia in 2009**

	<b>Total decisions</b>	<b>Positive decisions</b>	<b>Refugee protection</b>	<b>Subsidiary protection</b>	<b>Humanitarian reasons</b>
	Number	Number	Number	Number	Number
	Percentage	Percentage	Percentage	Percentage	Percentage
<b>EU-27</b>	317,505	78,820	39,330	29,915	9575
	<b>100</b>	<b>24,82</b>	<b>12,39</b>	<b>9,42</b>	<b>3,02</b>
<b>Hungary</b>	1,960	395	175	65	155
	<b>100</b>	<b>20,15</b>	<b>8,93</b>	<b>3,32</b>	<b>7,91</b>
<b>Poland</b>	6,680	2,615	135	2,400	80
	<b>100</b>	<b>39,15</b>	<b>2,02</b>	<b>35,93</b>	<b>1,20</b>
<b>Slovakia</b>	355	195	20	145	30
	<b>100</b>	<b>54,93</b>	<b>5,63</b>	<b>40,85</b>	<b>8,45</b>

**Author's calculations. Source: Eurostat**

EUROSTAT, "EU Member States Granted Protection to 78 800 Asylum Seekers in 2009," June 18, 2010, [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/3-18062010-AP/EN/3-18062010-AP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-18062010-AP/EN/3-18062010-AP-EN.PDF), (Accessed June 1, 2011), 2.



**Table 3.1.F: Total decisions, positive decisions, refugee protection, subsidiary protection and protection for humanitarian reasons in EU-27, Hungary, Poland and Slovakia in 2010 – first instance decisions**

	<b>Total decisions</b>	<b>Positive decisions</b>	<b>Refugee protection</b>	<b>Subsidiary protection</b>	<b>Humanitarian reasons</b>
	Number	Number	Number	Number	Number
	Percentage	Percentage	Percentage	Percentage	Percentage
<b>EU-27</b>	222,105	55,095	27,045	20,400	7,645
	<b>100</b>	<b>24,81</b>	<b>12,18</b>	<b>9,18</b>	<b>3,44</b>
<b>Hungary</b>	1,040	260	75	115	70
	<b>100</b>	<b>25</b>	<b>7,21</b>	<b>11,06</b>	<b>6,73</b>
<b>Poland</b>	4,420	510	80	195	230
	<b>100</b>	<b>11,54</b>	<b>1,81</b>	<b>4,41</b>	<b>5,2</b>
<b>Slovakia</b>	295	90	5	55	30
	<b>100</b>	<b>30,51</b>	<b>1,69</b>	<b>18,64</b>	<b>10,17</b>

**Author's calculations. Source: Eurostat**

Eurostat, "The Number of Asylum Applicants Registered in the EU27 Stable around 260 000 in 2010," March 29, 2011, [http://www.emnbelgium.be/sites/default/files/attachments/eurostat\\_news\\_release.pdf](http://www.emnbelgium.be/sites/default/files/attachments/eurostat_news_release.pdf), (Accessed June 1, 2011), 2.

**Table 3.1.G Recognition rates in EU-27, Hungary, Poland and Slovakia (2008-2010)**

	<b>Total decisions</b>	<b>Positive decisions</b>	<b>Refugee protection</b>	<b>Subsidiary protection</b>	<b>Humanitarian reasons</b>
	Number	Number	Number	Number	Number
	Percentage	Percentage from total decisions	Percentage from total decisions	Percentage from total decisions	Percentage
<b>EU-27</b>	820,730	210,235	106,415	75,770	28,045
	<b>100</b>	<b>25,62</b>	<b>12,97</b>	<b>9,23</b>	<b>3,42</b>
<b>Hungary</b>	3,965	1,055	425	245	385
	<b>100</b>	<b>26,61</b>	<b>10,72</b>	<b>6,18</b>	<b>9,71</b>
<b>Poland</b>	15,525	5,925	410	3,675	1,836
	<b>100</b>	<b>38,16</b>	<b>2,64</b>	<b>23,67</b>	<b>11,83</b>
<b>Slovakia</b>	1,095	385	45	270	65
	<b>100</b>	<b>35,16</b>	<b>4,11</b>	<b>24,66</b>	<b>5,94</b>

Author's calculations. Data source: Eurostat

**Table 3.1.H: Nationalities of asylum seekers in Hungary, Poland and Slovakia (2007-2010)**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Hungary</b>	Serbia-Montenegro (911)	Serbia (1593)	Serbia (2322)	Afghanistan (700)
	<i>Vietnam (862)</i>	<i>Pakistan (246)</i>	<i>Afghanistan (1194)</i>	<i>Kosovo (380)</i>
	China (417)	Georgia (165)	Georgia (116)	Palestine (225)
<b>Poland</b>	<i>Russia (9238)</i>	<i>Russia (7760)</i>	<i>Russia (5,726)</i>	<i>Russia (4795)</i>
	Belarus (83)	Georgia (71)	Georgia (4,182)	Georgia (1085)
	<i>Pakistan (61)</i>	<i>Iraq (70)</i>	<i>Armenia (147)</i>	<i>Armenia (105)</i>
<b>Slovakia</b>	Pakistan (650)	Georgia (119)	Pakistan (168)	Afghanistan (75)
	<i>India (610)</i>	<i>Moldova (113)</i>	<i>Georgia (98)</i>	<i>Russia (65)</i>
	Russia (307)	Pakistan (109)	Russia (72)	Georgia (65)

**Author's calculations.**

#### **Sources:**

**2007:** UNHCR, "Asylum Trends in Central Europe in 2005 – 2007," [http://www.unhcr-centraleurope.org/images/stories/news/docs/01\\_Facts%20and%20Figures/1\\_2\\_regional%20statistics%202008\\_REGION/Regional%20Statistics%202008%20ENG.pdf](http://www.unhcr-centraleurope.org/images/stories/news/docs/01_Facts%20and%20Figures/1_2_regional%20statistics%202008_REGION/Regional%20Statistics%202008%20ENG.pdf), (Accessed June 1, 2011), 2-3.

**2008:** UNHCR, "Asylum Trends in Central Europe in 2006-2008," [http://www.unhcr-centraleurope.org/images/stories/news/docs/01\\_Facts%20and%20Figures/1\\_1\\_regional%20statistics%202009\\_REGION/Refugee%20Statistics%202009%20ENG.pdf](http://www.unhcr-centraleurope.org/images/stories/news/docs/01_Facts%20and%20Figures/1_1_regional%20statistics%202009_REGION/Refugee%20Statistics%202009%20ENG.pdf), (Accessed June 1, 2011), 3-4.

**2009:** Asylum Level and Trends In Industrialized Countries 2010, 20.

**2010:** The Number of Asylum Applicants Registered in the EU27 Stable around 260 000 in 2010, 2.

**Table 3.2.A: Groups granted protection status in EU-27, Hungary, Poland and Slovakia in 2008 – 2010**

	2008	2009	2010
<b>Hungary</b>	Somalia (105)	Afghanistan (150)	Afghanistan (84)
	<i>Afghanistan (60)</i>	<i>Somalia (115)</i>	<i>Somalia (41)</i>
	Iraq (55)	Iraq (35)	Iraq (6)
<b>Poland</b>	<i>Russia (2,265)</i>	<i>Russia (2,505)</i>	<i>Russia (102)</i>
	Iraq (30)	Iraq (25)	Iraq (5)
	<i>Belarus (20)</i>	<i>Belarus (20)</i>	<i>Afghanistan, Belarus (3)</i>
<b>Slovakia</b>	Afghanistan (35)	Afghanistan (50)	Afghanistan (39)
	<i>Iraq (35)</i>	<i>Pakistan (15)</i>	<i>Somalia (17)</i>
	Cuba (10)	Iraq (10)	Iran (7)

**Notes:**

**2010:**

Slovakia: first instance decisions only

Hungary: refugee and subsidiary protection only

**Sources:**

**2008:**

Asylum Trends in Central Europe in 2006-2008, 3-4.

**2009:**

EU Member States Granted Protection to 78 800 Asylum Seekers in 2009, 2.

**2010:**

Hungary: Office of Immigration and Nationality, "Statistic 2009-2010," March 2, 2011, <http://www.bmbah.hu/statisztikak.php>, (Accessed June 1, 2011).

Poland: Malgorzata Lukasiak, (M.Lukasiak@uric.gov.pl), "Presentation," Private e-mail message to author, (ondrus.j@hotmail.com), May 25, 2011.

Slovakia: Migration Office Slovak Interior Ministry, "Statisticka Sprava 2010 - Statistical Report 2010," <http://www.minv.sk/?statistiky-20>, (Accessed June 1, 2011).

**Table 3.2.B: Hungary – Dublin Statistics**

	2004	2005	2006	2007	2008	2009	2010
<b>O – TNR</b>	n/a	n/a	n/a	n/a	n/a	617	446
<b>O – TR A</b>	n/a	18	28	67	131	512	391
<b>O – TT</b>	n/a	8	9	14	63	84	177
<b>I – TR</b>	n/a	n/a	n/a	n/a	n/a	2,481	1,972
<b>I – TR A</b>	n/a	755	481	446	752	1,561	1,480
<b>I – TT</b>	n/a	159	273	239	334	934	742
<b>NET</b>	n/a	151	264	225	270	850	565

**Notes:**

O – TNR      Outgoing Total Number of Requests  
 O – TR A    Outgoing Total Number of Accepted Requests  
 O – TT      Outgoing Total Number of Transfers  
 I – TR      Incoming Total Request  
 I – TR A    Incoming Total Number of Accepted Requests  
 I – TT      Incoming Total Number of Transfers  
 NET        Incoming Total Number of Transfers minus Outgoing Total Number of Transfers

**Source:**

Office of Immigration and Nationality, (nef@bah.b-m.hu). "Question," Private e-mail message to author, (ondrus.j@hotmail.com), June 1, 2011.

**Table 3.3.A: Poland – Dublin Statistics**

	2004	2005	2006	2007	2008	2009	2010
<b>O – TNR</b>	-	118	230	113	76	121	107
<b>O – TR A</b>	-	24	84	65	18	71	74
<b>O – TT</b>	-	0	54	68	12	39	40
<b>I – TR</b>	2	1391	1612	1475	3601	4946	4863
<b>I – TR A</b>	2	1179	1421	1238	3454	4665	4602
<b>I – TT</b>	1	298	267	485	1914	1987	2130
<b>NET</b>	1	298	213	417	1902	1948	2090

**Notes:**

O – TNR	Outgoing Total Number of Requests
O – TR A	Outgoing Total Number of Accepted Requests
O – TT	Outgoing Total Number of Transfers
I – TR	Incoming Total Request
I – TR A	Incoming Total Number of Accepted Requests
I – TT	Incoming Total Number of Transfers
NET	Incoming Total Number of Transfers minus Outgoing Total Number of Transfers

**Source:**

Office for Foreigners, "Polish Dublin Statistics 2004-2010," handed to author personally, Warsaw, April 20, 2011.

**Table 3.4.A Slovakia – Dublin statistics**

	2004	2005	2006	2007	2008	2009	2010
<b>O – TNR</b>	n/a	604	249	161	<b>158</b>	<b>132</b>	<b>106</b>
<b>O – TR A</b>	n/a	203	124	62	<b>106</b>	<b>62</b>	<b>59</b>
<b>O – TT</b>	n/a	36	33	99	<b>94</b>	<b>48</b>	<b>50</b>
<b>I – TR</b>	n/a	2715	1676	1731	<b>681</b>	<b>698</b>	<b>528</b>
<b>I – TR A</b>	n/a	1769	954	661	<b>367</b>	<b>358</b>	<b>326</b>
<b>I – TT</b>	n/a	454	437	350	<b>233</b>	<b>232</b>	<b>187</b>
<b>NET</b>	n/a	418	404	251	<b>139</b>	<b>184</b>	<b>137</b>

**Notes:**

O – TNR	Outgoing Total Number of Requests
O – TR A	Outgoing Total Number of Accepted Requests
O – TT	Outgoing Total Number of Transfers
I – TR	Incoming Total Request
I – TR A	Incoming Total Number of Accepted Requests
I – TT	Incoming Total Number of Transfers
NET	Incoming Total Number of Transfers minus Outgoing Total Number of Transfers

**Source:**

Migration Office - Slovak Interior Ministry, "Slovak Dublin Statistics," handed to author personally, Bratislava, May 10, 2011.

**Table 3.4.B: Slovakia – Dublin Statistics:** percentage of accepted incoming requests (from total number of incoming requests) and realized transfers (from total number of incoming accepted requests)

	2008	2009	2010
<b>I – TR</b>	681	698	528
<b>% I – TR A (from I-TR)</b>	53,89	51,29	61,74
<b>% I – TT (from I- TR A)</b>	63,49	64,80	57,36

**Notes:**

I – TR – Incoming Total Request  
I – TR A – Incoming Total Number of Accepted Requests  
I – TT – Incoming Total Number of Transfers

**Source:**

Migration Office - Slovak Interior Ministry, "Slovak Dublin Statistics," handed to author personally, Bratislava, May 10, 2011.



**Table 3.4.C: Slovakia – Dublin Statistics:** percentage of accepted outgoing requests (from total number of outgoing requests) and realized transfers (from total number of outgoing accepted requests)

	2008	2009	2010
<b>O – TR</b>	158	132	106
<b>O – TR A (% from O-TR)</b>	67,09	46,97	55,66
<b>O – TT (% from I- TR A)</b>	88,68	77,42	84,75

**Notes:**

O – TNR – Outgoing Total Number of Requests  
 O – TR A – Outgoing Total Number of Accepted Requests  
 O – TT – Outgoing Total Number of Transfers  
 I – TR – Incoming Total Request  
 I – TR A – Incoming Total Number of Accepted Requests  
 I – TT – Incoming Total Number of Transfers

**Source:**

Migration Office - Slovak Interior Ministry, "Slovak Dublin Statistics," handed to author personally, Bratislava, May 10, 2011.

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