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## Migration in the European Union\*

### Abstract

*The present paper aims at summarizing the migration policy of the European Union. The article describes the beginnings and the major trends of legislation, and the main institutions of the migration policy. Especially Frontex and RABIT - these are responsible for co-ordinating the activities of the national border guards in ensuring the security of the EU's and the Schengen Area's borders with non-member states. The Arab Revolution revealed the necessity of the common migration and border policy, thus this paper shows the direction of further regulation and co-operation.*

### Introduction

The importance of migration in the European Union is unquestionable; internal migration as well as immigrant movements concern the whole European Union because of the Schengen borders the migration policy of the individual states has its effect upon all the other states. The heads of the member states have recognized the necessity of a mutual regulation; Cecilia Malmström<sup>1</sup> commissioner responsible for the internal affairs of the European Committee named the matters of refugees and migration policy as her major concern – besides security and fighting against terrorism and organised crime.

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The aim of the present paper is to present the beginnings of the EU regulations and their major directions as well as the policies to be followed, the institutions the Union has created for the administration of migrant matters and the fending off of illegal migration. Legal and illegal migration as well as the issue of refugees are treated separately because of their special individual character.

Besides the actual analysis of regulations and institutions it is necessary to examine the present and possible future situation of migration in order to be able to correctly evaluate the various policies. My paper starts with the introduction to the importance of migration and the problems of immigrants examined by international organizations. Next the problems met in the EU and especially in Hungary will be discussed and the basic interests of the Union and Hungary explained. The more important decisions and trends of various periods will be considered till the present days. Among the institutions of the Union the various information systems will be highlighted, the European Migration Network, the agency responsible for the operative cooperation at external borders, *Frontières extérieures* (Frontex) and the Rapid Border Intervention Teams (RABIT) as well as the European Asylum Support Office. Finally the future of migration policy will be treated with special interest in the possible international trends and institutional changes.

The sources are the documents dealing with migration from the home page of the Home Affairs DG, laws of the Union and other studies in Hungarian and English dealing with migration policy.

## **1. Migrants and the role of international organization**

Migration, the movement of persons within one country or between several countries is a decisive phenomenon of modern history. During the 20<sup>th</sup> c. its restriction and regulation became continuously stricter and the role of international organizations and international agreements has gained increasing importance. The regulation of migration can be divided into three categories<sup>2</sup>:

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<sup>2</sup> Tóth, Judit: A nemzetközi migráció jogi alapjai. In: Lukács, Éva – Király, Miklós (Eds.): Migráció és Európai Unió. Szociális és Családügyi Minisztérium Budapest,

1. Regulations about the freedom of movement (regulations for border crossing, definition of visa obligation)
2. The legal status of migrants. According to legal status a person can be *native* (own citizen of the country); *dual or multiple citizen* (citizen in two or more countries); *beneficiary* (compared to other non-natives have more favourable conditions to enter, stay or settle); *non beneficiary*.
3. Institutions dealing with matters of migrants (e.g. organizations for their support and administering their movements).

The international organizations have set international norms for immigration that contain minimum laws for native and non-native citizens. In the case of native citizens mobility is a human right and citizenship and the prohibition of banishment is relevant; in the case of non-natives the observance of human rights, protection of refugees, action against criminal organizations and the moral questions of employment are regulated. In the above question there are statements and agreements<sup>3</sup> made by the European Union and other organizations: UN, European conference on Security and Cooperation and its successor Organisation for Security and Co-operation in Europe (OSCE), Council of Europe, OECD and other bi- and multi-lateral agreements between various countries.

EU has made various regulations and laws in the three spheres mentioned above. In the case of agreements of international organizations it is more important how those regulations are complied to and how well they are controlled than in the case of some looser association. With the creation of the borders of Schengen, in addition to being an economic community, the EU has become an administrative unit that makes the free movement of migrants possible. Complying to the common regulations is therefore of great impor-

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2001. pp. 81–123. [Migration and the European Union]

<sup>3</sup> Cf. the list: Tóth, Judit: A nemzetközi migráció jogi alapjai. [The legal bases of international migration] In: Lukács, Éva – Király, Miklós (szerk.): Migráció és Európai Unió. [Migration and the European Union] Szociális és Családügyi Minisztérium Budapest, 2001. pp. 81–123.

tance and the member states have to consider the interest of the other member states too when deciding about their migration policy.

## 2. Migration in numbers

The European Commission has calculated with about 20,1 million persons arriving from countries not belonging to EU who have settled down legally in the territories of the Union in 2010. The data receive special weight by the fact that legal migration represents 4% of all the inhabitants of the EU.<sup>4</sup> Net migration, i.e. the difference between emigration and immigration has increased 1,75 million persons i.e. this is the yearly increase of the actual number of immigrants. In addition there are about 9 million citizens of EU member states who do not live in their home country.<sup>5</sup>

Illegal migrants coming to the territory of the Union or those who are staying unlawfully in a EU country (e.g. who came as tourists to the territory of the Union and remained after their visa expired) form another group. Their number can only be estimated: according to the European Commission it was estimated at 4,5 million persons but that keeps changing because of detentions as well and new arrivals.<sup>6</sup> Besides the legal and illegal migrants the regulation of the rights of asylum seekers too has also been considered, though they are fewer in number than the earlier ones, about 200 000 persons a year.<sup>7</sup>

The indices of migration and refugee cases are projected in Figures 1. 2. and 3. representing the EU countries most involved, Hungary included.

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<sup>4</sup> Report of the Committee for the European Parliament and Council: Migration and Asylum in 2010. COM(2011) 291. Bruxelles, 24.05.2011.

<sup>5</sup> Európai Bizottság Kommunikációs Főigazgatóságának kiadványa: Lehetőség és kihívás – Migráció az Európai Unióban. Európai Unió Kiadóhivatala. Luxemburg, 2010. p. 5.

<sup>6</sup> Ibid. p. 3.

<sup>7</sup> Ibid. p. 3.

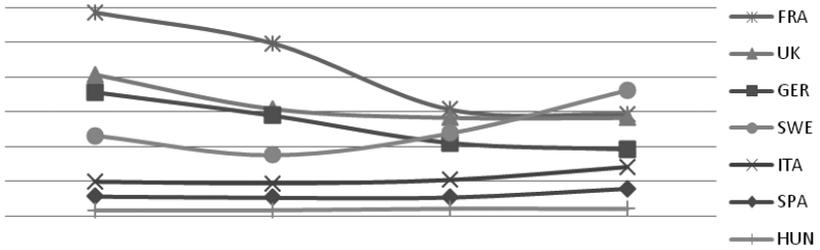


Fig. 1. : Development of applications for refugee status 2004-2007<sup>8</sup>

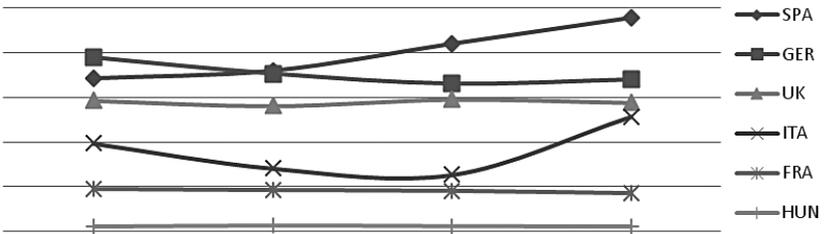


Fig. 2. Number of incoming migrants<sup>9</sup>

<sup>8</sup> European Migration Network: Annual Report on Asylum and Migration Statistics 2007. Author's diagram.

<sup>9</sup> European Migration Network: Annual Report on Asylum and Migration Statistics 2007. Author's diagram.

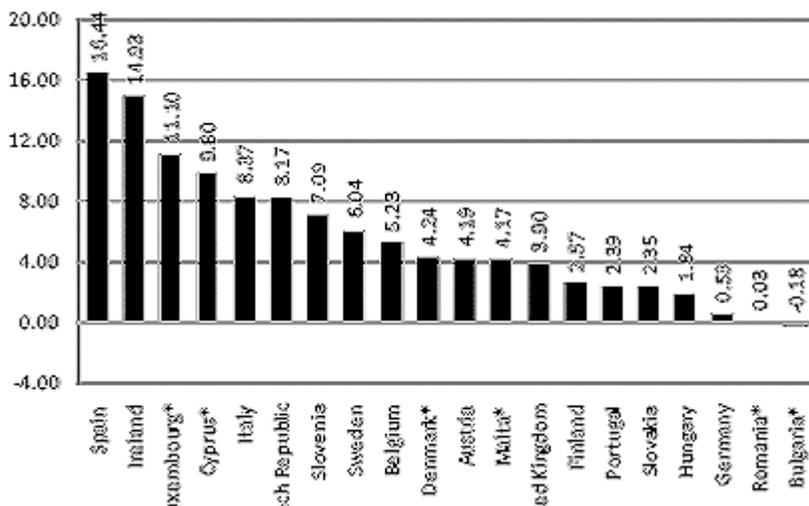


Fig. 3. Net number of migrants 1000 per capita<sup>10</sup>

It is evident that there is a considerable number of migrants arriving to the EU each year. Besides America and Asia the Union is one of the most thought after migration target<sup>11</sup>, therefore a comprehensive plan is necessary to manage migrants, to clarify their situation. The Union tries to define the common interests and principles that are valid for all the territories involved in migration. The coordination is not simple since the member states judge the presence of migrants differently. Certain countries are worried about the influx of migrants fearing for the loss of opportunity to work of their native inhabitants (e.g. Austria) or are afraid of ethnic conflicts (e.g. France), others are ready to receive migrants because of lack of work force (e.g. the U.K.). Every member state is free to decide to whom they would give legal status to work, permits to stay or settle down, however, because of the internal market and the existence of the Schengen

<sup>10</sup> European Migration Network: Annual Report on Asylum and Migration Statistics 2007. 2010. december. [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do%3b?entryTitle=02\\_Annual%20Report%20on%20Asylum%20and%20Migration%20Statistics%202007](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do%3b?entryTitle=02_Annual%20Report%20on%20Asylum%20and%20Migration%20Statistics%202007) (letöltve: 2011. 03. 08.)

<sup>11</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter: Nemzetközi migráció – Nemzetközi kockázatok. Budapest, HVGORAC Kiadó. 2008. p. 124. [International migration – international risks]

zone the migration policy of one of the countries has a great influence upon all the inhabitants of the whole Union, therefore all the states have agreed to bring their relationships closer concerning their migrant policy. According to the Office of Immigration and Citizenship (BÁH) of Hungary there were 216 084 persons in Hungary with valid residence permits for over three month on the 31<sup>st</sup> of December 2009.<sup>12</sup> There are 14 categories of permits, most of them with registration certificates (ca. 70 000 persons), with permits for immigration (ca. 47 000 persons), for stay (ca. 33 000 persons), and for settling (ca. 23 000 persons). The number of the registration certificates<sup>13</sup> expresses the volume of the migration within the EU to Hungary, meaning that there are at least 70 000 persons working, learning or staying with families in Hungary who have come from the European Economic Region; since these persons may have other kind of permits too, they need not to register their stay shorter than 90 days their passport is enough for their identification.<sup>14</sup> The largest group with permits came from Romania (ca. 52 000 persons) and Ukraine (ca. 33 000), that is understandable since there are Hungarians living in those countries.<sup>15</sup> The migrants coming from countries with similar cultural background do not cause any social problems for Hungary. The statistics of BÁH show, however, that there is a growing influx of migrant from Asia and Africa. There is a considerable number of Chinese citizens (ca. 18 000 persons) and their number is growing year by year; there are also migrants coming from Vietnam, Nigeria, Somalia, too. Since Hungary joined the Union there is an increase in the number of migrants trying to illegally cross the borders as well as those of seeking asylum.<sup>16</sup>

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<sup>12</sup> BÁH booklet of statistics (2009-2010.)02.03. 2011.

<sup>13</sup> [http://www.euvonal.hu/index.php?op=mindennapok\\_utazas&id=118](http://www.euvonal.hu/index.php?op=mindennapok_utazas&id=118) (letöltve: 2011 03. 02.)

<sup>14</sup> [http://www.euvonal.hu/index.php?op=mindennapok\\_utazas&id=118](http://www.euvonal.hu/index.php?op=mindennapok_utazas&id=118) (letöltve: 2011 03. 02.)

<sup>15</sup> A BÁH statisztikai kiadványfüzete (2009-2010.) 2011. március 2.

<sup>16</sup> A BÁH statisztikai kiadványfüzete (2009-2010.) 2011. március 2.

### 3. Fundamental interests of the Union

The question of migration had increasing emphasis in Western Europe since the 1970s and 1980s. Growing out the reactive policy to manage immigration it became necessary to change over to proactive thinking. The former colonist countries had a different approach to the problem. In the spirit of multiculturalism they were readier to receive the newcomers and supported their settling down while others were ready received only those of working age.<sup>17</sup> Of course the past decades have changed the picture and it is the Union's task to make policies acceptable for every member states. The 2003 survey of Eurobarometer revealed that nearly 60% of the citizens of the Union were in support of a common immigration and refugee policy and the majority of the citizens of those member states too, who joined in 2004, were for the making of a common migration policy. Intervention against organized crime and criminal organizations across borders at Union level that would regulate legal cooperation in addition to matters of migration was also considered necessary.<sup>18</sup>

At present the Union is regulating the migrations along the following principles:

- The basic aim is to encourage legal migration and suppress illegal migration. Illegal migration does not only make taxation or registering difficult but it usually is connected to crimes as smuggling people or slavery.
- The Union needs work force from the third world because the majority of the member states have aging societies and also there are jobs the employees of the given country are not willing to accept (e.g. garbage collection, physical work at constructions, etc.) aiming at more lucrative jobs.
- To the formation, development of a society based on learning highly educated workers, researchers are necessary. It is not the aim of the Union to follow a policy of brain drain instead tries to encourage *circular migration*, i.e. people coming from

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<sup>17</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter: Nemzetközi migráció – Nemzetközi kockázatok. Budapest, HVGORAC Kiadó. 2008. p. 123. [International migration – international risk]

<sup>18</sup> Commission of the European Communities COM(2004) 401. (2004. 06. 02.).

poorer countries should return back home and make use of their knowledge at home and may return to the EU later again.

- To help integration of the migrants. The basic problem in the EU is that highly qualified migrants often are allowed to have jobs needing low qualification while the labour market would need their qualification and they would be able to fill in gaps of the labour market. It is supported by a survey in Portugal that examined the qualification and actual work of students of language courses concluding that a considerable proportion of highly qualified migrants were employed to do physical jobs. Thus among migrants working on constructions in Portugal there were many general practitioner doctors, paediatricians, but even surgeons and other specialists from Russia, Ukraine and Moldova because their diplomas were not accepted in the host country and they were not given possibility of registration either.<sup>19</sup> Effort for integration does not only mean social integration in the interest of peaceful coexistence, mutual tolerance and appreciation but its practical side too e.g. on the labour market, by providing language courses, support at finding jobs, acceptance of qualifications.

#### **4. History of the EU migration policy – laws and institutions**

The Treaty of Amsterdam came into force in 1999<sup>20</sup> and it signalled the beginning of the development of a common migration policy, from then on the crossing of EU borders and migration from outside were buttressed by community decisions. Nevertheless it was not migration policy that developed first but, following the Treaty of Dublin - prior to the coming into force of the Treaty of Amsterdam, – there was a cooperation agreed upon in refugee matters. It served simply to establish the spheres of authority and established the administrative – management relationships between the member states. On the 15th of June 1990 the member states signed an agreement

<sup>19</sup> Európai Bizottság Kommunikációs Főigazgatóságának kiadványa: Lehetőség és kihívás – Migráció az Európai Unióban. Európai Unió Kiadóhivatala. Luxemburg, 2010. p.8. [Possibility and Challenge]

<sup>20</sup> <http://www.euvonal.hu/index.php?op=szerzodesek&id=1> (letöltve: 2011. 02. 24.)

that defined the authority of the state the application for asylum was handed in valid in any of the EU member states; it came into force on the 1st of September 1997.<sup>21</sup> The cooperation in the field of refugee matters has strengthened further. The Treaty of Dublin was followed by Dublin II. (343/2003 EC regulation and its execution by 1560/2003/EC) and the same year the Eurodac system,<sup>22</sup>too, started its activity (2725/2000/EC and 407/2002/EC). After accepting the Amsterdam Treaty EU set the objective to define the zone of freedom, safety and justice. Since then there are many comprehensive political concepts and programs created besides the laws to be discussed below.

#### *4.1. The Program of Tampere*

The extraordinary meeting of the Council of Europe and the following Program of Tampere operating between 1999 and 2004 were the first steps toward the realization of the aims defined in the Treaty of Amsterdam. The major goals of the program were to define the rights of migrants coming from a third country nearer to the rights of the UN citizens; it also stressed the importance of a firm approach to achieve that migrant should choose the legal way.<sup>23</sup>

The aims of the Program of Tampere was strengthened and supplemented by a new concept of the operation of outer borders as an integrated administrative system by the 2001 European Meeting at Laeken. The new direction included the summary of demands concerning border control and protection, risk-assessment, border force and equipment. The 2002 meeting in Sevilla summed up the Laeken goals in the UN Action Plan for External Borders within the frame of the Program of Tampere.<sup>24</sup>

The Program of Tampere started the creation of bilateral agreements on EU level concerning the re-admission of illegal migrants e.g. with Macau (30.4.2004), and Hong Kong as the special admin-

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<sup>21</sup> Euvonal: Kiszótár: Dublini Egyezmény. [http://www.euvonal.hu/index.php?op=tenyek\\_kisszotar&abc\\_id=5](http://www.euvonal.hu/index.php?op=tenyek_kisszotar&abc_id=5) (letöltve: 2011.03.01.)

<sup>22</sup> A database for the fingerprints of applicants for asylum and also of illegal migrants. It operates since the 15<sup>th</sup> January 2003. <http://abiweb.obh.hu/abi/index.php?menu=5/eurodac/rendszer>

<sup>23</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter 2008: 132.

<sup>24</sup> [http://circa.europa.eu/irc/opoce/fact\\_sheets/info/data/policies/freedom/article\\_7307\\_hu.htm](http://circa.europa.eu/irc/opoce/fact_sheets/info/data/policies/freedom/article_7307_hu.htm) (letöltve: 2011. 02. 26.)

istrative region of the Chinese Democratic Republic (24.01.2004). There were several laws made in the framework of the program;<sup>25</sup> of these several has defined the UN legal situation about legal and illegal migration matters.

In connection with legal migration the guidelines regulating unification of family and prolonged stay are the most important. In the directive *on Family Unification* (2003/86/EC) the Council has aimed at guaranteeing minimal conditions to migrants legally staying in the territory of the member states during family unification. Through family unification the settlement of closest family members (spouse and under aged children) can be helped, but it is left to the discretion of the member states to extend the permit to direct ascendants too.<sup>26</sup> The regulation became the most cited legal title on legal migration toward the EU especially to France and Sweden.<sup>27</sup> It interesting that in these countries the number of refugees is the highest in all the EU countries (Fig. 1.) but they do not belong among the countries most involved in legal and illegal migration (Fig. 2.-3.). It can mean that the citizens of third countries arrive to these countries as refugees who obtain legal permit of abode for the rest of the family through family unification. The other important institution of legal migration is the directive accepted in Tampere ((2003/109/EC) concerning the status of third-country nationals who are long-term residents. The task of the directive is to draw the legal status of citizens of third countries near to that of the citizens of the EU. The major condition of receiving the permit for prolonged stay is the length of the stay (five years), its being legal, and its continuity (with absence from the member state of 10 month at most – maximum six month at a stretch). In addition the applicant has to prove not to become a burden for the receiving country's social system, i.e. he has secure income and residence.<sup>28</sup>

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<sup>25</sup> Jai-Aquis – October 2009; Póczik-Dunavölgyi 2008.

<sup>26</sup> 2003/86/EC directive (22.09.2003).

<sup>27</sup> Gyeney, Laura: Családegyesítés kettős mércével? Bevándorláspolitiká: a harmadik országbeli polgárok családegyesítéséről szóló irányelv vizsgálata. Iustrum Aequum Salutare III. 2007/4. 77-101. [Migration policy with double standard? Migration policy: examination of the directives on the family unification of thir country citizens].

<sup>28</sup> 2003/109/EC directive (2003. 11. 25.)

In the case of illegal migration there were taken cooperative steps in coercive measures and in liquidating international organized crime and these regulations can be regarded as the most important result.<sup>29</sup> Thus the member states can carry out expulsion – by route and by air – with fewer costs, and can jointly take steps in criminal cases of border crossings and white slavery. In addition to the above the network of immigration liaison officers is an innovation of the Tampere Program with growing importance. The network was basically founded as an information service; the task of the officers is to reconnoitre possible illegal migration movements, help to discovering organized crime and warn the Union about them, as well as to assist at the repatriation of illegal migrants and the management of legal migration. The officers can be appointed to the national consulates or other competent authorities of the given member state acting in a third country. They are to prepare a yearly report; if there are officers of several member states on duty in a country they act jointly.<sup>30</sup> Hungary sent immigration liaison officers the first time in 2009; they were on duty in Istanbul, Cairo and Abuja.<sup>31</sup> The officers are under the supervision of BAH directed by the Ministry Home affairs.<sup>32</sup>

The results of Tampere Program were evaluated half yearly by the EC and when it expired a detailed evaluation was issued with the title: *Area of Freedom, Security and enforcement of rights* (COM(2004) 401. (02.06.2004)). The major criticism expressed in the evaluation was that there were few laws made because of extreme consideration of the sovereignty of the member states. The Nice Treaty<sup>33</sup> undertook the task of solving the problem by setting the upper limit at three month for the free movement of persons coming from a third country and by extending the authority of joint decision thus making regulation smoother.

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<sup>29</sup> on expulsion: 2001/40/EC directive (2001. 05. 28.); by air: 2003/110/EC directive (2003. 11. 25.); joint measures: 2004/573/EC directive (2004. 04. 29.).

<sup>30</sup> 377/2004/EC directive (2004. 02. 19.).

<sup>31</sup> [http://www.solidalapok.hu/sites/default/files/Kulso\\_Hatarok\\_Alap\\_2007\\_es\\_2008\\_evi\\_programjanak\\_vegrehajtasarol\\_jelentes.pdf](http://www.solidalapok.hu/sites/default/files/Kulso_Hatarok_Alap_2007_es_2008_evi_programjanak_vegrehajtasarol_jelentes.pdf) (letöltve: 2011. 03.02.)

<sup>32</sup> 9/2010 (IX.29) BM-KIM

<sup>33</sup> <http://www.euvoanal.hu/index.php?op=szerzodesek&id=6> (letöltve: 2011. 02 24.)

#### *4.2. The Hague Program*

At the November 4-5<sup>th</sup> 2004 meeting the Committee accepted the Hague Program based on the committee evaluation to be the continuation of the Tampere Program in order to facilitate the creation and development of a region of freedom, security and enforcement of rights. The program was effective between 2005 and 2009 and had 10 priorities.<sup>34</sup>

##### *1. Strengthening fundamental rights and citizenship.*

It is about the development of comprehensive political strategies centring on protection against racism and the rights of children and against violence against women.

##### *2. Anti-terrorist measures.*

The major aims were to develop the fields of prevention, preparation and response to combat terrorism efficiently.

##### *3. Common refugee area*

Introduction of effective uniform management along the values represented by the Union and in harmony with the humanitarian traditions. The important task is the development of a common European refugee system. In the frame of the Tampere Program there were important developments in defining minimum regulations. The aim of the Hague Program was to make common executive regulations as well as to reach uniform legal status for the refugees; to create partnerships within the Union for an effective policy for expulsion and repatriation policies.

##### *4. Immigration management: defining a balanced approach*

The Hague Program has recognized the necessity of the global management of migration in aid of the legal migration of citizens coming from a third country; that it has to be managed at Union level and the protection against illegal migration has to be strengthened. During the Program the agreements on repatriation started earlier were concluded (there was important breakthrough in the agreement with African, Caribbean and Pacific: ACP countries) and the concept

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<sup>34</sup> COM(2005) 184. Bruxelles, 2005. 05. 10

for the return of citizens of third countries was also achieved.<sup>35</sup> The Hague Program, as the continuation of Tampere, decided on the extension of the immigration liaison officers' tasks, their closer cooperation and the exact definition of their duties.

#### *5. Maximizing the positive impact of immigration*

The Hague Program formulated the concept of *managed migration*.<sup>36</sup> EU have recognised that the acceptance of migrants is essential for the building of a society based on knowledge but it is necessary to create a comprehensive management of the migration processes to ensure the arrival of appropriate work force to the territory of the community. Thus the policy of entering and acceptance or returning as well as settling and adapting is of growing importance.<sup>37</sup>

#### *6. Internal and external borders and visa*

It is about developing integrated management of the Union's external borders for a more secure Union. The Hague Program continues the policy on external and internal borders as well as the visa policy of the Tampere program. It plans to develop the level of the administrative cooperation to facilitate legal travel and to create common visa offices.

#### *7. Balance between privacy and security while sharing information*

The development of the information systems is an important aim of the Hague Program. As a part the Visa Information System (VIS), the Schengen Information System (SIS) and a European dactyloscopic database (Eurodat) have been developed.

#### *8. Developing strategic concept on tackling organised crime*

Illegal migration is characteristically connected to organized crime; there are attempts at the development of cooperation on the field of

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<sup>35</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter: Nemzetközi migráció – Nemzetközi kockázatok. Budapest, HVGORAC Kiadó. 2008. p. 177. [International migration – International risks].

<sup>36</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter 2008:133.

<sup>37</sup> [http://www.euvonal.hu/index.php?op=kozossegi\\_politikak&id=20](http://www.euvonal.hu/index.php?op=kozossegi_politikak&id=20) (letöltve: 2011. 02. 26.)

criminal law with the intensive cooperation of Europol<sup>38</sup> and Eurojust<sup>39</sup> and the widening of their sphere of competence.

### 9. *A genuine European area of justice*

It is about access to civil and criminal justice for everybody. Priority is not to simply to accept international judgements but that the member states set up the minimum standards of legal procedures mutually.

### 10. *Sharing responsibility and solidarity.*

The division of responsibility is an important fundamental principle of the EU in connection of migration because every action, the assurance of protection or its weakening, concerns the whole community. In the interest of the realisation of solidarity EU has created 4 financial bases within the frame program *EU Solidarity and Migration*: European Integration Fund, European Return Fund, European Fund of Migration, European Fund for External Borders. The purpose of these funds is to help the member states to draw their regulating or institutional background nearer to the Union's average and to provide them with grants to finance it.<sup>40</sup> *The European Integration Fund* has the task to facilitate the adaptation of migrants coming from third countries with different cultural, linguistic, economic, religious or ethnic background into European societies.<sup>41</sup> *The European Refugee Fund* was created to improve the situation of protected persons, refugees and asylum seekers thus it is possibly to apply for the development of the conditions of their acceptance, the improvement of the necessary processes and the shortening of their completion.<sup>42</sup> *The European Return Fund* was created for the support of those who cannot meet the conditions of entering or settling in the member state therefore they have to be deported, returned to their country of provenance.<sup>43</sup> *The Fund of External Borders* supports the protection of borders, thus its aim is the improvement of the effi-

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<sup>38</sup> European Police Office

<sup>39</sup> The European Union's Judicial Cooperation Unit

<sup>40</sup> [http://www.euvonal.hu/index.php?op=kozossegi\\_politikak&id=20](http://www.euvonal.hu/index.php?op=kozossegi_politikak&id=20) (letöltve: 2011. 02. 26.)

<sup>41</sup> <http://www.solidalapok.hu/?q=node/101> (letöltve: 2011. 03. 23.)

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

ciency of border control, higher level protection, the development of a uniform European system. On the other hand the program serves the improvement of the operation of the consulates in third countries in order to direct migration into EU through legal routes.<sup>44</sup> Hungary is entitled to use 115 million Euro from the four Funds during the budgetary period between 2007 and 2013. So far the program realized was the employment of refugees at the reception point at Bicske of BÁH, the project of complex aid for the *National Police Headquarters* and the practical help given to the border guards in using and recognizing biometric tagging. In addition there were several studies financed on intensive language teaching programs and analysis of integration possibilities.<sup>45</sup>

The great innovation of the Hague Program is the elaboration of the principle of circular migration<sup>46</sup> that is determining the attitudes of the Union towards migrants. Circular migration offers solutions to the problems of labour market and brain-drain. According to the concept developed by the European Commission circular migration can be realised by bilateral mobility partnership: the partnership agreements promote legal entry and employment in the territory of the Union, the reception and return of their own citizens as well as the battle against illegal migration. The principle of circular migration would help the citizens of third countries already settled in the territory of the EU to start their business in their country and the immigrants seeking employment or education coming from third countries; the latter only with the proviso that the migrants should return back after a set period and continue their activity at home; in exchange they will have easier entry later.<sup>47</sup> This procedure can prove to be the answer to the problem of brain-drain and also could strengthen the economic, commercial and other relationships too. However, the realization of circular migration is not without hazards because a person having been employed in the EU may find difficult to settle again in his own country's society, thus those who want to return need support. It would be worth helping them e.g. in starting their business, and it is also important especially for those immi-

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<sup>44</sup> Ibid.

<sup>45</sup> <http://www.solidalapok.hu/> (letöltve: 2011. 03. 23.)

<sup>46</sup> (COM/2007/0248). Brüsszel, 2007. 05. 16.

<sup>47</sup> Ibid.

grants who come for educational purposes that their country of origin should accept their formal or informal knowledge and make use of it.

Among the major regulations the definition of the special conditions about the stay of students and researchers has to be mentioned; it was accepted in the frame of the Hague Program in harmony with the Lisbon goals<sup>48</sup> and according to Priority 5. Thus citizens of third countries are guaranteed the entry into the territory of the Union at the discretion of a member state if it is a study tour, student exchange, unpaid practice or voluntary service. The general condition is the traveller's valid passport, in case of minors parental permit, health insurance and paid procedural fee; special conditions are the certificate of the educational institution about the acceptance of the student, certificate of language competence, and enough money for return fare and tuition fee.<sup>49</sup>

During The Hague Program there were two Green Books edited: Green Book on the economic migration from the Union's point of view; and the Green Book of the future common European refugee system. Both documents are treatises written with the aim of including society and other institutions in the decision making of the Union, and also as the effective collection of the various opinions. This was the platform where the regulations about the potential employees from third countries were decided upon and as well as the concept of the Blue Card<sup>50</sup> that was planned to be introduced in 2011 as part of the economic migration.<sup>51</sup>

The Commission prepares two evaluations per year on the Hague Program, similar to that of Tampere; there was a comprehensive one in 2006, and in 2009 the achievements were evaluated in their entity. The comprehensive report (COM(2009) 263, Brussels, 10.06.2010) mentions the 2005 terror attack in London and the death of several thousand illegal migrants arriving across the Mediterranean Sea as

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<sup>48</sup> Gács, János: A lisszaboni folyamat – egy hosszú távú stratégia rejtélyei, elméleti problémái és gyakorlati nehézségei. *Közgazdasági Szemle*, LII. évf., 2005. március pp. 205-230. [The Lissabon – process – the secrets, theoretical problems and practical difficulties of the long-range strategy]

<sup>49</sup> 2004/114/EC directive (2004. 12. 13.)

<sup>50</sup> European Commission Directorate General Justice, Freedom and Security: Citizen's Summary: „EU Blue Card” – Employment of highly qualified third-country nationals. [http://ec.europa.eu/home-affairs/summary/docs/blue\\_card\\_en.pdf](http://ec.europa.eu/home-affairs/summary/docs/blue_card_en.pdf) (letöltve: 2011.03.01.)

<sup>51</sup> Póczik Szilveszter – Dunavölgyi Szilveszter 2008:140.

focal regions that influenced the planning of the Hague Program. The report of the Commission analysed three aspects: 1) the execution of the whole program broken down to special political fields, achievements and challenges; 2) the achievements of institutions - the instruments and assets coordinated to the programs; 3) the results of execution and their results at national levels. Fig. 4. represents the results of migration goals of the Hague Program.

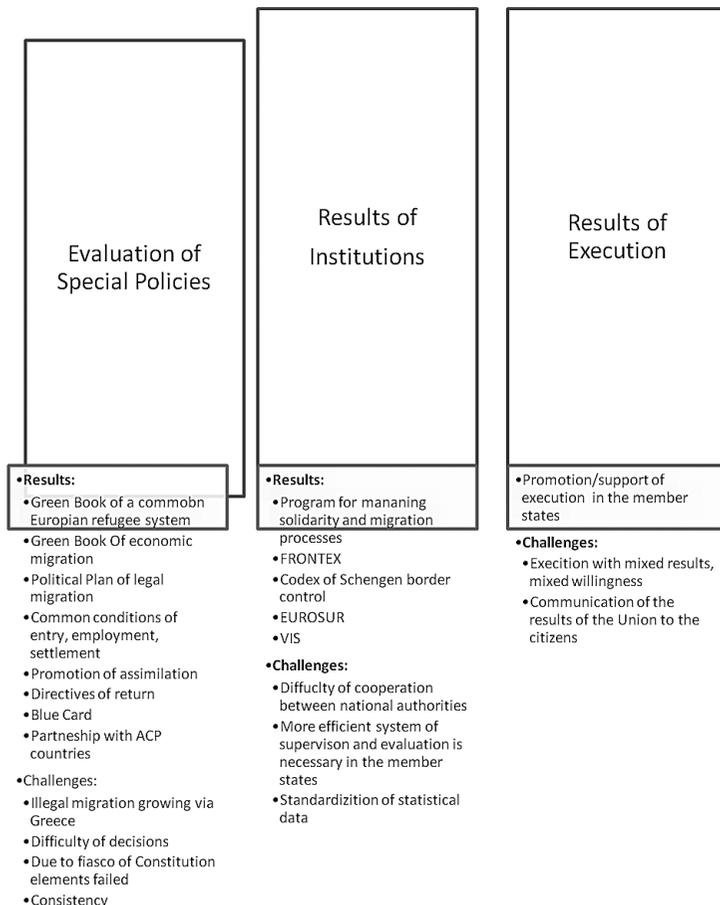


Fig. 4.: The evaluation of the Hague Program<sup>52</sup>

<sup>52</sup> Author's diagram based on: Európai Közösségek Bizottsága: A Bizottság közleménye a Tanácsnak, az Európai Parlamentnek, az Európai Gazdasági és Szociális Bizottságnak és a Régiós Bizottságnak. A jog érvényesülése, a szabadság és

### 4.3 *The European Immigration and Refugee Pact*

In contrast to Tampere or The Hague this pact is not a comprehensive program but has had considerable impact on the development of migration policy. The document was formulated and accepted during the Union presidency of France between July and December 2008 as the special goal of the French government, and it received prime importance in the agenda. France is one of the most interested member states in migration matters (*Fig. 1.*) as being a former colonist state it is the fifth largest target of legal and illegal migrants after Spain, Germany, UK and Italy (*Fig. 2.*) thus the activity of French political leaders furthering mutual regulation of migration is understandable.

The state and government heads of the Union member states unanimously accepted the pact on the 15<sup>th</sup> of October 2008. Its importance does not lie solely in its novelty, since the more important topics, central questions were already treated by The Hague Program, and also there have been constant legislations in the field, but in the fact that it repeatedly made migration a central, much mentioned topic.<sup>53</sup> The pact could be regarded as preparatory to the Stockholm Program following The Hague; the aims described in the latter are repeated in the new document too. The Immigration and Refugee Pact defined five basic fields to represent the future migration policy.<sup>54</sup>

#### *1. Legal migration and employment*

The aim of the pact is to restrict illegal roads of immigration by stricter regulation of legal migration and to create opportunity for the citizens of third countries – among very strict conditions – to seek employment and/or settle down in the territory of the EU. The pact stresses that every member state should accept migrants according to their capacity and necessities. There should be equilibrium of solidarity and taking of responsibility, and every member state should

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a biztonság Európában 2005. óta: A Hágai Program és cselekvési terv értékelése. COM(2009) 263 Brüsszel, 2009. június 10. alapján.

<sup>53</sup> Fóris, György: Bevándorlási Paktum. Világgazdaság – Vélemény rovat. 2008. szeptember 30. <http://www.vg.hu/velemeny/bevandorlasi-paktum-241892> (letöltve: 2011. 03. 10.) [Pact on migration]

<sup>54</sup> [://www.euractiv.hu/belugyek/linkdossziek/europai-menekultugyi-es-migracios-egyezmeny](http://www.euractiv.hu/belugyek/linkdossziek/europai-menekultugyi-es-migracios-egyezmeny) (letöltve: 2011. 03. 10.)

continuously monitor the impacts of their applied community and national politics; the countries with heavier loads should receive extra support. The Pact commits the Union to introduce the Blue Card suggested by the Commission.

The Blue Card was decided upon by the EU member states on the 25<sup>th</sup> of May 2009 with a deadline of two years i.e. in 2011 as its coming into force.<sup>55</sup> The Blue Card is a work and settlement permit that guarantees wide-ranging rights to its holder (e.g. free movement within the Union). With its introduction the Commission aimed at inviting qualified migrants to work in fields in need of employees (e.g. information sciences, certain engineering, etc.). Blue Card is similar to the green card in the USA. For similarities and differences see Table 1.

Characteristics	Blue Card (EU)	Green Card (USA)
Guaranteed permanent domicile	None	Yes
Validity	2 years, renewable	10 years, renewable
Personal effect	Holder and family	Holder
Content	Permits residence, employment and travel	
Conditions of acquisition	<ul style="list-style-type: none"> <li>• Accepted higher education;</li> <li>• Minimum 3 years of field practice certified;</li> <li>• Work contract, with salary three times the amount the usual minimum wages in the given member state</li> </ul>	Acquisition in several ways Employment Family contact Throw drawing Investment Resident since 1972 or before
Other bonuses	After 5 years automatic permanent domicile	After 5 years US citizenship available

Table 1.: Comparison of Blue Card and Green Card<sup>56</sup>

<sup>55</sup> European Council Press Releases: Great News: European Council adopts EU Blue Card! Brüssel, 2009. május 25. <http://www.europeanunionbluecard.com/?p=103> (letöltve: 2011.02.27.)

<sup>56</sup> <http://www.euractiv.hu/belugyek/linkdossziek/europai-unios-kek-kartya.>) Author's own table

## *2. Illegal immigration*

The aim was to carry out the 2008/115/EC European Parliament and Commission directive (Strasbourg, 16.12.2008.) adopted already at the 18.06.2008 that contains returning, steps against illegal migration stressing the necessity of expansive cooperation.

## *3. Border control*

In the field of border control the increased role of Frontex is the goal of the Pact. It is planned to establish two regional Agency offices for more effective risk analysis as well as the increasing of the implements. Thus the Union will be committed to create one more organisation acting in the migration processes either in the south or west besides the existing organisation with its headquarters in Warsaw.

## *4. Refugee matters*

This is the field where the Pact brought novelty. In spite of the fact that the problem had already been treated by the first community regulations (Dublin Treaties) as well as the Tampere (2004/83/EC directive, 2003/9/EC directive) and The Hague (2005/85/EC directive) Programs that formulated minimum regulations concerning the refugee procedures. By the adoption of the pact the member states accept to give uniform guaranties to the refugees and to further the creation of a uniform refugee system already planned as well as to aim at the creation of a refugee support office acting at Union level.

The various pilot studies indicated that asylum seekers of relatively similar background could receive refugee status with entirely different chances in the various countries. As an actual example the possibility of acceptance of refugees from Iraq, Somalia and Afghanistan lay between 0 and 90 % depending on which member state they had applied to.<sup>57</sup>

## *5. Cooperation with third countries*

In the spirit of directed migration the Pact supports migration for education or work – the regulations so far facilitated the immigration of these two groups. Besides the fending off brain drain the principle

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<sup>57</sup> <http://www.bruxinfo.hu/cikk/20091022-ujabb-lepes-a-kozos-menekultugyi-politika-fele.html> (letöltve: 2011. 03. 15.)

of circular migration described above is stressed in the planning of legal migration. The various analyses have discovered that only 5% of the qualified migrants targeted for the EU, 55% go to the USA; the pact wishes to change this trend with the modification of the immigration regulations.<sup>58</sup>

#### *4.4. The Stockholm Program*

As the continuation of the Hague Program, the European commission adopted the five year plan called Stockholm Program - aiming at an open and secure Europe serving and protecting the citizens - for the further development of the zone of freedom, security and right. Similarly to the Hague Program, it contains priorities, too.<sup>59</sup>

##### *1. Furthering the rights of the citizens: Europe of rights*

This priority was also mentioned as number one by the Hague Program. Its basic aim is that the fundamental rights should succeed uniformly in every member state and that outside the territory of the EU every EU citizen could apply to the consulate of whichever member state he is staying. The Commission especially considers strengthening the protection of vulnerable groups, especially children and minorities. The widening of the right to free movement, i.e. the extension of the Schengen zone, belongs to the central issues but parallel to the extensions Romania and Bulgaria have to conform to the strict security conditions.

##### *2. Making the citizens' life easier: law and legislation in Europe*

Already the Tampere Program aimed at the mutual acceptance of judiciary judgements and resolutions by every member state; The Hague Program stressed the importance of the creation of minimum regulations of the legal systems and the equal availability of jurisdiction. The Stockholm Program carries further the efforts toward agreement especially in the field of criminal law and family law within civil law and the foundation and development of common legal education in addition to the existing national ones.

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<sup>58</sup> (2010/C 115/01.) *Hivatalos Lap C 115*, 04/05/2010 0001 – 0038.

<sup>59</sup> EurActiv.hu: Európai Menekültügyi és Migrációs Egyezmény. 4. February 2009. <http://www.euractiv.hu/belugyek/linkdossziek/europai-menekultugyi-es-migracios-egyezmeny>

### *3. Protecting Europe*

The priority is in harmony with the aims of The Hague Program at a more effective crack down on terrorism and organized crime. It is planned to create a security strategy against crime across the borders that necessitates the further development of information exchange and the realization of permeability between the existing systems, especially Frontex, Europol, Eurojust. The priority also aims at a strengthened cooperation in the field of prevention of illegal activities and prevention of natural disasters.

### *4. Links of Europe in a globalised world*

The aim of the priority is the protection of the external borders, their uniform administration as well as the common visa policy. In the first issue the strengthening of the system of Frontex and the specifying of its assignments is of central interest, while in the second the exploit of the possibilities of VIS.

### *5. Responsibility, solidarity and partnership in the questions of migration and refugee matters in Europe*

Similar to The Hague Program that of Stockholm, too, stresses solidarity and partnership as well as the importance of legal migration in order to guarantee the continuous flow of working force. With the development of the available instruments it aims at a comprehensive dynamic migration policy. One of its part of it is the development of existing mobility partnerships and the seeking out of new ones; continuous contact with third countries through immigration liaison officers; furthering of circular migration; the development of information networks; development of integrating policies and the revision of the existing ones; facilitating the sharing of information among the member states.

The priority regards the creation of a European Refugee System another of its central topics that shall have to consider the evaluations of EASO, created in 2010, by 2012. The Union plans to deal with the external dimensions of migration too, in which case it supports the countries where the most refugees come from.

*6. Europe in a globalized world: the external dimensions of freedom, security and the success of law*

The program declares that not only internal anomalies can endanger the rights of the citizens but external ones too, be it economic or political crises far away from the EU therefore the task of the Union is to constantly monitor foreign contacts. Besides diplomatic relationships the migration liaison officers have the task to provide information but the priority is a step toward the common foreign policy too. Several geographical regions are pointed out as goals, e.g. the stability in the West Balkans, Turkey, the area of the Black Sea and the Mediterranean region is in direct influence upon the security of the EU, but the economic and political situation in India, China, Afghanistan, Pakistan, Iraq and Brazil can also influence the functioning of the EU.

In contrast to the tendencies so far, the Stockholm Program is interested in one priority only, i.e. migration and refugee questions, the other aims are mostly about the extension and protection of rights and harmony of law. The protection of borders as the right to security is the leading motive of the document; however, basically it is about the features of a common foreign policy and administrative-management and not about common migration policy. For the execution of The Hague Program the Commission issued an executive plan (COM(2010) 171) that listed the accepted tasks. Thus 2010 was the deadline for the modification of 2007/2004/ECK Frontex regulation. In February 2010 the Commission formulated a proposal on the reform of the association's legal background (COM(2010) 61) for the fulfilling its undertaking. 2014 was pointed out as the deadline for the longer range development of the organisation of Frontex.

One of the tasks of the Spanish- Belgian – Hungarian presidency was to start the execution of the Stockholm Program, to fill in the aims with content. Before the Hungarian presidency there was no actual law in the field of migration, the Union was occupied with the strengthening the enforcement and advancement of rights. As part of the migration program the Hungarian presidency decided upon the widening of Schengen as the focal point of its agenda; its realization, however, became highly questionable because some member states of the Union (e.g. France) have declined further extension in the near future. The aim will have to be to arrive at a consensus in

the criteria and deadlines for new states joining the Union. Hungary has formulated goals in connection to irregular migration, e.g. how to deal with the transit of expelled citizens from third countries on land, the starting of negotiations upon an agreement with Belarus about the returning its citizens and the need of uniform legal situation of migrants who must not be repatriated but are not under any international protection.<sup>60</sup>

## 5. The institutions of migration policy

### 5.1 Schengen Information Systems (SIS)

The creation of the Schengen Information System became necessary after the abolition of internal borders. That was the time when the control at the external borders became uniform and the defensive organs of the member states made thorough control to strengthen security. SIS was started on the 26<sup>th</sup> of March 1995, simultaneously with the creation of the Schengen zone.<sup>61</sup>

The system is a database that allows examination for the specified police, border control, alien control, visa, customs and judicial organs, authorities issuing registration documents as well as Europol and Eurojust – strictly attached to authority and task. In SIS information is stored concerning persons and objects (e.g. prohibition of entry or stay, lost persons; objects to be confiscated or to be used as evidence in criminal cases) in the interest of more effective execution of tasks.<sup>62</sup>

With the extension of the Schengen zone and the development of technique there rose the need to develop SIS further. As a result the 2007/533/IB resolution (12.06.2007) of the Committee was made for the creation, operation and use of SIS II. Originally 2009 was planned as the date of its introduction, however, it had to be postponed to 2011-2012; in the operational plan of the Stockholm Program (COM(2010) 171) December 2011 was the date, but owing to technical matters it

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<sup>60</sup> [http://hvg.hu/itthon/20101211\\_eu\\_elnokseg\\_ambiciozus\\_cselekvesi\\_terv](http://hvg.hu/itthon/20101211_eu_elnokseg_ambiciozus_cselekvesi_terv)

<sup>61</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter 2008:173.

<sup>62</sup> <http://schengen.magyarorszag.hu/letoltheto.html>

is estimated at 2013. At present SIS I++ is in use that is an enlarged form of SIS I that has not brought any actual change in the paradigm of data recording. The innovation of SIS II will be the recording of biometrical data (fingerprints, likeness) and various warnings would be connected automatically that would be operated independent of the country that had recorded the data; parallel to that the protection of the individuals' rights will be strengthened too.<sup>63</sup>

### *5.2 Visa Information System (VIS)*

The Visa Information System was created on the basis of the 2004/512/EC resolution (08.06.2004) for making possible the exchange of visa data among the member states. The task of VIS is to improve the execution of common visa policy, the cooperation of Consulates and the consultation between the central visa authorities in order to facilitate the process of visa applications, to prevent 'visa shopping', make the struggle against fraud easier; and also for the control at external border crossings and within the territories of the member states.<sup>64</sup>

The maintenance of the system is financed from the EU budget as the Commission was of the opinion that the task cannot be realized at national level. VIS consists of the Central Visa information system, national interface and infrastructures connecting the two.<sup>65</sup>

After the introduction of the system further developments were realized to make the execution of the tasks more efficient (European Parliament and Council 767/2008/EC regulation 09.072008; European Parliament and Council 8/2009/EC regulation 14.01.009); from the start on the aim was to coordinate it with the later SIS II. According to the action plan of the Stockholm Program it should have started its operation in December 2010, actually it will start in October 2011.

### *5.3 European Migration Network (EMN)*

Already the council meeting at Laeken drew attention to the necessity of a European system for the exchange of information about asylum seekers and migrants as well as information from their country of

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<sup>63</sup> [http://irm.gov.hu/tajekoztatok/cikk/Uj\\_tajekoztatok\\_informaciok.htm](http://irm.gov.hu/tajekoztatok/cikk/Uj_tajekoztatok_informaciok.htm)

<sup>64</sup> European Parliament and Council 767/2008/EC resolution (2008. 07. 09.) (VIS) and HL L 218/60 2008.8.13.

<sup>65</sup> Council resolution (08.06.2004) on VIS (2004/512/EC). HL L 213, 15.6.2004, p. 5.

origin. EMN was created in 2003 as an experiment directed by a commission that started its operation between 2004 and 2006 as a preparatory measure. The Hague Program confirmed the necessity of EMN and in 2008 the institution was created by a resolution of the Commission (2008/381/EC (14.05.2008)). It decided that the task of the network is to satisfy the demand for information of the institutions dealing with migration and asylum with up-to-date information in addition to the issuing of information and reports for the public.

There is a commission for the political direction, approval of the operational program, the revising of the results and the suggestions of further commendations for EMN. Each of the member states has a representative in this commission with Denmark and the European Parliament as observers. EMN is associated with national institutions e.g. ministries, research institutes, non-governmental organisations. In Hungary it is the Ministry of Public Administration and Justice that is in contact with EMN through its experts. The task of the contact is to prepare national reports, provide EMN with national information and answer to other member states' requests and form national migration networks. Various information servers also help the work of EMN.

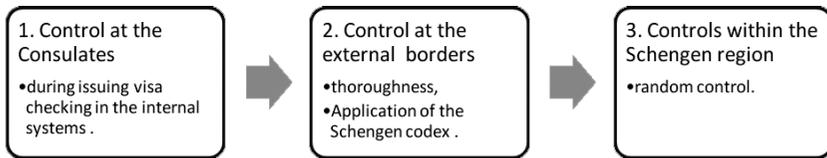
EMN is an institution specialized for collecting, systematizing and distributing of information with the aim to channel the national initiatives, measures and policy in addition to the reports on the refugee processes to make the law-making concerning refugees and migrant more effective..

#### 5.4 *Frontex*

Since the Schengen initiative the member states of the European Union supported the strengthening of the external borders and the abolition of the internal ones. The external border guards have an ever growing responsibility to discover illegal migrants and to control the documents of the legal ones. In The Hague Program the Union has created the Integrated Border Management (IBM) that regulates the entry into the EU in three steps.<sup>66</sup>

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<sup>66</sup> Dr. Kónya József: Az Európai Unió határpolitikája, a határbiztonság és az integrált határigazgatás fejlődésének alternatívái <http://www.konyadr.hu/> [The border policy of the EU, border security and integrated border management, the alternative of its development]



The Council, on the proviso of the Commission. created *European Agency for the Management of Operational Cooperation at the External Borders* (Frontex) (2007/2004/EC council resolution 26.10.2004.) that started its operation at its Warsaw headquarters in October 2005.

Frontex operates on the basis of IBM considering its principles. It helps in border management, endeavours to create agreement between the member states, offers information, expert support to the authorities of the member states but does not interfere in the practical border management because that is the task of RABIT. The Agency keeps close contact with various international organizations and Union partners responsible for the security of borders, as OSCE, *International Organisation for Migration, The UNO High Commissioner for Refugees, Migration Policy Centre, European Police Agency, European Police Academy, European Anti-fraud Office*, as well as customs cooperation and Phyto-sanitary and veterinary controls.<sup>67</sup>

The major tasks of Frontex are:<sup>68</sup>

- coordination in the management of external borders between the member states at the level of operative cooperation;
- Assistance in the training of national border guards and the development of common training norms;
- risk analysis;
- making notes on the research concerning the control of external borders;
- technical or operative assistance for the member states in case of situations at external borders;

<sup>67</sup> Hortobágyi Dániel: A Frontex és együttműködő partnereinek bemutatása a schengeni határellenőrzési rendszer tükrében. Biztonságpolitika.hu publikációi, 2010. 06. 24. [http://www.biztonsagpolitika.hu/documents/1277416041\\_hortobagy\\_i\\_daniel\\_a\\_frontex\\_es\\_egyuttmukodo\\_partnereinek\\_bemutatasa\\_schengen\\_tukreben\\_-\\_biztonsagpolitika.hu.pdf](http://www.biztonsagpolitika.hu/documents/1277416041_hortobagy_i_daniel_a_frontex_es_egyuttmukodo_partnereinek_bemutatasa_schengen_tukreben_-_biztonsagpolitika.hu.pdf) (letöltve: 2011. 03. 16.)

<sup>68</sup> More about Frontex. [http://www.frontex.europa.eu/more\\_about\\_frontex/](http://www.frontex.europa.eu/more_about_frontex/)

- support for the member states during common repatriating processes.

Thus Frontex continuously is on the alert for possible dangers, observes the current migration processes and evaluates them in the frame of the Common Integrated Risk Analysis Model (CIRAM). The model is actually a SWOT analysis that examines the strengths, weaknesses, hazards and possibilities by the same process in order to prevent illegal migration the most effectively while rendering border crossing the simplest possible.<sup>69</sup>

If action is necessary Frontex starts common operations, missions together with the member states concerned. Such are the Hera and Nautilus or Poseidon operations. Hera proved to be the most successful; it resulted in the lessening of the number of illegal migrants from Western Africa *via* the Canary Islands to the EU. The Nautilus program active at the central area of the Mediterranean Sea can be described as a failure because the number of illegal immigrants has considerably increased during the period of its activity.<sup>70</sup> Poseidon operation is the mission at the eastern Mediterranean region in aid of warding off migration arriving to the borders of Greece.<sup>71</sup>

In the field of training Frontex has developed the EU Common Syllabus to realise uniform teaching and examinations and appointed 11 partner institutions to instruct in the application of risk analysis. In addition a two level further training for the execution of higher level tasks is in preparation.<sup>72</sup>

Research-development is also among the major tasks of Frontex, however, not as an internal duty of the organisation, it simply facilitates the exchange of information and technical appliances among the border guards of the member states in order to fulfil common

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<sup>69</sup> Origin and Tasks. [http://www.frontex.europa.eu/origin\\_and\\_tasks/tasks/](http://www.frontex.europa.eu/origin_and_tasks/tasks/) (letöltve: 2011. 03. 15.)

<sup>70</sup> Eurosur) (2008/2157(INI)). <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:045E:0041:0047:HU:PDF> (letöltve: 2011. 03. 15.)

<sup>71</sup> Ávár, Imre – Lipics, László: Akcióban az EU határvédelmi csapatai – A RABIT bevetése. [http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban\\_az\\_EU\\_hat%C3%A1rv%C3%A9delmi\\_csapatai\\_-\\_A\\_RABIT\\_bevet%C3%A9se](http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban_az_EU_hat%C3%A1rv%C3%A9delmi_csapatai_-_A_RABIT_bevet%C3%A9se) (letöltve: 2011. 03. 15.)[RABIT in action]

<sup>72</sup> Origin and Tasks. [http://www.frontex.europa.eu/origin\\_and\\_tasks/tasks/](http://www.frontex.europa.eu/origin_and_tasks/tasks/) (letöltve: 2011. 03. 15.)

demands. Parallel to these tasks Frontex tries to ensure the requirements of ethic and human right connected to the various methods.<sup>73</sup>

The agency also has the task of repatriation that was already included into the frame of the Tampere Program (2001/40/EC Council guideline; 2003/110/EK Council guideline; 2004/573/EK Council resolution), however, the main task of the organization is coordination and not practical intervention.

The most sensitive feature of the activities of Frontex is the actual intervention – through RABIT – when the member state controlling external borders may need support by technical and effective force. The operation of RABIT will be introduced below.

The budget of the Agency has considerably increased since its creation. In general it can be stated that the income and expenditure are on par. Fig. 5. shown the finance of Frontex between 2005 and 2011.

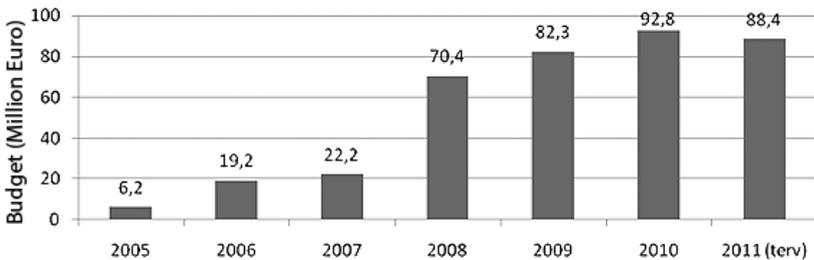


Fig 5.: The development of the income of Frontex 2005-2011<sup>74</sup>

### *The organisation of Frontex*

Frontex is a communal organisation that has the rights of a legal entity; at present it has 272 members, delegated national experts, temporary and contractual employees on the basis of the regulations valid for the office-holders of the Union. It is directed by the *Management Board* consisting of one person per member state as well as 2

<sup>73</sup> Ibid.

<sup>74</sup> Budget and Finance. [http://www.frontex.europa.eu/budget\\_and\\_finance/](http://www.frontex.europa.eu/budget_and_finance/) (letöltve: 2011. 03. 16.) Author's

representatives of the Commission; the members are elected for two years of service. The Management Board meets at least twice a year, its resolutions need absolute majority. Its task is to appoint the *Executive Director* proposed by the Commission; accepts the yearly report of the Agency and forwards it to the Parliament, the Council and Commission; accepts the Agency's yearly work plan that it forwards to the above authorities; develop the decision making procedure of the director and other regulations of procedures; accepts the budget of the Agency; has the right over the disciplinary matters of the executive director and his deputy; accepts the personnel policy and organisational structure of the Agency.<sup>75</sup>

In the execution of his duties the *Executive Director* is independent of governments and of the management too. His duty is to prepare and execute the resolutions and programs and activities adopted by the management board; directs Frontex according to its code of practice; prepares a yearly work plan and activity report for the management; acts as the employer of the personnel; participates in planning and executing of the Agency's budget.<sup>76</sup> The *Deputy Executive Director* takes over the duties of the director in his absence; otherwise guarantees the continuous execution of the daily tasks. The person for the post is also appointed by the Executive Board.<sup>77</sup> Further divisions are for *Internal Audit* and *Executive Support*. Both could be compared to a staff, the former examines the effective and exact use of the sources and evaluates the programs; the other has tasks in planning; takes care of the external relationships with third countries; helps in the exchange and collection of information; executes duties in controlling and quality assurance as well as guarantees the transparency of the organisation.<sup>78</sup>

The Agency is divided into three departments. The departments cover the major tasks of Frontex on the one hand and complete the

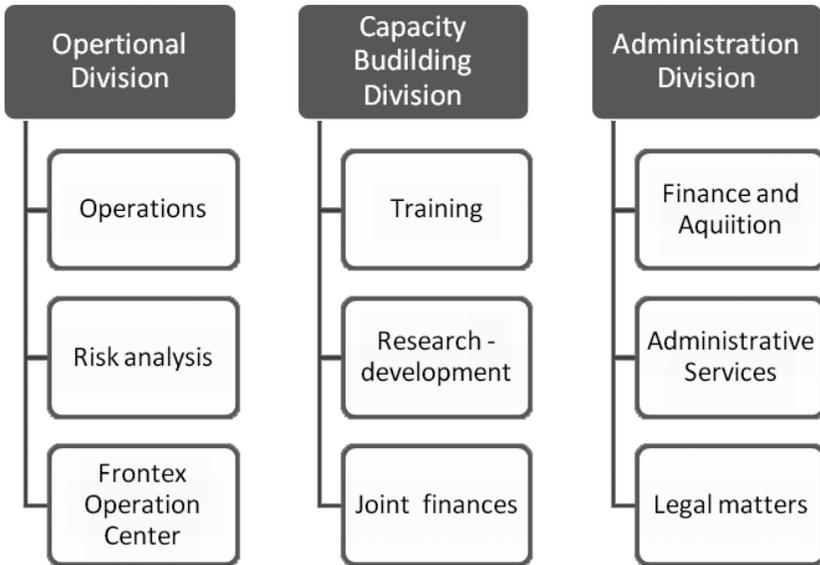
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<sup>75</sup> 2007/2004/EC decree (26. 10.2004; HL. 349 , 25/11/2004 P. 0001 – 0011.

<sup>76</sup> Ibid.

<sup>77</sup> Deputy Executive Director. [http://www.frontex.europa.eu/structure/deputy\\_executive\\_director/](http://www.frontex.europa.eu/structure/deputy_executive_director/) (letöltve: 2011. 03. 16.)

<sup>78</sup> Internal Audit. [http://www.frontex.europa.eu/structure/internal\\_audit\\_and\\_qualit/](http://www.frontex.europa.eu/structure/internal_audit_and_qualit/) (letöltve: 2011. 03. 16.)



structure with necessary supporting fields necessary for the organisation on the other.<sup>79</sup>

### 5.5 RABIT

RABIT (863/2007/EC European parliament and Council decree (11.07.2007)) are the Rapid Border Intervention Teams of Frontex that intervene in actual crisis situations, offer physical help in protecting the border of a given country; the interference must always be short term. RABIT primarily serve the interests of the southern countries, Spain, Italy and Malta most affected by the migration waves coming from Africa,<sup>80</sup> but the support of the border control of all member states is important for the entire EU too; it renders easier to find illegal elements. During their intervention the teams provide

<sup>79</sup> Structure. <http://www.frontex.europa.eu/structure/> (letöltés: 2011. 03. 16.)

<sup>80</sup> Zámbo, Katalin: A Frontex szervezete és működése. In: Tanulmányok a „Quo Vadis rendvédelem? Szabadságjogok, társadalmi kötelezettségek és a biztonság.” című tudományos konferenciáról (Pécs, 2010. 07. 24.). XI. kötet, 2010. [The organization and peration of Frontex]

the control of borders and they protect the green borders where it is easiest to discover illegal entry. Their major tasks are:<sup>81</sup>

- control of cross-border traffic
- patrolling
- control of travel documents
- interrogation of suspects

The composition of RABIT is not constant, Frontex, by using the national databases, is operating a database of 500-600 experts and in case of a crisis situation border guards with appropriate training and experience will be selected for the solving the situation. Every expert has a so called profile composed of basic training (experience in the Schengen border control), competence (basic control, cross-border traffic control, document examination; border control at port, airport and land; risk analysis) and other optional capabilities (e.g. managing skills, profile forming; dealing with dogs of service; command of several languages; knowledge of marine law, etc.)<sup>82</sup>

The members of RABIT are paid by their own country, they are not in Union employment, during intervention they have to observe the regulations of the country in question as well as the EU laws; thus they are responsible for their work both to the given country and the Union.<sup>83</sup> The border guards may use force authorized by the member state and their own country, fully respecting human rights.

RABIT is a process bound to conditions as shown below:<sup>84</sup>

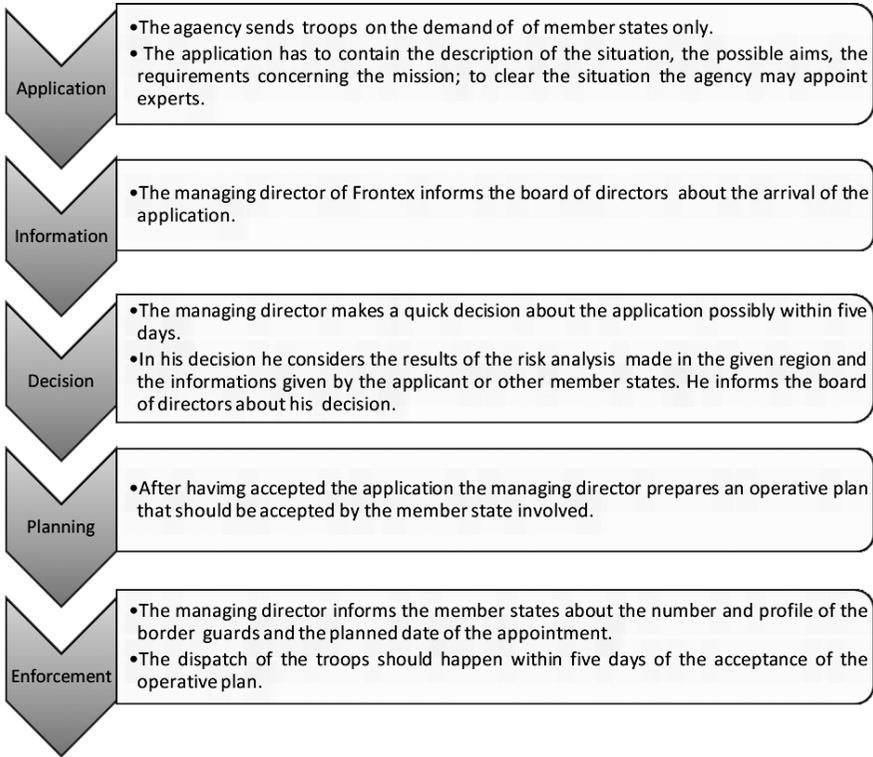
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<sup>81</sup> Hortobágyi, Dániel: A Frontex és együttműködő partnereinek bemutatása a schengeni határellenőrzési rendszer tükrében. Biztonságpolitika.hu publikációi, 2010. 06. 24 [Frontex and its cooperating partners in the Schengen border control system] [[http://www.biztonsagpolitika.hu/documents/1277416041\\_hortobagy\\_i\\_daniel\\_a\\_frontex\\_es\\_egyuttmukodo\\_partnereinek\\_bemutatasa\\_schengen\\_tukreben\\_-\\_biztonsagpolitika.hu.pdf](http://www.biztonsagpolitika.hu/documents/1277416041_hortobagy_i_daniel_a_frontex_es_egyuttmukodo_partnereinek_bemutatasa_schengen_tukreben_-_biztonsagpolitika.hu.pdf) (letöltve: 2011. 03. 16.)]

<sup>82</sup> Ibid.

<sup>83</sup> On the Creation of the Rapid Border Intervention Teams (RABIT) and modification of 2007/2004/EC Council regulation: 863/2007/EC European parliament and Council decree (2007. 07. 11.)

<sup>84</sup> Ibid.



RABIT teams were used first in Greece in October 2010 to control the Greek – Turkish borders. In the previous years the influx of migrants through Turkey became considerable with arrivals from Afghanistan, Palestine and Somalia. The reason is that there is no deportation agreement between Greece and Turkey.<sup>85</sup> There is the possibility of new action in Italy and Malta to manage the growing number of migrants due to the processes in the northern African Arab states; Operation Hermes is in action in the region with Lampedusa (Italy) as its headquarters.<sup>86</sup>

<sup>85</sup> Ávár, Imre – Lipics, László: Akcióban az EU határvédelmi csapatai – A RABIT bevetése. [http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban\\_az\\_EU\\_hat%C3%A1rv%C3%A9delmi\\_csapatai\\_-\\_A\\_RABIT\\_bevet%C3%A9se](http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban_az_EU_hat%C3%A1rv%C3%A9delmi_csapatai_-_A_RABIT_bevet%C3%A9se) (letöltve: 2011. 03. 15.) [RABIT in action]

<sup>86</sup> Frontex – Hermes Extension 2011. [http://www.frontex.europa.eu/hermes\\_2011\\_extended/news\\_releases/](http://www.frontex.europa.eu/hermes_2011_extended/news_releases/) (letöltve: 2011. 03. 16.)

### 5.6. European Asylum Support Office (EASO)

The Commission proposed the creation of EASO in February 2009 in order to eliminate the considerable differences between the refugee systems of the member countries, facilitate the legislation and agreement of jurisdiction of the Community and as RABIT, give operative assistance to the countries that are facing exceptional amount of applications for refugee status – in accordance with Priority 5) of the European Immigration and Refugee Pact.<sup>87</sup> EASO held its statutory meeting on the 26<sup>th</sup> of November 2010 in La Valetta, the capital of Malta considerably involved in the questions of illegal migration and refugee matters. In addition to the tasks appointed by the Commission EASO has been given important role in the creation of the common European refugee managing system (the deadline being in 2012) through collecting and systematizing information and making reports.<sup>88</sup> The *management board* for planning and monitoring consists of one representative each of the member states, 2 members sent by the Commission and one member without vote representing the United Nations Refugee Agency (UNHCR). There is an *executive director* elected for five years responsible for daily administration and legal representation. The director is supported in his duties by the *executive committee* formed of the management with the participation of the UNHCR representative. The organisation can form work-teams to fulfil its tasks and serves as a consultant forum for civil organisations at Union and member state levels.<sup>89</sup>

According to the Stockholm Program the duties of EASO is to identify those in need of international protection among the varied migrants and to cooperate with Frontex and other Union institutions in every possible field.<sup>90</sup>

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<sup>87</sup> European parliament and Council decree 439/2010/EU (2010. május 19.). HL 132. 29/05/2010. P. 0011-0018.

<sup>88</sup> EUROPA – Press Releases <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1610&format=HTML&aged=1&language=HU&guiLanguage=en> (letöltve: 2011. 02.27.)

<sup>89</sup> EUROPA – Summaries of EU legislation: European Asylum Support Office. [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/free\\_movement\\_of\\_persons\\_asylum\\_immigration/jl0022\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/jl0022_en.htm) (letöltve: 2011. 03.02.)

<sup>90</sup> COM(2010) 171. Bruxelles, 20.04.2010.

*Summary and Future*

Migration and refugee policy became a major issue of the legislation of the EU around the turn of the millennium; after Amsterdam Agreement had included the cooperation in internal and external jurisdiction into communal regulation, the delineation of the sphere of authority for freedom, security and right could be started. There were three comprehensive programs made: Tampere, The Hague and Stockholm for the prevention of illegal migration, the definition of the frames of legal migration and the creation of common minimum regulations of refugee matters. Also among the major objectives there was the extension of the rights of migrants with the aim of bringing them closer to those of the citizens of the Union. The execution of the programs brought with it the narrowing of national authorities and this is why the accepting of a law or a guideline or a common institution can be the result of lengthy debates. It is laudable, therefore, that there have been important steps forward in the field of migration policy, there were important development in harmonization of laws concerning legal and illegal migrants in the national regulations. There have been several institutions created for the informative and operative support of the authorities of the member states; for the uniform management of refugee affairs a common refugee system will be created; the common Union interests have been established; the need for solidarity among the member states has been recognized in supporting the nations providing for the security of external borders.

In the forming of the future of migration policy it is especially important to strengthen the position of the immigration liaison officers through information given to the citizens of third countries, by obtaining – providing with information that serve the purposes of preventing illegal migration and helping legal one. The introduction of the Blue Card may become one of the most important economic legal institutions in aid of legal migration, in obtaining qualified work force. The issuing of the cards can further the realization of the Lisbon aims besides the legalization of the migrants' employment, in addition it would not endanger the position of the job-seekers of the member state either because competitive wage offer is the condition of obtaining the card. The European Asylum and Support Office will also start its activity that can give much needed support to the

southern countries that are involved in the migrant influx caused by the uprisings in Northern Africa. The importance of Frontex will increase, too as well as the operative intervention of RABIT to manage illegal migration, to protect borders as experts and in practice.

The common management of migration is endangered by the tendency that due to the mass migration reaching Lampedusa there are increasing number of member states that are considering the temporary re-arrangement of their borders to ward off migrants. Italy and France are the major supporters of the possibility of the moratorium of the Schengen agreement in crisis situation (the former as a transit country, the other as a major target country of the refugees). In significant countries too, with Eurosceptic and anti-migration citizens there is a growing wish to re-arrange the borders, e.g. Denmark has prepared and accepted the order for random border and customs control.<sup>91</sup> The Danish notion questions the very reason of existence of the Union because the Schengen zone secures the basic principle of the free flow of goods, persons, capital and services. The answer to be given to the present migration challenge could definitely influence the future of the common migration policy, either strengthening it or weakening the common interventions.

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<sup>91</sup> HVG: Recseg a schengeni rendszer. 2011. május 13 [The Schengen system is shaking]. [http://hvg.hu/vilag/20110513\\_schengen\\_belso\\_utaz\\_asi\\_szabalyok](http://hvg.hu/vilag/20110513_schengen_belso_utaz_asi_szabalyok)

