



Actors Interviewed:

- Civil society: NGOs, trade unions, migrants' organizations: 13
- Media: 1
- Governmental representatives: 2
- Academics: 1

1. DESCRIPTION OF WORK AND TARGET GROUP

Policy Brief:

"Since the beginning of the 1990s, Poland has been a country 'waiting for' large-scale migration. The largest non EU-national groups of immigrants in Poland (both legal and illegal) are related to movement from the country's eastern neighbours and from Asia: namely, Ukraine, Belarus, Vietnam and Armenia. Citizens of countries such as Russia and Moldova are part of the stable core as well.

Ukrainians represent the most significant nationality in terms of legal immigrants and irregular foreign workers in Poland. It is evident that the trend of illegal work on the basis of legal stay visas and documents was the most characteristic feature of the Ukrainian immigration until December 2007 and the enlargement of the Schengen space. Poland's protective to local labour forces labour policy and a liberal visa policy for eastern neighbours were the principal factors which led to the circular type of mobility and temporariness of the migration process in the case of the eastern neighbours". (p. 2)

According to the interviewees, the majority of undocumented migrants entering the country are women though men also represent a significant number. Some amongst the respondents (NGOs in particular, a policy maker and the trade union representative) believed that both genders have an equal share in the overall undocumented migrant population. Moreover, two members of an NGO pointed out that several children are undocumented hence vulnerable. A trade union representative argued that people who have been trafficked should be taken into account.

According to the majority of respondents, undocumented migrants mainly come from Ukraine, Belarus, Moldova, Vietnam and Armenia. Chechnya, China, Pakistan, India, Sri Lanka, Bangladesh and Nigeria were amongst other countries mentioned.

A policy maker underlined that the majority of women mostly come from Ukraine whereas it seems that Chechen undocumented families are numerous. Another governmental authority, said that many young

men are from Africa. Several NGOs representatives noted that many Vietnamese live in Poland and have their own developed network.

**Terminology.* Majority used “irregular”. The term “undocumented” was rarely employed. Most of the interviewees tended to utilize “irregular”; “illegal” was used by one authority whereas another policy maker referred to migrants as “undocumented”. He said he was fully aware of PICUM’s advocacy aimed to influence policy makers to apply the correct terminology.

2. ESTIMATES, DATA, ASSESSMENT OF SIZE AND COMPOSITION OF THE IRREGULAR MIGRANTS' POPULATION

Policy Brief:

“Main Pathways into and out of Irregular Status

- *The trend of illegal work on the basis of legal stay visas and documents was the most characteristic feature of the Ukrainian immigrant group until December 2007 and the enlargement of the Schengen space*
- *The other fairly visible group of foreigners on Polish landscape has been the Vietnamese community, in which irregularity refers to both stay and work of some of its members. This population is an example of irregular migrants whose stay may commence as a result of crossing the border illegally with fake or remade documents or crossing the green border in cases of human trafficking and smuggling*
- *Irregular stay can also be caused by overstaying. In other words, a person may enter Poland legally, but does not leave when the basis of his/her stay terminates. There are no estimates on the numbers of people who remain in Poland despite the expiration of their visa”. (p. 3)*

Pathways into Irregularity

Irregular migrants seek legal advice and general assistance from NGOs as regards employment, education and health care. Moreover, public awareness raising through information sessions and some policy work are a key instrument in order to inform and empower civil society. NGOs mainly focus on counselling, providing information and drop-in sessions although irregular migrants are still supported and assisted unofficially.

The majority of the interviewees (NGOs, a trade union and one authority) felt that visa overstay is the most common pathway into irregularity; moreover, irregular entry was perceived as another important pathway by five respondents: three NGOs, a trade union representative and an authority. Yet, the denial of refugee status was mentioned as an additional pathway into irregularity by three interviewees (two NGOs and a trade union representative).

One NGO representative and a sociologist believed that pathways into irregularity vary according to nationality. They both said that although Ukrainians are entitled to have a legal visa hence the right to work legally, many amongst them choose to be employed informally representing thus a particular group raising specific concern. Only a representative from a trade union mentioned that migrants turn out to be undocumented because they have been trafficked.

Flows of Undocumented Migrants Coming to Poland

Five interviewees amid the NGOs felt that the total yearly number of irregular migrants is increasing; four (a trade union representative, three NGO representatives and a governmental authority) that it is steady; yet, four respondents believed it is decreasing. One respondent was not able to provide any answer since, he believes, Poland is still a transit country for migrants.

Those who thought the number is growing affirmed that their organizations were facing more requests from migrants. According to an interviewee, the number of Ukrainians coming to Poland is slightly increasing. An NGO representative believed that the number of irregular migrants could vary in relation to specific ethnic groups whereas another one noted that due to changes of visa regime, people tend to overstay after their visa expires.

An authority representative believes that the trend is decreasing due to the fact that border controls have been effectively strengthened. According to an NGO representative, the number of undocumented migrants coming to the country is decreasing because of Poland's entry in the Schengen area. A governmental representative believes that the trend has remained steady for years. Based on their personal assumptions, a member of a trade union and one NGO representative argue that the trend is steady. Moreover, two additional NGO representatives argued that the trend might have slightly increased since migrants' legal status could vary within a year.

Numbers of Undocumented Migrants Receiving Assistance from Organizations

NGOs and authorities are not likely to provide exact figures regarding the number of undocumented migrants receiving their assistance. Often NGOs only keep records of regular migrants and asylum seekers; collecting data is difficult due to the fact the many irregular migrants only stay temporarily in the country.

NGOs are not officially entitled to provide assistance to undocumented migrants. They are not even allowed to collect figures as regards the number of irregular migrants they deal with since funding provided by the government or the European Union is not allocated for this target group.

One NGO representative noted that no counting is carried out and numerical outlooks only concern asylum applicants due to the fact that funds come exclusively from the European Refugee Fund.

According to an interviewee, NGOs' official work does not 'cover' irregular migrants although "it happens in practice", she was quoted. She noted that since 2009, 10 are the undocumented migrants monthly supported by her NGO.

An NGO representative argued that most of the migrants approaching the "FORUM" are undocumented but was not able to specify their number. According to another one, since April 2009 two to three migrants her organization deals with are irregular.

A respondent indicated that half of the 200 migrants assisted in 2008 were undocumented. As regards the interviewed governmental representatives views on the number of undocumented migrants living in the country and/or in the capital city of Warsaw, one authority stated that the percentage of irregular migrants in Poland is 2-3%, and it equals to approximately 5,000 migrants according to the apprehensions data gathered by the Border Guard.

Moreover, an additional policy maker stressed the importance of taking into account the number of both apprehensions and expulsions carried out.

Figures and Percentages of Undocumented Migrants Living in a Given Geographical Area (Warsaw)

According to several NGOs, estimating the total population of undocumented migrants in the working region of the interviewees is rather impossible. According to one NGO representative, there are no official data which could provide any reliable estimate; a policy maker from the Ministry of Interior said that it is extremely difficult to count people who are spread across the country and in transit. To an interviewee, providing educated guesses is impossible due to the fact that majority of irregular migrants look like Poles,



speak Polish and work in the construction and cleaning sectors making thus detection even more unlikely.

Two additional NGO representatives believed that estimates could be provided only if reliable tools and resources were available. Another respondent observed that since data are gathered by both the Border Guard and the Ministry of Interior, it should be possible to estimate the total population of undocumented migrants in the city of Warsaw.

One NGO emphasized the difficulty of such attempts due to the invisibility of this target group whereas according to another respondent estimates are repeated since migrants often change their status. Moreover, another NGO representative added that no official data that seek to count the number of irregular migrants in the country are actually provided.

No guesstimates were provided by any among the respondents with regard to percentages of undocumented migrants living in the geographical area of Warsaw.

Estimates of Undocumented Migrants in Poland

Policy Brief:

"One can find various quotations of estimates of irregular migration. In a report on the Polish demand for a foreign workforce the authors estimated that in 2004 50,000-300,000 immigrants were working illegally in Poland. A media report quoting the estimates given by the Office for Repatriation and Aliens for the same year stated that 450,000 foreigners worked illegally (of which 250,000 were Ukrainian citizens, 150,000 Belarussian and Russian citizens, 40,000 Vietnamese and 8,000 Armenian citizens – but this quotation could not be verified". (p.2)

Although providing estimates is not considered feasible due to lack of reliable data, some 'guess estimates' were pointed out by the following interviewees.

- According to data provided by an authority, there is a maximum of 200,000 undocumented migrants who live in Poland.
- One NGO representative and a sociologist believed that there are approximately several thousand to few hundred thousand undocumented migrants living in Poland according to some official estimates (not specified) provided by the government. They both underlined the importance of referring to flows instead of stocks with regard to Polish irregular migration.
- According to a trade union representative, recent estimates, not specified, for the number of undocumented migrants in Poland suggest a figure of 60,000 people staying in the region; while between 50,000 to 300,000 foreigners work irregularly in the country. She also pointed out that in 2006 approximately 5,500 undocumented migrants were deported and that the number of deportations still reflects the same trend. She continued by saying that undocumented migration has two faces, namely 'illegal stay' and 'illegal work'. Defining both of them is crucial to have a deeper understanding over the issue. "If we take into consideration illegal stay only, providing estimates seems more realistic; however, it is not possible to indicate the number of irregular workers since the Ministry of Labour and Social Policy does not gather information on it and statistics are not available. Although migrants receive approximately 160,000 invitations from Polish employers per year, inspections as regards their employment, carried out by the Labour Inspectorate, are far from being properly accomplished.

From the above it is clear that the estimates given vary; only three respondents were able to provide estimates referring to governmental sources.

Assessment Regarding Estimates and Views on their Reliability

Policy Brief:

"Estimated statistics in Poland do not include information concerning the demographic characteristics of irregular migrants. However, studies on domestic work indicate a high level of female migration to Poland. There are no estimates regarding the age composition of irregular immigrants. Nevertheless, considering the circular character of labour migration to Poland, it can be assumed that the irregular migrant population is almost exclusively in the economically active age". (p.3)

Most of the interviewees believed that reliable data would constitute a useful tool for their field of work. The majority of the respondents noted that figures could contribute to raise awareness on the issue. However, four interviewees were sceptical and showed their lack of interest in collecting figures.

According to two respondents, there are no data on irregular migration which could be used to estimate the number of irregular migrants. Two NGO representatives argued that migration is not considered as a political topic: no debate is in fact envisaged in the country. An interviewee and a sociologist believed that a lack of reliable data serves politicians who up to date refrain from providing any migration strategy. They also noted that irregular workers, such as Ukrainians, remain an important work force supply upon which Poland relies. Furthermore, the sociologist said that he often quotes statistics provided by governmental authorities in his articles as a potential tool to lobby and indicate the current migration trend.

One NGO representative said that figures would enhance visibility on irregular migration and empower the civil society with more arguments to lobby before policy makers. "I wish I could support my arguments", she was quoted. According to another one, data should show the reasons of irregular stay and offer qualitative methods instead of numerical assessments; statistics would be useful if they provided reliable information that would assess policies in the field. She stressed the need of identifying all the different pathways into irregularity and added that currently regularization schemes seem to 'appeal' to policy makers in contrast to few years ago.

According to an interviewee, trustworthy data would show the need of regularizations as a key mechanism to deal with irregular migration; "If we knew the scale of irregular migrants in the country, there could be a need to regularize them", she was quoted. An additional respondent believed that reliable figures could prove a good basis in order to assess the scale of the phenomenon, and useful for campaigns aimed at changing laws in the field. "I however would not be using them on my every day work", she concluded.

As regards governmental representatives, one authority official praised the usefulness of figures in order to create laws and even procedures to act, react and envisage legal instruments to properly manage irregular migration. According to another policy maker, reliable data would spearhead a debate on irregular migration and possibly strengthen arguments in favour of regularization.

3. DISCUSSION AND POLICY IMPLICATIONS

Policy Brief:

"The trend of illegal work on the basis of legal stay visas and documents was the most characteristic feature of the Ukrainian immigrant group until December 2007 and the enlargement of the Schengen space". (p. 3)

*"Both regularisation programmes has strict requirements – their aim was not to legalise a mass of irregular immigrants. Nevertheless, programmes **did demonstrate an acknowledgement of the need to improve the situation of illegal immigrants**. Moreover, they provided the Ministry of Interior and Administration with further information about the phenomenon of irregular migration in Poland". (p. 4)*

"Poland has been facing a very difficult task for some time: how to reconcile the need for workers which has developed since 2004 and the outflow of Poles to the EU-15 countries, with the strict security measures implemented

State Policy Responses and their Implementation on the Ground. Examples of State Beneficial Policies Employed

Most interviewees stated that there are no policy responses regarding irregular migration in Poland. However, it was said that a formal policy is expected to be released in 2011, deriving from the interdepartmental working group on migration that was set up in February 2009. Enforcement, detention, deportation were consequently perceived as the main current policies of the Polish government.

Some amongst the respondents were very concerned about such lack of policy. An NGO representative argued that deportation and at the same time regularization are two contrasting measures undertaken by the government both aiming to decrease irregularity. According to another respondent, "policy makers do not know what they should do except tightening up border controls". One respondent expressed his disappointment as regards the state restrictive policy implemented such as retention and detention of migrants in jail and detention centres. An additional interviewee made the same point.

According to a trade union representative, the policy on irregular migration in Poland as well as in other countries is based on three components. The first consists of preventing irregular migration through restrictive measures, such as border controls and also the creation of channels aimed to constitute a real alternative to irregular migration. Control measures which include managing both legal stay and employment reflect the second component. Thirdly, naming the agencies facing irregular migration is crucial for acknowledging the issue. She noted that the Ministry of Internal Affairs and Administration (Migration Policy Department), the Ministry of Labour and Social Policy as well as Border Guard and Labour Inspectorate in addition to many NGOs such as Helsinki Foundation for Human Rights are the official governmental agencies dealing with irregular migration and relevant policies in the country. A few months ago, a working group appointed by the interdepartmental Team on Migration has been working on conceiving and designing a policy on migration. The results of its work will only be available in autumn.

She said that it is worth noting that irregular migration has an economic dimension in Poland. But it is of relatively little significance since the number of irregular migrants is quite irrelevant in comparison to other countries. Furthermore, irregular migration coming from the East has been recently decreasing. The government has explained why by arguing that Poland is building the so-called 'small cross-border migration movements' with Ukraine and (soon) Belarus and that the Eastern neighbouring countries are finally creating their own migration policy and respective institutions.

She added that Polish policy concerning irregular migration is mainly European orientated. Regularization schemes have also been recently discussed although Poland is not currently keen on planning any. She believes that contradictory results experienced by other countries (e.g. Spain) do not encourage undertaking such a measure.

An NGO representative pointed out that irregular migration has two different sides: external and internal, the first consisting of tightening up the borders, the second aiming instead to grant work permits. She stressed that the Polish government does a particular effort to set up facilitating structures for migrant workers since they are considered an important workforce supply. At the same time, the EU guidelines which have to be transposed at the national level are strictly implemented. While emphasizing that no strategy has been envisioned yet, according to one respondent, marrying a Polish citizen and applying for asylum are the only ways envisaged by the Polish government for regularizing irregular migrants. Two NGO representatives believe that the two amnesty programmes in 2003 and 2007 should be considered as the main policy responses the Polish government has ever pursued in the field of migration. They also mentioned that the so called "tolerated status" is another procedure to regularize migrants but rather difficult to obtain due to legal obstacles.

However, the majority said that, when implemented, access to urgent medical health care and free education to be provided to children until the age of 18 are the only two beneficial state policies. According to one interviewee, no access to the health care system is guaranteed to irregular migrants

whereas another respondent said that migrants have to apply for asylum in order to access the health care system.

One respondent and a researcher pointed out that while health care assistance is only provided in case of emergency and doctors carry the duty to report it to the police, there is no criminalization in practice. Two additional NGO representatives mentioned that access to education is instead compulsory and teachers do not usually report the presence of undocumented children in the class. One interviewee and a sociologist made it clear that while free access to health care is not generally provided to irregular migrants (except urgent care) education to undocumented children is merely based on good practices, which once more puts at stake their entitlement to this basic social right.

Moreover, two additional interviewees amongst the NGOs believed that the two amnesty programmes of 2003 and 2007 were the two most beneficial state policies as regards irregular migration. Granting foreigners coming from the neighbouring countries with permissions to work was also mentioned as a state beneficial policy.

Considered by migrants mainly as a transit country, irregular migration in Poland is neither an issue nor a priority. It was said that politicians ignore it while the media show little interest whereas often civil society does not even approach the issue. A few number of interviewees agreed in saying that neither 'illegal' entry nor 'illegal' stay but irregular work characterizes Polish irregular migration, pointing especially to migrants coming from the neighbouring countries.

Some amid the respondents (NGOs and one authority) noted that irregular migration often is not perceived as a negative phenomenon due to historical reasons: Poles have in the past emigrated to other countries both in Europe and in the US; 20,000,000 is the number of Poles living abroad.