

INSTITUT UNIVERSITARI D'ESTUDIS EUROPEUS

# Obs

## Observatori de Política Exterior Europea



Working Paper n. 36  
Novembre 2002

### **The Cooperation on Justice and Home Affairs and the Enlargement of the European Union**

Emma Pivetta

#### ABSTRACT

As far as we know the enlargement could be a big opportunity, but also it is a challenge over the institutional and policy system of European Union. Therefore, it becomes a threat about the fields under the cooperation on justice and home affairs, called also the Third Pillar of European Union. The enlargement will have incidence on many topics: border-related issues, free movement of persons and goods, shifts in territorial boundaries, and lots of different cooperations (police, justice, etc). It's time to start thinking about this threat. The enlargement is a reality, but also the problems related to the enlargement, specially the topics related to the frontiers.

Probably, the existence and displacement of the the European Union' external frontiers will change, as well as the European societies and values. We should be aware that there is a link between the perception of a frontier and a sense of identity. Because of that, the fall of internal frontiers surrounding the european continent, and the external frontiers as a marker of a strong european identity will be the most important topic related to the Third Pillar.

This working – paper will be focused on three key issues:

- How will affect the enlargement to the Justice and Home Affairs Cooperation. Especially, the absorption of Schenguen Agreements and the overall JHA by the candidate countries.
- The enlargement impact over the European Immigration Policy and the specific policies carried out by the EU Member States. The main question is the free movement of persons safeguard, in order to protect external borders of European Union.
- An analysis of September, 11 attacks against U.S.A might be necessary to understand the future changes on JHA policy.

Universitat Autònoma de Barcelona  
Edifici E-1  
08193 Bellaterra  
Barcelona (Espanya)

## INTRODUCTION

It is difficult to forecast the effects of the enlargement of EU towards East and Central States of Europe on Justice and Home Affairs policies. As it is well known, this enlargement is a challenge for the institutional and policy system of the EU but, as we will explain, it is also a threat on the fields of Co-operation in Justice and Home Affairs so It is difficult thinking how will affect the enlargement of European Union towards East and Central States of Europe over Justice and Home Affairs policies. As it know, the enlargement is a challenge over the institutional and policy system of the European Union, but, as we will explain, the enlargement becomes a threat about the fields under the Co-operation in Justice and Home Affairs (so called as a Third Pillar of European Union) and the overall Union's.

Another main threat regarding this enlargement would be the immigration into EU space, a field compulsory to analyse to clarify a future. Therefore, all the country members of EU should start working the soonest on this field. That analysis becomes absolutely necessary to clarify a future European Union Immigration and Asylum Policy. Because of that, formers of EU should start working as soon as possible.

The enlargement will have incidences on many topics in relation to border issues and its control, free movement of persons and goods shifts in territorial boundaries, topics related to frontiers and their possible displacement after the enlargement.

Probably, the existence and displacement of the European Union' external frontiers will change, so, the fall of internal frontiers in the European continent, and the external frontiers as a marker of a new and strong European identity, will be one of the most important issues with regards to the enlargement. That is a main reason for the need to study the relation between enlargement and the Third Pillar of the Union.

Therefore, in order to study that relationship, this working paper will be focused on three key issues:

- How the enlargement will effect on the Justice and Home Affairs Co-operation and the absorption of Schengen Agreements and the overall JHA *acquis* by the candidate countries;
- The Enlargement impact over the European Immigration and Asylum Policy and specific policies carried out by the European Union Member States. The main question is the freedom of movement for persons and its safeguard to protect external borders of European Union.
- An analysis on September 11<sup>th</sup>'s attack against U.S.A. might be necessary to understand the future changes on JHA policy, as well as the impact of recent electoral process recently happened in some European States such as France and the Netherlands.

We should remember that since the end of the 2<sup>nd</sup> World War, Europe was divided in two different zones: Western and Eastern Europe. Such kind of division responded to two different worlds and systems: the communist system and the western system. Both had their own conceptions about economy and its organisation, politics and all kind of subjects related to policy powers. Finally, they had two different

points of view about social roles that should be managed by their societies.

Nowadays, the European Union intends to realise one of its biggest dreams: being, again, one continent. The Enlargement of European Union to the Central and Eastern Europe countries it is our opportunity to achieve a united Europe. Of course, the analysis of Third Pillar and the subjects in relation to border control and free movement of persons will be one of enlargement key issues.

It is also important to know that Enlargement towards Eastern and Central European countries is a big challenge because when we mean "eastern block" we are talking about States that present several differences among them. There are economic, social, political differences as well as religion differences.

## **I. THE ENLARGEMENT AND THE EUROPEAN UNION: KEY TOPICS**

After East communist system fall, it was necessary consider the Union's enlargement as a main political priority and as a way to expand democratic, social and economic stability towards European continent.

In 1987, three Mediterranean countries and ten Eastern and Central European States applied to become Member States of European Union. Due to diversity of economic, political and social situations of candidate countries, the Union decided to establish three criteria (1993, European Council of Copenhagen) that every candidate had to fulfil:

- The applicants had to achieve stability of institutions guaranteeing democracy, the rule of law, respect of human rights and respect for protection of minorities. (Political criteria)
- The candidate country had to have a functioning market economy, as well as the capacity to cope competitive pressures within the Union (Economic Criteria)
- The candidate country had to have the ability to take on the obligations of membership. Every applicant country needs to adjust its institutional system to run the Union policies.

Negotiations with the Central and Eastern European countries (CEEC) concerning their accession to the European Union began at the end of 1998. The first round of countries wishing to join the EU includes Hungary, the Czech Republic, Slovenia, Estonia and Poland.

At the Essen European Council (1994), the EU defined a pre-accession strategy for the applicant countries. Three key issues defined this strategy: the European Agreements and their future implementation; a structural dialogue between all EU Member States and candidate countries, to discuss and advance in common interests and, finally, the implementation of Phare Programme, that would give financial assistance to realise every kind of action in relation to the enlargement.

European Agreements would establish a framework for bilateral relations between the EU Member States as well as the European Communities on the one hand, and the applicant countries on the other one. European Union wanted to achieve the best way to prepare EU Member States and the partner countries towards an economic convergence, as well as political, social and cultural. In order to achieve it, European Agreements tried to cover trade relationships, political co-operation and cultural co-operation.

Ten countries signed Europe Agreements with EU: Bulgaria, Romania, Slovakia, Slovenia, Latvia,

Lithuania, Estonia, Poland, Hungary and Czech Republic. Malta, Cyprus and Turkey signed everyone an Association Agreement that covered the same fields as European Agreements except the political dialogue. The Agreement with Turkey had another specifically issue: it also aiming to achieve the customs union between EU and Turkey.

How do European Agreements run? There are bilateral meetings at ministerial level between European Union and the applicant States (Association Councils) to discuss all issues related to enlargement towards EU. There are Association Committees that consists on meetings at senior official level which review in more detail all areas covered by the European Agreements. Finally we can find a Joint Parliamentary Committees, that bring together members of the national parliaments of the candidate countries and members of the European Parliament.

To sum up, the European Agreements provide a legal framework for every applicant country and the EU, and the EU Member States. European Agreements wants to cover most of the issues with regards to economic and political relations and co-operation between EU and the applicant countries.

We have been able to find another two key instruments in the enlargement process: the Accessions Partnership (APs) and the National Programmes for the Adoption of the Acquis (NPAA). The first one, Accession Partnerships (Aps), has been drawn up for each candidate country, and it contains precise commitments about areas related to democracy, macroeconomics stabilisation, and so on.

A national Program usually encloses an Aps for the adoption of the Acquis (NPAA), also for each applicant country. The NPAA consists on how the candidate countries sets out and have been preparing the aims suggested by the Aps and their integration into EU.

As the DG on Enlargement notes<sup>1</sup> “in this way, the NPAA complements the Accession Partnership: it contains a timetable for achieving the priorities and objectives, where possible and relevant, indicates the human and financial resources to be allocated”.

The structured dialogue is based on meetings of heads of state and government and ministerial meetings in fields as economic affairs, justice and home affairs, foreign affairs, development and internal market, and so on.

Finally, we may remember the Phare Programme as the EU's main financial instrument for supporting every action done by the EU to aim the partners in their effort to prepare for membership.

The Nice European Council gave a drive to the enlargement process. That impulse was the establishment of a roadmap where the Commission will establish three different applies, depending on the impact of measures on internal market competence or depending on little technical difficulties.

In the recent Laeken European Council was passed a Strategical Document for the Enlargement, presented before the Council by the Commission (November 13, 2001). On the Document, it's possible to find ten countries that will be EU's Member States in 2004: Poland, Czech Republic, Slovakia, Slovenia, Lithuania, Estonia, Hungary, Malta and Cyprus.

---

<sup>1</sup> <http://europa.eu.int/comm/enlargement/pas.aps.htm>

To sum up this chapter, it is possible to identify three key benefits of the enlargement<sup>2</sup>: “EU enlargement will extend the zone of stability in Europe, thus contributing to security and peace throughout the continent. The extension of the Single Market from 370 million to 480 million of consumers, as a result of enlargement, will stimulate economic growth and provide new opportunities for business throughout Europe. The enlarged EU will carry greater weight in world affairs and will be a stronger partner in intentional trade negotiations”.

So, one more time, we have been able to see enlargement as a big chance for Europe. The overall continent must benefit from the enlargement.

## **II. THE COOPERATION ON JUSTICE AND HOME AFFAIRS OF THE EUROPEAN UNION (THE UNION'S THIRD PILLAR)**

Europe had a new dimension on its construction after Treaty on European Union entered into force, on 1st November 1993. Such new dimension was called “Co-operation on Justice and Home Affairs” or “The Third Pillar of European Union”. Under these co-operation, we find different aspects in relation to co-operation among Ministries of Justice and Home Affairs, and their departments, and services of immigration, customs, police, civil matters, criminal matters, and so on.

Third Pillar of European Union was the heir of two key elements of European integration process: Political Co-operation on the one side (in that case co-operation among policy groups and judicial and customs co-operation, that were specially important in '70 decade) and Internal Market attainment on the other side, that means the final fall of internal frontiers and the transfer of control on external borders.

The main goal of the Third Pillar was to rationalise and enhance, under the Title VI, the overall co-operation on Justice and Home Affairs, and to define it better than it was previously. JHA Pillar was based on a common list of topics in relation to free movement of persons, third national countries conditions remain, as well as judicial and policy co-operation. It becomes necessary to emphasise that Third Pillar of EU, as well as the Second one, is an intergovernmental Pillar, it means, far away from community institutions and under Member States control.

After the Amsterdam Treaty, remains the co-operation in police matters; criminal co-operation and customs co-operation remains under Third Pillar. We may remember what policy experts tell about the core of a state and we will understand why there is still surviving a reduced Third Pillar. Policy forces, customs and judicial criminal matters still remain as a basic core of the State essence.

The instruments of Co-operation on Justice and Home Affairs were the establishment of joint common actions and position, and the international conventions. After Amsterdam Treaty a new one was added: the “framework decision”. So, since the Amsterdam Treaty entered into force, JHA has the following main instruments:

- Common positions, that define the EU's approach on a given question. The Council of

---

<sup>2</sup> [www.eurunion.org/legislat/extrel/enlarge.htm](http://www.eurunion.org/legislat/extrel/enlarge.htm)

the European Union can adopt a Common Position unanimously.

- Framework decisions and decisions, that approximate the laws and the regulations of the Member States in JHA matters. As Common Positions, Framework Decisions are adopted by the Council by unanimity.
- Conventions, where we find a traditional instrument of international law. Conventions have to be ratified by the national parliaments of the Fifteen. The Council of European Union may draw up conventions on JHA matters and, after, recommend its adoption to the Member States.

When the Amsterdam Treaty entered into force (1 May 1999), and after the Tampere Summit Reforms (15-16 October 1999), the European Union has a new general objective known as Area of Freedom, Security and Justice that consists on the following policy areas:

- Free movement of persons, visa policy, external borders and Schengen
- Immigration and Asylum
- Judicial Co-operation in civil matters
- Police and customs co-operation
- Fight against organised crime
- Judicial co-operation in criminal matters
- Citizenship, Fundamental Rights, Racism and Xenophobia
- Drugs co-ordination
- External relations and enlargement

The main aim of the Area of Freedom, Security and Justice was to establish the political guidelines that will have to conduct all these areas for the next years.

As it has been told, Tampere European Council was one of the most important councils on Justice and Home Affairs because there, the EU Member States agreed to work towards establishing a Common European Asylum System, respecting the application of Geneva Convention and maintaining the principle of “non-refoulement” mechanism to determine which Member State was responsible for considering an asylum application, common standards of eligibility to refugee status and measures relating to subsidiary forms of protection.

In Tampere was also recognised that the Union needed a comprehensive approach to migration addressing political, noting that partnership with third countries of origin would be a key element for promoting development and for stopping illegal immigration. Because of that, EU stressed the need for more efficient management of migration flows and for development of close co-operation with countries of origin and transit of that immigration and, finally, to prevent all forms of trafficking in human beings.

As it has been said, the realisation of an Area of Freedom, Security and Justice needs to have security measures relating to security standards into this Area. The Schengen Agreements were the first ones to do it. Schengen Agreements were integrated into European Union Treaty by the Amsterdam Treaty reform.

So, up to now, and after Amsterdam Treaty reforms on Justice and Home Affairs, the policy on asylum, free movement of persons, visa policy, rules governing the crossing of the EU 's external borders, immigration policy and the rights of nationals of third countries (it means, the overall topics in relation to

free movement of persons) have become a full Community responsibility. But, it has to be noted that all these measures would be adopted within five years of the entry into force of Amsterdam Treaty. These measures would be part of Title IV of the EC Treaty (except for the United Kingdom, Ireland and Denmark).

As regards Judicial co-operation in Civil Matters we have to note that it has three main priorities:

- Better access to justice
- Mutual recognition of judicial decisions
- Increased convergence in the field of procedural law

Such kind of priorities aims to facilitate and to encourage the development of the principle of free movement. The main conclusion on this area was that citizens and economic operators should not be prevented or discouraged from taking advantage of their rights by the incompatibility or complexity of the judicial and administrative systems of EU Member States. Because of that, up to now, the judicial co-operation in civil matters is based on the latest three priorities: better access to justice, mutual recognition of judicial decisions and increased convergence in the field of procedural law.

As regards police and customs co-operation, its main priority is maintaining a high level of safety for the EU citizens and others within an area of Freedom, Security and Justice of European Union. This objective would come through by the following tools: closer co-operation between customs authorities and between national and local police bodies. This co-operation is reinforced by the Europol, a law enforcement organisation that has to improve the effectiveness and co-operation of the law enforcement authorities, as well as police forces, in order to prevent, combat and punish international organised crime and international terrorism. The Europol Office is based in The Hague in the Netherlands. The "Europol Convention" entered into force on 1 October 1998, and its implementation started on 1 July 1999. Finally, an Action Plan was set up in Vienna, in 1998. The objective of this Plan was to establish the guidelines to set up an area of freedom, security and justice.

Fight against organised crime is the policy area which objective is prevent crime, catch and punish criminals and deprive criminals of the rewards of their crime. That policy area of JHA is focused on drugs crime, trafficking in human beings, economic and financial crime, terrorism, environmental crime and cyber crime. Fight against organised crime is focused on these matters because of in a free space, as is European Union, criminal international organisations have always been prompt to take advantage of the weaknesses and lacks of security of the 15 legal systems that would become more than 25 after the enlargement.

Judicial Co-operation in criminal matters is based on a work programme established by the Tampere conclusions. Such work programme consist on reinforcing co-operation between the European judicial systems and police forces by the approximation of EU Member States criminal laws, co-ordination of judicial proceedings, mutual recognition of judicial decisions and protection of individual rights.

The main tool to channel the reinforced co-operation is the Eurojust, whose main objective is to facilitate all the measures in relation to that co-operation. It has to facilitate the co-operation between the national prosecution authorities, and improving the co-ordination of criminal investigations and information exchange. Up to now, the Eurojust doesn't still operate and a provisional Eurojust Unit was set up by a Council decision on 14 December 2000 and has been working since March 2001.

Regarding policy area on Citizenship, Fundamental Rights, Racism and Xenophobia, we should remember that every citizen of an EU Member State is automatically citizen of European Union. And such condition gives the EU citizens many rights namely circulate, remain and live freely, take part in municipal elections depending on their place of residence and also take part in elections to the European Parliament, benefit from diplomatic consular protection from the authorities of all the Member States in any place of World; have access to extrajudicial recourse through mediator, and, finally, the right of petition to the European Parliament when they consider that EU legislation damage their rights as a European citizens.

In relation to this policy area, we have to remember that under the Amsterdam Treaty, and for the first time, the European Union can fight any kind of discrimination, on the basis of nationality, sex, race or ethnic origin, religion or belief, disability, age or sexual orientation. The European Union has set up a fundamental Convention to prepare a Charter of Fundamental Rights (Cologne 1999), which was formally proclaimed by the European Parliament, the Council of EU and the European Commission in Nice, December 2000.

European Union wants to give a comprehensive approach to the fight against drugs. Therefore, together with the Commission's Directorate for JHA and the Council's of EU, it has created the Council's Horizontal Drugs Group whose objective is to co-ordinate all drug-related matters.

Finally, JHA has developed an external dimension that wants to achieve stability in different parts of the World, in co-ordination with the structures of the Second Pillar of EU. On this working paper, it is important to note that JHA and its policy areas become a fundamental condition for the admission of the candidate countries.

### **III. JHA, FREE MOVEMENT FOR PERSONS AND ENLARGEMENT: MAIN ISSUES**

EU policies on Justice and Home Affairs touch on some of the most sensitive questions for public opinion and the core centre of a State. The main issues in relation to Justice and Home Affairs, freedom of movement of persons and the enlargement of European Union are, probably, the removal of internal frontiers, control on external borders and, especially, how the candidate countries are been able to implement the *Acquis Communautaire* on these fields and it most visible component of the EU's Justice and Home Affairs policies: the Schengen *Acquis*.

Commission of European Union has presented a regular report on a candidate's progress towards their access. Every applicant State has it's own regular report, where we can find the progress made by each country of Central and Eastern Europe getting ready for membership.

Such kind of analyse consists on describe relations between every candidate and the EU on the one side, and an analysis about the political criteria, economic criteria and *acquis* implementation criteria (about the candidate's capacity to assume the obligations of membership, and the alignment of applicants legislation to do it) set up by the Copenhagen European Council (on the other side).

The analysis has been divided in 28 chapters but, in order to study freedom for movement of persons and



JHA policies, obviously, we should study chapters 2 and 24: Chapter 2, “Free movement of persons” and chapter 24, “Justice and Home Affairs matters”.

We may remember that, the first one, free movement of persons, cover the following areas: free movement of workers, co-ordination of social security schemes, mutual recognition of professional qualifications and citizens’ rights.

It’s expected that after enlargement, some Member States would be subject to a big labour migration. We are referring States like Germany and Austria. That is the reason why the EU has requested a transition period for candidate countries on the freedom of movement of workers (except for Malta and Cyprus).

The main components of the transition period are<sup>3</sup> :

- Current Member States to new Member States will apply a two-year period where national measures. Depending on how liberal these national measures are, they may result in full labour market access.
- Following this period, reviews will be hold, one automatic review before the end of the second year and a further review at the request of the new Member State. The procedure includes a report by the Commission but essentially leaves decision whether to apply the *acquis* up to the Member States or not.
- The transition period should come to an end after five years, but it may be prolonged for a further two years in those Member States where there are serious disturbances of the labour market or a threat of such disruption.
- Safeguards may be applied by the Member States at the end of the seventh year

The negotiations on the Justice and Home Affairs *acquis* are related to next issues: illegal immigration fight, borders control, drugs trafficking and money laundering, organised crime, police and judicial co-operation, data protection and the mutual recognition of court judgements.

One of the most important topics to negotiate between the EU and the future EU Member States is the Schengen Implementation Action Plan and the candidate countries’ administrative capacity to get their legal alignment with the standards required by overall EU *Acquis*.

As Commission notes, Justice and Home Affairs chapter has been provisionally closed with Hungary, the Czech Republic, Estonia, Lithuania, Slovenia, Cyprus and Malta.

To sum up the situation in every candidate country, we need to analyses the main aspects on the fields of freedom of movement for persons, and Justice and Home Affairs policies in every applicant country report. And the conclusions for every applicant country for EU membership are as follows:

Bulgaria needs to improve its legal framework as corruption continues to be a serious problem. As regards free movement of persons, Bulgaria has made some progress (in Commission’s opinion) in aligning with Community provisions. Bulgaria has keep on working to get the required administrative structures and to obtain complete alignment. The Bulgaria’s report points up that the country has done big steps towards the areas of visa policy, migration, border control, customs co-operation and judicial.

---

<sup>3</sup> <http://europa.eu.int/comm/enlargement/negotiations/chapters/chap2/index.htm>

However, in all these areas, efforts to upgrade the administrative capacity will need to continue. Shortcoming remains in implementation capacity, training and equipment. Bulgaria still has not adopted the law on protection of personal data so it does not have a system of protection of personal data compatible with the system that exists on EU's.

As regards the alignment of Bulgaria with Schengen Information System, the country has set up an automated information system, but it hasn't introduced a Visa classification in compliance with the Schengen System classification. In addition to, Bulgaria should continue its overall preparation for the future participation in the Schengen area and develop and present one essential thing: a Schengen Action Plan. Besides that, Bulgaria has to develop the management of external borders and has to demilitarise the border police body. Finally, the Bulgaria's report notes that it's judicial system to enforce the *acquis* communautaire is worrying and needs to be accelerated.

The second country that we analyse is Cyprus. The Cyprus report notes that, generally, the democratic system, protection of human rights in that State are good. As regards Justice and Home Affairs policies and freedom of movement for persons, Cyprus has been made a big progress, especially in border control migration and fight against corruption and fraud. Despite of that, Cyprus has set up a refugee authority because the Union reports that its administrative capacity as regards asylum is still poor.

The Czech Republic fulfilled the political criteria establish in Copenhagen. As the report points up, the Czech Republic has done considerable efforts to consolidate its institutions and give them stability. The country has been guaranteeing well democracy, the rule of law, human rights and respect, as well as protection, of minorities. In spite of increased protection level, the Czech Republic has a big problem that is the persistent trafficking of women and children. The country has a lack in the fight against such kind of criminality, and has to increase all the measures to fight trafficking on human beings.

Besides these considerations, the Czech Republic has made a big progress in the judicial area too, by the reform of the judiciary, but, as a Commission's opinion, the applicant needs to strength their capacities to implement the *acquis* going further on a reform of it's institutions.

In the JHA field, the Czech Republic has made efforts in its alignment on Visa policy, migration and judicial co-operation. The Republic is one of the countries that has adopted and develop a Schengen Action Plan. But, as mentioned previously, the candidate still needs to fight hardly against organised crime, especially against trafficking on human beings.

Estonia is the next country that we analyse. Like the Czech Republic, Estonia has consolidated its democracy, institution independence, it has been increasing the respect for Human Rights and minorities. The report stands out that Estonia has adopted a new Penal Code, that is a good progress, but still needs to ensure implementation of legislation and to achieve a higher level of internal and external co-ordination with organisations, especially to fight against organised crime. Even so, Estonia needs to continue to reform its institutions and modernise its legal system and administrative reform.

Hungary has been achieving the alignment with the *acquis* in fields as visa policy, migration and asylum; but has one of the worse problems in JHA as regards the candidate countries: Hungary still has to fight against corruption. However, the report emphasises that Hungary has done considerably efforts to improve the administrative reforms and modernisation of it's legal system on the one side, and, on the other side, it has taken measures to fight against organised crime, fraud and corruption. The report points out too that Hungary has adopted measures for the Roma minority, mainly in the fields of education

employment, legal protection, social policy and culture.

Latvia is our next candidate country. In the field of Justice and Home Affairs, Latvia is one of the Eastern Countries that has adopted a Schengen Action Plan. As the other candidate countries, Latvia has been doing considerable efforts in its alignment with community *acquis* in areas as visa policy, migration and asylum. But, as larger part of eastern countries, Latvia suffers great problems and legal lacks with reference to fraud, money laundering, corruption and fight against organised crime.

In general terms, Latvia has fulfilled the political criteria, but the government still has to reform Public Administration and has to take measures in order to prevent corruption and Fraud. Latvia has to improve another policy area: the Russian minority integration. As the report points up, even as Latvia has adopted measures to integrate that minority in Latvian society, the efforts to achieve the integration need to be sustained through the implementation of the comprehensive Society Integration Programme.

As regards Malta and its alignment to the Justice and Home Affairs *acquis*, the report emphasises that Malta has been doing efforts and preparing Maltese administration to implement the Asylum legislation in relation to control of borders, in accordance with Schengen *acquis* and with preparing Schengen Action Plan.

Malta presents a good level of Human Rights respect and the country has made great efforts to prepare its administration to operate within the EU. Malta doesn't present big problems of corruption fraud, but this candidate country still has to improve its efforts to respect data protection, immigration, visa policy and judiciary co-operation.

Lithuania, one of the three Baltic States, has adopted a Schengen action plan too. As regards JHA, the report emphasises that Lithuania needs to strength its external borders, as well as implementing a National Anti-corruption Strategy that Government has recently approved. One more time, we find problems regarding the fight against corruption on the one hand, and, on the other, it's absolutely essential that Lithuania will adopt an administrative reform and a judiciary system reform to apply correctly the European policies.

Poland needs to reinforce its administrative and judicial capacity because, despite the great efforts, presents a seriously problems on fraud and corruption. It has been doing progress with regard to the control borders guards, as well as border management. But Poland still has to achieve a good level of alignment with regard customs area to achieve the alignment with the *acquis*.

Romania, together with Bulgaria, is still behind in overall alignment with the *acquis* and the enlargement process. Romania has to improve fight against organised crime, fraud, money laundering and protection of minorities, as well as protection of children. However, it has been doing improvements on visa policy, border control and migration, but still needs to upgrade its administrative capacities to implement overall *acquis*.

Slovakia, in the area of co-operation in Justice and Home Affairs, has adopted a Schengen Action Plan and it's on a correct way to achieve its alignment with the *acquis* in the visa policy area, migration, border control, and policy co-operation, as well as customs union and financial control. It has done progress on protection of minority rights and human rights, but Slovakia still has to reinforce its efforts on these fields.

Slovenia has made good progresses on reforms of its administrative capacity, judicial system, Human

Rights and protection of minorities. Slovenia has adopted a Schengen Agreements and has been reinforcing it's staff and measures to adopt asylum provisions, but still needs to improve it's efforts with regards to the border controls.

With regards to the situation in Turkey, we may point up that Turkey still has a great problem in relation to protecting Human Rights and minority rights, as well as corruption and fraud. However, the report emphasises that Turkey has signed three important international conventions: convention on money laundering and the fight against corruption, and an agreement with Greece to fight crime. The report also shows up that Turkey has to take initiatives and measures to improve border controls and fight against illegal immigration.

Despite all the changes, Turkey has lots of restrictions on the exercise of fundamental freedoms and, the worst, the death penalty (with some restrictions) has still been maintained.

So, to sum up this chapter, we've been able to identify the main problems and necessities that the candidate countries should solve. These key issues are:

- To adopt and implement the Schengen Action Plan in order to their alignment with the *Acquis*. Countries as the Czech Republic, Latvia and Slovakia has their own Schengen Action Plan, and the EU expects that all the candidate countries make and implement their Schengen Action Plan in order to align their judiciary and administrative systems with the Schengen requirements.
- The applicant countries should develop more efficient policies and measures than what they had implemented up to now to manage border control and freedom of movement of persons into their space, as well as visa and asylum policies.
- Every applicant country will continue it's reforms on administrative and legal system to been able to apply *acquis* and communitary policies, as well as to achieve a high level of democratic stability.
- Finally, they have the strong necessity to fight against fraud and corruption, money laundering and trafficking on human beings, that still remains the biggest problems to solve by the future EU Member States.

European Union States, such as Germany and Austria, have "expressed the fear that workers in these countries are granted freedom of movement, a wave of immigration would be expected which could place excessive demands on the labour market"<sup>4</sup>. So, in European Union exists a fear over illegal immigration but over legal waves of immigration that might come from eastern countries too.

As many researchers on enlargement note, the pressure to migrate depends, to a considerable extent, on differences in income and employment opportunities. Fears about a large waves of immigration from the Eastern and Central European countries would need a serious management by European Union to prevent problems as social inclusion, and lacks of balance on European labour markets.

We should remember that there is still an invisible division between Western Europe and Eastern Europe

---

<sup>4</sup> Elmar Hönekopp, Heinz Werner - "Eastward Enlargement of the European Union: a wave of Immigration?"

due, basically, to economic and social differences. As E. Hönekopp and H. Werner notes<sup>5</sup> "Economically motivated migration depends to a large extent on differences in the level of prosperity between countries. As Europe has become more integrated such differences have become less marked. This fundamental reason for migration has thus declined in importance in the present EU. However, there are still considerable differences between the Central and Eastern European countries and the EU. In addition to this, countries such as Poland are still grappling with considerable restructuring problems (agriculture, mining, and heavy industry), that result in redundancies. Such factors might encourage a decision to migrate; if you have to look for a new job in any case, you are more likely to consider a job abroad as well".

As R. Langewiesche and M. Lubyova<sup>6</sup> notes " Around 80 per cent of the migrants from CEE reside in Austria and Germany. Projections on the basis that all present applicants would become EU Member States in 2002, and assuming that migration flows would remain constant compared with the post-1989 flows, resulted in an estimated initial inflow of about 335,000 persons in the first year and 150,000 at the end of the decade. After about 30 years the break-even point between inward and outward migration would be reached, with CEE - 10 population of 3.9 million in the old EU (Germany: 2.5 million).

There are non-dramatic figures, but we cannot dismiss their importance. It's easy to understand why countries like Germany or Austria are afraid by the free movement of persons after enlargement of European Union towards East and Central Europe. Usually, immigrant flows from East of Europe go to countries that are geographically near to their own country<sup>7</sup>. That's why an efficient policy and good taken measures over freedom of persons must be well negotiated between European Union and Applicant Countries.

Besides problems in relation to legal and illegal immigration, European Union and the candidate countries must pay attention to border control of the future frontiers of European Union. As we know, to have a free space into European Union area, there has to be a displacement of border controls from internal frontiers to external borders. It means that internal frontiers falls and controls go to external borders.

After the enlargement, the external borders of European Union, obviously, will change. So, European Union needs to take care of the negotiations on border control, because of the administrative a legal weakness of Eastern and Central European candidates on that matter.

Also, it is necessary to pay attention to measures to control external borders in order to prevent illegal immigration and to fight against organised crime and terrorism. External security and external border control are as important as internal security.

The candidate countries still presents problems as regards protection of Human Rights and minorities rights and their social integration. Bulgaria has Roma minorities, the three Baltic States (Latvia, Lethonia

---

<sup>5</sup> "Eastward Enlargement of the European Union: a wave of Immigration?"

<sup>6</sup> Migration, mobility and the free movement of persons: an issue for current and future EU members".

<sup>7</sup> Carmela Martín, José Antonio Herce, Simón Sosvilla-Rivero, Francisco J. Velázquez "L'ampliació de la Unió Europea: efectes sobre l'economia espanyola", chapter VI "les característiques i els efectes dels potencials fluxos migratoris".

and Estonia) has Russian minorities; Turkey has to respect human rights as a strong condition to its accession to European Union and, which is more important, Turkey has to abolish the death penalty that still exists on this country. Human Rights and protection minorities are, up to now, one of the biggest challenges for the candidate countries.

However, the main challenge for candidate countries is, as the report notes, the fight against corruption and fraud. They have to adapt their institutional system and legal framework to combat corruption in order to be able to apply European policies and to guarantee democratic stability.

To sum up, we should remember that candidate countries must have a stronger alignment with *acquis* in fields such border control and immigration, because most of their frontiers will become the new European Union frontiers. In addition to that, these border controls, visa and immigration policy, must be very efficiently, especially as we have noted by the recent elections in France and the Netherlands.

The results that we can notice about these elections show that the French electorate, as well as the Dutch electorate, is worried by illegal immigration. Such concern will be very dangerous because it can favour ultraradical political parties.

Nowadays, to control illegal immigration has become one of the main priorities into European Union so candidate countries for accession to the Union would be in a good conditions to implement the *acquis* on Justice and Home Affairs and as regards freedom of movement for persons. Besides, overall Union must implement a good social and economic programmes to integrate every kind of immigration, to avoid racism and xenophobia.

#### IV. CONCLUSIONS

As we have mentioned, when the USSR and communist European system tumbled down, European Union had to start a great challenge, one of the biggest in its history: to integrate the Eastern and Central Europe Countries into the European Union.

It means to increase its citizens (the EU applicants form a geographical bloc of approximately 1.1 square kilometres area<sup>8</sup>. Such territorial extension corresponds to about 33% of the total EU, inhabited by more than 106 million people, that corresponds to 29% of the total EU population<sup>9</sup>). Further, the EC is an important market, responsible for approximately one third of all world trade; it thus constitutes a trading block, which has the potential significantly to influence world affairs.

It has been noted that in addition to being a European State (article O TEU), the EU requires that all Member States have democratic systems of government and respect of Human Rights. The enlargement means to stop the process to deep in on democratisation of Union. And, finally, European Union will face up many problems, as corruption, democratic stability, ruining market economy,

---

<sup>8</sup> Renate Langewiesche and Martina Lubyova. "Migration, mobility and the free movement of persons: an issue for current and future EU members".

<sup>9</sup> Renate Langewiesche and Martina Lubyova. "Migration, mobility and the free movement of persons: an issue for current and future EU members".

that are still present on candidate countries.

However, the challenge would become a big opportunity as well as a way to achieve the chance to have, once again, a united Europe. It's necessary to pay attention on protection of minorities and Human Rights by the candidates. It's also necessary to fight against organised crime that will take advantage of a free European space (represented by a UE's new general objective, known as European area of Freedom, Security and Justice).

An enlarged European Union has to take and improve measures and policies to reinforce policy and judicial co-operation on the one hand, and, on the other, has to guarantee the freedom for movement of persons into it's space. Such freedom of movement must go accompanied by high levels of security for its citizens and economic operators.

Because of that, Justice and Home Affairs negotiations between European Union and the candidate countries has and will have a great significance. Depending on how the candidate countries aligne it's legal framework and policies with the *acquis*, subjects like organised crime, illegal immigration, Asylum, visa policies, co-operation in judicial matters, will be more efficient than now. A good negotiation in relation to these issues will mark the line division between a weak European Union and a strong and democratic future European Union.

We do not forget the next challenge that has to face up European Union after the enlargement: the process for deepens on democratic Union. A Union with more than 25 Member States. An organisation that will have to run lots of policies, as well as will have to be more democratic as regards its institutional system than now.

## BIBLIOGRAPHY

### BOOKS, ARTICLES AND WORKING PAPERS

- Anderson M., Bort. E. *The frontiers of the European Union*. Anthony Rowe Ltd, Chippenham, Wilshire, 2001.
- Bontempi R. *Hacia una política de inmigración y un régimen común en materia de asilo*. Revista CIDOB d'Afers Internacionals, nº 53, 2001
- Brunet F. *La Unió Europea i la integració dels països d'Europa Central i Oriental*. Revista Àmbits nº 21 de Política i Sociologia.
- Brusis M. Emmanoulidis J. *The EU must start thinking enlarged*. European voice, Volume 7 number 45. 6 December 2001.
- Grabbe Heather. *Preparing the EU for 2004*. Centre for european reform policy brief.
- Grabbe Heather. *Prospects for EU enlargement, according to the Comission's progress reports*. CER, 13 November 2001.
- Hönekopp E., Werner H. *Eastward Enlargement of the European Union: a wave of Immigration?* IAB Topics; nº 40, 2000.
- Konle-Seidl R., Walwei U. *Job placements regimes in Europe: Trends and impacts of changes*. IAB Topics; nº 46, 2001.
- Martín C., Herce J.A. , Sosvilla - Rivero S., Velázquez F.J. *L'ampliació de la Unió Europea : efectes sobre l'economia espanyola*. Col.lecció d'Estudis Econòmics, nº 27. Servei d'Estudis de La Caixa, Barcelona, 2002.

- Quintana A. Deconstrucció d'alguns tòpics polítics i socials dels països de l'est. Revista àmbits nº 21 de Política i Sociologia.
- Terrón A. El debate sobre la inmigración en la Unión Europea. Marco General. Revista CIDOB d'Afers Internacionals, nº 53, 2001
- Van Ouirive L. Historia del Acuerdo y del Convenio de Schengen. Revista CIDOB d'Afers Internacionals, nº 53, 2001
- Wessels Wolfgang. Evolutionary perspectives for the European Union facing enlargement: from "enhanced cooperation" to "core Europe"? University of Cologne and The Trans Policy Studies Association. 2000.

#### OFFICIAL DOCUMENTS

- 2001 Regular Reports on Bulgaria's Progress Towards Accession. Comission of the European Communities
- 2001 Regular Reports on Cyprus Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on the Czech Republic's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Estonia's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Hungary's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Latvia's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Lithuania's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Poland Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Slovenia's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Malta's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Romania's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Turkey's Progress Towards Accession Comission of the European Communities
- 2001 Regular Reports on Slovakia's Progress Towards Accession Comission of the European Communities

#### INTERNET WEBSITES

- <http://www.europa.eu.int/pol/justice>
- <http://www.europa.eu.int/pol/enlarg>
- <http://www.europa.eu.int/comm/justice>
- <http://www.europa.eu.int/comm/enlargement>



Emma Pivetta Contreras has a degree in Sociology (Universitat de Barcelona, 1996), a postgraduate degree in European Integration (Bosch&Gimpera Foundation, 1997), a technical degree in International Relations ( Unió Patronal Metalúrgica, 1997), a technical degree in Promotion and Management of Public Projects (School of Sociologists and Polylogists of Catalonia, 1998) and a Research Aptitude degree in in International Studies (Law Faculty at the UB, 2000). She is a Research-Teacher at the Jean Monnet Professorship of European Integration (University of Barcelona).