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# Migrant work relations – pursuing balance of interests

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## **Abstract:**

*Europe is facing today a phenomenon called “mixed migration” where large numbers of different categories of migrants without travel or identity documents come together at state borders. There is significant inconsistency between migrant protection defined by international law and the one carried out in practice, due to factual, primarily economic, circumstances in receiving countries. After analyzing formal legal (non)recognition of different categories of migrants in international, and national laws, the author will indicate specifics in realization of migrants’ right to work, and how it affects legal and economic systems of the receiving countries.*

**Keywords:** *migrants, migration, right to work, migrant status, precarity, dependence, security risks.*

Migrations today, mostly due to increasing number of civil conflicts, consist of large number of persons who spill over international borders within hours or days and find their ways much further from their homeland than it was the case during and after World War II<sup>1</sup>. It is not uncommon to have more than 1.000 people arrive at international border per day, a situation which is considered by the UN Refugee Agency (UNHCR) as „massive influx“ of migrants. For example, European Union solely has received more than 1 million migrants during 2014 and 2015.

What is today called “migration” and “migrants” considers different categories of persons, their legal and factual status conditioned by legal and social circumstances, without uniform legal regulation. There is significant inconsistency between migrant protection defined by international law and the one carried out in practice, due to factual, primarily economic, circumstances in receiving countries. Current situation indicates that migrants, because of their poor economic and existential conditions, present security risks for receiving countries, which, at the same time, lack proper humanitarian infrastructure for protecting migrants’ rights, especially to provide migrants with essential living conditions, such as right to work.

After analyzing formal legal (non)recognition of different categories of migrants in international, and national laws, the author will indicate specifics in realization of migrants’ right to work. We shall see that there is certain discrepancy between

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<sup>1</sup> J. I. Goldenziel, Displaced: A Proposal for International Law to Protect Refugees, Migrants and States, forthcoming in *Berkeley Journal of International Law*, 2016, available at SSRN: <http://ssrn.com/abstract=2768162>.

international and national levels of protection that goes to the detriment of migrants, resulting in their particularly precarious position turning migrants to committing crimes and contributing to other negative consequences for the receiving countries.

### Migrants in international and national law

The term “migrant” usually denotes a person who crosses international borders due to various reasons, in legal (legal migrants) or illegal (illegal migrants) manner<sup>2</sup>. Migrants are persons involved in global migration process *i.e.* different modalities of temporary or permanent movement of individuals or groups in space. Migrations can be, due to various criteria, internal and external, forces of voluntary, labour, legal and illegal.

There are two basic principles applied to migrations in international law, but opposing each other. The principle of freedom of movement and residence within the borders of the state *i.e.* right of person to leave the country and returns, is guaranteed in numerous international conventions, starting with Universal Declaration of Human Rights (art. 13). On the other hand, every state has the right to pose certain limits for entering and leaving its territory, in accordance with human rights standards, as one of the sovereignty prerogatives. Therefore, international law guaranties to individual the right of free movement, but not the right of entering a state other than that state of nationality.

International law doesn't attribute special meaning to the term “migrant”, usually this term connotes inhomogeneous group of migrants that voluntarily and ones that forcibly leave part or the whole of their country's territory<sup>3</sup>. Global migration crises includes three primary groups of migrants: refugees, economic migrants and migrants fleeing violence. Lately, practice includes also migrants fleeing climate change. Not all these categories receive protection based on international law norms, nor the same level of protection. Refugees enjoy full protection based on international refugee law, while status of migrants fleeing from violence is not legally recognizable, therefore protection afforded to them is significantly lower.

International refugee law, based on 1951 Refugee Convention<sup>4</sup>, protects only refugees – those who cross international borders due to well-founded fear of persecution on the basis of race, religion, national origin, political opinion or membership in a particular social group. Refugees are unable to avail themselves of the protection of their state, nor enjoy benefits of citizenship, therefore they have strong and just moral claim for international protection, especially because their migration is forced. Core provision of international refugee protection is that a refugee cannot be returned to a place where her life will be endangered (non-refoulement), followed by receiving states' obligation to provide legal personal and travel documents for refugee, also right to work, to housing and access to courts. Refugee has, according to 1951 Refugee Convention, the right to

<sup>2</sup> <http://www.oxforddictionaries.com/definition/english/migrant> (visited 15.05.2016).

<sup>3</sup> I. Krstić, Zaštita prava migranata u Republici Srbiji, priručnik za državne službenike i službenike u lokalnim samoupravama, Međunarodna organizacija za migracije – Misija u Srbiji, Projekat „Jačanje kapaciteta institucija Republike Srbije za upravljanje migracijama i reintegraciju povratnika“ (CBMM), Beograd 2012, 12.

<sup>4</sup> Convention Relating to the Status of Refugees, Resolution 2198 (XXI), 1951, adopted by the United Nations General Assembly.

seek asylum, but no state has the legal obligation to grant it, because conditions and procedures for granting asylum are an expression of states' sovereignty<sup>5</sup>.

Other categories of migrants, unlike refugees, do not, usually, have ties to their state of origin severed. In case of economic migrants, migrants fleeing violence and migrants fleeing climate change, state of origin can be, and usually is, very much interested in providing them with legal protection.

Economic migration considers leaving place of usual residence for settling outside in pursue for better living conditions. It includes, in addition to migrant workers, also students and season workers. This form of migration is usually voluntary, therefore moral claim for international protection is not as strong, especially because state of origin or usual residence is interested in preventing this kind of migration<sup>6</sup>. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)<sup>7</sup>, adopted under the auspices of the United Nations is the only international document that specifically names migrants as subjects, therefore international law recognizes the status of migrant workers<sup>8</sup>.

People displaced by violent conflicts and fleeing from general violence and persecution, while their country of origin has no means to offer them protection, make for special category of migrants, whose status is not regulated by international law<sup>9</sup>. They have strong moral claim for international protection, as do refugees, especially because the violence they are fleeing from is usually one considered by international community as a threat to international peace and security in accordance with art. 1 of the United Nations Charter. Most of these displaced people cannot be legally qualified as refugees<sup>10</sup>, even though their position can be, basically, the same as position of people fleeing from persecution based on race, religion or other circumstance, and are left outside the scope of 1951 Refugee Convention<sup>11</sup>. Migrants fleeing climate change are also not recognized by international law, and face similar problems as migrants displaced by violence, both categories of migrants being victims of circumstances that affect them collectively, even though state of origin or usual residence is willing to protect them, but lacks means.

As was already stated, international law recognizes, within international conventions, refugees and economic migrants. Other categories of displaced people are recognized by legal documents that are of lower coverage than international conventions and much less

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<sup>5</sup> Asylum seekers also fall under the broad term "migrant", but are categorized as political migrants, while asylum seeker status can be additional to other status, such as refugee or migrant fleeing violence.

<sup>6</sup> Economic migration is, from the state of usual residence's standpoint considered as "brain drain".

<sup>7</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, U.N.G.A. Res. 45/158, UN GAOR Supp. No. 49 A, UN Doc. A/45/49 (Dec. 18, 1990).

<sup>8</sup> In addition, there are also certain binding and nonbinding documents from the International Labor Organization, that refer to this category of migrants, see fn. 21.

<sup>9</sup> Unless they present the claim for asylum, in which case they become asylum seekers, or acquire refugee status in the meantime.

<sup>10</sup> For example, during 2015, out of 60 million people who have applied to UNHCR, only 13,7 million have been registered as refugees, see more in J. I. Goldenziel, *op. cit.*

<sup>11</sup> UNHCR practice seems to confront this statement, because today UNHCR is often accused of eroding international refugee protection by shifting the focus from legal protection of refugees to humanitarian aid. Agency justifies this shift in focus by the need to help as much migrants in need as possible. Therefore, UNHCR is also accused of politicizing its work, that it has made itself an agent of the world's major powers who are its most significant budget donors, see more in J. I. Goldenziel, *op. cit.*

ratified<sup>12</sup>. In 2011, European Union (EU) has adopted a set of Directives focused on curbing migration, but allowing for subsidiary protection for people fleeing generalized violence who do not qualify for refugee status<sup>13</sup>. Case law has showed that EU states weren't following Directives, and many states have opted out. In international community today there are initiatives for adoption of special international convention in order to regulate status and rights of displaced people, especially for protecting human rights of migrants while, at the same time, protecting interests of receiving states<sup>14</sup>. Currently, migrants applying for refugee status or asylum present significant burden for legal system and economy of receiving states, even ones that are considered economically strong.

People who come to European borders and territories in, so called, "migrant waves", mostly from Africa and Asia, should enjoy rights, as well as obligations, contained in international human rights law, being, *de facto*, under European states' jurisdiction, whether they entered that jurisdiction legally or not and whatever status they may hold. Hence, international human rights law relevant for migrants comprises guaranties in Universal Declaration of Human Rights (1948)<sup>15</sup>, International Covenant on Civil and Political Rights (1966)<sup>16</sup>, International Covenant on Economic, Social and Cultural Rights (1966)<sup>17</sup>, as well as in International Convention on the Elimination of All

<sup>12</sup> Mostly of regional character, non-binding, states are not much interested in their adoption and implementation. Apart from European Union, these kind of documents exist in Organization for African Unity (Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969) and in Latin America (Cartagena Declaration on Refugees, 1984), see more in J. I. Goldenziel, *op. cit.*, fn. 32.

<sup>13</sup> EU Directive 2011/95/EU. These Directives afford subsidiary protection to people who can prove reasonable threat that return to country of origin or usual residence presents risk from serious injury preventing them from availing themselves of that country's protection. Therefore, economic migrants are left outside the scope of Directives, and included involuntary migrations, making Directives broader in scope than 1951 Refugee Convention.

<sup>14</sup> Peter Singer and Renata Singer, *The Ethics of Refugee Policy*, in Mark Gibney, ed., *Open borders? Closed societies?: The ethical and political issues* (1988), at 111-30; James C. Hathaway & R. Alexander Neve, *Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection*, 10 Harv. Hum. Rts. J. 115 (1997); Peter H. Schuck, *Refugee Burden-Sharing: A Modest Proposal*, 22 Yale J. Int'l. L. 243 (1997), see more in J. I. Goldenziel, *op. cit.*

<sup>15</sup> The Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948. Declaration guaranties right to life, freedom and security of person, forbids slavery, torture and other cruel treatments, forbids discrimination, forbids arbitrary arrest, detention or exile, right to a fair trial, right to family and private life, freedom of movement, right to a nationality, right to marry and to found a family, right to own property, right to freedom of thought, conscience and religion, right to freedom of opinion and expression and peaceful assembly, as well as political rights. Also, right to social security, right to work and rights associated with employment, right to education and free participation in the cultural life of the community. Article 14 guaranties right to seek and to enjoy in other countries asylum from persecution, unless prosecutions arise from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

<sup>16</sup> *International Covenant on Civil and Political Rights*, adopted by the General Assembly of the United Nations on 19 December 1966. Covenant guaranties right to life and freedom from torture and slavery, right to liberty and security of the person, the right to habeas corpus, prohibits the use of imprisonment as a punishment for breach of contract, right to freedom of movement for legal aliens as well as citizens, right to a fair trial, forbids double jeopardy, right to be recognized as a person before the law, right of privacy, freedom of religion and freedom of expression, right to marriage, the rights of ethnic, religious and linguistic minorities, special protection of children.

<sup>17</sup> The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, adopted by the General Assembly by its resolution 2200 A (XXI) of 16 December 1966. Covenant guaranties right to work, right to the enjoyment of just and favorable

Forms of Racial Discrimination (1969), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Convention on the Rights of the Child (1989), Convention on the Rights of Persons with Disabilities (2006) and International Convention for the Protection of All Persons from Enforced Disappearance (2007). Also, Treaty of Lisbon and Charter on Fundamental Rights, as well as European Convention for the Protection of Human Rights and Fundamental Freedoms, are relevant for European legal sphere.

Global Commission on International Migration (GCIM) obliges states to protect human rights of migrants by strengthening normative human rights framework and applying it in nondiscriminatory manner. Therefore, all states have responsibility to protect people who are on their territory, in order to reduce risks that induce migrations, protect migrants who are in transit over their territory and to protect human rights in destination countries<sup>18</sup>.

Migrants who enter territory of any European state, reside in it longer or shorter period of time depending on request towards the receiving state. Expectedly, migrants who have gained the status of asylum seekers or ones that have their refugee request under consideration, will be present on the territory of receiving state for the (un)definite period of time. Migrants fleeing from violence that takes place in their home country fear from returning from borders as illegal migrants. In this respect, every migrant must enjoy certain existential security, provided either by the receiving state either on their own, usually in illegal manner. Aside from fundamental human rights, receiving state must provide migrants with accommodation and certain material support, which can come as burden for receiving state, depending on her economic strength. In these circumstances, temporary right to work for migrants or displaced people is considered as necessary and desirable for both parties. Starting premise is that every migrant, irrespectively of his status, can be temporary employed<sup>19</sup>.

### Working status of migrants

What Europe is facing today is phenomenon called “mixed migration” where large numbers of asylum seekers and economic migrants without travel or identity documents come together at state borders. The situation is aggravated by the

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conditions of work, right to form trade unions and join the trade unions, right to social security, special protection of motherhood, children and family, right of everyone to an adequate standard of living for himself and his family, right to the enjoyment of the highest attainable standard of physical and mental health, right to education.

<sup>18</sup> Global Commission on International Migration, *Migration in an Interconnected World: New Directions for Action* (2005), 81, par. 24.

<sup>19</sup> Study conducted in the United Kingdom during 2010-2012 shows that there are several categories of migrant workers that can be identified due to immigration legal rules: asylum seekers (people who have made a claim for asylum and are awaiting a decision), refused asylum seekers (whose claim for asylum has been refused), refugees, then irregular migrants (people whose visa has expired or that have entered the country in illegal manner) and trafficked migrants, Economic and Social Research Council (ESRC), ‘Precarious Lives: Asylum seekers and refugees’ experiences of forced labour’. Economic and Social Research Council-funded project, see more in H. Lewis, L. Waite, *Asylum, Immigration Restrictions and Exploitation: Hyper – precarity as a lens for understanding and tackling forced labour*, Anti-Trafficking Review, Special Issue, *Forced Labour and Human Trafficking*, No. 5.; Criminal Justice, Borders and Citizenship Research Paper No. 2732893. Available at SSRN: <http://ssrn.com/abstract=2732893>, fn. 6.

impossibility of distinguishing in practice migrants who come from humanitarian reasons from those who come out of economic reasons, as the migrant can decide that, due to the long duration of the asylum procedure, remain as an illegal migrant.

Legal status of migrants, as people coming to the borders of one country for different reasons and in different ways, is situated at the intersection of immigration and labor law, and in the broader context of human rights. Immigration norms, in addition to regulating the entry and exit from the country, create certain legal status that affects the employment and housing of migrants in the country where they are located. On the other hand, the evolution of international and supranational legal framework governing the rights and obligations of the parties involved in migration, undermines the position of states as independent creators of immigration norms.

International Covenant on Civil and Political Rights, as well as International Covenant on Economic, Social and Cultural Rights both apply to migrant workers and their family members, regardless of their status. International Labour Organization (ILO), in terms of its two Conventions, No. 97 and 143, also does not distinguish immigrants by citizenship or legal status, and provides for additional standards of protection for migrant workers<sup>20</sup>. Based on these ILO Conventions, Convention on the Protection of the Rights of All Migrant Workers and Their Families<sup>21</sup> was adopted under the auspices of the UN, which provides economic, social, cultural and civil rights for migrant workers, both legal and illegal. The Convention sets general framework of the rights of migrants, in the context of work engagement: prohibition of confiscation and destruction of identification documents except by the competent authority, protection from collective extradition, right to send remittances, right to being informed. However, the Convention retains the distinction between legal and illegal migrants, predicting a wider scope of rights for legal migrants (such as, for example, right to family reunion). Also, the Convention does not threaten national sovereignty, preserving the freedom of receiving state to regulate acceptance of migrants in the form of immigration regulations.

Thus, international framework does not, in terms of employment status and general civil and political rights, differ between legal and illegal migrants, maintaining a slightly higher scope of rights for legal migrants.

When a migrant enters the territory of the receiving state, and wants to engage in employment, he falls within the Temporary Migrant Working Programs (TMWPs)<sup>22</sup>.

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<sup>20</sup> Convention no. 97 envisages equal treatment for citizens and legal migrants with regard to labor and social rights. Convention no. 143 provides for the protection of migrant workers with unresolved status. These two conventions are poorly ratified, so the actual scope of the protection they predict is arguable.

<sup>21</sup> The Convention entered into force in 2003, with 43 ratifications, although without ratifications from countries marked as ones that receive the largest numbers of migrant workers. Article 2 defines a migrant worker as "a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national", International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, U.N.G.A. Res. 45/158, UN GAOR Supp. no. 49 A, UN Doc. A/45/49 (Dec. 18, 1990). Having regard to poor ratification of the Convention, ILO has adopted in 2011. Multilateral Framework on Labour Migration, to serve as guidelines for decision makers regarding the rights of migrant workers, as a non-binding document.

<sup>22</sup> These Programs are currently found in a number of advanced industrialized, liberal democratic countries, see more in M. Zou, The Legal Construction of Hyper-Dependence and Hyper-Precarity in Migrant Work Relations, *International Journal of Comparative Labour Law and Industrial Relations*, Vol 31 (2), pp.141-162, 2015; available at SSRN: <http://ssrn.com/abstract=2747823>.

Migrant's status is, in itself, precarious, and these Programs, by regulating legal status, additionally create specific vulnerabilities in their work relations. These vulnerabilities are, in theory, referred to as "hyper-dependence" and "hyper- precarity"<sup>23</sup>. In general, the work of migrants is marked as precarious, in terms of the combination of instability, lack of protection, social and economic uncertainties associated with employment-related engagement<sup>24</sup>.

Hyper-dependence implies a relationship of subordination in the worker-employer relationship that goes beyond the usual framework of employment. The key segment TMWPs is attachment of legal work and residence permit in the host country to the sponsorship of the employer. So, it creates a special bond with the employer, which is one of the conditions of the legal status of the migrant<sup>25</sup>. TMWPs also provide for certain *de jure* and *de facto* restrictions on labor mobility within the host country – in relation to work, the employer, sectors, labor market and labor shortages *i.e.* TMWPs are usually limited to a particular employer, occupation or sector. Accordingly, in the event of termination of employment, TMWPs provides that a migrant can be left for a certain period of time to find another employer sponsorship.

Hyper-precarity means poor, legal and practical, reliance of the worker on the protection of social rights and the transition to permanent status of residence. The employment relationship depends on work permits and visas, with possible extensions, and it gives employer discretionary power over the duration or possible renewal of employment<sup>26</sup>. This allows the employer to violate terms of employment (changing working conditions outside terms of the visa, paying less than the agreed amount, providing immigration authorities with false documents). Also, migrants find it difficult to participate in representative organizations of employees (whether for reasons of administrative and legal restrictions, by the employer, or limited period of approved residence or high membership fees).

In addition, legal pressures that follow migrant status, such as lack of citizenship rights, labor rights and other protection rights and social freedoms, (in) directly reduce the ability of migrants to leave the employment relationship, while, on the other hand, freedom of migrant in terms of the possibility of returning to the country origin, depends on the availability and quality of employment in the country of origin or another host country.

Bearing in mind the particularly vulnerable status of migrants, especially with regard to the employment status, which is essential for one's existence, migrants most often appear as victims of extreme exploitive situations. Exploitation of migrant workers occurs in the context of forced labor and slavery-like situations. International, as well as national law, in such circumstances, balances between two objectives: to protect basic human rights of migrants and to prevent unfree labor<sup>27</sup>.

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<sup>23</sup> M. Zou, *op. cit*; H. Lewis, L. Waite, *op. cit*.

<sup>24</sup> *Ibid*.

<sup>25</sup> This form of the relationship between employee and the employer is described as an extreme socio-economic dependency where all aspects of worker's life are dependent on the relationship with the employer, see more in M. Zou, *op. cit*, 146.

<sup>26</sup> The temporary nature of the work permit restricts the scope of such protection, for example for some rights it is necessary that the working relationship lasts certain period of time.

<sup>27</sup> As a result of the great attention given to the fight against forced labor in the United Kingdom, and the fact that migrants are persons who are most susceptible to exploitation in the form of forced labor, Modern Slavery Act was adopted in 2015, see more in H. Lewis, L. Waite, *op. cit*.



Thus, international law has, particularly in the field of human rights, created a corpus of standards and measures aimed at the protection of persons working and residing in a country other than their country of citizenship. However, most important instruments that protect the rights of migrants are not widely ratified, with additional major political resistance in host countries. Moreover, international instruments that guarantee rights of migrants at the same time maintain states' prerogatives to independently create and implement their own admission procedures, which are not uniform either in matters of labor nor in other rights of migrants<sup>28</sup>. Thus, for example, in Greece, the work permit can be issued to asylum seekers, while in Italy it is not the case. Germany provides monthly financial assistance for housing, instead of employment options, while Slovakia and Hungary provide small subsidies and do not give working permits<sup>29</sup>. It is indisputable that receiving countries are in bad position where they have to protect the rights of migrants while at the same time they must protect their own interests and security. Contemporary threat of terrorism, which is increasingly linked with migrant flows, certainly does not contribute to the successful achievement of this delicate balance. In this regard, illegal migrants are in particularly difficult situation, because they usually are reluctant or completely refuse to exercise certain rights out of fear of sanctions foreseen by immigration norms.

### Consequences for receiving states

When faced with expected longer period of uncertain living conditions, primarily caused by (im)possibility of exercising the right to work, migrants are not offered many options other than accepting working conditions that can be defined in terms of forced labor or engaging in criminal acts. Even though the UN regards right to work as a key human right, in most EU countries, asylum seekers have no legal opportunities for employment, while persons with refugee status must also obtain a legal work permit and to find a job, in practice is even greater difficulty. Qualifications and higher education degrees acquired from most of the countries of origin are not recognized by European companies, and migrants are forced to look for, and accept, jobs below their level of qualification<sup>30</sup>.

Refused asylum seekers and illegal migrants are quickly faced with poverty, due to lack of right to work and support from the state in which they are located, and it is the main cause that's 'pushing' them into employment which can be characterized as exploitative, since they have no social contacts nor permits and enter the labor market, mainly "informal" one, with practically no ability to influence the work conditions. Most often they engage in temporary jobs, undeclared, poorly-paid, with unpaid overtime or minimum wage work. On the other hand, migrants who have permission to stay, for example refugees, are confronted with obstacles in finding a decent or adequate job due

<sup>28</sup> For example, Spain has decided to legalize unregistered foreign workers without the consent of other EU countries, Laura Jakubowski, "International Commerce and Undocumented Workers: Using Trade to Secure Labour Rights" (2007) Vol. 14 #2 *Indiana Journal of Global Legal Studies*, 521, according to R. David, *Human Rights of Migrant Workers: The vicious cycle of powerful state sovereignty, lack of ratification and weak enforcement*, available at: <http://ssrn.com/abstract=1593693>, fn. 21, 6.

<sup>29</sup> V. Aggarwal, F. La China, L. Vaculova, *Irregular Migration, Refugees and Informal Labour Markets in the EU: The ride of European Sweatshops?*, European Institute for Asian Studies, [http://www.eias.org/wp-content/uploads/2016/04/Irregular\\_Migration\\_Website-1.pdf](http://www.eias.org/wp-content/uploads/2016/04/Irregular_Migration_Website-1.pdf).

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

to language barriers, lack of recognition of qualifications and degrees, inability to explain gaps in CVs (for example, time for processing the asylum claim), and usually end up in low paid jobs under their qualifications.

On the occasion of the incidents that took place in Germany, in which were migrants from the “last” migration wave that struck Europe involved, a senior police officer said: *“They have no chance of gaining asylum, they cannot work here, they have no perspective, not here, not at home, so they have to make their living through crime.”*<sup>31</sup>. Statistics, unfortunately, confirmed this: that in 2015, 208,344 crimes were committed by migrants in Germany, of which 85,035 are criminal offenses of theft, a 52,167 are crimes against property and counterfeiting<sup>32</sup>.

If the concept of “economic model of participation in criminal acts<sup>33</sup>,” is introduced to this analyses, *i.e.* that individuals make rational choice between the commissions of criminal acts and engaging in employment depending on the potential benefits that each of the possibilities bears, this statistic is not surprising. Individual will engage in crime if the likelihood of being arrested and punished is smaller than the benefit he would receive as compensation for his work. Bearing in mind listed difficulties that migrants entering the labor market face, as well as unfavorable conditions when engaged in an employment relationship, it is not surprising statistic that appears not only in Germany but also in other European countries that have accepted migrants. Legal labour market opportunities are a driver of the decision as to whether to commit a crime, a model most obviously relevant for property related crimes, since motivation for violence is less susceptible to an economic factors<sup>34</sup>.

## Conclusion

Significant increase, at the global level, in international migration, influences today, among other things, the organization and structure of labor relations. Persons whose situation is governed by international, immigration and labor law standards, often not in harmony which makes their situation uncertain and presents burden for the receiving state, appear in labor markets in European countries. All this shades a new light on contemporary migrant crisis and require new solutions. International standards that could cover all categories of migrants, except refugees and economic migrants, are still missing, *i.e.* those that exist are short-range and scarcely ratified. International instruments for the protection of human rights constitute one possible way for greater protection of migrants, but the difficulty presents the fact that most of the countries where migrants stay shorter or longer periods of time, have low standards of human rights protection. On the other hand, national programs for the employment of migrants make their position vulnerable and insecure, and discourage migrants from participating in them. Also, almost all European countries on the so-called migrant route don't have sufficiently developed humanitarian infrastructure. All these factors,

<sup>31</sup> Immigrants beyond the law, <http://www.dw.com/en/immigrants-beyond-the-law/a-19021457> (visited 23.05.2016).

<sup>32</sup> It is assumed that the actual numbers are even more serious, see more in Germany: Migrant Crime Skyrockets by Soeren Kern, February 21, 2016 at 5:00 am, <http://www.gatestoneinstitute.org/7470/germany-migrants-crime>, (visited 23.05.2016).

<sup>33</sup> B. Bell, S. Machin, F. Fasani, Crime and Immigration: Evidence from Large Immigrant Waves, Discussion paper no. 4996, Institute for the Study of Labor June 2010, <http://ftp.iza.org/dp4996.pdf>, 7.

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

contribute to, among other things, the tendency of migrants to engage in crimes, what makes them a security risk for the receiving country. In this sense, it is necessary to find a way to protect human rights of refugees and other categories of migrants, while also protecting countries that receive migrants.

We expect to see what solutions will offer UN Global Summit, which is scheduled for September 2016 and which is planned to discuss the legal and political solutions for the global migrant crisis.

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