

Asylum Capacity Building in the Balkans: A Rational Answer to Leaders' Concerns

RIDVAN PESHKOPIA
University of Kentucky

*Within the Europeanization framework of the asylum and immigration policies, the European Union (EU) introduced the achievement of the *acquis* in asylum and immigration to all the candidate countries. Thus, the Balkan countries submitted to this policy and, since most of them aspire to (and Slovenia has already acquired) EU membership, they undertook efforts to gradually move from some forms of asylum policies and institutions to full-fledged developed regimes. However, in some of the countries, these regimes proved to be more stable whereas in others they ended up being ineffective and unstable. In some countries, the process of establishing such regimes was quick and smooth whereas in others it took years and attracted criticism. I argue that the outcome of the process of asylum systems and institution-building in some of the Balkan countries is a function of the tug-of-war between the level of domestic need for such regimes, and the pressure that the EU is wielding in these countries. I test my argument by analyzing the cases of asylum capacity building in Albania, Bosnia and Herzegovina (BiH), and Slovenia.*

Key words: asylum capacity building; illegal immigration; EU integration.

Introduction

Central Eastern European Countries (CEECs) have endorsed in their constitutions the right of foreign citizens to seek protection in their territories and have ratified the 1951 Geneva Convention of Refugee Protection and the 1967 New York Protocol (hereafter the Geneva Convention). The establishment of asylum systems

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throughout the region is a ramification of these major acts. This establishment includes the building of asylum systems that will consider the right of foreign citizens for asylum claims based on individual application; the consideration of this application according to the Geneva Convention; their right to legally reside in the country where the application has been submitted and/or the right to be relocated in a third country; the right of integration with full rights in the life of the country that accords the refugee status; etc.

The intriguing position of the Balkans is that most of its countries are simultaneously refugee countries of origin (since many Balkan countries' citizens have fled their countries and migrated to and/or sought asylum in EU member countries, the US, Canada, and Australia); transit countries for illegal immigrants and refugees from the Middle East, North Africa, Central Asia and Eastern Asia; and countries of destination for many war refugees from other Balkan neighbors. However, only an insignificant number of people from outside the Balkans ask for asylum in Balkan countries. Most of them prefer to continue their journey to the more prosperous Western Europe.

Recently, asylum systems have been established in most of the former communist Balkan countries, some in their embryonic forms, others full-fledged. The most striking phenomenon is the instability – and sometimes the total collapse – of these systems. This is quite different from the development of other conventional institutions, including their economies that continue to grow steadily. This paper focuses on answering *why* it took so long for the Balkan countries to establish their asylum systems, and *why*, even when they build such institutions, they become ineffective and unstable. I argue that the Balkan countries' governments, due to the low need for such institutions, are reluctant to divert money and political energies from the many acute economic and social problems characterizing their reformation from socialism to democratization. Rather, it is the EU that, taking advantage of the eagerness of these countries to join the Union, is stipulating not only membership, but also bilateral political and economic agreements with these countries, with agreements in the field of asylum and immigration, including the readmission of illegal immigrants that enter the EU from and through the Balkans. The EU reform of its asylum and immigration policy, and especially its external dimension, has triggered a wide array of domestic and international criticism. Spurring illegal immigrant transit countries such as the Balkans to establish refugee protection institutions that guarantee the same formal protection as those of the EU will help the Union to cushion much of this criticism (Bertotto 2003).

I build my argument on this dichotomy and test it empirically by considering the asylum systems of three former communist Balkan countries: Albania, Bosnia and Herzegovina, and Slovenia. In the next section, I summarize the politics of asylum and immigration in the EU, EU member countries, and CEECs; the third section

analyzes the cases by offering records on the development of the asylum institutions and policies in these countries. In the concluding section, I summarize my findings and highlight some limitations and avenues for further research.

The politics of asylum and immigration in Europe

Since the beginning of the 1990s, the Balkans has been demonized as “a major staging post for asylum seekers trying to enter the EU,”¹ although there are different estimates that report figures from only 10 percent to half of the illegal immigrants trying to enter the EU transiting the Balkans.² It has been argued that the Balkans’ crisis was the major reason that the European Council of Edinburgh, December 1992, declared “the principles of governing external aspects of migration policy,”³ thus sparking a slow but consistent EU reform of its asylum and immigration policy. No wonder that one of the major elements of this reform, the externalization of the EU asylum and migration policy, pays significant attention to the Balkans (Peshkopia 2005a). This policy has two elements: coping with roots of the problem and developing common efforts with third countries in managing migration flows. The Kosova war was a case of coping with the roots of the problem that the EU embraced. There are claims that “the prime objective of EU ‘refugee management’ – preventing further arrivals of refugees – may have been the crucial reason for the Western European governments to back the US decision to start the bombing of Yugoslavia.”⁴ On the other hand, border management and readmission agreements that cause increasing numbers of asylum seekers, refugees and immigrants to remain in CEECs (Lavenex 1999: 122) are very likely to create overpopulation in the Balkans of returned illegal immigrants from third countries (Peshkopia 2005b). Therefore, an updated asylum system turns out to be necessary in the region in order to deal not just with the roots of the problem, but with the consequences as well.

Indeed, even since before this re-orientation, the zero-immigration tolerance policies implemented by all EU member countries have achieved little to curb the illegal migration toward the EU zone.⁵ However, it is only since the Dublin Convention of 1990 that the Union, in an attempt to find solutions for the problem, has increased its vocation, pace, and firmness to go along with a difficult and controversial reform of its asylum and immigration system and policy. The reform of the EU asylum and immigration policy’s communalization has three features: the unification of asylum and immigration approach, legislation, and procedures of all the EU member countries; the externalization of this policy; and the pacifying of the opponents.

As the EU asylum and immigration policy moved from the informal *intergovernmentalism* of 1985-1993 to the formal intergovernmental cooperation

of 1993-1999, and finally to the process of *communitarisation*, it aimed to establish what the conclusions of Tampere defined as “the Common European Asylum regime.” On the other hand, looking outward, “an integrated, comprehensive and balanced approach to tackle the root causes of illegal immigration must remain the European Union’s constant long-term objective.”⁶ And finally, the pacification of a wide array of opponents stretching from United Nations High Commissioner for Refugees (UNHCR) to international and local NGOs protecting human and refugee rights⁷ constrains the EU to undertake such redundant commitment as “fair treatment of third country nationals” (the European Council of Tampere), or unrealistic and unfulfilled pledges such as “to provide legal channels for immigration” (the European Council of Seville).

The external dimension of the EU cooperation in justice and home affairs is divided into two distinct approaches: first, cooperating with immigrants’ origin and transit countries in border control, combating immigrant smuggling and trafficking, and readmitting immigrants illegally present in the EU territory; second, undertaking preventive measures to foil the illegal immigration influx to the EU territory, and creating opportunities for protection in countries nearer the countries of origin (Boswell 2003). Thus, when the EU officials refer to foreign policy aspects of migration, they focus almost invariably on immigration prevention, which means more “keeping migrants out” than “reducing the need to move” (Niessen 1999: 483). Controlling borders and combating smuggling are in fact preventive measures, while what Boswell considers to be preventive measures – assisting transit countries in establishing asylum systems and reception capacities – are in fact measures that the EU takes to cushion domestic and international criticism for not respecting its international commitments on refugee protection (Bertotto 2003). All in all, CEECs were to be defined as “safe” countries to which asylum seekers could be returned (Geddes 2003a: 181).

Meanwhile, whereas there are sustained contentions that other core elements of this comprehensive approach, such as assistance for political stability and economic development in countries of origin, appear not to be progressing as advocates of a comprehensive approach might have anticipated (van Selm 2002) – because “the EU’s ultimate goal is to reduce immigration to the EU, rather than to reduce emigration from countries of origin” (Hurwitz 2002: 19) – the EU relies on putting into practice elements of this comprehensive approach that instead focus on thwarting migratory influxes from entering its territory.

There is evidence that EU member states have *instrumentalized* asylum and immigration in order to establish a filter or buffer zone between them and the countries of emigration (Lavenex 1998: 290). Phuong (2003) notes two reasons for the EU assistance to candidate countries in the field of asylum: first, implementing refugee protection standards that are equivalent to those of Western European

countries, the EU will have less difficulty justifying returns of asylum seekers because they will benefit from an equivalent level of protection in candidate countries; second, ensuring that these countries do not become too attractive to asylum seekers, the EU is encouraging them to adopt deterrence measures similar to those already in place in Western Europe.

Asylum and immigration issues have become officially part of the EU relationships with membership-aspiring countries since the European Council meeting in Essen, December 1994. Ever since, Western concerns to combat illegal immigration and to reduce the numbers of asylum seekers in the EU member countries' territories has mainly focused on the export of restrictive policies and has largely been dictated by EU member states' policies (Geddes 2003a: 179-190; Jileva 2002: 75; Lavenex 1999: 115-124). The export of these policies – labeled the EU Justice and Home Affairs (JHA) *acquis* – to the east has happened without taking into consideration the sensitivity and preferences of the CEECs (Jileva 2002). For that reason, it has been reasonably argued that the exported EU asylum and immigration policies to candidate countries may not be adapted because of different asylum situations existing in these countries (Phuong 2003).

EU asylum policy as a security issue

A current of European scholars, including myself (Weiner 1992/1993; Niessen 1999; Cholewinski 2000; Geddes 2000b, 2001; Grabbe 2000; Lavenex 2001a,b, 2002; Guild 2003; Schuster 2003; Kicingner 2004; Samers 2004; Peshkopia 2005a)⁸ has tended to view asylum and immigration in Western Europe as a security issue, hence governments respond to it as to a security issue. While the adherents of this explanatory approach correctly notice the EU and EU member countries' emphasis on security issues, theorizing on it has been so far more analytical than empirical. The security driven policies are more assumed than proven, and scholars have been unable to offer empirical evidence in favor of their claims. They are occasionally referring to politicians' rhetoric rather than to empirical evidence that would allow sound conclusions.

This research program is facing two major problems: a conceptual problem and a methodological one. The conceptual problem is related to the undefined notion of security, the states' commitment and tools to deal with that problem, and the theoretical framework in which the studying of government behavior should be placed. Although some of the authors (Geddes 2001) have been able to notice the blurriness of the distinction between external and internal security, others (Lavenex 2001a,b, 2003) obliterate it to the extent of trying to employ realism in explaining policy responses to internal security. These scholars are facing the problem of implication that the security concept has in an increasing international

interdependency and furthermore, in the conditions of the EU supranational institutions' emergence. Thus, whereas neorealism explains countries' policies in protection of their security either by balancing or by bandwagoning, the advocates of the security-concern approach cannot explain the paradox of why EU member countries are giving up their sovereignty to EU supranational institutions in order to preserve their sovereignty. The existing IR theoretical underpinning helps to explain countries' independence concern when states-centric actors have to preserve their sovereignty against threats coming from other state-centric actors, but it is not appropriate – even the aforementioned scholars have been unable to build a new theoretical framework – to explain countries policies when their internal and external security, or both, are challenged by an undefined non-state external factor such as illegal immigration.

The lack of empirical research to boost the security-concern argument shows that either these evidence does not exist, or that, within the tools actually available to political scientists this task is impossible. Simply it will be impossible to gauge a variable without primarily defining the concept in which this variable lies. Thus, despite attempts to resolve the security conceptual problem by relying on the Copenhagen School (Léonard 2004), this school is only in the beginning of that concept elaboration and also its members share different opinions on it.⁹ My personal shifting from the assumption of security concern to leaders' answering domestic concerns is due to the incapability of finding reliable evidence starting from the earlier assumption. Furthermore, the security-concern framework would not cover CEECs, where, although evidently asylum and immigration are not issues of security, asylum and immigration EU *acquis* are being implemented.

EU asylum policy as a response to domestic concerns

Thus, this article tries to bring empirical evidence that rather than a security-concern theoretical framework, a rational choice theory would best explain EU and CEECs asylum and immigration policies. Messina and Thouez (2002) theoretically explain the relationship between domestic and international politics in shaping the European immigration policy regime. According to them:

First, [...] interstate cooperation is at least partly a product of domestic political pressures. Second, the incentive to pursue common solutions to immigration related problems is stronger and more politically urgent in some countries than in others. And third, and most important, it implies that the domestic context can act either as a drag on or as an accelerator of interstate cooperation. In this last respect, the more universal the experience of significant political stress in the domestic context, the greater the number of

cases, *ceteris paribus*, that are motivated to cooperate with others on immigration-related issues (Messina and Thouez 2002: 119).

However, the issue of the existence of domestic political pressures that affect a certain foreign policy is highly interpretable and hardly measurable. Thus, Geddes argues that there exists a dichotomous attitude in Europe regarding the immigration issue. Whereas EU countries oppose the sheer number of illegal immigrants relentlessly penetrating their borders, these countries continue to accept immigrants even after politically declaring themselves to be non-immigration countries (Geddes 2003a: 20). Building on Freeman's (1995) analysis that views immigration politics as a result of distributions and benefits, Geddes (2000a; 2003) notes that there was a lack of fully motivated pro-migration business lobbying (a beneficiary category, according to Freeman), and refugee and immigrant rights protection organizations in the EU from the mid-1970s to the late 1990s, whereas pro-immigration/immigrant NGOs were too weak to wield any influence. On the other hand, what Freeman (2003) considers being a low-incentive-to-organize "diffuse bearers of costs," the general public, turned out to be powerfully influential in changing the EU asylum and immigration policies¹⁰ by opposing large-scale immigration.

In most Western countries, asylum applications are at levels that generate deep political controversies and are likely to remain there (Gibney and Hansen 2003). A steady increase of populist right-wing parties (PRWPs) in Western Europe is a strong signal for the EU countries' governments and the EU institutions to consider the reasons for the increase. There is a body of literature explaining PRWPs' electoral success with their strong anti-immigration stances (Jackman and Volpert 1996; Bjørklund and Andersen 1999; Golder 2002a.; 2002b.; Husbands 2002; Betz 2002; Lubbers, Gisbert and Scheepers 2002; Ignazi 2002; Lin 2004; Peshkopia 2005d). This research has argued that the sheer number of aliens, asylum seekers, refugees and illegal immigrants has increased fears and insecurity among Europeans. These feelings have been shrewdly harnessed by PRWPs that were previously only marginalized political formations. The PRWPs' rising has increased the pressure on the existing political establishment and has made some governments enact anti-immigration policies (Lubbers, Gisbert and Scheepers 2002).

Since the EU member countries have conceded many of their authorities in the field of asylum and immigration to the EU institutions, thus turning the EU into a narrow state-centrism polity (Geddes 2003a: 147), they lay back and serve as domestic audiences that constantly check how the EU conducts the common asylum and immigration policy. Yet according to Geddes (2003a: 27), although these states are reluctant to cede such competences to the EU supranational institutions, they see the EU co-operation and integration as a venue that could

allow them to attain domestic policy objectives. Their interests are crystal clear: “since the early 1990s, all Western states have embraced as a chief policy goal (arguably the chief goal) the prevention of asylum seekers arrival at their frontiers of territory” (Gibney and Hansen 2003: 5). In fact, it is an intergovernmental institution, the European Council, that is pushing the supranational institutions of the EU toward tougher positions by creating its own audience costs. Thus, the Presidency Conclusions of the Seville European Council, June 21 and 22, 2002, urges that “any future cooperation, association or equivalent agreement which the European Union or the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration.”¹¹ Under such pressure, the EU tends to be a tougher negotiator and increases the pressure on Balkan countries that aspire to its membership. This process makes the EU asylum and immigration reforms a three-level game, a policy that has other precedents in the EU.¹²

The CEECs’ reform in asylum and immigration

There exists a romantic – but not only romantic – pro-European assertion in Eastern European countries. This assertion did not stem only from the need to re-find the Europe where they belong, but, as it has been argued, also to prove their European character as a bid for EU membership (Vachudová 2000: 153). However, during the process of compliance with Schengen norms, CEECs found themselves in an uneasy position due to their asymmetric relationship with the EU. This process put them in the position of being merely consumers of the EU policies without giving them any say on the issues (Grabbe 2002: 97). This asymmetry can be explained by different co-operation preference intensities mirrored by high public support discrepancies in the EU countries and CEECs. Thus, whereas public opinion polls show a high support for EU membership in most of the CEECs, they show a moderate – and for some countries very low – support of the European public for the enlargement east.¹³ In the best case, polls indicate that enlargement is not seen as a priority either negatively or positively (Glaser 2001). However, it is important that rates of approval and disapproval are respectively high and low in the major EU countries such as France, Germany and the UK, especially since autumn 2003 (see Table 1 and 2).

The governments of most of the Balkan countries have defined the European Union membership as a top priority,¹⁴ while the Government of Slovenia, which is actually an EU member, has recently considered the asylum and immigration policy to be Slovenia’s priority.¹⁵ But, as we will see below, some of the Balkan countries lack both resources and sustained reasons to develop any asylum and immigration policies. As Geddes (2003a: 25) points out, to make a formal policy

commitment does not mean that this commitment will be fulfilled if legal, bureaucratic and administrative resources are lacking.

Table 1. The EU Public's Approval for Balkan Countries Membership.

COUNTRY / YEAR	1992	1996	1997	1998	1999	2000	2001	2002
Albania	27	26	-	-	-	-	-	26
Bosnia & Herzegovina	28	29	-	-	-	-	-	28
Slovenia	31	34	33	39	32	34	37	35

Source: Eurobarometer

Differences exist between domestic public attitudes toward the immigrants and asylum seekers in the Balkan countries. Thus, whereas there are no indicators for anti-immigrant, anti-refugee and anti-asylum seeker sentiments in BiH and Albania (Peshkopia 2005d), there are increasing xenophobic and anti-immigrant feelings arising in Slovenia (Doupova, Verschueren, and Zagar 1997). By spring

Table 2. German, French and British Public Attitude toward the EU Enlargement (in %)

Period/ Country		Spring 04	Fall 03	Spring 03	Fall 02	Spring 02	Fall 01	Spring 01	Fall 00	Spring 00
France	Yes	32	34	31	41	40	39	35	35	26
	No	52	55	54	49	47	46	47	40	-
Germany	Yes	24	38	42	46	38	47	42	43	34
	No	60	42	39	34	35	35	35	36	-
United Kingdom	Yes	31	38	36	42	43	33	34	36	35
	No	40	40	36	32	36	43	35	31	-

Source: Eurobarometer

1992, after the first refugee tide from BiH, the Slovenian public, media, and authorities perceived refugees as a threat to Slovenia's public order, thus submitting them to a process of *abnormalization* and *criminalization*. After eight years, those same Bosnian refugees were considered "our people" at the expense of some extra-Balkans "unknown, uninvited arrivals with 'vacant gazes' and 'unknown intentions' who sneak into the country on all fours covered in mud and dirt."¹⁶ In January 2001, the Slovene Minister of Interior released an unprecedented media barrage calling illegal migration a threat to Slovenia's national security.¹⁷

The argument

I put the argument of this research in a rational choice theoretical framework. I build on the assumptions that states are rational actors and they tend to maximize their utilities, as well as on the assumption that states build international institutions for reducing transaction costs, providing information and making credible commitments (Keohane 2002: 3). Moreover, I assume that leaders are rational actors; they tend to gain and keep political power, and, in order to do that, they conduct policies that satisfy either their electorates or selectorates.

All of the three actors involved in the interaction regarding asylum capacity building in the Balkans are driven by some very tangible material interests; on the one side lay the EU member countries interested in curbing the increasingly unbearable number of asylum seekers and illegal immigrants in their territories along with the EU institutions that are interested in satisfying their constituents, EU member countries; on the other, the countries analyzed here that do not have any tangible interests in implementing financially burdensome asylum and immigration policies which do not fit any of their interests. For this article, material rationale is the only rationale. All actors bear strong material rational motivations.

I argue that higher numbers of asylum seekers into the territory of a country are more likely to entice incentives for domestic authorities to give a solution to this problem, thus establishing institutions for granting them a state protection. By the same token, higher numbers of asylum seekers are also likely to define the timing of asylum institution capacity building by motivating governments to establish refugee protection regimes earlier. However, although higher numbers of asylum seekers help to alert governments early about the need for asylum institutions, their presence causes a longer period for respective governments to bring their asylum regimes in line with the international refugee protection regimes. Likely, without a

domestic need for asylum regimes, governments are prone to pay little attention to such institutions and, therefore, they risk losing their efficiency and even perishing.

Relying on Fearon's argument (1998) that understanding problems of international cooperation as having a common strategic structure is more accurate, and perhaps more theoretically fruitful, we can view the negotiations between the EU and the Balkan countries affected by domestic policies the same way as other international disputes. Thus, the EU enters into negotiations with the Balkan countries having an insignificant public support for the eastward expansion of its own border, but with high incentives to thwart the illegal immigrant and asylum seeker flow. On the other hand, the Balkan countries enter into negotiations with the EU with different concerns for immigration issues, but with high domestic public support for the EU membership. The EU pressure and support for governments to establish such regimes, although different in financial values (Peshkopia 2005b), seems to remain constant in outcome: it serves merely to formally establish asylum systems. Thus, although countries with low numbers of asylum seekers delay in establishing refugee protection regimes – but when they do, these regimes are satisfactorily in compliance with the international refugee protection regime – asylum systems of countries with lower numbers of asylum seekers are more likely to be inefficient and even to suffer crises. It is likely that the EU pressure and support causes the establishment of asylum systems in the Balkans but cannot guarantee their survival and efficiency.

Going back to Geddes' note that to make a formal policy commitment does not mean that this commitment will be fulfilled if legal, bureaucratic, and administrative resources are lacking, I argue that lower numbers of asylum seekers in a certain country are more likely to cause less concern on that issue to that country's government, and therefore less resistance of that government to yield to the EU demands in establishing asylum regimes. Furthermore, I argue that the level of CEE public desire to join the EU also defines the pace of asylum institution building of these countries. Therefore, higher domestic public support in the Balkan countries for EU membership is likely to cause stronger signals to governments to conclude an agreement with the EU; therefore, it is more likely that these governments yield to the EU demands for establishing refugee protection regimes. Yet this element of my argument clashes in several instances with evidence that higher numbers of asylum seekers are more likely to increase CEEC governments' concern to find a solution that satisfies domestic needs rather than EU needs. In order to elucidate this point, I will rely on empirical evidence from this research.

The lack of reliable data inhibits the quantitative test of hypotheses by using the regression method. Therefore, I will develop a qualitative comparison by using as much as I can from the available data. I will develop some of the comparisons by

heeding tables and by bolstering these observations with factual comparisons. Data for public opinion polls come from Eurobarometer and data about the number of asylum applications in the Balkan countries come from UNHCR.

Legislative and administrative building of asylum systems in some Balkan countries

During the Cold War, Yugoslavia – which was also among the 26 founding participants and signers – was the only Balkan country that recognized the Geneva Convention. The rest of the communist Balkans did not recognize the Convention and the obligations stemming from it. The Balkan countries, including new independent states split from Yugoslavia, began to adhere to the Geneva Convention by the beginning of the 1990s, and gradually, they initiated a long and volatile process toward asylum and migration institution and capacity building. After so many years of assistance, and also spurring by UNHCR and the EU, the asylum systems in the Balkans began to achieve their first results. Most of the countries note progress. This section describes the development of asylum systems in some of the countries in the region.

Albania

For the first time, Albania recognized the right of foreign citizens to have asylum in its territory by its new Constitution that entered into force on November 28, 1998. The 40th article of the Constitution stipulates that “foreigners have the right of asylum in the Republic of Albania according to law.”¹⁸ Soon after the Constitution entered into force, on December 14, 1998, *Kuvendi i Shqipërisë* (the Parliament of Albania), approved the Law on Asylum. Several months afterward, on April 19, 2001, the legislators approved the Law on the Guard and Control of the State Border, and on May 27, 1999, they approved the Law for Foreigners, completing thus the legal underpinning for a modern asylum and migration system in the country.

The Law on Asylum was drafted with the close cooperation of UNHCR B.O. Tirana. The law generally meets the Geneva Convention’s criteria on the refugee definition, Refugee Status Determination (RSD), and refugee protection. It recognizes the Convention’s definition of refugee (Art. 4) and reflects the concept of temporary protection for humanitarian reasons (Art. 5). The Law also reflects the Convention’s principle of *non-refoulement* (Art.7 and Art.15/2/a). Articles 12/3 and 15/2/b recognize the right of those who have been granted asylum to have

labor, residence permission, and social rights, at an equal level as the Albanian citizens.

According to the Law, it is the Office for Refugees (OfR) that conducts the asylum seeker's applications and interviews. The Office (five civil servants) also serves as a collegial decision-making body (Art. 17). The rejected asylum seekers have the right to appeal to the National Commission for Refugees (NCR), an eight-member committee with the participation of the government asylum issues-related agencies, and two NGOs, - the Lawyer Chamber and the Albanian Committee of Helsinki (Art.19). The National Commissioner for Refugees is the head of the asylum system in the country. He chairs OfR and NCR where he is not supposed to vote on the OfR's appealed decisions (Art.19/8).

Although the Law has been considered one that fits the international criteria, there are still loopholes that might be considered as unsettled. For instance, Article 23/3 of the Law stipulates the obligation of OfR to accord a free lawyer to asylum seekers; this is a big leap forward compared with asylum laws of some other Balkan countries. Yet it is unclear who will pay for lawyers. Since 1999, OfR has been financed by annual UNHCR programs without receiving any financial support from the Albanian government.

Even before the Law on Asylum was approved, in June 1998, OfR was established as a small unit within the Ministry of Local Government, in order to make the government available to answer some minor refugee crisis stemming from the ongoing skirmishes in Kosova. The OfR establishment was a quick-fix act, without any legal underpinning, with an undefined status, and with little to do given the conditions of an asylum and immigration legal vacuum.

Soon after the Law was approved, in March 1999, roughly 450,000 Albanian Kosovars fled their homes toward Albania, and an international humanitarian action took place to relieve the crisis. The Albanian government accorded to Kosovar refugees the status of Temporary Protection, which was the first Albanian legal action in refugee protection. Dealing with lingering refugees – after the majority of them turned back toward their homes during the summer 1999 – was the major preoccupation of the OfR for the rest of 1999 and most of 2000. However, it was exactly during 2000 that OfR began to proceed with individual applications and some rudimentary procedures of RSD were developed.¹⁹ A minor refugee crisis from the Former Yugoslav Republic of Macedonia (FYROM) that occurred in spring 2001 again interrupted the evolution of OfR's normal functioning.

OfR return to normal by fall 2001. In October 2001, the delayed Albanian Task Force on Asylum was established with the participation of domestic and

international actors. The aim of the Task Force was to draft by-laws filling the still-existing legal gaps in the issues of refugee integration. Three by-laws – on education, health care, and employment – drafted by spring 2002 were comprised into the Law on Integration and Family Union for Persons that have been Granted Asylum Status in the Republic of Albania, approved by *Kuvendi* in June 2003, and entered into force on August 19, 2003. Similarly, the National Commission for Refugees was constituted in its first meeting only by early November 2001, almost two years after the Law on Asylum that stipulates its activity was approved. The RSD procedures were established according to the Law, and a joint project between UNHCR, OfR, and Peace through Justice, a local NGO, was settled to make available legal assistance for refugees and asylum seekers.

OfR enjoyed a wide range of autonomy since most of its decisions did not need to be endorsed by the respective Minister. Although this autonomy allowed OfR to choose its own pace in the administrative process, in many cases it turned out to be a source of abuse by irresponsible or corrupt public servants. In an attempt to address administrative confusion, the Minister of Local Government released a Guideline to settle a roadmap for an internal reform of OfR that brought its suspension in May 2002. But the reform went beyond the Guideline changing the location and the name of the institution as well. By April 2003, OfR was transferred to the Ministry of Public Order (MPO). Indeed, this was a necessary step, since the RSD process was more closely linked with the police than with local governments. Finally, in October 2003, a Decision of the Council of Ministers changed the name of the Office for Refugees to Directory for Refugees, thus reflecting the new status of the institution within the MPO.

Prior to mid-2003, the country did not have any official refugee reception center, and detained asylum-seekers were accommodated in private mansions rented by several NGOs who were acting within the UNHCR's protection program. In October 2001, the implementation of a project to establish the first asylum seekers' reception center began. The issue of refugees' and asylum seekers' accommodation had concerned the Albanian authorities and UNHCR all along. Usually, the detained smuggled people were kept in police stations without any legal basis. There was no food or hygienic supplies provided by the MPO, thus detained immigrants often remained at the mercy of policemen. Because of the sluggish cooperation between the Office for Refugees and UNHCR with police, the detained people were frequently obliged to live under terrible conditions for several days. The problem could have continued except UNHCR provided some local NGOs with funds to arrange the accommodation of asylum seekers in privately owned houses. The Albanian government offered an old military barracks on the outskirts of the capital, in accordance with its policy to have a center near urban sites. The purpose of the center is to shelter asylum seekers, from the moment that an asylum request is received until the final decision. The

construction of the Reception Center was financed by UNHCR through funds provided by the European Commission according to the EU High Level Working Group's (HLWG) Action Plan on Asylum in Albania and the Neighboring Region. The total amount was 49, 616, 203 Albanian Lek (roughly €350, 000).

Bosnia and Herzegovina

BiH has been a Geneva Convention member country since September 1, 1993. The primary legislation governing immigration and asylum in BiH is the Law on Immigration and Asylum, which was adopted by the Parliamentary Assembly on December 4, 1999, and entered into force on December 31, 1999.²⁰ The law was being drafted with the close assistance of the UNHCR, Office of the High Representative (OHR) and the Council of Europe. However, “[w]hile this Law is one of only a very limited number of laws adopted by the Parliament in a regular manner, knowledge of the provisions of the Law throughout BiH is extremely limited.”²¹ This situation causes the authorities at lower levels and the judiciary itself to rely on legislation that is technically outdated. Furthermore, the completion of the Law by extensive by-laws will require time, taking into consideration the complexity of decision-making process, the sluggishness of the legislative and administrative process in the country, and the lingering Yugoslav or newly approved entities’ and cantonal laws and institutions in charge of asylum, migration, and foreign issues.

The sections pertaining to asylum are in conformity with international and European standards; the asylum status is granted according to the definitions of the 1951 Geneva Convention (Art. 46/a), taking into consideration the protection of those whose life is in danger in their own country and the humanitarian protection, and categorically prohibiting the *refoulement* (Art. 34 and Art. 46/b), yet leaving fuzzy the status of persons who cannot be deported, but who are excluded from asylum.²²

Article 50 of the Law stipulates the obligation of the authorities to give asylum seekers interpreters and also the right to call in a legal adviser, but does not oblige the government to cover costs of the legal assistance, while Article 54, recognizes the rights of integration in the Bosnian society.

The Law on Immigration and Asylum refers to the Ministry for Civil Affairs and Communications (MCAC) as the national institution that handles the major decisions during the process of RSD, with a “fully qualified unit in the field of asylum and the refugee matters” set up within the Ministry that examines asylum requests (Art 49). This Ministry issued the decision of the first level (Art 51),

which can be appealed to the appeals panel (Art. 52). The Law on Immigration and Asylum stipulated that the decisions of the panel are “subject to any judicial review which may be provided by the laws of Bosnia and Herzegovina” (Art. 53), thus giving the asylum seekers explicit access to the Court of BiH.

In the summer 2000, the asylum system was transferred to the Ministry of Human Rights and Refugees established according to the new Law on the Council of Ministers of April 25, 2000. According to the new structure, the asylum system in the country would be under the auspice of the Section for Immigration and Asylum headed by an Assistant Minister.

Overlapping legislation and administrative rules pour fog on the Bosnian asylum system. While the Constitution of BiH explicitly stipulates that it is the State that is responsible for immigration, refugee and asylum policies (Art. 3/6), the complexity of the legal system in BiH and loopholes in the legislation cause confusion in the asylum system. In the previous legislation, the asylum and migration policies and decision-making process were responsibilities of the Entities and Cantons. Considering the Bosnian experience, in which several times local authorities are barely aware of new legislation entering into force at a state level, or are reluctant to give up some authority they enjoyed before, it is not difficult to realize that the application of the Law on Immigration and Asylum will take time to become fully and effectively implemented.

Yet, overwhelmed by internal displaced person problems, the still weak law enforcement in the country, and limited financial resources that cause difficulties in institutions and capacity building, a better implementation of the law will need time to take place. The 2002 US Committee for Refugees’ Country Report noted that “the Bosnian government did not have the funds or the organizational capacity to implement the law during 2001.”²³ As a result, by the end of 2001, the Bosnian government “had established neither an asylum unit within the Ministry for Human Rights and Refugees, nor an appeal panel within the Council of Ministers, both of which were needed to fulfill the requirements of the law,”²⁴ and the RSD has been conducted by UNHCR. However, insofar as the lack of administrative process by Bosnian authorities caused delays, certain refugee categories have been granted *de facto* temporary protection during the year.²⁵

The Bosnian legislation still remains incomplete in the field of protection and social integration. The Law on Immigration and Asylum guarantees to the recognized refugees permanent residence in BiH, the right to work, access to medication, medical care, and social welfare equal to that of the citizens of the country (Art. 54). Yet four years after the law’s approval, even though there are other laws related to asylum and migration that have been passed, no one by-law

that regulates refugees' health care, education, social welfare, housing and employment has been approved.

In fact, the Bosnian authorities have never managed to put into practice Bosnia's asylum system. Therefore, it is UNHCR in BiH that acts on behalf of the Bosnian government as an agency that undertakes the RSD process.²⁶ A major problem remains that, whereas the Law of Immigration and Asylum stipulates the right of refugees to "call in a legal adviser or other counselors to assist them during the procedure,"²⁷ it did not bind the Bosnian government to take over the expenses of the legal assistance. UNHCR itself has experienced difficulties finding enough space in its Legal Aid and Information Network due to its primarily focus on displaced persons and returnees, and for not being familiar with refugee laws.²⁸

Slovenia

The Slovenian government established the Office for Immigration and Refugees (OIR) in July 1992 as a response to the arrival of temporary refugees from neighboring BiH, and Croatia, both involved in armed conflicts.²⁹ Nevertheless, the country conducted very slow steps toward establishing a sustained legal and administrative system for coping with refugees and asylum seekers. Thus, the Law of Temporary Protection was approved only in July 1997, and in the absence of a law on asylum, the Law on Foreigners had been used to define the refugee status.³⁰

Before the Law on Asylum was entered into force, the asylum system in Slovenia had been based on three legal acts: the Law on Foreigners, the Decree on Implementation of Rights of Foreigners to Whom Refugee Status had been Recognized, and the Regulation on how to Handle Applications for Refugee Status and their Basic Care. Although Article 34 of the Law met the Geneva Convention's criteria for the refugee definition, it lacked the RSD procedures upon which an asylum status should be accurately granted. Under such circumstances, the Slovenian asylum authorities were using the Law on General Administrative Procedures.³¹ The Law on Foreigners also recognized in its Article 33 the right of *non-refoulement*. The Law on Foreigners, too, went through three revisions: in November 2000, August 2001, and October 2003.

In July 2001, the Slovenian National Assembly approved the new Law on Asylum. The Law recognizes the Geneva Convention's criteria of the refugee status, and relies on it without specifically quoting it (Art. 1/2). Instead, such rights are relying on regulations that do not offer adequate legal protection to refugees.³² The Law also comprises the principle of *non-refoulement* (Art. 6/1), special protection (Art. 6/2 and 61), government funded interpreters (Art. 12), government funded legal aid (Art. 16), and integration assistance (Art. 19).³³ Nevertheless, the Law seems

obsessed by attempts to limit as much as possible the range of asylum seekers and to widen the range of the excluded categories. Slovenia's new Law Amending the Existing Law on Foreigners, approved by the National Assembly on November 9, 2000, introduced the concept of "third safe country" – the neighboring Croatia was the first to be declared as a "safe country." This concept appeared in the Law on Asylum as well (Art 37). Articles 34/1/second point, 40, and 42/3 define obligations upon which asylum seekers or refugees should leave the country. The Law reflects the Internal Ministry's document "Illegal Migration – a threat to Slovenia's national security," released in January 2001.³⁴ In September 2003, the Law on Changes and Amendments to the Law on Asylum filled some administrative gaps in the Law on Asylum.³⁵ In July 2002, a controversial review of the Law on Temporary Protection that legalizes privileges for Bosnian and Croatian war refugees was adopted.³⁶

The Ministry of Interior is the institution in charge of conducting RSD, taking decisions at the first level, and assisting refugee integration. Its decision can be appealed to the Administrative Court (Art. 38). It is the Supreme Court that decides on the appeal against decisions of the Administrative Court (Art. 39). Meanwhile, asylum seekers have the right of translation (Art. 12) and legal aid (Art. 16), with both costs covered by the government. Meanwhile, OIR continues to act as the government agency handling the remaining war refugees under the temporary protection.

The duty of the asylum system in Slovenia has been facilitated by the cooperation with UNHCR. The Law on Asylum accords to UNHCR a wide access to RSD procedures (Art. 30/2/point 2, and Art. 31). Slovenia has also been a member of the International Organization of Migration since November 2002. Meanwhile, two NGOs, GEA 2000 and the Slovene Filantropija, assist asylum seekers and refugees on employment, social issues, education, and health assistance.

Recently, Slovenia has been considered Europe's backdoor.³⁷ Tight joint Italian-Slovenian measures to patrol the border between the two countries³⁸ have increased the number of asylum seekers and illegal migrants in the country up to the point of putting the government in a difficult position to accommodate them.³⁹ The Ministry of Interior admitted that the living conditions in the Asylum Center located in Prosenjakovci and in the Transit Center for Foreigners in Celov_ka Cesta near Ljubljana were poor, and asylum seekers and other detained foreigners could not be provided with basic living and hygiene conditions.⁴⁰

Meanwhile, until 2002, Slovenia had nine accommodation centers for people with temporary protection status. That year, the government closed the centers in Ljubljana and Hrastnik, and the 807 people accommodated by the Slovenian authorities were sheltered in the remaining seven centers.⁴¹ With the July 2002

amendments in the Law on Temporary Protection that stipulate the right of all temporary refugees to obtain permanent residence status, around 2000 temporary refugees applied for the permit, and the others returned to their countries of origin. The amendments also foresaw a transitional period for continuous accommodation in centers of the most vulnerable group of people with special needs (the elderly, handicapped, unaccompanied minors, parents with minors, etc.). In June 2003, the government ended the temporary protection for refugees from BiH. Actually, the Slovenian authorities are planning to close most of the centers for war refugees.

Conclusions

It can be concluded that higher numbers of asylum seekers in the territory of a country are more likely to motivate domestic authorities to provide solutions to this problem, thus establishing institutions for granting them state protection, and that higher number of asylum seekers is also more likely to motivate governments for establishing refugee protection regimes earlier.

Data suggests that Slovenia, which experienced higher numbers of asylum seekers since the early 1990s than Albania and BiH, established, early in the process, some form of asylum regimes. Its reluctance to adapt EU requirements in reforming its already existing asylum regime mirrors the need of Slovenia's government to find its own answer – rather than an internationally standardized one – to the problem. On the other hand, lacking any asylum regime, and also any huge number of asylum seekers, Albania and BiH yielded to the EU demands for establishing asylum systems in accordance with its requirements. This is evidence that higher numbers of asylum seekers are more likely to increase the governments' concern to find a solution that satisfies domestic rather than EU needs.

As we saw above, countries that have higher numbers of asylum seekers strive as long as possible to take advantage of the asylum regimes that they already have in place, and they tend to be skeptical about changing these regimes. However, it is worth mentioning that Slovenia, which here is referred to as a country with higher numbers of asylum seekers, still remains a country with a limited number of asylum seekers compared to other EU countries with approximately the same population and territory size. Therefore, these countries have not considered the asylum policy a priority. Under such conditions, governments of these countries dedicate more time, energy and financial resources to more sensitive issues. These findings bring evidence that higher numbers of asylum seekers cause a longer period for respective governments to bring their asylum regimes in accordance with the international refugee protection regimes.

I have argued that asylum systems of countries with lower numbers of asylum seekers are more likely to be non-efficient and even to suffer crises. Heeding data,

it is not difficult to find support for this claim; also the results imply a logical consistency. Phantom institutions without much to do make governments care less for them. Public officials in these sectors remain professionally underdeveloped and unskilled, and begin losing interest in their job.⁴²

I have also argued that countries with low numbers of asylum seekers delay in establishing refugee protection regimes, but when they establish these regimes, they are satisfactorily in compliance with the international refugee protection regime. Data support this claim, too, and logical consistency is also implied in it. Countries with low numbers of asylum seekers do not have any domestic need to establish such regimes. With time, either because of the increasing number of asylum seekers or due to the EU demands, they build asylum institutions. In the process of institution building, they get sufficient support from international agencies specializing in refugee protection, and even by the EU itself. This assistance helps them to establish asylum systems in compliance with the international refugee protection regime. On the other hand, the reforming of an asylum regime – assuming that the existing refugee protection regimes belong to countries with high numbers of asylum seekers – will bring up several issues. First, these countries are interested in resisting EU demands since the asylum systems that they have already in force might better serve their domestic interests; second, the reforming of these systems might, at least temporarily, undermine the ongoing process of RSD.

The EU can spur, and even assist, Balkan countries' governments to establish their refugee protection regimes, but it cannot run those institutions. Balkan governments have the task of maintaining their asylum regimes. However, without any domestic need, this maintenance has shown to be difficult, and the asylum systems of countries with low numbers of asylum seekers are doomed to vanish. As we saw above, even in the case when they might physically survive, their efficiency is very low, and the professionalism of their operators underdeveloped.

Lower numbers of asylum seekers are less likely to cause concern. Governments of countries that do not have any asylum regime do not have any reasons to bother with being involved in an institutional reform according the standards required by the EU; they merely establish these regimes following the EU's suggestions, thus dropping easily one issue from the long list of demands that the EU has put on their desks to fulfill for reaching its membership. This article has shown evidence that Albania and BiH, countries with lower numbers of asylum seekers, have demonstrated an easier acquiescence with the EU demands for establishing asylum systems, while Slovenia, although politically closer to the EU, has resisted longer.

And finally, there is evidence that higher domestic public support in the Balkan countries for EU membership is likely to cause stronger signals to governments to

conclude an agreement with the EU; therefore, it is more likely that these governments will yield to EU demands to establish refugee protection regimes. Public opinion polls show a high support in Balkan countries for EU membership.⁴³ This support suggests that governments ought to make many concessions to the EU in order to reach this membership. Difficulties should be overcome, and differences put aside. The dramatic rise of the public support for the EU integration of their countries – especially, as has been noticed by data in Slovenia since 2001 – has caused Slovenia's government to put aside its reluctance to agree with the EU demands on asylum and immigration issues. Albania, with a generally high popular support for EU membership, has already established a non-critiqued yet inefficient asylum system. BiH, although with the United Nations having an important say in its domestic affairs, still has much to do in order to construct its asylum regime.

This research has been built on the condition of data scarcity that is typical for the region. Since no one is to blame for the lack of data, the only thing to do is to place the available data within a methodological framework that is as sound as possible, and to infer from the sample to a general explanation. This weakness calls for further research. An immediate improvement would be to widen the sample, thus including within the scope of the analysis other Balkan countries, such as Bulgaria, Croatia, FYROM, Kosova, Romania, Serbia and Montenegro, and possibly Turkey.

Moreover, it is important to find a better estimator for domestic policy preferences. Public opinion polls, even when they cover the whole period of time under scrutiny, do not exactly match with the answer we are looking for. A better estimator of governments' domestic policy preferences could be the resources governments allocate to their asylum regimes whereas audience preferences would be better estimated by polls that ask precise questions related to illegal immigration. However, since we cannot go back in time and ask these questions, assuming that governments always keep an eye on domestic public preferences, the financing level that they grant to their asylum regimes might serve as a good estimator of these preferences.

Considering the quantity and quality of data available, I found satisfactory evidence supporting my argument. As Barry Eichengreen (1992: 350) points out, cooperation requires some paying of costs. Actually, that is exactly what the EU and the Balkan countries are doing. In order to acquire the Balkan countries' cooperation in thwarting illegal immigration flow from and through the Balkans to the EU, the Union, besides stipulating the EU membership of these countries with the establishment of their asylum regimes and tighter border control, is also financing a significant part of the institution building process (Peshkopia 2005 b). On the other hand, the Balkan countries – despite the fact that the number of

asylum seekers in some of them is far for creating any concern and need for domestic policies – are dedicating time, energy and financial resources to building institutions that are more likely to function in favor of EU policies containing illegal immigrant influxes, rather than any domestic purposes.

Endnotes

¹ UK: Blunkett wants asylum seekers sent to Albania, *The Daily Telegraph*, March 10, 2003; *World News*, March 10, 2003 [cited March 2003]. Available from <http://www.unhcr.ch>

² See U.K. and Bosnia join forces to halt human smuggling, *USCR Refugee Report*, Volume 22, Number 8, August/September 2001 [cited December 2003]. Available from <http://www.refugees.org/world/articles>; and UK Government: Asylum reforms – next phase, M2 PRESSWIRE, March 23, 2003, *World News*, March 26, 2003 [cited March 2003]. Available from <http://www.unhcr.ch>

³ Declaration on Principles of Governing External Aspects of Migration Policy, European Union, December 12, 1992, SN 456/92, Annex 5 Part A.

⁴ Busch, Nicholas. 1999. Asylum and Immigration Policies of the EU, October 13 [cited December 2003]. Available from <http://www.fecl.org/open/english>

⁵ European Union. Strategy paper on immigration and asylum policy, July 1, 1998, 9809/98 LIMITE CK4 27 ASIM 170, pg.2.

⁶ European Union. Presidency Conclusions Seville European Council, 21 and 22 June 2002, DN:DOC/02/13, June 24, 2002 [cited December 2003]. Available from <http://europa.eu.int/rapid/start/cgi/>

⁷ Busch, Nicholas. 1999. Asylum and Immigration Policies of the EU, FECL [cited December 2003]. Available from <http://www.fecl.org/open/>.

⁸ See also Joanne van Selm (ed). 2000. *Kosovo's Refugees in the European Union*. London. Pinter; and Newman, Edward. and Joanne van Selm (eds). 2003. *Refugees and Forced Displacement. International Security, Human Vulnerability and the State*. New York: United Nations University Press.

⁹ See Buzan, Barry. 1991. *People, States, and Fear. An Agenda for International Security Studies in the Post-Cold War Era*, 2nd edition. London: Harvester Wheatsheaf; Wæver, Ole. 1993. *Identity, Migration and the New Security Agenda in Europe*. London: Pinter; Wæver, Ole. 1995. Securitization and Desecuritization, in Lipschutz, Ronnie D. (ed) *On Security*. New York: Columbia University Press.

¹⁰ The Eurobarometer Opinion Poll No. 47/1 conducted in Spring 1997 [cited November 2004]. Available from http://europa.eu.int/comm/public_opinion/archives/ebs/ebs_113_en.pdf. Polls show a high degree of racism and xenophobia arising throughout the European Union

¹¹ Presidency Conclusions of Seville European Council, 21 and 22 June 2002, DN:DOC/02/13, June 24, 2002 [cited December 2003]. Available from <http://europa.eu.int/rapid/start/cgi/>

¹² For a three-level game theory in the EU agricultural policy reform see: Patterson, L. (1997) "Agricultural Policy Reform in the European Community: A Three-Level Game Analysis," *International Organization*, Vol. 51, No. 1.

¹³ Sometimes, polls' results are highly contradictory. Thus, whereas polls presented in Table 5 (Appendixes) show an unenthusiastic support for the EU enlargement within the then 13 candidate countries, Table 6 polls show an enthusiastic support for the enlargement beyond the 13 candidates.

¹⁴ For Albania see: Political Program of the Albanian Government for the period 2002 – 2005 [cited November 2004]. Available from <http://www.southeasteurope.org/documents/>; for BiH see: General Directions and Priorities for Implementation of Foreign Policy of Bosnia and Herzegovina [cited November 2004]. Available from http://www.mvp.gov.ba/index_eng.htm.

¹⁵ Government Session: Asylum and Migration Policy, Slovenia's Priority within Tampere II [cited November 2004]. Available from <http://www.uvi.si/eng/slovenia/publications/slovenia-news/1260/1270/>

¹⁶ Illegal Migration – a threat to Slovenia's national security, January 2001 [cited December 2001]. Available from www.uvi.si/eng/slovenia/background-information/illegal-migration/index.text.html.

¹⁷ Illegal Migration – a threat to Slovenia's national security, January 2001 [cited December 2001]. Available from www.uvi.si/eng/slovenia/background-information/illegal-migration/index.text.html.

¹⁸ The Constitution of Albania [cited December 2003]. Available from www.kqz.org.al

¹⁹ Officially, UNHCR records the number of asylum applications in Albania since 2000. That year there were 90 applications, followed by 160 applications during 2001; 110 during 2002; 130 during 2003; and 30 during 2004. For more information see Asylum Levels and Trends: Europe and Non-European Industrialized Countries, 2004 [cited September 2005]. Available from <http://www.unhcr.ch/cgi-bin/texis/vtx/statistics/opendoc.pdf?tbl=STATISTICS&id=403b1d7e4>.

²⁰ The Interface between Migration and Asylum in Bosnia and Herzegovina, UNHCR, Sarajevo, January 2001, pg. 13 [cited November 2003]. Available from www.unhcr.ch

²¹ ECRE Country Report 2000: Bosnia and Herzegovina, European Council of Refugees and Exiles, pg. 21 [cited November 2003]. Available www.ecre.org

²² The Interface between Migration and Asylum in Bosnia and Herzegovina, UNHCR, Sarajevo, January 2001, pg. 14-15 [cited November 2003]. Available from www.unhcr.ch

²³ Bosnia and Herzegovina, World Refugee Survey 2002 Country Report, US Committee for Refugees, pg. 7 [cited November 2003]. Available from www.refugees.org

²⁴ Bosnia and Herzegovina, World Refugee Survey 2002 Country Report, US Committee for Refugees, pg. 7 [cited November 2003]. Available from www.refugees.org

²⁵ Bosnia and Herzegovina, World Refugee Survey 2002 Country Report, US Committee for Refugees, pg. 7 [cited November 2003]. Available from www.refugees.org

²⁶ The following is the number of recent years' asylum applications in BiH: 280 during 2000; 730 during 2001; 580 during 2002; 740 during 2003; and 200 during 2004. For more information see Asylum Levels and Trends: Europe and Non-European Industrialized

Countries, 2004 [cited September 2005]. Available from <http://www.unhcr.ch/cgi-bin/texis/vtx/statistics/opendoc.pdf?tbl=STATISTICS&id=403b1d7e4>.

²⁷ Law on Immigration and Asylum, Official Gazette of BH, no.23/99, 23 December 1999, Art. 59, pg. 21.

²⁸ The Interface between Migration and Asylum in Bosnia and Herzegovina, UNHCR, Sarajevo, January 2001, pg. 10 [cited November 2003]. Available from <http://www.unhcr.ch>

²⁹ Bogunovi_, _arko, Main Areas of Activity, Programme Priorities, The Office for Immigration and Refugees of the Republic of Slovenia [cited December 2003]. Available from <http://www.sigov.si/vrs/ang/ang-tex/ministries/>

³⁰ Migration and Asylum in Central and Eastern Europe: Slovenia, European Parliament, [cited December 2003]. Available from <http://www.europarl.eu.int/workingpapers/libe/104/>

³¹ Migration and Asylum in Central and Eastern Europe: Slovenia, European Parliament [cited December 2003]. Available from <http://www.europarl.eu.int/workingpapers/libe/104/>

³² Migration and Asylum in Central and Eastern Europe: Slovenia, European Parliament, European Council of Refugees and Exiles, pg. 228 [cited Nov. 2003]. Available from www.ecre.org

³³ Law on Asylum in the Republic of Slovenia, No. 213-04/98-25/6, July 25, 2001 [cited December 2003]. Available from <http://www.mnz.si/en/>

³⁴ Illegal migration – a threat to Slovenia’s national security, January 2001 [cited December 2003]. Available from <http://uvi.si/eng/slovenia/>

³⁵ Law on Changes and Amendments to the Asylum Law, September 30, 2003 [cited December 2003]. Available from <http://www.mnz.si/en/>

³⁶ Slovene National Party opposes change to asylum law, Asia Intelligence Wire via News Edge Corporation: July 12, 2002 [cited December 2003]. Available from <http://www.unhcr.ch/cgi-bin/texis/vtx/home/>

³⁷ Po_un, Brian J., Illegal immigrants find new back door in Slovenia, *Central Europe Review*, Vol. 3, No. 4, January 29, 2001 [cited December 2003]. Available from <http://www.ce-review.org/01/4/>

³⁸ Illegal migration – a threat to Slovenia’s national security, January 2001 [cited Dec. 2003]. Available from <http://uvi.si/eng/slovenia/>

³⁹ The following is a list of the number of asylum applications in Slovenia during the recent years: 38 in 1996; 72 in 1997; 499 in 1998; 867 in 1999; 9240 in 2000; 1510 in 2001; 700 in 2002; 1100 in 2003; and 1170 in 2004. For more information see Asylum Levels and Trends: Europe and Non-European Industrialized Countries, 2004 [cited September 2005]. Available from <http://www.unhcr.ch/cgi-bin/texis/vtx/statistics/opendoc.pdf?tbl=STATISTICS&id=403b1d7e4>.

⁴⁰ Illegal migration – a threat to Slovenia’s national security, January 2001 [cited Dec. 2003]. Available from <http://uvi.si/eng/slovenia/>

⁴¹ Bogunovi_, _arko, Main Areas of Activity, Programme Priorities, The Office for Immigration and Refugees of the Republic of Slovenia [cited December 2003]. Available from <http://www.sigov.si/vrs/ang/ang-tex/ministries/>

⁴² During the stint that I served as the National Commissioner for Refugees of the Republic of Albania (2001-2002), I had many chances to notice that fact, and also bring it to the attention of my superiors in government and my colleagues of UNHCR.

⁴³ Eurobarometer's polls show an Albanian public support for the EU membership at the level of 64 percent in 1993 and 44percent in 1996; Slovenia's public support for the country's EU membership was 44 percent in 1996, 52 percent in 1997, 41 percent in 2001, 43 percent in 2002, and 58 percent in 2003.

References

- Bertotto, Marco. 2003. Curbing the Number of Asylum Claimants: In How Far is a Stricter Approach the Solution? Lecture in the International Seminar for Experts "European Migration and Refugee Policy – New Developments," Cicero Foundation, Great Debates series, Rome, November 13-14.
- Betz, Hans-Georg. 2002. Exclusionary Populism in Austria, Italy and Switzerland, Paper referred at the International Workshop: The Right Populism in Europe. Karl Renner Institute and Friedrich Ebert Foundation.
- Bjørklund, Tor, and Jørgen Goul Andersen. 1999. Anti-Immigration Parties in Denmark and Norway: The Progress Parties and Danish People's Party. Arbejtspapirer fra Institut for Økonomi, Politik og Forvaltning, Aalborg Universitet.
- Boswell, Christina. 2003. The 'external dimension' of EU immigration and asylum policy. *International Affairs* 79 (3): 619-638.
- Cholewinski, Ryszard. 2000. The EU *Acquis* on Irregular Migration: Reinforcing Security at the Expense of Rights. *European Journal of Migration and Law* 2 (3-4): 361-405.
- Doupona, Marjeta., Jef Verschueren and Igor Zagar. 1997. The pragmatic of legitimation: the rethoric of refugee policies in Slovenia," *Belgian Journal of Linguistic*, 11: 183-216.
- Eichengreen, Barry. 1992. *Golden Fetters: The Gold Standard and the Great Depression 1919-1939*. New York: Oxford University Press.
- Fearon, James D. 1998. Bargaining, Enforcement, and International Cooperation. *International Organization* 52 (2): 269-305.
- Freeman, Gary. 1995. Modes of Immigration Politics in Liberal States. *International Migration Review* 29: (4): 881-913.
- Freeman, Gary. 2003. Incorporating Immigrants in Liberal Democracies. Paper presented in the conference Conceptual and Methodological Development in the Study of International Migration, Princeton University, May 23-25.

- Geddes, Andrew. 2000a. Lobbying for Migrant Inclusion in the European Union: New Opportunities for Transnational Advocacy. *Journal of European Public Policy* 7 (4): 632 - 649.
- Geddes, Andrew. 2000b. *Immigration and European Integration: Toward Fortress Europe?* Manchester: Manchester University Press.
- Geddes, Andrew. 2001. International Migration and State Sovereignty in an Integrating Europe. *International Migration* 39 (6): 21-42.
- Geddes, Andrew. 2003. *The Politics of Migration and Immigration in Europe*. London, Thousand Oaks, New Delhi: Sage.
- Gibney, Matthew J., and Randall Hansen. 2003. Asylum Policy in the West: Past Trends, Future Possibilities. Discussion Paper No. 2003/68, United Nations University, (WIDER) World Institute for Development Economic Research [cited August 2004]. Available at http://www.unu.edu/hq/library/collection/PDF_files/WIDER/WIDERdp2003.68.pdf.
- Glaser, T. (2001) Immigration, what effect on the progress of enlargement? *the Courier ACP-EU* July-August.
- Golder, Matt. 2002a. Electoral Institutions, Unemployment, Immigration and Extreme Right Parties in Western Europe: Selection Bias and Interaction Effects. *British Journal of Political Science*, 33(3): pp. 525-534.
- Golder, Matt. 2002b. Electoral Institutions, Unemployment and Extreme Right Parties: A Correction. *Comparative Political Studies*, 36 (4): pp. 432-66.
- Gow, James, and Cathie Carmichael. 2000. *Slovenia and the Slovenes*, Bloomington and Indianapolis: Indiana University Press.
- Grabbe, Heather. 2000. The Sharp Edges of Europe: Extending Schengen Eastwards. *International Affairs* 76 (3): 519-536.
- Grabbe, Heather. 2002. Stabilizing the East While Keeping Out the Easterners: Internal and External Security Logics in Conflict, in Sandra Lavenex and Emek M. Uçarer (eds.) *Migration and the Externalities of European Integration*. Lanham, Boulder, New York, Oxford: Lexington Books.
- Guild, Elpeth. 2003. International Terrorism and EU Immigration, Asylum and Border Policy: the Unexpected Victims of 11 September 2001. *European Foreign Affairs Review* 8(3): 331-346.
- Hempel, Carl G. 1966. *Philosophy of Natural Science*. Englewood Cliffs, N.J.: Prentice-Hall.
- Hurwitz, Agnes. 2002. The Externalization of EU Policies on Migration and Asylum: Readmission Agreements and Comprehensive Approaches. WIDER Conference on Poverty, International Migration and Asylum, Helsinki, Finland, 27-28 September, 2002.
- Husbands, Christopher. 2002. Extremism from the Right: A Threat to Europe? 2002. [cited May 2004].

- Available from <http://www.fathom.com/feature/121892>.
- Ignazi, Piero. 2002. Passage of Witness in the Italian Extreme Right. Paper referred at the Conference "The Right in France and Italy," Oxford: Maison Française.
- Jackman, Robert, and Karin Volpert. 1996. Conditions Favoring Parties of the Extreme Right in Western Europe. *British Journal of Political Science* 26 (4): 26, 501-521.
- Jileva, Elena. 2002. Larger than the European Union: The Emerging EU Migration Regime and Enlargement, in Sandra Lavenex and Emek M. Uçarer (eds.) *Migration and the Externalities of European Integration*. Lanham, Boulder, New York, Oxford: Lexington Books.
- Keohane, Robert O. 2002. *Power and Governance in a Partially Globalized World*. London and New York: Routledge.
- Kicinger, Anna. 2004. International Migration as a Non-Traditional Security Threat and the EU Responses to this Phenomenon. Central European Forum for Migration Research: Working Paper [cited September 2005]. Available from http://www.cefmr.pan.pl/docs/cefmr_wp_2004-02.pdf.
- Léonard, Sarah. 2004. Studying Migration as a Security Issue: Conceptual and Methodological Challenges, Paper Presented at the SCIR 5th Pan-European International Relations Conference, The Hague, September 9-11 [cited September 2005]. Available from <http://www.sgir.org/conference2004/papers/Leonard%20-%20Studying%20migration%20as%20a%20security%20issue.pdf>.
- Lavenex, Sandra. 1999. *Safe Third Countries: Extending the EU Asylum and Immigration Policies to Central and Eastern Europe*. Budapest, New York: Central European University Press.
- Lavenex, Sandra. 2001a. *The Europeanisation of Refugee Policies: Between Human Rights and Internal Security*. Alderlot, Burlington USA, Singapore, Sydney: Ashgate.
- Lavenex, Sandra. 2001b. Migration and the EU's New Eastern Border: Between Realism and Liberalism. *Journal of European Public Policy* 8 (1): 24-42.
- Lavenex, Sandra. 2002. The Emergent EU migration Regime and Its External Impact. In *Migration and the Externalities of European Integration*, edited by Sandra Lavenex and Emek Uçarer. Lanham, Boulder, New York, Oxford: Lexington Books.
- Lin, Zhibin. 2004. The Rise of Extreme Right Parties in Western Europe: A Marketing Perspective. Paper presented for the 2004 PSA Conference, Political Marketing Groups Panel, University of Lincoln [cited September 2005]. Available at <http://www.psa.ac.uk/2004/pps/Lin.pdf>.

- Lubbers, Marcell, Mérove Gijsberts, and Peer Scheepers. 2002. Extreme right-wing voting in Western Europe. *European Journal of Political Research* 41(3): 345-378.
- Lubbers, Ruud. Statement by Mr. Ruud Lubbers, United Nations High Commissioner for Refugees, to the European Conference on Migration in Brussels, October 16, 2001 [cited October 2004]. Available from <http://www.unhcr.ch/cgi-bin/texis/vtx/admin/opedoc.htm?tbl=ADMIN&page=home&id=3bdd46c17>.
- Messina, Anthony M. 2002. The Logics of Politics of a European Immigration Regime, in Anthony M. Messina (ed.) *West European Immigration and Immigrant Policy in the New Century*. Westpoint, Connecticut, London: Praeger.
- Morrison, John, and Beth Crosland. 2001. The Trafficking and Smuggling of Refugees: The End Game in European Asylum Policy? *New Issues in Refugee Research*, Working Paper No. 39 [cited October 2004]. Available from <http://www.arnehansen.net/Morrisonrapport.pdf>.
- Niessen, Jan. 1999. International Migration on the EU Foreign Policy Agenda. *European Journal of Migration and Law* 1 (4): 483-496.
- Peshkopia, Ridvan. 2005a. Asylum in the Balkans: The EU and UHNCR Assistance to the Balkan Countries to Establish Asylum Systems, *The Journal of Southeastern European and Black Sea Studies*, 5 (2): pp. 213-241
- Peshkopia, Ridvan. 2005b. Albania – Europe’s Reluctant Gatekeeper, *Forced Migration Review* 23, pp. 36-36
- Peshkopia, Ridvan. 2005c. Developing Trends of the Populist Right Wing in Western Europe. Unpublished paper. University of Kentucky.
- Peshkopia, Ridvan. 2005d. The Balkan Route: Smuggling of refugees, asylum seekers, and illegal migrants from Central Asia and the Middle East to Europe through the Balkans. Unpublished paper. University of Kentucky.
- Phuong, Catherine. 2003. Controlling Asylum Migration to the Enlarged EU. UN/WIDER, Discussion Paper No. 2003/59 [cited August 2004]. Available from <http://www.ciaonet.org/wps/phc01/phc01.pdf/>
- Samers, Michael. 2004. An Emerging Geopolitics of ‘Illegal’ Immigration in the European Union. *European Journal of Migration and Law* 6(1): 27-45.
- Schuster, Liza. 2003. *The Use and Abuse of Political Asylum in Britain and Germany*. London: Frank Cass.
- Swank, Duane, and Hans-Georg Betz. 2003. Globalization, the Welfare State and Right Wing Populism in Western Europe. *Socio-Economic Review* 1: 215-245.

- Vachudová, Milada A. 2000. Eastern Europe as a Gatekeeper: The Immigration and Asylum Policies of the Enlarging European Union, in Peter Andreas and Timothy Snyder (eds.) *The Wall Around the West: State Borders and Immigration Control in Europe and North America*. Lanham: Rowman and Littlefield.
- van Selm, Joanne. 2002. Immigration and Asylum or Foreign Policy: The EU's Approach to Migrants and Their Countries of Origin, in Sandra Lavenex and Emek M. Uçarer (eds.) *Migration and the Externalities of European Integration*. Lanham, Boulder, New York, Oxford: Lexington Books.
- Weiner, Myron. 1992/93. Security, Stability and International Migration. *International Security* 17(3): 91-126.

Address for correspondence: Ridvan Peshkopia, Department of Political Science, University of Kentucky, 1613 Patterson Office Tower, Lexington, KY 40475-0027, USA. Email: ridvanpeshkopia@yahoo.com