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**Knocking at the Doors of “Fortress Europe”:
Migration and Border Control in Southern Spain and
Eastern Poland**

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Knocking at the doors of “Fortress Europe”

Migration and Border Control in Southern Spain and Eastern Poland

Stefan Alscher

Introduction

The “fight against illegal migration” has become a main topic of EU-summits in the last years: common border patrols, harmonization of deportation proceedings, and more funding for the control of the exterior borders represent several key themes punctuating ongoing debates. The explosiveness of this subject is illustrated by images of overloaded refugee boats, floating on the Mediterranean Sea near the Spanish, Italian or Greek coastlines; these images add fuel to anxieties in parts of the population of the actual and future EU-member states. The events in the Spanish enclaves of Ceuta and Melilla in October 2005, when hundreds of desperate migrants from Sub-Saharan Africa tried to enter EU-territory by climbing over or tearing down the fences, were drawing even more attention to this subject – and showed clearly the deficiencies of the EU migration policy.

At the same time, the European Union just witnessed the biggest enlargement in its history. Ten states, above all from Central and East-central Europe, joined the EU on the 1st of May 2004. Although this step partially abolished the longstanding division of the European continent into East and West, it is foreseeable that new parting lines will emerge at the future exterior borders of the EU. The new neighbors of the enlarged EU – like Russia, Belarus and the Ukraine – have no perspective of joining the club.

Though debates about a broader concept of Europe (“wider Europe”) beyond the new borderlines are discussed in several circles inside and outside the Union, these discussions will not have any notable effects for the living conditions of the citizens of bordering states. Rather, citizens of the Mediterranean border states or the neighboring states beyond the future eastern border will not be able to enjoy a visa-free entrance to the EU in the mid- to long-term perspective.

Furthermore, negotiations between the EU, single member states and the actual and future neighbors are designing the construction of a “security belt” against undocumented migration. Readmission-agreements, safe third-country regulations, and lists of secure countries of origin are some of the instruments used by the administrations of the EU and its member states to move the problem of undocumented immigration away from the center of the Union. As well, southern neighbors like Morocco, Algeria and Libya as well as eastern neighbors such as Ukraine are being integrated into the safeguard system against undocumented migration – and therefore are being asked to strengthen their border controls and to readmit those migrants who entered the EU via their territories.

But it is not so much the neighboring states that are intensifying their border controls. Above all those EU-member states, which have to supervise parts of the common EU-exterior border, have been and still are intensifying border controls as a defense

measure against undocumented immigration. Since summer 2002, the “Integral System of Exterior Surveillance” (SIVE)¹ has been put into operation at the Strait of Gibraltar. With the help of modern high-tech measures, migrants’ boats are already recognized shortly after leaving the Moroccan coastline and beginning their journey towards the north. The SIVE is to be expanded to additional coastlines including the Canary Islands.

Similar developments can be observed at the Polish eastern border. Poland’s borders with its neighbors Ukraine, Belarus, and the Russian exclave Kaliningrad have been strengthened with support from foreign border-guard agencies – especially the German *Bundesgrenzschutz*² – and financed by EU-funds from the PHARE-program. Border Guard stations, which are responsible for the monitoring of the so-called “green border”, have been erected at an interval of 12 to maximum 15 miles along the whole eastern borderline.

Remark: Why comparing Spain and Poland?

In the first view, it may be strange to compare the cases of Spain and Poland – and in fact, I received quite a lot of such statements from colleagues in Berlin. Some of the suggestions were directed to compare the Spanish southern border with the German eastern border, because the Polish eastern is yet not an exterior border of the Schengen system. Others told me to compare Spain with the United States – because the phenomenon of a shifting of migration routes has been widely studied in the case of the US-Mexican border. I will shortly explain why I chose these two countries for a comparative study.

First of all, both border regions are important parts of the common EU-exterior border. In the case of Spain, the southern border is – beside Italy – one of the major entry points for undocumented south-north migration from the African continent to the European Union. The Polish eastern border has become the longest border section between the EU and its eastern neighbor states – and will become part of the Schengen system in the next years. Second, both border regions are characterized by special relationships to the neighboring regions, shaped during several centuries. Andalusia is well known for its Muslim cultural heritage – and Poland just became an ethnically relative homogeneous state after the territorial shift to the West in the aftermath of World War II. Although huge resettlement programs had been implemented after the war, Ukrainian and Byelorussian minorities are still present in the border region and beyond. Both countries, Spain and Poland, experienced dramatic changes in their border- and visa-regimes during the 1990s. Both countries are relatively “young” democracies: the Franco-dictatorship ended in 1975 (although the transition to democracy took a few more years) and after the turbulent 1980s Poland joined the democratic countries in the systemic change of 1989/90.

Of even more importance may be the fact that both countries have nearly the same population size of around 38-40 Million inhabitants. This translates, at least theoretically, into the same weight in the European institutions like the European Parliament and the Council. During the discussion on the EU-constitution both countries formed an alliance in order to strengthen their positions in the institutional framework of the EU.

¹ SIVE = Sistema Integral de Vigilancia Exterior

² Federal Border Guards, since 07/2005 „Bundespolizei“ (Federal Police)

Looking at the history of migration and the actual trends, both countries experienced the development from emigration via transit-migration to immigration – or are still in the process of this transformation, as it is in the case of Poland. And last but not least, the legal and undocumented immigrant workforce is of growing importance in both countries: Moroccan farmworkers in the plastic-covered fields of Almería or Ukrainian workers on agricultural farms in eastern Poland are just two examples of this process.

Field of Research & Subject of this Paper

This paper is part of my dissertation project, titled “Undocumented Migration at the Edges of the ‘New Europe’: A comparison of border regions in Southern Spain and Eastern Poland”. The main research interest of my dissertation is the feasibility of political measures in migration and border control vis-à-vis the complexity of different interests on the (EU-) supranational, national, regional and local level. The assumption is that undocumented migration processes neither can be stopped nor reduced through those measures. It is more probable that migration routes will continue shifting geographically and – as a consequence – that the costs and risks for potential migrants will increase. Similar processes have already been observed in other border regions, as for example at the US-Mexican border.

An essential part of my work – and also this paper - is dedicated to the analysis of interactions between flows of undocumented migration at the two analyzed regions on the one hand - and the political measures taken to control and reduce these flows on the other hand. The analyzed time period is from 1991 to 2004 in the case of Spain and from 1996 to 2003/2004 in the case of Poland. In the case of Spain, I chose 1991 as starting-date for my analysis, because in that year a visa-requirement had been introduced for Moroccan citizens. In the case of Poland, it has not been possible to acquire statistical data for the first half of the 1990's.

Methodology and Theory

The main data sources for my research project are statistical data, interviews, other primary sources and relevant secondary literature. Through this approach, qualitative and quantitative research has been linked. Most of data, literature and other sources were collected during my field research in Spain/Morocco (2002, 4 months) and Poland/Ukraine/Belarus (2003, 3 months).

The statistical data are mostly from national police and border control agencies, but also from other governmental dependencies and from non-governmental organizations. In the case of Spain, I was able to obtain the statistical yearbooks of the “Policía Nacional” from 1991 till 2002, which facilitates a huge stock of data to work with (detentions, expulsions, devolutions etc.). Until now, there are no studies including these data in such a long timeline. I am also in continuous contact with functionaries from the Statistical Department of “Policía Nacional” and from the Polish border guards (“Straż Graniczna”). Data from the Spanish and Polish national statistical institutes and from international organizations provided me a detailed insight into the socioeconomic context of the analyzed sending and receiving countries.

Another important column of my research project was the empirical work of realizing a total of 121 interviews and talks with functionaries from different governmental institutions, police and border guard officers, NGO activists, representatives of labor unions and welfare organizations, academics and undocumented migrants.

The third and last column of my sources was the consultation and analysis of theoretical and empirical literature and of primary sources like laws, parliamentary debates and position papers. During my field research in Spain and Poland I was able to gather a huge amount of relevant literature and research-related primary sources.

The central question of my research project is applied on three levels: nation states (Macro-Level), selected border regions (Meso-Level), migrants and other local actors (Micro-Level). The European Union as a Meta-Level is “omnipresent” and located above/beyond those three levels.

It is hardly possible to explain the highly complex patterns and trends of international migration through the perspective of only one theoretical approach or only one academic discipline. A broader vision of the subject, reflecting several facets of the research objective, shall be achieved by incorporating elements of several theoretical approaches. I decided to use the approaches of International Migration Systems, especially looking at the “regulatory linkages” (Fawcett 1989; Kritz/Zlotnik 1992), the “politics of migration” approach (Hollifield 2000), the “Gap Hypothesis” (Cornelius et al 1994 & 2004), and finally the model of multilevel analysis (Grande/Jachtenfuchs 2000). In accordance with the objective of social sciences I include factors of domestic and exterior policies, legal aspects, and (socio-) economic contexts as well as sociological and demographic factors.

The comparison between the two research regions is not totally equal. As my knowledge of Spanish language is fluent and my knowledge of Polish only basic, it was not possible for me to analyze the Polish case such in depth as the Spanish one. For this reason I decided to focus on Spain, but maintaining Poland as a comparative excursus.

The European Framework

Before getting into the more detailed analysis of the exterior borders in southern Spain and eastern Poland, it is helpful and necessary to get an overview on the developments in migration and border control at the EU-level. Event though many fields of migration policies still remain at the national level of the EU-member states, an increasing portion has become part of the frameworks of intergovernmental cooperation or even supranational decisions.

The best-known treaty in this field is surely the twin-pack of the Schengen Treaties from 1985 and 1990 (into force since March 26th, 1995). The main objective of these treaties was the creation of adjustment measures related to the abolishment of border controls between the undersigning countries. A main issue was the strengthening of controls at the common exterior borders as a precondition for the elimination of controls between the “Schengen-States”. Over the years, more and more countries joined Schengen, whereas not all of the Schengen countries are also member of the EU. The Schengen Treaties functioned as a parallel structure to the EU until 1999, when they became included into the *acquis communautaire*.

Another parallel structure is the International Centre for Migration Policy Development (ICMPD) and the so-called Budapest process. Initiated in 1991 by the German government, the Budapest Process is a consultative forum of more than 40 governments (also non-European) and international organizations with the objective of “preventing” undocumented migration and regulating migration in the wider European region. The ICMPD acts as the Secretariat of the process since 1994.

An important step towards the harmonization of measures in the field of migration policy has been the Dublin Convention of 1995 (into force since 1997). The convention regulates the competence of the member states regarding to the processing of asylum applications. A major rule of the Dublin Convention is the principle of “One-Chance-Only” in order to prevent multiple applications in several countries. In general, the country of first entrance is responsible for the whole asylum procedure.

The Amsterdam Treaty (signed 1997, into force 1999) transferred finally the asylum and immigration policies from the “third pillar” of intergovernmental cooperation to the “first pillar” of EU-policies. Therefore, the Treaty shows the willingness of the member states to lift migration policies onto a supranational level. The Treaty of Amsterdam also included Schengen into the framework of the EU, even though some states³ opted for exemption regulations.

In the last years, several summits of the EU-council shaped the development of a common migration policy. Just to mention the most important ones, the Tampere Summit (Oct. 1999) led to an agreement on the creation of a Common European Asylum System. This was reaffirmed at Laeken Summit (Dec. 2001), which furthermore specified policy instruments like EU-readmission agreements with third countries and launched an initiative for common border control actions. The summit of Sevilla (Feb. 2002) focused on the combat against undocumented migration. A “Global Action Plan” was presented by the Spanish presidency, but the proposal of sanctions against countries that refuse closer cooperation in the reduction of undocumented migration has been rejected. The majority opted for a model of special readmission provisions in future cooperation agreements with third countries. Finally the summit of Thessaloniki (June 2003) was overshadowed by the discussion on refugee camps outside EU, even though this British initiative had been rejected by the majority. Other important decisions were related to extra funding for border enforcement in the light of the EU-enlargement and to the creation of a common Visa-database.

Summarizing these developments, two tendencies are clearly to identify: first, migration policy – a traditional field of domestic policy – is getting more and more a central topic of the EU-harmonization process and second, the foci of the common policy instruments lie on the prevention of undocumented migration, the strengthening of border controls and the reduction of asylum applications in the EU. In a few words: restrictive measures are the predominant policy instruments.

Spain on its way from an emigration to an immigration country

For several centuries Spain has not been a destination for immigrants but a source of emigrants to other countries. During the colonial period from the 16th to the beginning of

³ UK, Ireland and Denmark

the 19th century around 750.000 Spaniards emigrated to Latin America (Sánchez Albornoz 1989). However, the biggest emigration wave took place after the independence of the Spanish colonies in the “New World”: between 1882 and 1930, Spain witnessed the emigration of 5.4 million of its citizens, the overwhelming majority of those were crossing the Atlantic towards Latin America (Sánchez Albornoz 1990). An interesting anecdote for the current political debate would be the fact that about a quarter of a million Spanish immigrants settled in the occupied areas of Northern Africa⁴, whereas most of them had their origins in Andalusia and the Levante. As such, this emigration flow was exactly in the opposite direction of current flows from the Maghreb to Southern Spain. In the second half of the 20th century Spanish emigration was characterized by further flows to the Americas and increasingly by labor migration to Central and Western Europe, above all to France, Germany and Switzerland.

Until the decade of the 1980s immigration to Spain was rather an exception. Even though the proportion of foreigners in the total population was extremely low (1955: 0.2%, 1975: 0.4%), a relatively high growth rate of the immigrant resident population occurred: in the decade between 1960 and 1970 the yearly growth rate was at an average of 10%. The majority of foreigners in Spain came from Central and Western Europe, with a high share of Portuguese labor migrants. Another important group consisted of Latin Americans (1975: 23% of the immigrant population). But emigration from Spain outweighed immigration to Spain by far. Even today Spain counts about two million citizens in other countries, compared to between two and three million immigrants in Spain.

The transition from an emigration to an immigration country accelerated since the second half of the 1980s and even more since the 1990s. As in the previous decades, the majority of foreigners in Spain were citizens of wealthy states in Western and Central Europe, who settled down in the attractive coastal areas. But the economic growth after the Spanish accession to the European Community (1986) also created the conditions for an increasing immigration from so-called “Third World”-countries. The demand for cheap labor force grew in several sectors of the Spanish economy, e.g. in construction, agriculture, hotel business and also in private households. Often Spanish workers were not willing to accept jobs in these sectors, so that immigrants from Africa, Latin America and Asia filled this demand for workforce.

Registered foreign resident population

Statistical data on the number of foreigners in Spain are in most cases related to foreign residents who are in possession of a *tarjeta de residencia*, i.e. a temporary or permanent residence permit. In my following argumentation, I will refer at first only to this group and denominate them as (registered) foreign resident population (FRP). It is important to mention that the term “registered” does not refer to the registration at communal registry offices,⁵ but only to the possession of a residence permit which is the basis for inclusion

⁴ Spanish protectorate in Northern Morocco and protectorate Rio de Oro (today: Western Sahara), French colonies in Algeria, exclaves of Ceuta / Melilla and the international administered city of Tanger

⁵ Data from the communal registry offices (*padrón municipal*) often diverge strongly from statistics of the FPR. This can partially be explained by the circumstance that undocumented migrants may register themselves in communal offices in order to get access to certain services, especially in the health and education sectors.

in the statistics of the ministry for domestic affairs. Other groups of foreigners living in Spain are e.g. refugees and asylum seekers, students, contingent workers or long-term tourists.

A glance at the development of the FRP from the early 1990s until today reveals several tendencies. Since the mid-90s Moroccan citizens and recently also Colombians and Ecuadorians are the strongest groups among the FRP, whereas from 1991-94 citizens of central- and western European countries – above all Germans, British and Dutch – constituted the lion's share. The absolute number of central and western European foreign residents grew only slightly in the course of the 90s until today, but the number of registered Moroccans witnessed a high annual growth since the beginning of the 90s, with peaks right after the legalization programs of 1991 and 1996 (197% and 44%). The yearly average growth rate of the Moroccan FRP since 1991/92 has been a striking 17.5%. At current rates of growth, more than 500.000 Moroccans would live in Spain in 2006 and more than one million in 2010.

This growth is related to several factors and circumstances. On the one hand, pull- and push-factors like the growth of the Spanish economy and the ongoing bad economic conditions in Morocco played an important role. But also historical circumstances had an influence on the migration flows: the majority of today's Moroccan immigrants originate from those regions that have been part of the Spanish protectorate in Northern Morocco until 1956 (López García 1996: 72). And last but not least, political measures intensified the increasing migration from the southern neighbor. Moroccan immigrants represented the biggest group in every legalization program and therefore widened the pool of the FRP of Moroccan origin. The tightening of entry requirements for Moroccan citizens (1989 and 1991) likewise contributed to the increase of the Moroccan resident population, even though this may sound paradoxical in the first sight. Last but not least, the relatively liberal practice of family reunification in Spain led to the immigration of relatives of Moroccans in Spain.

A relatively new phenomenon is the growing FRP of Latin American origin, above all from Ecuador and Colombia. While in 1999 just about 13.000 Ecuadorians were registered in Spain, this number grew to more than 221.500 at the end of 2004. In the case of the Colombians the FRP grew from around 13.600 in 1999 to 137.400 end of 2004. The Ecuadorian migration is mainly due to the Spanish-Ecuadorian contingency worker agreement (2001); in the Colombian case the ongoing political instability in that country has been one of the main reasons for the emigration. As with most Latin American citizens, Ecuadorians and Colombians did not need a visa to enter Spain until recently. But the high growth of these immigration flows finally led to the implementation of a visa requirement for citizens of those two countries.⁶

A closer look at the distribution of nationalities at the regional levels (*provincias*) reveals significant differences between the regions. 40% of the FRP in the andalusian province of Almería had Moroccan citizenship end of 2004. Another 7.5% of foreigners in this region – characterized by extensive agricultural industry – came from other African countries, whereas in the province of Málaga only a total of 13.6% of the FRP is of African origin. In Málaga nearly two thirds (64%) of the FRP are citizens of the European Economic Space (EES), which can be explained by the attractiveness of the Costa del Sol as a major destination for European snowbirds. The relatively high proportion of

⁶ Schengen-Visa required for Colombia since 2001, for Ecuador since June 2003

Moroccans, other Africans and also Eastern Europeans in the province of Almería is a clear reflection of the economic structure of that region. The Spanish exclaves of Ceuta and Melilla show a striking predominance of Moroccan citizens (83.1% and 84.4%), which is mainly due to the geographical location of these two cities. It is important to mention that a high share of those Moroccans who have been living in Ceuta and Melilla for several generations have been denied to get the Spanish citizenship.

Furthermore, it is interesting to have a look at the variations between different data sources. The *Padrón Municipal* counted in early 2004 more than 3 Mio. Foreigners in Spain, but according to the registry of the Interior Ministry just 1.6 Million foreigners possessed a residency permit end of 2003. The huge gap between both statistics is especially obvious in the case of Ecuadorians (475.698 vs. 174.289), Colombians (248.894 vs. 107.459) and more recently, but especially striking, also Romanians (207.960 vs. 54.688). The difference can be explained partly by the fact, that many undocumented migrants inscribe themselves in the municipal registers (*Padrón*) in order to get access to local services in health and education. This argument is supported by the fact, that the highest differences can be observed among non-EU citizens. But it has to be kept in mind that multiple counting may occur as a result of registrations in several municipalities, even though a nationwide database for the *Padrón* has been developed.

Stages of Spanish migration policy

Excluding the long lasting, dominant policy for emigrants and returnees, Spanish immigration policy can be divided into four stages until 2004.⁷ The first stage began in the late 1960s when the Franco-regime introduced special regulations for citizens of the so-called “Hispanic community” (*comunidad hispana*).⁸ Several decrees were created in order to regulate the sojourn of workers from these countries. Immigration in this period was exclusively related as a matter of public security. According to estimates, around 70% of foreigners in Spain had no kind of legal status (Foro 1997: 30).

The second stage started in 1985 with the creation of first legal norms. Even though the PSOE⁹-government introduced a first immigration law (L.O. 7/85) and also opened a limited regularization process, the perspective of public security was still dominant and illegal status continued to be the central problem for nearly the half of the migrant population in Spain. In this context a broad alliance of labor unions, churches, NGO's and migrant associations started in 1990 a campaign for another regularization program and pressured the government to formulate a positive immigration policy.

This public campaign marks the beginning of the third stage (1990-2000), which can be characterized by attempts at a more active migration policy and by several legalization programs. On the basis of a report on the situation of foreigners in Spain, all

⁷ The migration policy of the new PSOE-government of José Luis Rodríguez Zapatero (term of office since April 2004) is not included in this paper.

⁸ From the perspective of the Spanish administration, the *comunidad hispana* included Latin America, the Philippines, the Iberian neighbor states Portugal and Andorra – and since 1980 also Equatorial Guinea

⁹ PSOE = *Partido Socialista del Obrero Español* (Spanish Workers' Socialist Party)

parliamentary groups – with the exception of the leftist *Izquierda Unida*¹⁰ – passed an initiative demanding an “active immigration policy”. At the same time the parliament also passed another legalization program which regulated the status of nearly 110.000 undocumented migrants.¹¹ Only four days after passing the regularization bill, the PSOE-government cancelled the bilateral agreement with Morocco on visa free travel. With this measure, the groundwork for the future increase of undocumented migration from the southern neighbor had been set.

In the following years, the Spanish government created several immigration-related institutions and introduced a new instrument to regulate migration flows via the annual fixing of migrant worker quotas. It is important to mention that the spaces under this quota-program are not only given to applicants outside of Spain. Also undocumented migrants already residing in Spain can apply for the quota-program and thereby legalize – at least temporarily – their status.

After a relatively small regularization campaign in 1996 with only 23.000 granted legalizations, in 1999 another regularization program had been introduced in the parliament as part of an extensive reform of the immigration laws (L.E. 4/2000). Even though members of all parliamentary groups had participated in the elaboration of the bill, the conservative *Partido Popular (PP)*¹² withdrew its support to this project after a few months. The background of this decision was an increasing media coverage on *pateras* arriving at the Spanish shores. Nevertheless, all parties except the PP voted for the reform, which came into force on February 1st of 2000. In comparison to the immigration laws in other EU-member states, the L.E. 4/2000 was relatively liberal. Among other measures, the reform included the right for medical treatment, education, association and strikes – independent from the legal status of the migrants.

But the life of the L.E. 4/2000 was short. In March 2000 the conservative PP gained the elections in a landslide victory and obtained an absolute majority in the parliament. The abolishment of the immigration reform had been a central issue in the PP electoral campaign. Prime minister José María Aznar underlined in his inaugural address to the parliament that the Spanish migration policy should be adjusted to the standards of other EU-member states. Just a few months later, the L.E. 4/2000 was subject to another reform and changed its character into the restrictive immigration law L.E. 8/2000. Nevertheless, the provisions of the former law related to the legalization campaign remained valid. 246.000 migrants applied for a legal status and around 60% of the applications were granted in 2000 (137,454), another 80.000 persons were granted legal status in 2001. The years of the absolute majority of the PP (2000-2004) can be marked as the fourth stage of Spanish migration policy. The migration policy under the new PSOE-government (since 2004) is not considered in my paper.

¹⁰ 11 congressmen of the parliamentary *Izquierda Unida – Iniciativa per Catalunya (IU-IC)* abstained from the initiative. Their critique was related to several points: the missing of bilateral agreements for the regulation of migration flows, deficiencies in the proposed legalization program, deficiencies regarding the integration of immigrants and several other details. See: Parliamentary intervention by Nicolás Sartorius Álvarez de las Asturias Bohorques (MP/IU-IC), in: Cortes Generales 1991: pp. 4887-4890

¹¹ 44.6% of the regularized foreigners were Moroccan citizens

¹² Governing Spain in a coalition with regional parties from 1996-2000, absolute majority 2000-2004

Restrictive measures and their impacts on migration processes

The “fight against illegal immigration” became the central issue of immigration policy during the period of the conservative absolute majority. But restrictive measures were not only characteristic for the PP-government: the first measures to contain undocumented migration were introduced under the PSOE-government led by Felipe González: Since May 15th 1991 Moroccan citizens need a visa to enter Spain.¹³ This measure coincided with the Spanish accession to the Schengen Treaty on June 25th 1991.

When the introduction of the visa requirement became known in the Maghreb, the number of attempted entries to Spain increased dramatically. Not only several newspaper articles¹⁴ document this, but also the data of the Spanish national police showed a clear increase of denied entries at the most popular points of entry.¹⁵ Out of the nationwide 53,722 denied entries in 1991, 37,137 (69%) took place in the Andalusian port of Algeciras, which is the main connection point between Africa and Spain. 80% of the rejections were registered in the months of January to May – and 43% of the annual total just in the months of April and May, i.e. directly before or shortly after the introduction of visa requirements. Three quarters of the rejected persons in 1991 were Moroccan citizens.¹⁶ The main reasons for a denied entry before the introduction of visa were above all a missing return ticket or a missing proof of financial resources (5,000 Pesetas or 48\$ per day). From 1993 to 2001, the number of denied entries has decreased from around 1.500 to 250 persons per year (1992: 2,396 denied entries), but soared again to 1,500 in the years 2002 to 2004.

Just one year after the introduction of visa, the Spanish and Moroccan governments negotiated a readmission agreement for migrants who entered Spain illegally. The context of this agreement has been a tense situation in the Spanish exclave Melilla in the early 1990s, when Moroccan authorities denied accepting Maghrebian and other African migrants deported from Melilla. In many occasions the Moroccan authorities continued the refusal of readmissions, even despite the agreement from 1992.

The construction of border fences around the two exclaves Ceuta and Melilla also started during the period of PSOE-governments. In the case of Ceuta, the construction of a fence with a length of 8.3 km (5.2 miles) was started in 1993. As it has been relatively easy to cross this first fence, the construction of a more secure system started

¹³ The visa free entry to Spain also had been abolished for citizens of Algeria and Tunisia. Already two years before, Moroccans had to present sufficient financial means on their entry.

¹⁴ “La policía rechaza en Algeciras a 2.000 magrebíes durante un fin de semana”, El País 04/30/1991; “Avalancha magrebi”, El País 05/02/1991; “Oficiales de las compañías navieras inician en Tanger el filtro de magrebíes sin visado”, El País 05/16/1991

¹⁵ According to the Spanish immigration law, a denied entry (*rechazo* or *retorno*) is defined as deterring an illegal entry to the Spanish territory (L.O. 4/2000 Art. 60 and implementation bill R.D. 864/2001 Art. 23-30).

¹⁶ Data and own calculations on the base of Dirección General de la Policía 1991: p. 164 ff.

in autumn 1995.¹⁷ Today a high security border fencing system surrounds Ceuta, which consists of two rows of fences, each with a height of more than 3 meters (nearly 10 feet).¹⁸ The system is equipped with motion detectors, video- and infrared-cameras and 17 control towers. The cost of this project, finished until the year 2000, came to a total of 48 Mio. Euro – whereas the EU financed about 75% of the costs.

A glance on the data of rejections in Ceuta shows the relative efficiency of this border system. While in each of the years 1992 and 1993 just around 260 persons were rejected at the Spanish-Moroccan border in Ceuta, this number grew up to 42,071 persons in 1994 and reached a preliminary peak in 1995 with 66,841 rejections. Since the construction of the high security border system the number of rejections oscillated between 40,000 and 60,000 persons per year.¹⁹ A similar development can be observed in the number of *devoluciones*, which is a form of immediate removal for entering Spain illegally,²⁰ The procedure of *devoluciones*, mainly used in the case of Moroccan migrants, applies to those apprehended near the border or at major transit routes in the interior.²¹ In the daily practice of border guards, the *devolución* is also applied to illegal entries via the sea. From 1991 to 1993 *devoluciones* were rarely existent in Ceuta.²² In 1994, i.e. during the first stage of construction of the simple border fence, the number of *devoluciones* increased to 1,804 cases. In the following years, a strong increase has been observable (1995: 2,116; 1996: 7,020; 1997: 10,163). In the years from 1998 to 2001 the annual number of *devoluciones* was relatively constant at around 8,150 to 8,350 persons, followed by a decreasing tendency from 2002 (5,754) to 2004 (2,584).²³

These observations are a clear indicator for a higher density of border controls as a result of the construction of border fencing systems. In the first years (construction of fences) an especially high increase of denied entries and *devoluciones* had been observed, followed later on by a decrease of those numbers. This may be ascribed to a shifting of migration routes – a phenomenon which I will analyze in a more detailed manner in the following chapter.

In Melilla, the other exclave on African soil, the construction of a first border fence dates back to 1996. This fence was equipped with some rudimental electronic security devices, which however failed constantly in periods of bad climatic conditions.²⁴ A more sophisticated border system, similar to the one used in Ceuta, has been erected in 1998. The more favorable geographic conditions of the area around Melilla led to a faster

¹⁷ “El alcalde pide ayuda al Ejército”, El País 10/13/1995; “Belloch anuncia la ‘impermeabilización’ de la frontera con Marruecos por Ceuta”, El País 10/19/1995; “El Ejército empieza a ‘impermeabilizar’ la frontera de Ceuta con alambradas”, El País 10/20/1995

¹⁸ Until end of 2005 the height of both fences (in Ceuta and Melilla) will be elevated up to 6 meters (around 20 feet) and another fencing system will be constructed additionally. The elevation have been completed mostly before the events in October 2005; the initiative for an additional fencing system was launched after the “escalade” of the border.

¹⁹ exception 2000: 31,323 rejections at the Ceuta-Morocco border

²⁰ L.E. 4/2000 Art. 58.2-b

²¹ implementation bill R.D. 864/2001 Art. 138.1-b

²² a maximum of 30 *devoluciones* per year

²³ multiple countings possible

²⁴ Interview with José Corranuda, Commander of the *Guardia Civil* Melilla, 04/02/2002

construction and lower costs.²⁵ As in the case of Ceuta, denied entries and *devoluciones* barely played a role until 1993. The number of denied entries and *devoluciones* in Melilla increased dramatically in 1994, i.e. even before the construction of the first fence. The cases of denied entries on the borderline between Melilla and Morocco decreased in the following years from 218,450 in 1994 to around 78,000 persons in 1996, but increased again in the years 1997 to 2002. In 2002 the number of denied entries reached nearly 1 Mio. cases. The high amount of denied entries can be interpreted in several ways: as an evidence for the efficiency of the border fencing system, as a shifting of migration routes (from Ceuta to Melilla), but also as a sign of a higher control density.²⁶

The fortifications of the border in Ceuta and Melilla were just the first steps towards a stricter control of the whole Spanish southern border. In January 1998 Juan Cotino (PP), chief executive officer of the Spanish national police from 1996 to 2002, announced the implementation of an enforcement project called “*Plan Sur*”. The aim of this project was a strengthening of border controls, a more intensive surveillance of air- and seaports, a tightening of deportation procedures and a closer cooperation with Moroccan and Algerian authorities.²⁷ A special unit of motorized police officers was created to search for undocumented migrants in the hinterland of the coastal areas. Just half a year later, the *Guardia Civil* (GC) – a major actor in border enforcement – announced the project “*Frontera Sur*”, improving the technical equipment of GC with new vehicles and helicopters from the Spanish army.

Finally, the former interior minister Jaime Mayor Oreja (PP) announced a central part of the Spanish border enforcement strategy in May 1999: the “Integrated System of Exterior Surveillance” (SIVE).²⁸ This system is based primarily on stationary and mobile sensor stations, which are equipped with video- and infrared-cameras. The main objective of SIVE is the complete surveillance of the Spanish southern border in the autonomous communities of Andalusia, Canary Islands and the exclaves Ceuta and Melilla. The first phase of implementation has been concluded at the Strait of Gibraltar in August 2002, where the distance between Morocco and Spain is just 8.7 miles at the narrowest point.

As soon as a ship – or even a small *patera* – leaves the Moroccan coast and reaches the 9-mile-radius of the SIVE radar stations, it appears on the surveillance monitors of the commando unit in Algeciras. If the boat is suspected to transport undocumented migrants, high-tech cameras focus on it and even show how many persons are on board. In October 2003 the SIVE has been expanded to the coasts of Cádiz and Málaga. The remaining coastal areas of Andalusia, the Canary Islands and the exclaves Ceuta and Melilla are to be included in the SIVE until 2006. The cumulative investments for the SIVE have been 142.43 Mio Euros until 2003 – plus another 7.9 Mio Euros for the SIVE on the Canary Islands.

²⁵ The fence with a length of 10 km (6.2 miles) consists of two rows of fences with a height of 3 to 4 meters (10-13 feet), equipped with movement detectors, optical and acoustic sensors, control towers and more than 70 surveillance cameras. Total cost: around 12 Mio Euro

²⁶ a higher control density often leads to higher numbers of apprehensions

²⁷ Alscher 1998; Leuthardt 1999: App. p. 30; “*La policía destina cien agentes al Plan Sur contra las redes de ilegales*”, El País 01/16/1998

²⁸ Sistema Integral de Vigilancia Exterior

Since the announcement of the project, the SIVE has been criticized strongly by the former opposition parties, the Catholic Church, labor unions, NGO's and also by some municipalities in border communities.²⁹ The critique was directed on the high costs of the enforcement, arguing that these investments should be used for the integration of migrants residing in Spain and/or for projects in their countries of origin. Some voices, among them the mayor of Algeciras, expressed their doubts if the SIVE really would be able to reach the proclaimed aim of reducing undocumented migration – or if rather a shifting of migration routes could be expected.³⁰

The *re-reform* of the L.E. 4/2000 and its substitution by the L.E. 8/2000 can be seen as a logical continuation of the restrictive measures against undocumented migration. This political alignment also has been reflected during the Spanish EU-presidency in the first term of 2002, in which the field of undocumented migration was one of the central issues. During an informal meeting of the ministers of home and justice affairs, on February 11th 2002 in Santiago de Compostela, the Spanish government presented a catalogue of measures for the “fight against illegal migration”, which finally had been adopted by the Council for Home & Justice Affairs two weeks later.³¹ This catalogue included a EU-wide databank on visa, an expansion of information exchange between enforcement offices of the EU-member states, the negotiation of new readmission agreements with countries of origin of undocumented migrants, the creation of a EU-border police and other measures. Furthermore, the Spanish presidency proposed sanctions against those countries that are not willing to cooperate in the field of readmission. This point finally has been mitigated at the European Council meeting in Sevilla (June 21st/22nd 2002).³²

Regarding to labor migration, the Spanish government under Aznar tried to substitute migrants from the Maghreb with “culturally closer” migrants from Latin America and Eastern Central Europe. As a result of this policy, tensions arose in the western andalusian province of Huelva in early 2002, when Moroccan labor migrants noted upon their arrival that migrant workers from Poland and Romania already had saturated employment in the strawberry harvest. The request for workers from Central- and Southeastern Europe initially came from regional entrepreneurs, but was supported by the national government through a realignment of the annual quotas. An additional problem for many of the Moroccan migrants in Huelva has been the fact that working permits were limited to regions and sectors.³³ The growing allocation of spots in the quota system to immigrants from Latin America, above all from Ecuador, underlined the tendency of displacing labor migration from the neighboring Maghreb-countries.

Finally, the Aznar-administration linked immigration to crime. According to a report published by the Spanish ministry for domestic affairs in March 2002, the “increase of the number of illegal immigrants” has been the main reason for the increasing crime

²⁹ *“Iglesia, oposición y colectivos sociales tachan de locura el plan de blindar el Estrecho contra las pateras”*, El País 05/25/1999

³⁰ *“El Alcalde de Algeciras cuestiona el Sistema Integral de Vigilancia”*, El País 08/29/2002

³¹ *Plan Global de Lucha contra la inmigración ilegal*

³² see Alscher 2002

³³ *“El Defensor del Pueblo andaluz alerta sobre la exclusión de inmigrantes marroquíes en Huelva”*, El País 03/06/2002; *“Chaves exige que se ayude a los magrebíes de Huelva antes de que haya un estallido social”*, El País 03/16/2002; *“El Gobierno duplicó su cupo de temporeros en Huelva y dejó sin trabajo a 1.200 marroquíes”*, El País 03/22/2002

rate.³⁴ Despite heavy critique, e.g. related to inconsistencies like multiple counting in the statistics, the Spanish government insisted on its position and by this nurtured xenophobic tendencies in parts of the Spanish population.

Rubber boats to Southern Spain

The first migrant boats landed on the shores of Tarifa³⁵ in the mid-eighties. Inmates of those boats were mostly Moroccan labor migrants who had problems getting a passport and therefore entered Spain illegally. During the night of November 1st/2nd of 1988 the first deaths were reported, when at least 18 Moroccans lost their lives in an attempt to enter Spain illegally.³⁶ The number of illegal entries increased after the introduction of visa for citizens of the neighboring Maghreb-countries (May 1991) and reached a preliminary peak in 1992.

Broad parts of the local population supported undocumented migrants until the early 1990s. The news about an increasing number of deaths provoked condolences and support by the population of the border communities. *“At that time [...] it became common to support those people who arrived in precarious situations at the nearby beaches, hurrying to the mountains and knocking at the doors of the scattered andalusian houses.”*³⁷ Encarnación Márquez, vice-president of the NGO Algeciras Acoge, underlines: *„The native population had built up networks for the support of those people. They gave those, who passed by over here, food, clothes, shoes.”*³⁸ In the course of time the mood towards the migrants from the south worsened, above all because of growing negative media coverage on the phenomenon of *patera*-migration. The daily images of overcrowded boats with migrants from Morocco and other African countries fueled the fears of an “invasion of the poor”. Furthermore, the governmental authorities introduced fines for supporting undocumented migrants in the second half of the 1990s.

In order to illustrate the development of undocumented migration to Southern Spain, I revert to several statistics of the Spanish ministry of domestic affairs and the national police. The main sources are statistics about apprehensions of foreigners entering Spain illegally and data on denied entries, immediate removals and deportations. It is important to mention that those data are strongly related to the control density, i.e. the more controls are implemented; the more apprehensions, denied entries, immediate removals and deportations appear in the statistics. The following table gives an overview on the legal terms used by Spanish enforcement agencies:

³⁴ “*El Gobierno culpa del aumento de la delincuencia a la inmigración y a la facilidad de denunciar*”, El País 03/05/2002; “*Rajoy revela que nueve de cada diez nuevos reclusos preventivos este año son extranjeros*”, El País 03/07/2002

³⁵ Andalusian municipality (in the province of Cádiz) located at the southernmost point of the Iberian peninsula; only 9 miles of distance to Morocco (separated by the Strait of Gibraltar).

³⁶ “*Los naufragos marroquíes habían pagado unas 30.000 pesetas por cruzar el estrecho*”, El País 11/03/1988; “*Encontrados los cadáveres de otros tres marroquíes cuya lancha naufragó en Tarifa*”, El País 11/04/1988; “*Se eleva a siete el número de naufragos marroquíes ahogados en Tarifa*”, El País 11/05/1988

³⁷ Cited and translated from Leuthardt 1999: p. 33

³⁸ Interview with Encarnación Márquez, Algeciras Acoge, 03/25/2002

Spanish term	Translation	Definition
<i>detención</i>	Apprehension	apprehension of undocumented migrants at the border or in the interior of the country
<i>rechazo / retorno</i>	Denied Entry	detering an illegal entry at the border while trying to enter the territory
<i>devolución</i>	Immediate / Expedited Removal	applies to immediate proximities of the border or at major transit routes in the interior; also sea border. Has to be realized within 72 hours
<i>expulsión</i>	Deportation	applies to those who stay illegally or work without a working permit; and if an immediate removal can not be applied

The first peak of apprehensions at the Strait of Gibraltar took place in 1992, when around 2,000 migrants were apprehended by border enforcement agencies. As the control of the strait was quite low at that time, “you can expect that four times that number, i.e. around 8,000 persons immigrated successfully.”³⁹ After the creation of a marine unit of Guardia Civil (*servicio marítimo*) the number of apprehensions went down in 1993 and 1994, but increased again in 1995. Simultaneously the structure of the origin of migrants changed: while Moroccan and Algerian citizens constituted the overwhelming majority in the first half of the 1990s, an increasing number of citizens from Sub-Saharan countries could be observed since 1995.⁴⁰

During the second half of the 1990s, the number of apprehended *patera*-migrants has been around 7,000 cases per year.⁴¹ After an expansion in personnel and technical equipment of Guardia Civil and national police (programs “*Frontera Sur*” and “*Plan Sur*”) the number of apprehensions doubled to more than 15,000 cases in the year 2000. This extremely high increase can be explained partially by the legalization campaign of 2000, which may have motivated potential migrants to try their luck in Spain. A preliminary peak of apprehensions was registered in 2001 with around 18,500 cases. The following years were characterized by an “up-and-down” of the numbers in the range of 15,700 (2004) to 19,200 (2003). At the first sight it is striking that the strengthening of border controls since the late 1990s led to a higher number of apprehensions. But the proclaimed objective of reducing undocumented migration has not been fulfilled.

A closer look at the apprehension numbers on regional level shows instead a shifting of migration routes. Until 2001 the overwhelming majority of apprehensions took place at the Strait of Gibraltar and other parts of the andalusian coast (2000: 84%; 2001: 78%). The share of apprehensions in Andalusia decreased to 41% in the year of the SIVE implementation (2002) – and at the same time the share of apprehensions on the

³⁹ Interview with Ildefonso Sena, newspaper „Europa Sur“, Algeciras 04/16/2002

⁴⁰ Interview with Ildefonso Sena, Algeciras 16.04.2002 and with Juan Triviño, Red Cross Tarifa, 11/13/2002

⁴¹ These and all other data on apprehensions of *patera*-migrants are part of statistics which I received from the *Comisaría General de Extranjería y Documentación* (Spanish National Police) via E-Mail

Canary Islands rose to 59%. The most recent numbers from 2004 still show a share of 54% in the case of the Canary Islands. Breaking down the numbers even more, i.e. from the level of the autonomous communities to the provinces, the shifting of routes gets even more obvious. Noticeable are above all the decrease of apprehensions in the province of Cádiz – where the Strait of Gibraltar is located – and the simultaneous increase of apprehensions in the eastern Andalusian provinces of Granada and Almería. While in 2000 and 2001 the share of apprehensions in Cádiz province was around 75%, it fell down to 40% in 2002 and to only 8.3% in 2004.

As the Spanish authorities collect both the number of apprehended persons and the number of boats (*pateras*), it is also possible to draw conclusions on the number of migrants per boat. Even though the number of boats is often based on statements by the inmates or cannot be always verified (e.g. in the case of perished boats), a clear tendency is observable: as well in the Canary Islands as at the Andalusian shores the number of migrants transported per boat has risen continuously. While in 1999 an average of seven migrants per boat has been observed, this number increased to 22 in 2004 (and even 60 migrants per boat in the case of the Canary Islands). According to information of the Spanish border enforcement agencies, the price for a transport via patera ranges between 2,000 and 4,000 Euro, often dependant on the location of the “seat” (a place in the center is more expensive than on the risky edges) or on the nationality of the migrant. The tendency towards more and more overloaded boats means higher profits for the people smugglers, but may also be an indicator for the fact that the risk of an eventual detention has increased as a consequence of stricter border enforcement. By transporting a higher number of migrants the smuggler “insures” him against the risk of detention – but also exposes the inmates to a higher risk of drowning. In the case of a boat filled with 20 persons the smuggler may expect an income of 40-60,000 Euro.⁴²

Another indicator for the development of undocumented migration to Southern Spain are the police statistics on deportations (*expulsiones*) and *devoluciones*, as well as statistics on apprehensions on the basis of illegal entry or illegal stay. As already mentioned, the procedure of *devoluciones* is mostly applied at or directly behind the borders. Deportations are applied if a person stays illegally in Spain or if he is working without a working permit.⁴³ In the daily practice however, the type of expulsion procedure depends mostly on the nationality of the migrant. According to the Spanish-Moroccan readmission agreement (1992), the procedure of *devoluciones* applies primarily to Moroccan citizens who have been apprehended upon their arrival in Spain. Correspondingly, Moroccan citizens represented around 92% of the cases in this category from 1994 to 2004.⁴⁴ The total number of *devoluciones* in the years 1994 to 2002 was around 20,000 cases per year (minimum 2002: 14,275; maximum 1996: 27,104), with a decreasing tendency since 2002 (13,000-14,000). In the case of deportations, Moroccans also had the highest share of all national groups, but not as dominant as in the case of *devoluciones*. Between 1991 and 2004 the share of Moroccans was at an average of around one third

⁴² Supposing that only a part of the inmates is paying the maximum price of 4,000 Euro.

⁴³ L.E. 4/2000 Art. 57 & Art. 53a + b. Other reasons for expulsions, like activities against the public order, are not of interest for this article.

⁴⁴ These and all other data on deportations and *devoluciones* were taken from the statistical yearbooks 1991 to 2002 of the *Comisaría General de Extranjería y Documentación* (Spanish National Police).

of the deported persons. The share of Algerian citizens also has been remarkably high (average share of 8%).

Looking at the statistics on deportations, a distinction between several categories is necessary. Until 2001, the statistics differentiated between induced deportation procedures (*expulsions incoadas*), instructed deportations (*expulsiones dictadas*) and realized deportations (*expulsiones materializadas*).⁴⁵ An induced deportation procedure does not mean that this procedure will be gone through till the end, e.g. till the realization of a deportation. For instance, in 2001 around 23,500 procedures were induced, 13,000 deportations were instructed, but only 3,817 deportations had been realized. These extremely high discrepancies can be traced back to the fact that in many cases a deportation is not possible. This happens above all when the country of origin is refusing to take back the deportee – or when the citizenship cannot be verified. Therefore the highest numbers of realized deportations are related to those countries that have signed a readmission agreement with Spain. In the last years, citizens from Morocco, Senegal, Nigeria, Romania and Colombia were the most represented groups among deportees. The number of induced deportation procedures can be used as an indicator for the national origins of undocumented migrants. In 2000 and 2001 about 42% of deportations procedures were induced against citizens of Northern African countries, above all from Morocco. Migrants from Sub-Saharan countries represented 16% resp. 12%, Latin Americans 14% resp. 15% and citizens from Central Eastern and Southeastern European countries around 12%. Citizens from the CIS had a share of 9% in 2001 (2000: 4%), with migrants from Russia, the Ukraine and Moldavia as dominating national groups. During the last years however, there is a clear tendency towards a higher share of citizens from Latin America and Central Eastern-/Southeastern Europe among the deportees. In 2004, only 21% of deportation procedures were induced against Moroccan citizens, compared to 25% related to citizens of Latin America and 21% citizens of Central Eastern-/Southeastern Europe.

A glance at the (realized) deportations on the regional level shows that from 1991 until 2000 the overwhelming majority of deportations had been enforced not in Southern Spain, but in the metropolitan areas of Madrid and Barcelona (international airports). This changed in the new millennium: from 2001 to 2003 between 57% and 63% of all deportations have been implemented in Southern Spain. The share of deportations from the Canary Islands has become remarkable: 2001: 35%; 2002: 43%; 2003: 34% of all deportations nationwide, with a decreasing tendency in 2004 (16%). This can be interpreted as another indicator of a shifting of migration routes. In the case of Andalusia, the biggest share of deportations has been realized in Málaga (50% - 78% until 2001), which can be explained by the existence of an international airport, but also by the spatial concentration of deportees in a regional detention center.

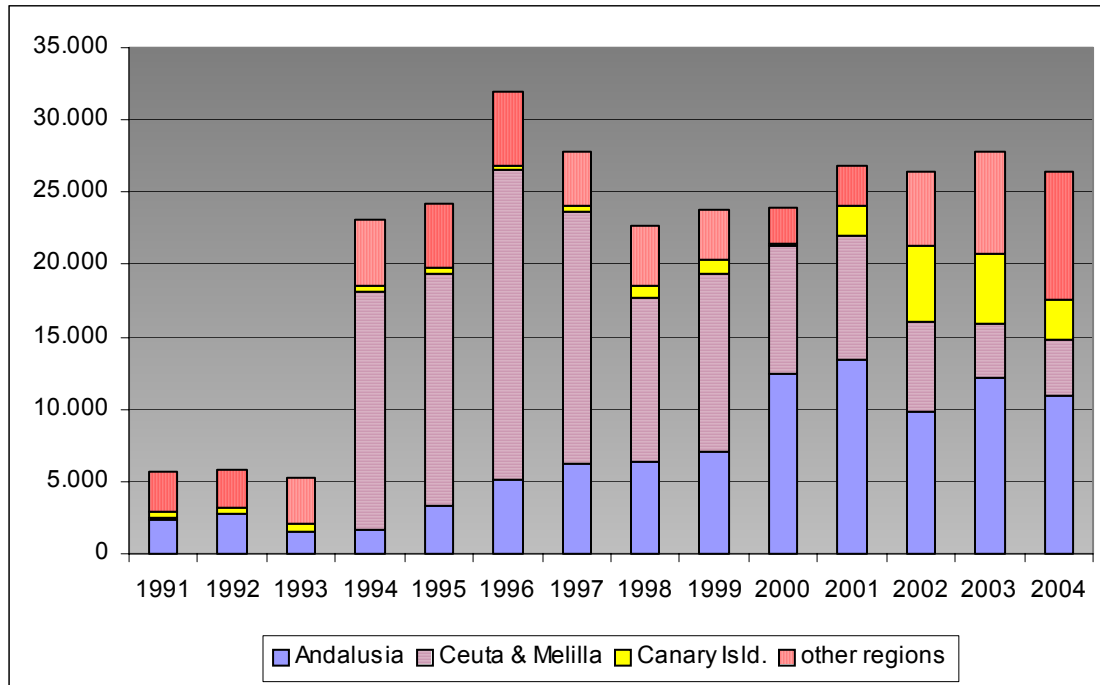
In order to get an overall picture of repatriation measures, it is suggestive to add the numbers of realized deportations and *devoluciones*. Furthermore this approach allows an adjustment of statistical deviations.⁴⁶ The following graph shows the development of

⁴⁵ In the statistics of 2002 only figures on the realized deportations (*expulsiones materializadas*) have been published.

⁴⁶ Looking at the *devoluciones* over time, it attracts attention that the number decreased from 22,984 to 14,275 (-38%). The deportations increased from 3,817 to 12,159 (+69%) in the same period. The yearly total stays nearly the same in 2001 and 2002 by adding deportations and *devoluciones* (2001: 26,801; 2002: 26,434).

deportations and *devoluciones* from 1991 to 2004 and the regional distribution of these measures.

Deportations and *devoluciones* (added) by regions, 1991-2004



Source: own calculations on the base of statistical yearbooks, Spanish National Police, Comisaría General de Extranjería y Documentación, 1991-2004

First of all it is obvious that the number of repatriation measures experienced an extreme increase since 1994. This increase is based nearly exclusively on *devoluciones* from the exclaves Ceuta and Melilla. A peak of repatriation measures took place in 1996 (total of nearly 32,000), i.e. one year after the Schengen Treaty came into force. It could be assumed that the Spanish enforcement agencies tried to convince their colleagues from other EU-member states about the efficiency of Spanish border control. After a decrease in 1997 and 1998 the number of repatriations increased again since 1999 and remained on a relatively stable level between 25,000 and 28,000 repatriations per year.

Another fact attracts attention: since the late 1990s the share of repatriations from Ceuta and Melilla decreased continuously, while the share of Andalusia increased at the same time. On the provincial level the province of Cádiz had an especially high share: from 1991 to 2002 around two thirds of all repatriation measures in Andalusia had been implemented in this province. In the last two years a decreasing tendency can be observed. In the case of *devoluciones* only, the share of Cádiz oscillated in the range from 63% to 92%. However, in the last years repatriation measures have taken place increasingly also in other andalusian provinces, above all in Málaga and Granada. As it already has been shown in the case of apprehensions, this is again an indicator for the tendency of shifting migration routes from the Strait of Gibraltar towards other coastal areas.

The shifting towards the Canary Islands also becomes clear in both statistics, apprehensions of *patera*-migrants and repatriation measures. The graph shows the increasing share of the islands from 2001 to 2003. While the repatriations from the Canary Islands only represented a yearly average of 2% in the years 1994-2000, this share rose to 7.7% in 2001, nearly 20% in 2002 and decreased then from 17% (2003) to 10% in 2004, after SIVE became partially implemented on Fuerteventura. Nearly all of the repatriation measures from the Canary Islands were deportations (e.g. 2002: 5,206 deportations, only 42 *devoluciones*). This can be explained by the geographical location of the islands, around 600 miles distance to the Spanish mainland, and by the national origin of the migrants. According to Spanish law, a *devolución* has to be realized in the course of 72 hours.⁴⁷ In most cases such a short-termed repatriation is not possible, i.e. the deportation procedure comes into force. Furthermore, a big part of the *patera*-migrants on the Canary Islands is of Sub-Saharan origin. As only a few of these states signed readmission agreements with Spain, repatriation gets more difficult.

The *pateras* traveling to the Canary Islands mostly depart from the coastal strip between the Western Saharan town of Laâyoune (El Aaiún) and the Southern Moroccan cities Tarfaya and Sidi Ifni. After a trip of eight to ten hours and a distance of around 60 miles they eventually reach the Canary Islands of Fuerteventura or Lanzarote. Upon their arrival, the migrants were distributed to prisons on several islands. As the detention facilities on Lanzarote and Fuerteventura only had limited capacities, most of the migrants were transferred to a detention center in the provincial capital Las Palmas de Gran Canaria. The Spanish government inaugurated a new detention center in Fuerteventura with a capacity of up to 1,500 persons in February 2003.

If the identity of the migrant cannot be determined or if the respective country of origin did not sign a readmission agreement, the imprisoned migrant has to be released from the detention facility after a maximum period of 40 days. With an exit order (*orden de expulsión*) in his or her hands, the migrant has to leave Spanish territory within 14 days. Due to security measures after 9/11 it has become impossible for many undocumented migrants to leave the islands without proper documents. Both, ferries and airplanes to the Spanish mainland require valid identification documents. As a consequence of these circumstances a spatial concentration of undocumented migrants arose in the city of Las Palmas. Since 2002 the Spanish authorities started charter flights from the islands to Málaga in order to ease this situation. Upon arrival in Málaga, the migrants are transported by bus to the port of Algeciras and asked to leave the country by taking a ferry to Morocco.⁴⁸ However it is obvious that only few migrants really follow this kind of exit order. The majority tries to stay on the Spanish mainland and to secure their survival with jobs in the informal sector. The presence of Sub-Saharan migrants is noticeable in central districts of most Spanish cities – as vendors of CD's and DVD's, leather goods or sunglasses.

A final look at the figures: in the years 1995 to 1999 the Spanish national police also registered detentions on the basis of illegal entry (1995-96) and illegal sojourn (1997-99). The number of these detentions increased from year to year (1995: 15,680; 1999:

⁴⁷ L.E. 4/2000 reformed by L.E. 8/2000, Art. 58.5: “[...] if the *devolución* cannot be realized within 72 hours, the governmental authority applies for a detention to induce a deportation procedure.”

⁴⁸ Conversation with Begoña Zamora Fortuny, Univ. de la Laguna (Tenerife), during the III Congreso sobre la Inmigración en España, Nov. 06.-09., 2002 Granada

50,039), which can be taken as another indicator for the increase of the stock of undocumented migrants including visa-overstayers. Above all a look at the national origins is interesting: while in 1995 and 1996 nearly 95% of all detained persons were of Moroccan or Algerian origin, their share decreased to 82% in 1997, 77% in 1998 and reached finally 69% in 1999. This is a clear evidence for the already mentioned diversification of undocumented migrants. Migrants from Sub-Saharan countries and from Latin America have shown an increasing share of the detained persons in the late 1990s.

Excursus: Poland, the Newcomer in European Migration Control

After years of negotiations and legal reforms, the Republic of Poland became a member of the European Union in May 2004. As in the case of Spain, processes of emigration characterize the Polish migration history more than immigration. But in the light of the accession to the EU, Poland has become not only a country of East-West-transit migration, but also a more and more attractive final destination for potential migrants. In the following paragraphs I will present the Polish case as a comparative excursus. As – in comparison to Spain – only very few data are available in the Polish case, it has not been possible for me to analyze this case as profound as the Spanish one. After giving a brief overview on the general panorama, the main attention will be drawn to the field of migration and border control, especially at the border to its eastern neighbor states Ukraine, Belarus and Russia (Kaliningrad).

Until the early 1990s, emigration played a much more important role than immigration. In the 1980s, the number of long-term emigrants (minimum one year abroad) was around 1.1 to 1.3 million persons (Okólski 1994). According to estimates of the Polish Central Statistical Office, the Polish “diaspora” of Poles abroad who remain close contacts to family members in Poland counts about 12 Million persons. Even though immigration flows experienced an increased since the early 1990s, the migration balance of Poland remained negative (2003: -13,800).

After the radical political change in 1989 and the following liberalization of cross-border movement, immigration to Poland started gaining relevance. But apart from the ratification of international agreements and an outdated Aliens Law from 1963 no legal framework existed in the field of migration. A first frame was constructed with the Aliens Law from 1997. Main elements of this law and further reforms in 2001 and 2003 are the regulation of entry to and sojourn in Poland on the one hand, and the prevention of undocumented immigration on the other.

In the context of the accession to the European Union, Polish migration policy was characterized above all by the adoption of EU- and especially Schengen-regulations. These were related, among others, to the strengthening of controls at the Polish eastern border as future EU exterior border, the adjustment of asylum policy and the introduction of visa for citizens of the eastern neighbor states since October 1st 2003. The Polish consulates in those countries experienced an enormous growth of visa-applications during the first year after the visa-introduction: around 1.1 applications were filed, most of them in the Ukraine (600.000).

Besides of the legal adjustments to EU-standards, the reform of the Aliens Law in 2003 also included a legalization program (*abolicja*). Between September and December

2003, 3,508 undocumented foreigners applied for a regularization of their status. 2,413 applicants received a positive decision (68.8%) until November 2004. The vast majority of applications was filed by Armenian (46.4%) and Vietnamese citizens (38.2%).

Foreign Population

According to official sources, the share of foreigners in Poland is extremely low (0.1%) in comparison to western European countries. The population census 2002 counted 49,221 foreigners in Poland (see table). The biggest national groups among them were Ukrainians (9,881; 20%), Russians (4,325; 8.8%), Germans (3,711; 7.5%), Belarussians (2,852; 5.8%) and Vietnamese (2,093; 4.3%). In total, citizens from Eastern Europe and the former Soviet Union (without Baltic states) represented at least 44% of the foreign population in Poland. Most independent experts criticize the governmental foreigners statistics as far too low. Nevertheless, these statistics are the only available official sources.

The International Migration Report 2002 of the UN Population Division⁴⁹ estimated the number of foreigners in Poland (including refugees) at nearly 2.1 Mio. persons (2000), which would mean a share of 5.4% in relation to the total population. The problem of this estimation is the underlying definition of migrants as foreign-born persons. If one takes the border shifting after the Second World War into account, the stated number seems far too high: a Pole who was born in former eastern Poland (and present-day western Ukraine) would be defined as a foreign born person and by therefore a migrant.

Table: Foreigners in Poland, Census 2002⁵⁰

Eastern Eur. / former		
SU	21,670	44.0%
EU-25 / EES	11,821	24.0%
Asia	4,042	8.2%
America	1,498	3.0%
Africa	502	1.0%
Stateless	546	1.1%
not specified*	9,142	18.6%
Total	49,221	

Source: Central Statistical Office (Główny Urząd Statystyczny)

Another indicator of the structure of the foreign population in Poland are statistics on the issuance of residence permits. As the Aliens Law from 1997 changed the categories of residence permits, a long-term comparison is not possible. Since 1998 the three main types of permits are temporary permits for short periods, renewable fixed-time residence permits for sojourns from 6 to 12 months and settlement permits. In the years from 1998 to 2003, the share of Ukrainian citizens of all issued temporary permits was 42.8%. In

⁴⁹ see Newsletter "Migration und Bevölkerung" 9/02

⁵⁰ (a) EU/EES includes the 10 new EU-member states, (b) Eastern Europe/former SU includes also countries of Southeast-Europa. In the case of the former Soviet Union, the three Baltic countries are not included. Latvia, Lithuania and Estonia are counted in the group EU/EES; (c) *In the available summaries of the census 2002 not all foreigners are specified by nationalities.

the case of fixed-time residence permits and settlement permits their share was 22.6% respectively 25.3%. This difference may be explained by the circumstance that most Ukrainians realize short working sojourns in Poland, even though the temporary permit does not allow an activity on the labor market. Other countries with a high share in fixed-term residence permits and settlement permits are Belarus, the Russian Federation, Vietnam, Germany, France, the USA and Armenia.

Since the reform of 2001, the requirements for obtaining a settlement permit are a temporary sojourn of at least five years (before 2001: three years) and sufficient financial means. As a result of the restrictive regulations regarding the entry to the labor market, it is often not possible to prove sufficient means, i.e. a permanent status will be denied.

Looking at Ukrainians and Belarussians, it is also important to mention the presence of ethnic and national minorities in Poland.⁵¹ In contrast to pre-war times, the present-day Poland is a relatively homogeneous society. While in 1931 about a third of the population in Poland was part of a minority, the actual share is estimated between 2-3%. Especially in the case of Ukrainians and Belarussians, this is partly a result of border shifting, resettlements and displacements after World War II. The numbers on minorities in Poland show high discrepancies: while 253,300 respondents stated being a member of an ethnic or national minority in the census 2002 (147,094 Germans, 47,640 Belarussians, 27,172 Ukrainians and 12,731 Roma), the estimations of minority-associations and even of the Interior Ministry oscillate between 1.2 and 1.8 million.

The European “Recipe”

As the accession to the European Union has been one of the most important objectives of Polish politics during the whole decade of the 1990s, migration policies were subordinated to this goal. The restrictive control- and asylum policy of the EU member states became a recipe for Poland and the other candidate countries (Iglićka et al 2001: 8).

As early as 1991 Poland signed a multilateral readmission agreement with the Schengen member states. Another readmission agreement with Germany (signed in 1993) included earmarked funds for the improvement of border control, the build-up of an administration system for asylum seekers and refugees and the construction of detention centers for deportees. In exchange, Poland had to readmit up to yearly 10,000 migrants who crossed the Polish-German border illegally. A clause of this agreement committed Poland to buy at least 50% of the technical equipment from Germany. By this, the equipment of German *Bundesgrenzschutz* and Polish *Straż Graniczna* became compatible. In the same year, the Polish government signed readmission agreements with the Czech Republic, Ukraine, Slovakia, Romania and Bulgaria.

⁵¹ National minorities in Poland are Germans, Belarussians, Ukrainians, Lithuanians, Russians, Slovaks, Jews, Czechs and Armenians. The Polish state recognizes Roma, Lemks, Tartars and Karaites as ethnic minorities.

While the Aliens Law from 1963 was interpreted in a relatively liberal way during the first half of the 1990s (so-called administrative visa⁵²), this changed in 1996. Polish authorities realized a first massive roundup and 130 Romanian Sinti and Roma were deported. In 1997, the Polish labor agency established a special department to combat illegal employment with 500 workplace inspectors. In December of the same year the new Aliens Law came into force – in accordance with EU-standards.

Related to the new Aliens Law, in 1998 also first restrictions for citizens of Belarus and the Russian exclave Kaliningrad came into force. Since then, visitors from these two neighbor countries needed to prove a hotel room or an invitation and sufficient financial means for their stay in Poland. In October of the same year, Polish police authorities implemented another massive roundup (*akcja obcja*). After just one week, more than 6,000 persons were detained for deportation – again most of them Roma from Romania. Miroslaw Szacilko, spokesman of Polish Border Guards, related the roundup with the EU-accession process: *“We are implementing the provisions in an accurate manner. The goal of the program is to prove our credibility before entering the EU.”* (Gazeta Wyborcza, 29.10.1998, in: FFM 1999) Just a few days before the EU-summit in Tampere (Oct. 1999)⁵³ the Polish authorities showed once more their willingness to fulfill restrictive EU-standards and realized a roundup in the voivodship in the Warsaw and surroundings. But despite these examples of interior migration control, border enforcement remained the central instrument of Polish migration control.

Undocumented Migration and Border Control

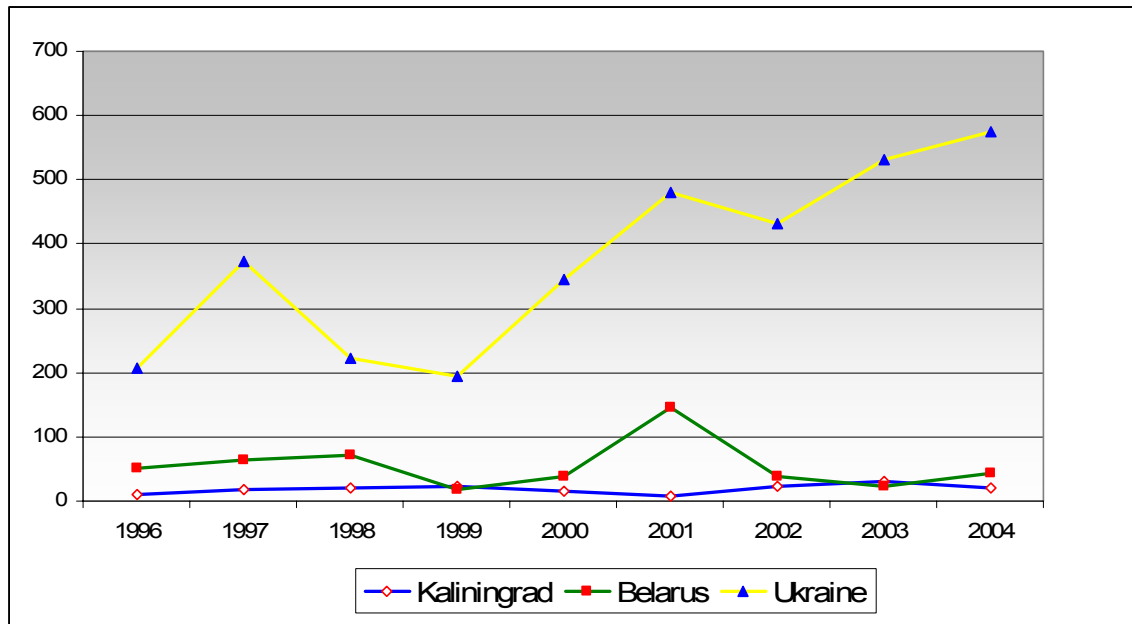
After the liberalization of cross-border movement in 1989/90, Poland has become a transit corridor for undocumented east-west migration. Between 1996 and 2003 a total of 35,414 undocumented migrants have been apprehended at the Polish borders: 14,277 (40.3%) were apprehended while trying to enter Poland and another 21,137 (59.7%) while trying to leave Poland to a neighboring country, above all to Germany (2004: 88%). On the basis of readmission agreements, Polish authorities realized 43,375 expulsions to neighboring countries from 1998 to 2004 (in 2004: 64.7% to the Ukraine).

While the total number of apprehensions experienced first a decreasing, then a stabilizing tendency until 2002, an increase can be observed in the last two years (2003 and 2004). Looking at the figures at the Polish eastern border, above all the increasing tendency at the Polish-Ukrainian border since 2000 is striking (see graph).

⁵² The “administrative visa” has been issued for migrants who were readmitted from Germany to Poland because of illegal border crossing. The visa implied a request to leave Poland. In fact, most migrants tried again to cross the border to Germany instead of leaving Poland towards the east or south.

⁵³ See page 5 (The European Framework)

Apprehensions of undocumented migrants at the Polish Eastern Border (Without Lithuania)



Source: Polish Border Guards (*Straż Graniczna*)

A possible explanation for this tendency is the higher control density in the context of the Polish EU-accession process. In several reports, delegations from the EU criticized a lax border control policy and asked the Polish authorities to strengthen the control in order to comply with EU and Schengen standards. The EU co-sponsored the extension of border controls in Poland with funds from the PHARE-program. In 2000 and 2001 alone, the financial support was of 484 respectively 468.5 Mio. Euro. The funding will continue – although on a lower level – at least until 2006, the earliest possible date for a full integration of Poland into the Schengen System⁵⁴. Every 12 to 16 miles border surveillance stations had been installed all along the eastern border, which are in strong contrast to the simple village buildings in this peripheral region. The Polish Border Guards have been modernized with new equipment, such as special vehicles and night vision devices; alongside with training and support from western colleagues, especially from Germany.

But also the introduction of visa for citizens of the eastern neighbor states (Russia, Belarus, and Ukraine) may have played a significant role in the increase of border apprehensions. This hypothesis is supported by the high increase of removed Ukrainian citizens at the Polish-Ukrainian border (2002: 1,624; 2003: 2,460; 2004: 3,281). Even though the visa for Ukrainian citizens are free of charge, the application process does imply costs such as travel expenses to the next consulate, hotel costs, missing days at

⁵⁴ The main handicap for the enlargement of the Schengen Agreement towards the new EU-member states is not their capacity to control the exterior borders (which has been fulfilled already with the EU-accession), but the creation of the new Schengen Information System II (SIS II).

the workplace etc. Above all for people in remote border villages it is difficult and costly to get to the next Polish consulate.

While the apprehensions of Ukrainian illegal border crossers went up, the regular cross-border traffic from the Ukraine to Poland went down. After reaching a peak of foreigners' entries at the Polish-Ukrainian border in 2001 (6.6 Mio. entries to Poland), the legal crossings decreased to 6.3 Mio. in 2002 and 6 Mio. in 2003. The special regime of "simplified border traffic" (for inhabitants of the border region) was abolished with the introduction of visa, i.e. even those who live right across the border do have to apply for a visa since October 2003.

Finally it is important to mention that the number of apprehended undocumented migrants increased in the Czech Republic and above all in Slovakia – especially in the border section with the Ukraine – since the late 1990s. This is a clear indicator for a shifting of migration routes.

Conclusions

Synthesizing the elaborations in this paper and relating them to the central question – the feasibility of migration and border control policies – I want to summarize that the restrictive measures in Spain and Poland did not at all lead to a reduction, but only to a geographical shifting of the migration processes. The shifting is especially obvious in the Spanish case. In the following points I will recapitulate the most important results and relate them to the central question.

1. During the last two decades of the 20th century, but above all in the 1990s, Spain experienced a transition process from a traditional emigration country towards a *de facto* immigration country. While until 1994 Western- and Central Europeans constituted the majority of foreigners in Spain, citizens of the neighboring Maghreb countries, above all from Morocco, are predominating since the mid-90s. Since the late 90s a further diversification of immigration can be observed. Immigrants from Latin America and the Sub-Saharan Africa are gaining importance. Poland is also experiencing a transition from an emigration to an immigration country, even though it is in an earlier stage than Spain. Emigration is still dominant (negative migration balance), but east-west transit migration plays an important role at least since the mid-90s. Most legal and undocumented migrants come from the successor-states of the former Soviet Union and from Vietnam.
2. The spatial distribution of immigration to Spain takes place in only a few regions. Immigrants from EES-countries settle down primarily in the coastal areas of the Mediterranean and the Balearic and Canary Islands, while immigrants from developing countries are concentrated as well in the urban areas as in rural areas with a high demand for cheap labor force. In Southern Spain the share of migrants from Africa, Latin America and Eastern Europe is especially high in the agricultural provinces of Jaén, Almería and Huelva. As the Polish data on foreign residents are doubtful, it is difficult to make statements about the spatial distribution. According to official data, most migrants are concentrated in the Mazowieckie voivodship (Warsaw and surroundings, 26.4%); 14.3% live in the three voivodships along the eastern border.

3. Since the mid-80s the Spanish government made several attempts to create a legal framework for the growing phenomenon of immigration. The government reduced the extremely high share of undocumented migrants by realizing several legalization campaigns. Moroccans constituted the largest group of all legalized migrants. The number of Moroccan immigrants increased continuously, partly based on family reunification. A tight migration network has emerged between regions of origin in Morocco and regions of destination in Spain.
In the case of Poland, the first half of the 1990s was characterized by the liberalization of cross border movements. After decades of nearly closed borders to the East, both border traffic and cross border trade increased rapidly. Networks between communities on both sides of the eastern border were constituted.

4. While Poland just opened its borders, Spain began to close the southern border since the early 90s. Visa-free travel was abolished and also first steps towards a stronger control of the Southern border had been implemented under the PSOE-government. Both measures did not fulfill their objective. Since the introduction of visa, migrants from the Maghreb were forced to an illegal instead of legal entry to Spain. The first border control measures (construction of fencing systems in Ceuta and Melilla) led to a shifting of migration routes. During the four years of absolute PP-majority (2000-2004) the “fight against illegal migration” has been priority in migration policies. The showcase of the PP-government was the implementation of the border surveillance system SIVE. Undocumented migration flows at the Strait of Gibraltar showed a decreasing tendency since then, but migration flows to the Canary Islands and Eastern Andalusia increased simultaneously. This is also a clear evidence of the shifting of migration routes. The data on the apprehensions of *patera*-migrants and on repatriation measures (rejections, removals, expulsions) in selected regions prove this tendency. As the EU-accession was the dominating objective of Polish politics, the newly created framework for migration policies became subordinated to this goal. Restrictive “recipes” from western neighbor states, above all Germany, were implemented in Poland since 1997. Polish migration and border control policies were supervised and partly financed by the European Union. The Polish Border Guards became modernized and an infrastructure for border enforcement has been installed in the run-up to EU-accession. The relatively liberal border traffic with its eastern neighbors, above all with the Ukraine, was abolished gradually and culminated in the introduction of visa in 2003. Legal entries decreased, apprehensions of illegal crossers at the border with Ukraine increased.

5. The shifting of migration routes in Spain causes several “adverse effects”, which are in contradiction to the objectives of the “fight against illegal migration”. Longer routes mean higher risks while crossing the rough sea. This results in higher payments from the migrants and higher incomes for the smugglers. The higher income of smuggling organizations strengthens this “economic sector”. But also the human costs are increasing. The risk of losing the life has increased dramatically as a result of the dangerous routes through remote areas, far from coastal shores. According to estimates by the Moroccan NGO AFVIC⁵⁵ more than 3,000 migrants lost their lives between 1997 and 2001 in an attempt to enter Spain. A newly released report by the European University Institute in Florence cites an even higher number of 8,000 to

⁵⁵ *Association des amis et Familles des Victimes de l'Immigration Clandestine* (Association of friends and family members of the victims of clandestine immigration)

10,000 victims (dead or disappeared migrants) between 1989 and 2002 (Mghari 2005: 201).

Adverse effects can also be observed in the case of Poland. After a short period of closer cooperation between Poland and its eastern neighbors, above all the Ukraine, the recently grown ties have been cut off partially by the restrictive border regime. In the field of undocumented migration first shifting processes can be observed, especially towards the Slovakian mountains. The stricter control at the eastern border may also lead to higher costs for potential migrants – and therefore to a strengthening of professional smugglers.

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