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**The Development-Visa Scheme:
a proposal for a market-based migration control policy**

Michael Jandl

Senior Research Officer
International Centre for Migration Policy Development

Michael.Jandl@icmpd.org

Global Commission on International Migration
1, Rue Richard Wagner
CH:1202 Geneva
Switzerland

Phone: +41:22:748:48:50
E:mail: info@gcim.org
Web: <http://www.gcim.org>

Global Commission on International Migration

In his report on the 'Strengthening of the United Nations - an agenda for further change', UN Secretary-General Kofi Annan identified migration as a priority issue for the international community.

Wishing to provide the framework for the formulation of a coherent, comprehensive and global response to migration issues, and acting on the encouragement of the UN Secretary-General, Sweden and Switzerland, together with the governments of Brazil, Morocco, and the Philippines, decided to establish a Global Commission on International Migration (GCIM). Many additional countries subsequently supported this initiative and an open-ended Core Group of Governments established itself to support and follow the work of the Commission.

The Global Commission on International Migration was launched by the United Nations Secretary-General and a number of governments on December 9, 2003 in Geneva. It is comprised of 19 Commissioners.

The mandate of the Commission is to place the issue of international migration on the global policy agenda, to analyze gaps in current approaches to migration, to examine the inter-linkages between migration and other global issues, and to present appropriate recommendations to the Secretary-General and other stakeholders.

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Potential contributors to this series of research papers are invited to contact the GCIM Secretariat. Guidelines for authors can be found on the GCIM website.

Introduction

This paper suggests a novel approach to managing migration challenges.¹ Based on the European experience with large-scale irregular migration movements, an increasing share of which is mediated through profit-oriented human smuggling activities, this paper outlines a market-based scheme for migration control policies that explicitly takes account of economic incentives in formulating individual migration choices. The paper thus proposes the introduction of the “Development-Visa (DV)” scheme and outlines a clear set of rules, procedures and sanctions necessary to make this new type of migration control instrument work. After thorough testing and evaluation in a pilot project, the widespread application of the scheme offers the prospect of substantially reducing the demand for human smuggling services and substituting irregular through regular migration flows. A basic characteristic of the proposed DV scheme is that it is designed to bring substantial benefits to all the important actors in the migration equation – the migrants, the source and the destination countries – but not the human smugglers who stand to lose their illicit income and profits.

During the 1990s irregular migration to (Western) European countries has increased substantially. Rapid political changes worldwide, the proliferation of violent conflicts and protracted instability in many parts of the world, economic decline and rising income disparities between states and regions have all contributed to a seemingly endless rise in irregular migration from east to west and from south to north. And, while at the beginning of the decade the issue had largely been absent in both political and scholarly discussions of migration in Europe, the problem has quickly moved up the policy agenda and has become one of the most hotly debated migration matters. On the other hand, the issue has remained so controversial, that there is little agreement on anything, neither the size nor characteristics of irregular migration flows, nor the proper policies to address them.

By 2000, the European Commission, citing a Europol report from 1998, has put forward the suggestion that illegal migration flows to the then EU-15 might be as high as 500,000 annually, though it has later retracted from specifying any concrete numbers.² For the same period, other authors have arrived at somewhat lower³ or somewhat higher⁴

¹ The views expressed in this article are those of the author only, and not those of ICMPD or of its member states. The work presented draws on insights gained in a European Collaborative Research Project on human smuggling carried out under the umbrella of the European Science Foundation with the financial support of the Austrian Science Foundation (FWF) from 2002-2005. The author wishes to thank Veronika Bilger, Jørgen Carling, Martin Hofmann, Martijn Pluim, Jonas Widgren and Gottfried Zürcher for their valuable input and criticism to earlier versions of this proposal.

² European Commission, (2000), Communication from the Commission to the Council and the European Parliament on a Community immigration policy, COM (2000) 757 final of 22.11.2000, p. 13., available at http://europa.eu.int/eur-lex/en/com/cnc/2000/com2000_0757en01.pdf (3.11.2004)

³ See: Heckmann, F. and Wunderlich, T., (2000): Transatlantic Workshop on Human Smuggling. A Conference Report. In: Georgetown Immigration Law Journal, Vol. 15, 2000, pp. 167-182

⁴ See: Jandl, M. (2003), “Estimates on the Numbers of Illegal and Smuggled Immigrants in Europe”, Presentation given at the Workshop on Human Smuggling at the 8th International Metropolis Conference,

estimates, though overall numbers may well have fallen over the last couple of years, in part due to stricter enforcement measures.⁵

The human smuggling industry

Whatever the precise magnitude of irregular migration movements, police and border guard officials across Europe commonly agree that the role of human smuggling, i.e. the facilitation of illegal entry to states for profit, has come to play an increasingly prominent role in irregular migration movements to Europe, up to the point where they are likely to account for the overwhelming share of illegal entries to European countries.⁶ Rather than a particular manifestation of Organised Crime⁷, human smuggling to Europe today increasingly looks like a complex service industry, offering a variety of different services (border crossing, accommodation, false or falsified documents, etc.) at a range of differentiated prices.⁸

This criminal activity on a large scale has of course not been lost on those shaping the policy responses to migration challenges, both in Europe and beyond. At the global level, Article 2 of the “Protocol against the Smuggling of Migrants by Land, Sea and Air” supplementing the UN Convention against Transnational Organized Crime of 2000 defines the “smuggling of migrants as:

“the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident.”

17. September 2003, available at: <http://www.icmpd.org/uploadimg/Metropolis%20Presentation-9-2003-MJ-1.pdf> (28.04.2004)

⁵ See, Futo, P. and Jandl, M. (eds.), 2003 Year Book on Illegal Migration, Smuggling and Trafficking in Central and Eastern Europe. A Survey and Analysis of Border Apprehension Data from 19 States, International Centre for Migration Policy Development, Vienna, 2004, p.9ff. It should be pointed out that all these estimates of illegal migration refer to the overall numbers of illegal entries only and not to other forms of irregular migration (such as visa-overstaying) or to net migration.

⁶ For example, the Hungarian Border Guard has noted that the share of “smuggled migrants” out of all illegal migrants has grown from some 20% in the middle of the 1990s to over 70% in 2003, *ibid.*, p. 20. See also Salt J. and Hogarth, J., Migrant Trafficking and Human Smuggling in Europe: A Review of the Evidence, in Laczko, F. and Thompson, D., (eds.), Migrant Trafficking and Human Smuggling in Europe. A review of the evidence with case studies from Hungary, Poland and Ukraine, International Organization for Migration (IOM) 2000.

⁷ James Finckenauer has argued that human smuggling can be characterised as a “crime that is organised” rather than as “Organised Crime”. See: Finckenauer, J.O., Russian Transnational Organized Crime and Human Trafficking, in: Kyle D. and Koslowski, R., Global Human Smuggling: comparative perspectives, The Johns Hopkins University Press 2001, p. 166ff. See also: Heckmann, F., (2003) Mafiastrukturen? Organisationsformen von Menschenschmuggel. In: Migration, Flüchtlinge und Integration. - Nürnberg, 2003 (Schriftenreihe des Bundesamtes für die Anerkennung ausländischer Flüchtlinge) Bd. 11, pp. 138-153

⁸ For a theoretical and empirical elaboration of this point, see: Bilger, V., Hofmann, M. and Jandl, M., (2005), Human Smuggling as a Transnational Service Industry. Evidence from Austria, in: International Migration, Special Edition on Human Smuggling, forthcoming 2005.

and obliges states to adopt legislative and other measures to counter human smuggling activities.⁹ In Europe, both individual states as well as the European Union as a whole have accorded the fight against illegal migration, human smuggling and trafficking one of the highest priorities for law enforcement in the coming years.¹⁰

Given these widespread concerns with human smuggling we should first pose a critical question: what is wrong with human smuggling in principle and why should we oppose it? The standard answer to this question seems clear: human smuggling activities have been linked to organized crime, threats to the sovereignty and the internal security of states and the exploitation of human beings in desperate situations.¹¹ Clearly, the facilitation of illegal entry against the will of states undermines the management and control of migration movements and, hence, the prerogative of states to determine who can and cannot enter their territories. This, in turn, furthers public perceptions of a “loss of control” over general immigration flows, which often adds fuel to the growth of xenophobic and populist parties and further restricts room for rational immigration policies. Indirectly, therefore, human smuggling can even have negative consequences for the absorptive and integration capacity of states.

But the answer goes deeper than that. On one hand, organised human smuggling is a highly lucrative illegal business that favours the emergence of criminal networks with high undeclared incomes that can be invested in other criminal activities. On the other hand, quite apart from the fact of being helped to their desired destination, it can have clearly negative consequences for the smuggled migrants themselves. First, there are the hardships and physical dangers that migrants are frequently exposed to by scrupulous smugglers.¹² And second, the need to engage human smugglers for their journey represents an enormous loss of time and money for the migrants. Typical smuggling fees from an eastern European country to Western Europe can easily amount to € 4,000, while the smuggling fees from more distant countries like Afghanistan and India can exceed €

⁹ Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, United Nations 2000. The Convention was signed on 15 December 2000 by a total of 124 countries. This Protocol, which also distinguishes human smuggling from the crime of “trafficking in persons”, which is defined in a second protocol to the UN Convention, entered into force on 28 January 2004. The full text of the Convention and the Protocols can be downloaded at http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/index.htm (24.3.2004).

¹⁰ See, for example, Council of the European Union, (2002), Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence, JHA (2002) 946, which obliges EU countries to effectively fight and penalise human smugglers and must be transposed into national laws by 5 December 2004.

¹¹ It is worth remembering that this was not always so. Throughout the Cold War, where communist countries prohibited the exit of their nationals at gunpoint, the facilitation of a flight to the West, beyond the so-called “Iron Curtain”, was widely regarded as a noble cause and both migrants and smugglers were welcomed in the “free world”. It is not unlikely that this positive reputation of human smugglers in many border regions of Europe has facilitated their transformation into pure (illegal) business operations.

¹² UNITED, a European network against nationalism, racism, fascism and in support of migrants and refugees, monitors migrant deaths since 1993. Up to June 2004, the network has documented 5,017 deaths, who for instance drowned in the Mediterranean Sea, the Strait of Gibraltar, suffocated in trucks or committed suicide in Europe's detention centres. Many more deaths are thought to remain unreported (see: <http://www.united.non-profit.nl/pdfs/listofdeaths.pdf> (29.10.2004))

8,000 and more. Thus, beyond the individual expenses for smuggling services, the income of human smugglers represent a formidable drain on already scarce resources for development in (usually very poor) source countries. A rough estimate places the profits generated through human smuggling activities to the EU-25 alone at some USD 4 billion.¹³

The problem of substitution

Considering the enormous amounts of resources wasted for the welfare of individual migrants as well as for developing countries as a whole, the question thus becomes: Is it really necessary to restrict illegal migration and thus provide a market to human smugglers at all? The preceding section has answered this question in the affirmative. Rational migration policies cannot be a “free-for-all” and thus unauthorised migration must be countered. But what if we could find a way of “substituting” the irregular part of migration by regular, authorised migration? After all, the demographic logic in Europe clearly indicates a large, unfilled potential for additional immigration over the next decades.¹⁴

The problem is that there is no evidence that an expansion of legal immigration opportunities would lead to a decrease of illegal immigration. Quite to the contrary, there are many indications that this so-called “model of interconnected pipes” is based on flawed assumptions and that there might even be a positive relationship between illegal migration flows and both legal migration flows and stocks, indicating the importance of migration networks in legal and illegal migration processes.¹⁵ While not going quite as far in its conclusion, a recent study carried out by the European Commission stated

“There is a link between legal and illegal migration but the relationship is complex and certainly not a direct one since a variety of different factors has to be taken into consideration”.¹⁶

Thus, the problem of how an expansion of legal migration opportunities might contribute to a decrease in illegal migration – and hence to decrease in human smuggling – remains an unsolved question, and it is this problem that the proposed Development-Visa Scheme aims to address.

¹³ For sources and methods used in this estimation, see Jandl, M. (2003), op. cit.

¹⁴ While this is not the place to expand on this argument in detail, the famous 2000 UN report on “replacement migration” has drawn attention to the fact that net-migration to Europe would need to increase about two-fold over the next decades just to keep the population constant and more than twenty-fold in order to keep the dependency ratio constant. Clearly, this is, by itself, no feasible solution to the problem of demographic aging, but it shows the potential for increasing migration levels. See: United Nations Population Division (2000), “Replacement Migration – Is it a solution to declining and aging populations?”, New York, UNO

¹⁵ For an overview of the arguments and statistical evidence, see: Jandl, M., (2005), A statistical inquiry into the links between legal and illegal migration, Report for the THESIM project, forthcoming

¹⁶ European Commission, (2004), Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on a study on the links between legal and illegal migration, COM (2004) 412 final of 4.6.2004, p.20, available at: http://europa.eu.int/eur-lex/en/com/cnc/2004/com2004_0412en01.pdf

Economic strategies for migration management

Before turning to this specific market-based migration policy proposal, a few general remarks on the range of potential strategies for migration control, seen from an economic perspective, can be helpful. In economic terms, migration control strategies can address any or all of three elements of the “market for illegal migration”: Measures can be targeted at the supply side, at the demand side or at the intermediary structures. Thus, supply side measures would consist in any policies that reduce the migration potential in countries of origin, for example in the promotion of political stability and human rights and, in the long run, in fostering economic growth and income opportunities through development policies. Demand side measures would consist in policies that curb the demand for irregular migrant workers in destination countries, for example, through employer sanctions or the provision of specific quotas of seasonal workers to agricultural producers (but note the problem of substitution indicated above). Finally, migration control policies may target the intermediary structures of illegal migration, for example, by instituting stricter border control measures, higher document security standards or higher fines for human smugglers.

Unfortunately, migration control policies today are too often narrowly understood as comprising only this last category of interventions. In contrast, the following proposal comprises all three dimensions of migration management and is explicitly geared to using economic incentives to curb the market for illegal migration and human smuggling.

The Development-Visa Scheme

The basis of the proposed Development-Visa (DV) Scheme is contained in a simple rule:

“Sell legal entry permits to any eligible would-be migrant at roughly the price of currently prevailing smuggling fees! The legal entry permits thus obtained shall be called Development-Visas.”

This straightforward DV rule needs several qualifications and explanations in order to become operational.

First, the DV scheme is not exclusive. Thus, this system can run in parallel to current visa and entry permit systems that countries already have. Thus, states can continue to issue “free” visas to anybody they deem entitled to receiving such a visa for specific purposes (e.g. tourists, students, migrant workers, etc.). Anybody who cannot obtain such a “free” visa can apply for a DV and, if s/he is not specifically excluded from the scheme (see below), will normally be issued a DV upon payment of the set price. An important condition for the system to work, however, is a strict control of current visa-issuing practices as well as enhanced control of the issuing of DVS in order to prevent circumvention and corruption of the scheme.¹⁷

¹⁷ This qualification has become all the more relevant in light of recent revelations of massive visa-fraud in German embassies in Eastern Europe. In any case, the phenomenon is neither new nor unique to any

Second, all applicants for DVS will be fingerprinted and will be excluded from future participation in the scheme in case they violate the rules of the regime. Possible contraventions to the rules may consist of an illegal migration record (thus the need to compare fingerprints with existing databases of apprehended illegal migrants in Europe), in overstaying the time period of their DVS without authorisation or in other, yet to be defined contraventions to laws and regulations. In short, all applicants are eligible to participate in the DV scheme, unless they are explicitly excluded from it.

Third, the DV is an all-purpose visa. It gives the right to work in the host country (i.e., in case the migrant can find legal work in the host country, subject to national rules and regulations, s/he is not subject to any additional numerical quotas) or simply to reside in the host country. The DV is not strictly tied to the labour market of the host country, but national labour market services may be called upon to help DV holders to find legal work. In case the migrant is apprehended for carrying out irregular work (i.e. not paying taxes and social security contributions), s/he may be expelled according to current rules and readmission procedures and loses the right to further participation in the DV scheme.

Fourth, the number of DVS to be issued in any country per year is subject to a numerical quota. This quota should be set high enough to accommodate the projected demand for DVS. At this point it is important to note that the demand for DVS will not be unlimited. In fact, the demand for DVS in any country will be of a similar magnitude than the current demand for smuggling services, as the prices for the two will be roughly the same as well. Based on a thorough inquiry of the current volume and structure of human smuggling activities in the country in question, a rough projection of the expected demand, at current smuggling prices, can be drawn up and can be translated into an annual numerical quota for the DVS. Should the eligible applications for DVS exceed this numerical quota in the course of the year, late-coming applicants may withdraw their application or they may decide to shift it to the following year.

Fifth, the DVS will be issued for only one host country in which they are valid. Thus, there is a need to coordinate both the total DV quota for any sending country and the individual sub-quotas for host countries across all EU countries (or at least all Schengen countries). Country quotas, sub-quotas and prices will be set annually by the EU Council of Justice and Home Affairs Ministers (JHA Council). There is also the possibility of charging slightly different prices for DVS for individual host countries.

Tripartition of DV fees

Applicants for DVS have to pay a one-time, non-refundable administrative fee upon applying for participation at the DV office. Once it has been determined that the applicant is eligible (i.e. not excluded from the scheme, see above), the full amount of the DV visa fee is to be paid as an up-front payment. Upon receipt of the payment, the DV is

specific country. However, new safeguards and the use of modern technologies such as the European Visa Information System (VIS) are likely to provide enhanced security against fraud and would be instrumental in the implementation of the proposed DV scheme.

issued and the DV fee is put into a caretakers account. Thereupon, the DV fee for each DV holder is divided into three equal parts:

One third will go to targeted development programmes in the sending country, supervised by an appropriately selected development agency. One third will be reimbursed by the DV office to the DV holder in person upon the return of the migrant within the specified time limit of the DV. Should the DV holders not return in time (either because they overstayed the time period of their DVS or because they seized the opportunity to gain another legal residence status in their host country, e.g. through marriage or a work-related stay permit) they will lose this part of the DV fee. Finally, one third will go to the DV Social Security Deposit (DVSSD) as explained below.

The DV Social Security Deposit (DVSSD)

The DVSSD is designed to cover basic health and welfare expenditures of the host country on behalf of the migrant, should the need for such expenditures arise. It is an insurance scheme administered by the state and is meant to cover expenses for those services only which are normally accorded to any person in need (e.g. emergency hospital treatment, basic welfare services). The precise coverage of the DVSSD in the host country is to be worked out by social security experts but it is clear that the DVSSD could not cover expensive health treatments of chronic illnesses (which could give rise to extensive abuse of the system).

What is more important here is the design of the DVSSD as a contingently mandatory social security scheme. This is to say, the DVSSD will only be drawn upon in case the migrant is not covered through the payment of social security contributions through declared income. On the other hand, when the migrant does assume legal work and does pay regular social security contributions deducted from her/his declared income, that part of the DVSSD where other social security coverage exists will be refunded. Thus, for example when the migrant pays regular social security contributions deducted from regular income for half of the time of the DV validity, s/he will get half of the DVSSD refunded upon return.

The point is that DV holders have the opportunity to get up to two-thirds of the DV fees refunded upon return, but only if they take up regular work and pay taxes and social security contributions. They thus have a clear economic incentive to decline irregular work offers and seek regular, declared work opportunities instead. This economic incentive of the DVSSD for the migrants to seek legal instead of illegal work could be reinforced by the right of DV holders to sue their employers for the forgone DVSSD upon return to their home country in case they were employed undeclared.

The outcome of the DV scheme

Having sketched the basic parameters and rules of the proposed DV scheme, we can now think through the possible outcomes both at the individual and at the aggregate level.

In principle, there are three alternative scenarios at the end of the duration of the DV (the precise duration of which needs to be determined, for example, one or two years) for each person who participates in the DV scheme. First, the migrant could return to the sending country and collect one third of the DV fee plus up to 100% of the DVSSD, depending on the duration of declared work during that period (thus, any migrant could get a refund of up to two thirds of the DV fee). Second, the migrant could obtain, during the period of validity of the DV in the host country, another legal stay permit (e.g. through obtaining another work permit or through marriage), in which case the migrant would lose the right to the refund of one third of the DV fee (the return incentive). And third, the migrant could stay on in the host country illegally, in which case s/he would automatically lose both the return incentive and the full DVSSD. Moreover, in case the migrant would be apprehended for visa overstaying, s/he could be expeditiously returned to the sending country, as her/his fingerprints are already stored in an electronic database and there are no doubts about the identity of the migrant.

At the aggregate level, it should be stressed once again, that the DV scheme does not *per se* imply higher migration levels (though it can accommodate these, if politically desired). On the one hand, the total demand for DVS would be limited by the fees charged for them. Thus, just as smuggling fees today limit the demand for illegal migration services, the DV fees will limit the demand for legal migration opportunities. On the other hand, migration will be limited by the DV quotas fixed for each year in advance by the host countries. And while these quotas should be high enough to roughly cover the expected demand for DVS, a possible excess demand at the end of a year could be carried over to the next year.

Despite the high fees for the DVS – which are to be set at similar levels to the prices charged by human smugglers – it is likely that migrants would prefer the legal migration opportunities offered by the DV scheme to the uncertain and risky services offered by human smugglers.¹⁸ If this is indeed the case and those who would have had no other opportunity to accomplish their migration projects than engaging the services of human smugglers would now migrate legally instead of illegally, then the DV scheme offers the prospect of really substituting legal for illegal migration flows.

It is also likely, however, that this would not be the end of the story. While there is a real chance that a considerable part of otherwise irregular migrants would then choose legal migration opportunities instead, a certain part of irregular migrants might still not choose the legal option. Moreover, one can expect that the smugglers would react to their diminished business prospects. One way to do so could be by cutting prices for smuggling services to attract new clients. However, there are limits to this strategy, as

¹⁸ In fact, in a small ad-hoc sample of pilot interviews with illegal migrants who had previously engaged the services of human smugglers, interviewees broadly agreed with this statement for their own case.

smugglers are also faced with considerable costs for their operations and would thus immediately face reduced profitability. Lower income and profits, in turn, would reduce their ability to keep up with stricter law enforcement capabilities and increasingly vigorous border guarding. The quality of the smuggling services relative to the efficiency of counter-smuggling activities would diminish and the success rates of smuggling operations would decline. The diminished prospects that human smugglers then had to offer, in combination with the new opportunities afforded by the DV scheme, could thus effectively reduce the demand for their smuggling services and could eventually tip the balance in favour of law enforcement.¹⁹

A DV pilot project

The remarks made in the last paragraph on the likely counter-reactions of human smugglers to the disturbance of their illicit business activities also indicate a broader point to be made. Due to the structure and dynamics of the market for illegal migration services, and the dynamics of migration movements in general, there is a need to tailor the DV scheme to the prevailing local circumstances and then to continuously adapt the DV rules, fees and quotas to the expected and unexpected changes in the environment.

Presently, there is no historical experience of how the implementation of the DV scheme would work out in practice. Therefore, it is suggested that the DV scheme be tested in a small regional pilot project. As the current proposal builds on insights on the human smuggling industry predominantly in Central and Eastern Europe, it would be appropriate to locate that DV pilot project in a small Eastern European country close to the EU which is a significant source country of smuggled migrants.

Imagine that such a source country is chosen by the ministers responsible for immigration of the EU-25. An in-depth study had previously determined that current smuggling fees for certain defined smuggling services to the Schengen area average around € 3,000,-. Likewise, the same study had estimated the yearly demand for one-year DVS at this rate to be around 50,000. Participating EU countries would then fix the first annual DV quota at this number and price and agree on a distribution of DV slots between EU host countries. The DV scheme would then be proposed to the government of the chosen source country and negotiations on a comprehensive cooperation package would take place. The final deal would include the full implementation details of the DV scheme, the status of the DV office, a readmission agreement, an agreement on development projects to be financed by the reserved one third of the DV fee and possibly much more. After setting up the DV office in the source country, the DV pilot project could immediately commence. In the first couple of years, the experience and lessons learned

¹⁹ Another possible reaction of smugglers could be to keep smuggling fees constant but to try cutting down on costs instead. Again, it is likely that this would lead to lower quality smuggling services and lower success rates of smuggling operations. Qualitative research on human smuggling operations indicates that this would quickly lead to a diminished reputation of “non-delivering” smugglers and, hence, to a diminished demand for their services. On the importance of reputation in human smuggling, see: Bilger, V., Hofmann, M. and Jandl, M., (2005), op. cit.

from the actual operation of the DV scheme would necessitate continuous adaptation of the scheme. After three to five years, the whole pilot project would be subject to a thorough evaluation and cost-benefit analysis and, after further modifications, could be extended to other source countries and regions.

The advantages of the DV scheme

The proposed DV scheme is designed to bring substantial benefits to all the important actors in the migration equation, except to the human smugglers who would lose their illicit income and profits. First, it benefits the participating migrants, who can obtain a legal status with more rights, a higher level of physical and psychological security and lower transaction costs (e.g. for their remittances). Second, it is a bonus to participating source countries, as they see their nationals in legal instead of illegal emigration and as they gain additional income for development and infrastructure projects through the reserved one-third share in the DV fee. And third, it benefits the host countries of DV holders as they gain better control over the entrants to their countries, face lower costs for control and enforcement and see fewer illegal foreign workers on their labour markets. In addition, host countries will have (at least part of) their social security expenditures accruing for irregular migrants covered through the DVSSD. When intelligently pooling resources for common DV offices in source countries, EU countries could also cover the administrative costs for operating the scheme in the sending country more easily.

Thus, almost everybody stands to gain from the DV scheme. However, the DV scheme is not about creating a pure “win-win” situation in migration cooperation. After all, it is the human smugglers who stand to lose from it.

Conclusion

The proposed DV scheme does not raise the claim to bring about the total elimination of human smuggling activities, as it clearly will not. It is highly probable that there will always be some amount of illegal migration, whatever the policies designed to counter it, and – hence – there will also continue to exist a demand for the facilitation of such migration. For example, the DV scheme, while generally open to any potential migrant, is also designed to exclude certain applicants, in particular those who have previously violated the rules of the DV scheme. It is possible that this group of persons would then recur to the use of human smuggling services. Likewise, no realistic amount of financial incentives or penalties can guarantee that DV holders would not take up illegal instead of legal work in their host country, though the problem is likely to be significantly reduced.

Nevertheless, the DV scheme could make significant inroads into the reduction of human smuggling activities and, where it fails to do so, it would facilitate the handling of the remaining deviations. After all, DV holders are to be registered and fingerprinted, which would remove one of the main obstacles for their readmission in case they violated migration regulations.

Thus, to be clear once again, the proposed DV scheme cannot be the perfect once-and-for-all solution for current and future migration problems. Indeed, it is unlikely that such a solution will ever exist. However, compared to the current situation with massive illegal migration in Europe, facilitated by an extensive human smuggling industry, the DV scheme promises real progress. It is simple, with clear rules and standards and therefore less liable to circumvention and fraud. Already in the medium term, it should be more cost-effective when compared with the escalating costs of purely repressive entry-control regimes. It should bring about more human and legal security for the migrants and diminish shadow work activities in the host countries.

The point is that, while there is no perfect solution to illegal migration and human smuggling activities, the DV scheme would represent a significant improvement over the current situation. This is the main justification for the proposed scheme and it addresses a lot of concerns that have been raised towards the DV scheme. For example, one objection to the DV scheme was that it would allow governments little say over who should enter their countries nor, if the quotas are set high enough to be workable, how many should enter. This is ultimately true (except that certain applicants can be excluded by definition, for example those posing a security threat) but it does not invalidate the scheme. For, the reality is that, whenever human smugglers choose their clients according to the sole criterion of their ability to pay, governments have little say in who enters their territory either. Under the DV scheme, however, these migrants are at least registered and have strong incentives to comply with the DV rules. And when they do not comply with the rules, they can at least easily be identified and returned by use of their fingerprints, contrary to the situation today. Another objection raised was that the scheme is unethical as it lets migrants pay for their right to enter another country. The answer to this concern is twofold. First, the DV holder gets up to two thirds of the DV fee refunded, if s/he complies with the DV rules, contrary to the current situation of smuggled migrants. And second, the third part that is not refunded goes to targeted development projects within the migrant's country of origin and can be seen as a compensation for the investment society has made in the upbringing and education of the migrant.

There are a lot of other doubts that can and have been raised against the proposed DV scheme. However, I believe that an intelligent answer to deal with all possible problems of the DV scheme could be found, if not always a perfect answer then at least a second-best answer. As one commentator of the proposal has aptly remarked: "Let the best not be the enemy of the good".²⁰ And this is an advice that policy-makers dealing with pressing current migration challenges should always heed.

²⁰ The comment was made at the Workshop on Short and Long-term Alternative Approaches to Tackle Human Smuggling at the 9th International Metropolis Conference in Geneva in September 2004, where this proposal was originally presented (see: http://www.metropolis2004.ch/en/A13_pres_Jandl.pdf.pdf). The author would like to thank the participants for their encouragement and valuable comments.

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