

STATES, INSTITUTIONS, MOBILITY

MIGRATION – OPEN BORDERS –
INTERNATIONAL LEGAL FRAMES

Presentation by

Boldizsár Nagy at the CEU summer school course:

The National and the Transnational

5 July 2018

Global Compact on Migration – 2nd Draft, 2018 June:

„Migration has been part of the **human experience throughout history**, and we recognize that it is a **source of prosperity, innovation and sustainable development** in our globalized world, and that these **positive impacts can be optimized** by improving migration governance.”

TWO WARM-UP QUESTIONS

Who is an international migrant / foreigner / "alien"?

Is it true that the birthright citizenship is like a feudal privilege?

CATEGORIES OF MIGRANTS

(AND OF INTERNALLY DISPLACED)

Migrant			
International			Domestic
Regular	Irregular		
A longer than 1 year presence/absence, in accordance with the law	No right to enter/stay „Illegal”	Forced migration	
Regular migrant (Worker, student, family unifier, etc.)	Undocumented foreigner, Persons with no right to enter and/or stay	Refugee	Internally displaced person, IDP

HISTORY - A BRIEF OVERVIEW COVERING ALL KINDS OF POPULATION MOVEMENTS

The start: we all came from Africa

Recall major movements

The ancient period:

Greeks establishing colonies in Turkey, Sicily etc

The Romans moving up to Britain, and here till the Danube line („Pannonia”)

Middle ages

640-1250 Arabic tribes expanding including settling in great parts of the Iberian peninsula

400-650 northern tribes, vandals in the Roman Empire

600-900 Slavic people in Russia, Bulgaria, Poland

800-900 Magyars (Hungarians) arrive in the Carpathian basin

900-1100 Normans

1100-1400 Tatars (Mongols) conquering parts of present Europe

1500-1815

till 1650: almost half a million Spanish move to Central and South America and the Caribbean

by 1815: 1 million people move to North America from Britain and Ireland

1440 -1870 8 - 11 million slaves forcefully transported to South and North America and the Caribbean

1815-1914: „MAXIMUM PERIOD OF VOLUNTARY INTERNATIONAL MIGRATION IN HISTORY“

From	To	Number
Britain and Ireland	US	11 million
	Canada	2,5 million
	Australia, New Zealand	2,0 million
	South Africa	0,8 million
Italy	US, Canada	5 million
	Argentina	2,4 million
	Brazil	1,4 million
Germany	US and Canada	5 million
Austro-Hungarian Monarchy	US and Canada	3,2 million
Spain	Argentina	1,2 million
	Brazil	0,6 million
„Poland“	US	2,5 million

The population of Europe in 1850 was 277 million
 The population of a few countries (millions)

Source:Livi-Bacci, 25 and 71

	1600	1750	1850
England	4,1	5,8	16,6
The Netherlands	1,5	1,9	3,1
Germany	12,0	15,0	27,0
Italy	13,5	15,8	24,7
Spain	6,7	8,6	14,8
Total	54,7	71,7	122,5

THE START OF THE END OF THE LIBERAL SYSTEM: 1882: US EXCLUDES CHINESE LABOURERS

FORTY-SEVENTH CONGRESS. SESS. I. CH. 126. 1882.

59

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the expiration of ninety days next after the passage of this act, and until the expiration of ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended; and during such suspension it shall not be lawful for any Chinese laborer to come, or, having so come after the expiration of said ninety days, to remain within the United States.

Immigration of Chinese laborers to the United States suspended for ten years.

SEC. 2. That the master of any vessel who shall knowingly bring within the United States on such vessel, and land or permit to be landed, any Chinese laborer, from any foreign port or place, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every such Chinese laborer so brought, and may be also imprisoned for a term not exceeding one year.

Penalties for violation of act.

HOWEVER, „THE RIGHT OF ADMISSION AND SOJOURN IS ALMOST UNIVERSALLY RECOGNISED”

In 1811, the first **Venezuelan** Constitution introduced a clause later **replicated by all countries** in the region: “**All foreigners of any nation will be admitted** into the State.”

Diego Acosta: Free Movement in South America: The Emergence of an Alternative Model? MPI, <https://www.migrationpolicy.org/article/free-movement-south-america-emergence-alternative-model> (20180704)

The first Hungarian Passport Law in 1903 declared : „Usually no passport is needed for the sojourn and travel within the territories of the Hungarian Crown and for crossing the borders of the state“ (*Act VI. of 1903, Art. 1*)

The same, universally:

At the present day the right of admission and sojourn on the part of unobjectionable aliens is almost universally recognized. Qualifications of the right, which are to be found in the possibilities of exclusion, expulsion and the fixing of conditions of sojourn by the state, must in practice be based upon reasonable grounds.

Edwin M Borchard ,The Diplomatic protection of Citizens Abroad', New York, 1916, 37. old.,

<http://www.archive.org/stream/diplomaticprotec00borc#page/36/mode/2up/search/36>

Classical **exclusion clause** („objectionable aliens”)(US, 1892)

„All **idiots, insane persons, paupers** or persons likely to become a public charge, persons suffering from a **loathsome or a dangerous contagious disease**, persons who have been convicted of a **felony or other infamous crime** or misdemeanor involving **moral turpitude, polygamists,...**”

SUMMARY

„The *period from about 1850 to 1914 was an era of mass migration in Europe and North America. Industrialization was a cause of rural-to-urban migration and both emigration and immigration. After 1914, war, xenophobia and economic stagnation and increased state control (such as the introduction of passports) caused a considerable decline in migration* The large-scale movements of the preceding period seemed to have been the results of a unique and unrepeatable situation. When rapid and sustained economic growth got under way *after the Second World War, the new age of migration was to take the world by surprise.*”

Stephen Castles, Hein de Haas and Mark J Miller
The Age of Migration: International Population Movements in the Modern World
Fifth edition, Palgrave, Houndsmills, 2014, p. 100

THE INTERWAR PERIOD

Interwar period (1918 – 1939)

Dramatic change: end of liberal migration regimes

- **Passports, visas** required
- **US** changes immigration laws: tough **quotas** applied
- in Europe: the **state assumes responsibility** for the **welfare of the economy** and the population and therefore uses immigration control measures as tools to safeguard the labour market. **Xenophobia** also increases.
- at the end of the period **flight from fascism** increases

AFTER WW II.

Repatriation - **Population exchanges** – „moving countries” (Poland, e.g)

Reconstruction after WW II: need for workforce:

Marshall plan + welfare state

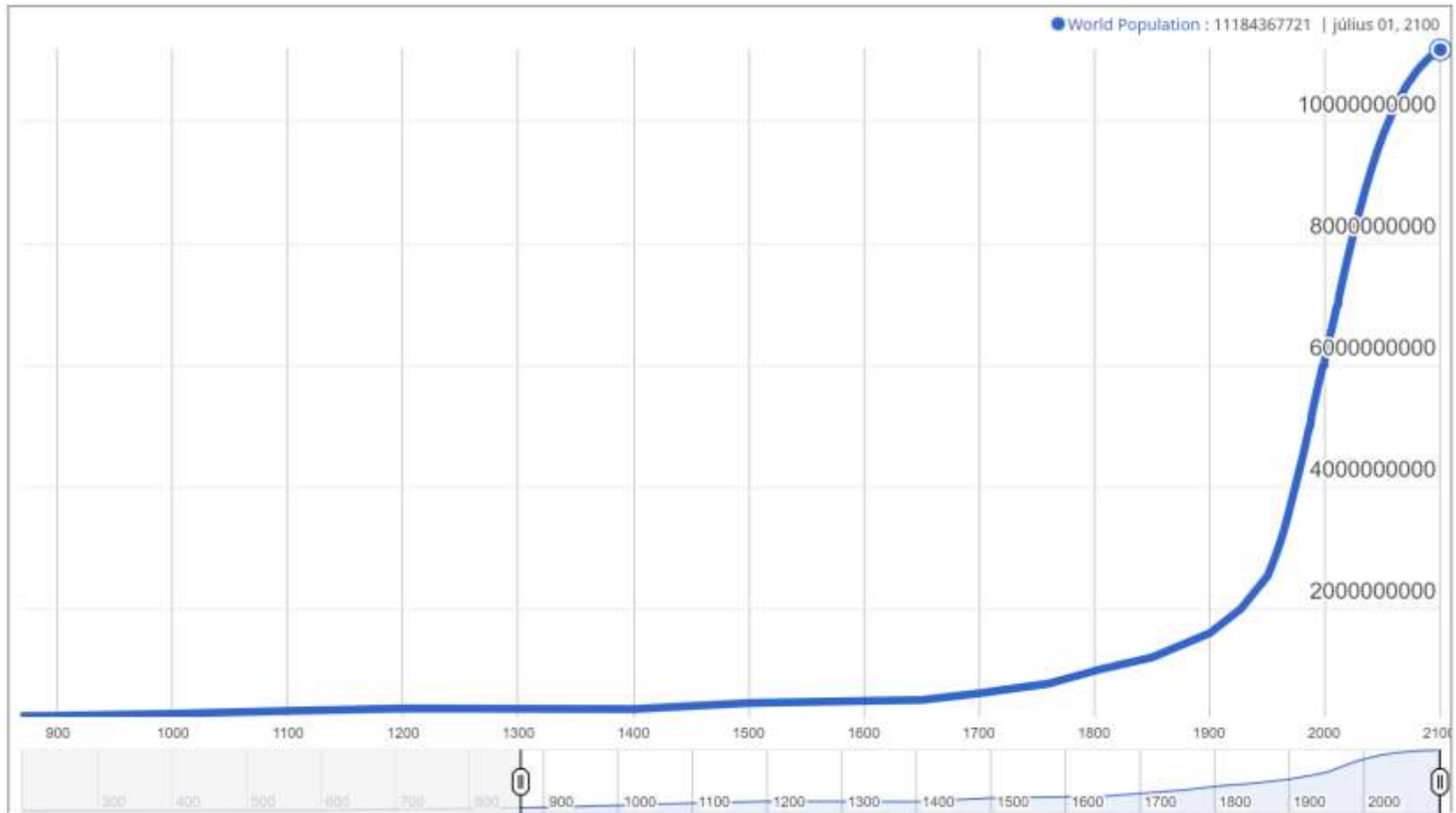
Guestworkers ("Gastarbeiter"): from Italy, Spain, later Turkey, Yugoslavia come to Germany, the Benelux, Nordic countries

Steady inflow of workforce supply from **former colonies** (France, United Kingdom, Netherlands)

POPULATION DATA

WORLD POPULATION: PAST, PRESENT, AND FUTURE

2100 January 1 = 11,18 billion



Source: <http://www.worldometers.info/world-population/#pastfuture> (2010116)

WORLD POPULATION BY SELECTED YEARS

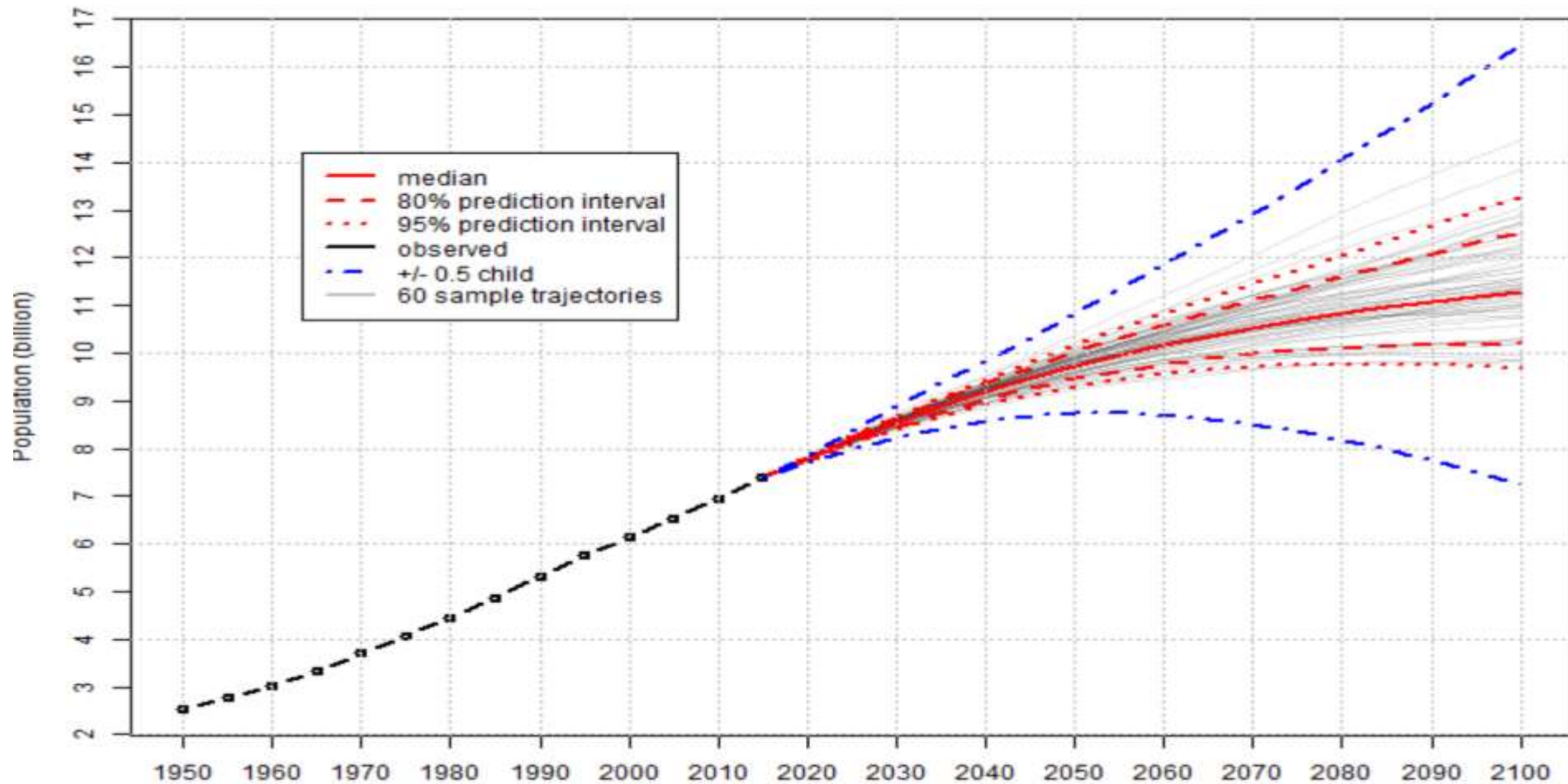
Year	World Population	Yearly Change	Net Change	Density (P/Km ²)	Urban Pop	Urban Pop %
2017	7,550,262,101	1.12 %	83,297,821	76	4,110,778,369	54 %
2012	7,128,176,935	1.21 %	85,168,349	71	3,725,502,442	52 %
2007	6,706,418,593	1.25 %	82,570,680	67	3,344,752,515	50 %
2002	6,302,149,639	1.27 %	78,737,481	63	2,987,784,981	47 %
1997	5,910,566,295	1.35 %	79,001,275	59	2,681,474,069	45 %
1992	5,504,401,149	1.58 %	85,642,346	55	2,398,603,088	44 %
1987	5,055,636,132	1.85 %	92,002,904	51	2,113,397,101	42 %
1982	4,618,776,168	1.78 %	80,930,391	46	1,849,348,541	40 %
1977	4,229,201,257	1.80 %	74,913,663	42	1,612,295,726	38 %
1972	3,851,545,181	2.01 %	75,754,281	39	1,420,942,101	37 %
1967	3,479,053,821	2.08 %	70,932,416	35	1,248,237,530	36 %

Source: <http://www.worldometers.info/world-population/#pastfuture> (20171121)

Population growth forecasts

In July 2015 world population amounted to **7,5 billion**. It increased by **one billion** since **2003** and by **two billion** since **1990**
The total world population in **1900** was **1,63 billion**

World: Total Population

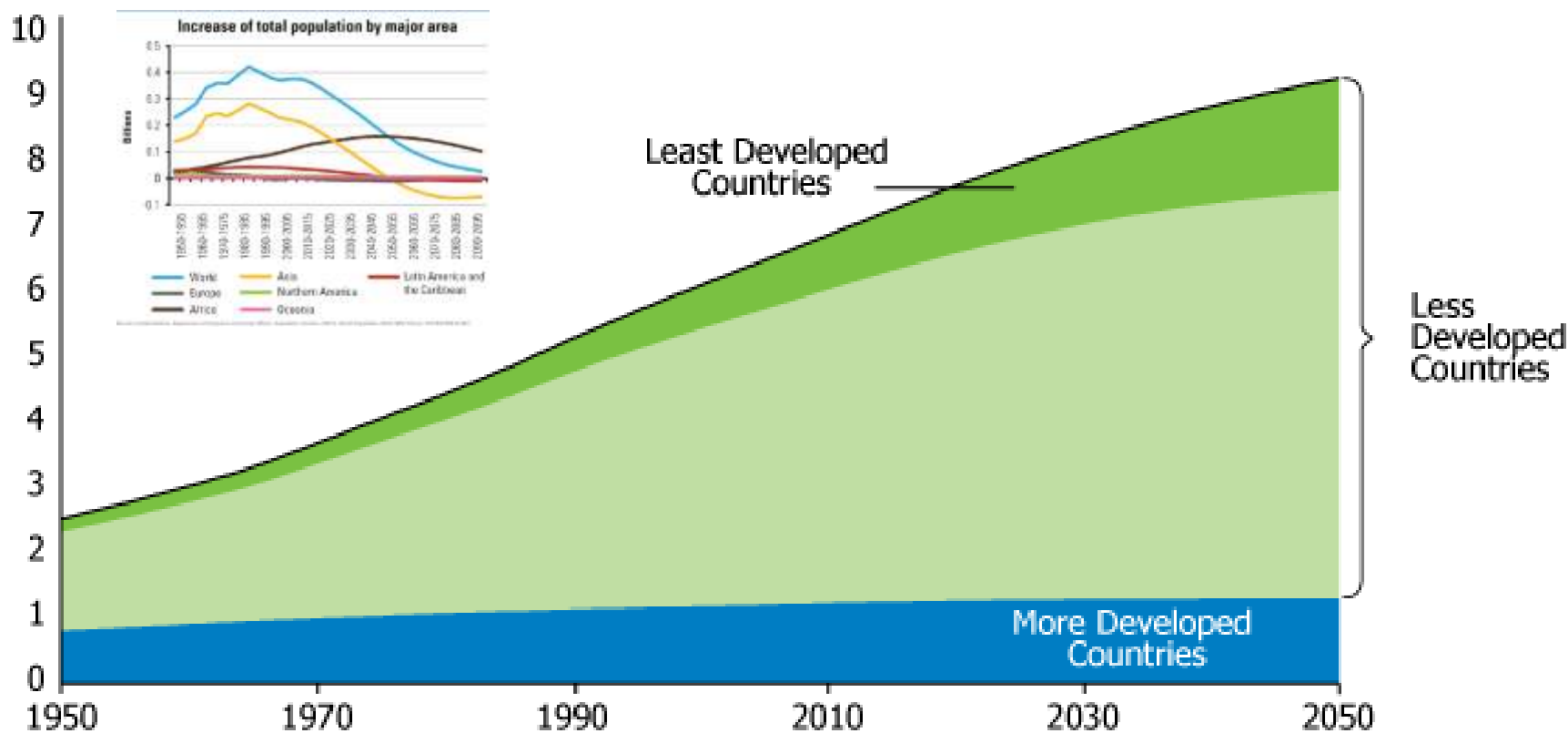


Source: United Nations, Department of Economic and Social Affairs, Population Division (2017).
World Population Prospects: The 2017 Revision. <http://esa.un.org/unpd/wpp/>

The distribution of population between the more and the less developed countries

Nearly All Future Population Growth Will Be in the World's Less Developed Countries.

Population (billions)



Source: United Nations Population Division, *World Population Prospects: The 2010 Revision*, medium variant (2011).

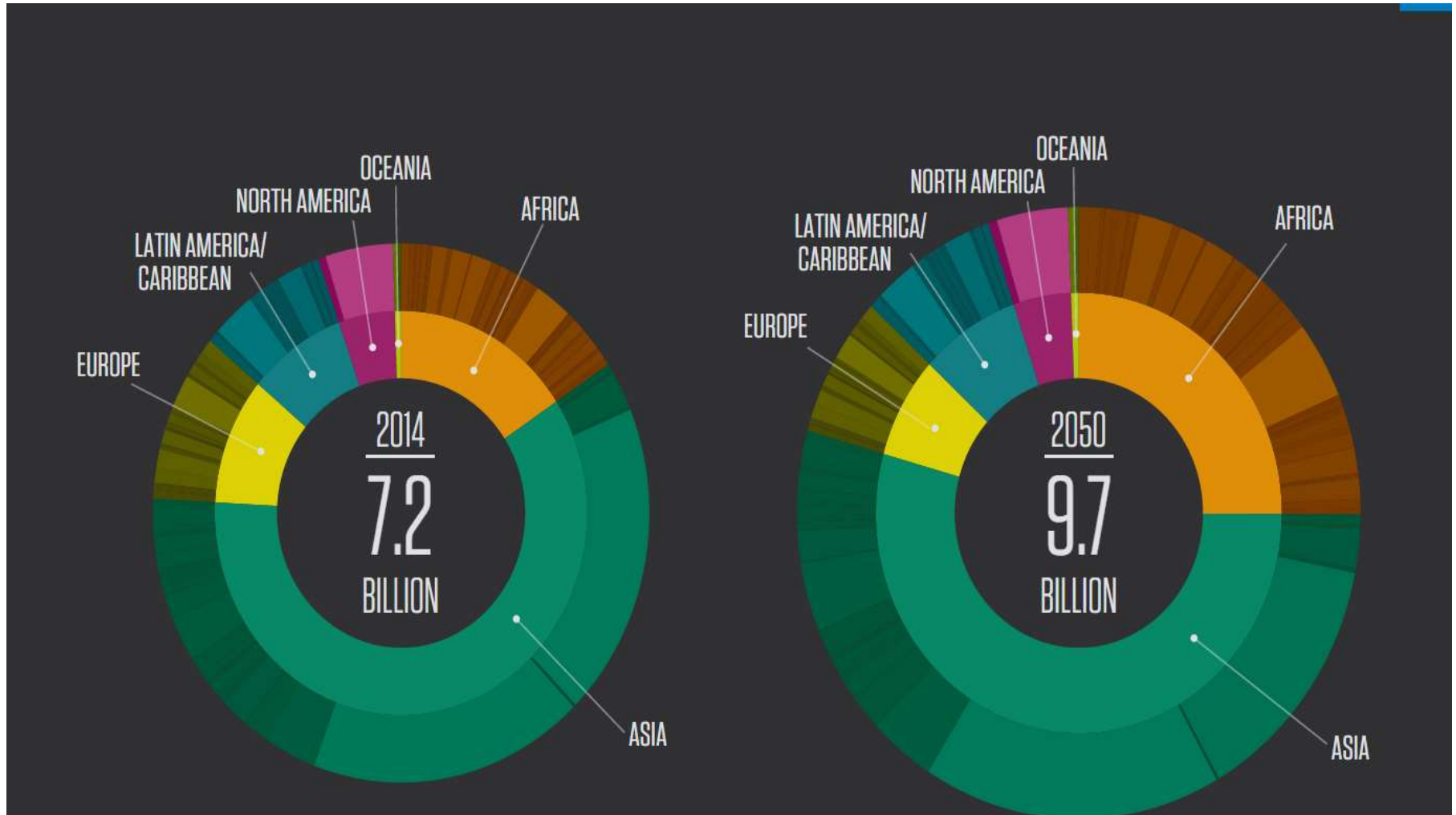
The most recent UN forecast (2017)

TABLE 1. POPULATION OF THE WORLD AND REGIONS, 2017, 2030, 2050 AND 2100,
ACCORDING TO THE MEDIUM-VARIANT PROJECTION

<i>Region</i>	<i>Population (millions)</i>			
	<i>2017</i>	<i>2030</i>	<i>2050</i>	<i>2100</i>
World	7 550	8 551	9 772	11 184
Africa	1 256	1 704	2 528	4 468
Asia	4 504	4 947	5 257	4 780
Europe.....	742	739	716	653
Latin America and the Caribbean	646	718	780	712
Northern America	361	395	435	499
Oceania	41	48	57	72

Source: United Nations, Department of Economic and Social Affairs, Population Division (2017).
World Population Prospects: The 2017 Revision. New York: United Nations.

POPULATION SIZE PER REGION AND PER COUNTRY 2014 AND 2050 COMPARED



Source: excellent interactive chart at <http://www.prb.org/wpds/2014/> (20180116)

The source of the migratory pressure

Population Clock, 2016

		WORLD	MORE DEVELOPED COUNTRIES	LESS DEVELOPED COUNTRIES
Population		7,418,151,841	1,254,309,821	6,163,842,020
Births per	Year	147,183,065	13,714,857	133,468,215
	Day	403,241	37,575	365,666
	Minute	280	26	254
Deaths per	Year	57,387,752	12,580,616	44,807,108
	Day	157,227	34,467	122,759
	Minute	109	24	85
Natural increase per	Year	89,795,313	1,134,242	88,661,107
	Day	246,015	3,108	242,907
	Minute	171	2	169
Infant deaths per	Year	5,226,233	65,229	5,160,998
	Day	14,318	179	14,140
	Minute	10	0.1	10

**Source: Population Reference Bureau,
2016 WORLD POPULATION DATA SHEET, p. 3
(20161122)**

DECREASE IN POPULATION – WHO NEEDS MIGRANTS?

TABLE S.5. COUNTRIES WHOSE POPULATION IS PROJECTED TO DECREASE BETWEEN 2015 AND 2050
(MEDIUM VARIANT)

Rank	Country or area	Population (thousands)		Difference	
		2015	2050	Absolute	Percentage
1.	Bulgaria	7 150	5 154	-1 996	-27.9
2.	Romania	19 511	15 207	-4 305	-22.1
3.	Ukraine	44 824	35 117	-9 707	-21.7
4.	Republic of Moldova	4 069	3 243	- 826	-20.3
5.	Bosnia and Herzegovina	3 810	3 069	- 742	-19.5
6.	Latvia	1 971	1 593	- 377	-19.1
7.	Lithuania	2 878	2 375	- 503	-17.5
8.	Serbia	8 851	7 331	-1 520	-17.2
9.	Croatia	4 240	3 554	- 686	-16.2
10.	Hungary	9 855	8 318	-1 537	-15.6
11.	Japan	126 574	107 411	-19 162	-15.1
12.	Belarus	9 496	8 125	-1 371	-14.4
13.	Poland	38 612	33 136	-5 475	-14.2
14.	Estonia	1 313	1 129	- 184	-14.0
15.	Georgia	4 000	3 483	- 517	-12.9
16.	Greece	10 955	9 705	-1 249	-11.4
17.	Other non-specified areas	23 381	20 778	-2 603	-11.1
18.	Portugal	10 350	9 216	-1 134	-11.0
19.	Russian Federation	143 457	128 599	-14 858	-10.4
20.	Slovakia	5 426	4 892	- 534	-9.8
21.	Martinique	396	358	- 38	-9.7
22.	Armenia	3 018	2 729	- 289	-9.6

MIGRATION DATA

RECENT MOVEMENTS AND STOCKS

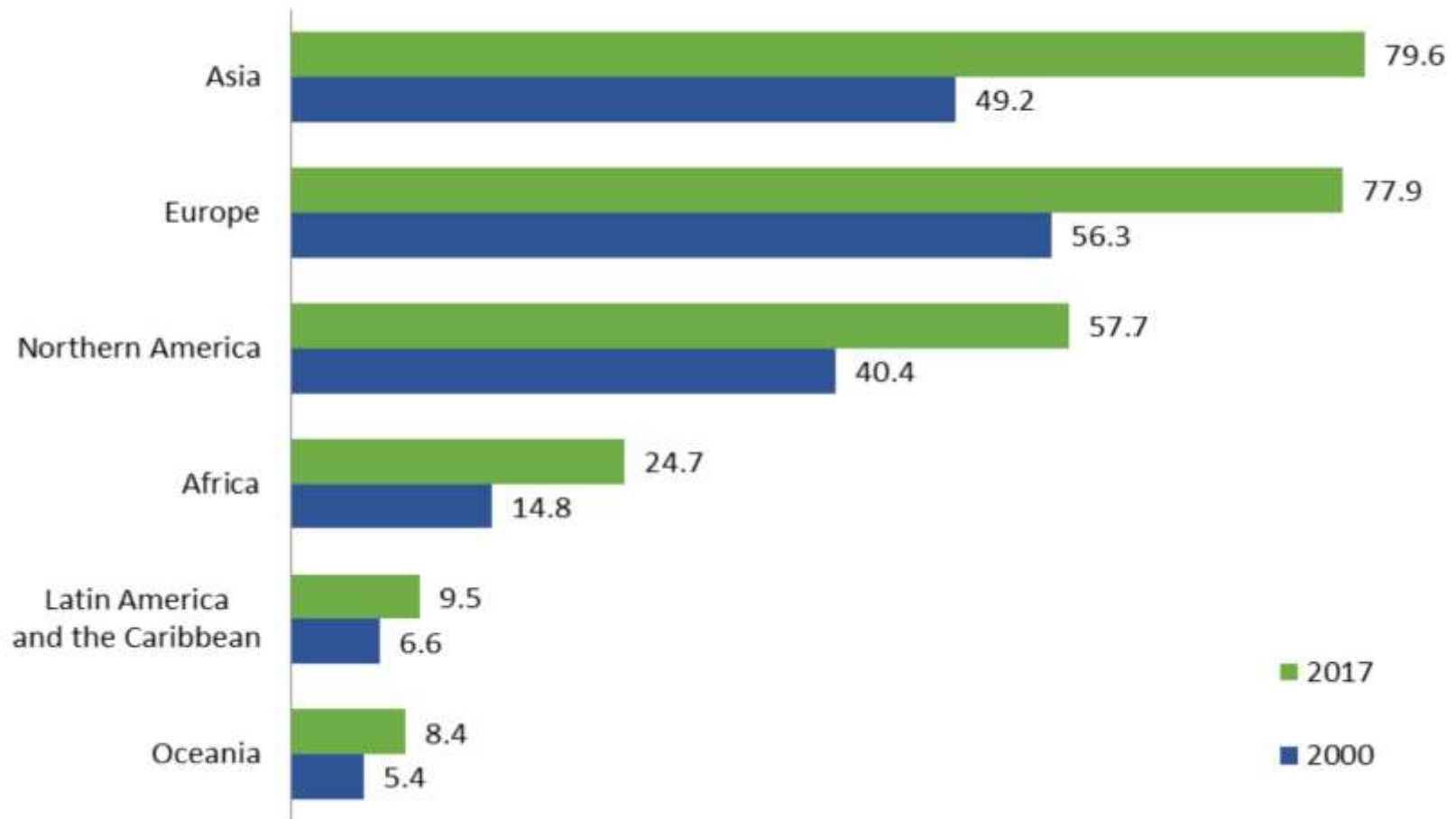
DEFINITION USED IN UN STATISTICS

„By definition, an international migrant is a person who is living in a country other than his or her country of birth. To estimate the international migrant stock, data on place of birth are the preferred source of information. Data on the foreign-born were available for 182 countries, or three quarters of the 232 countries and areas included in this analysis. When data on the foreign-born were not available, data on foreign citizens were used.”

STOCK OF INTERNATIONAL MIGRANTS

Figure 2

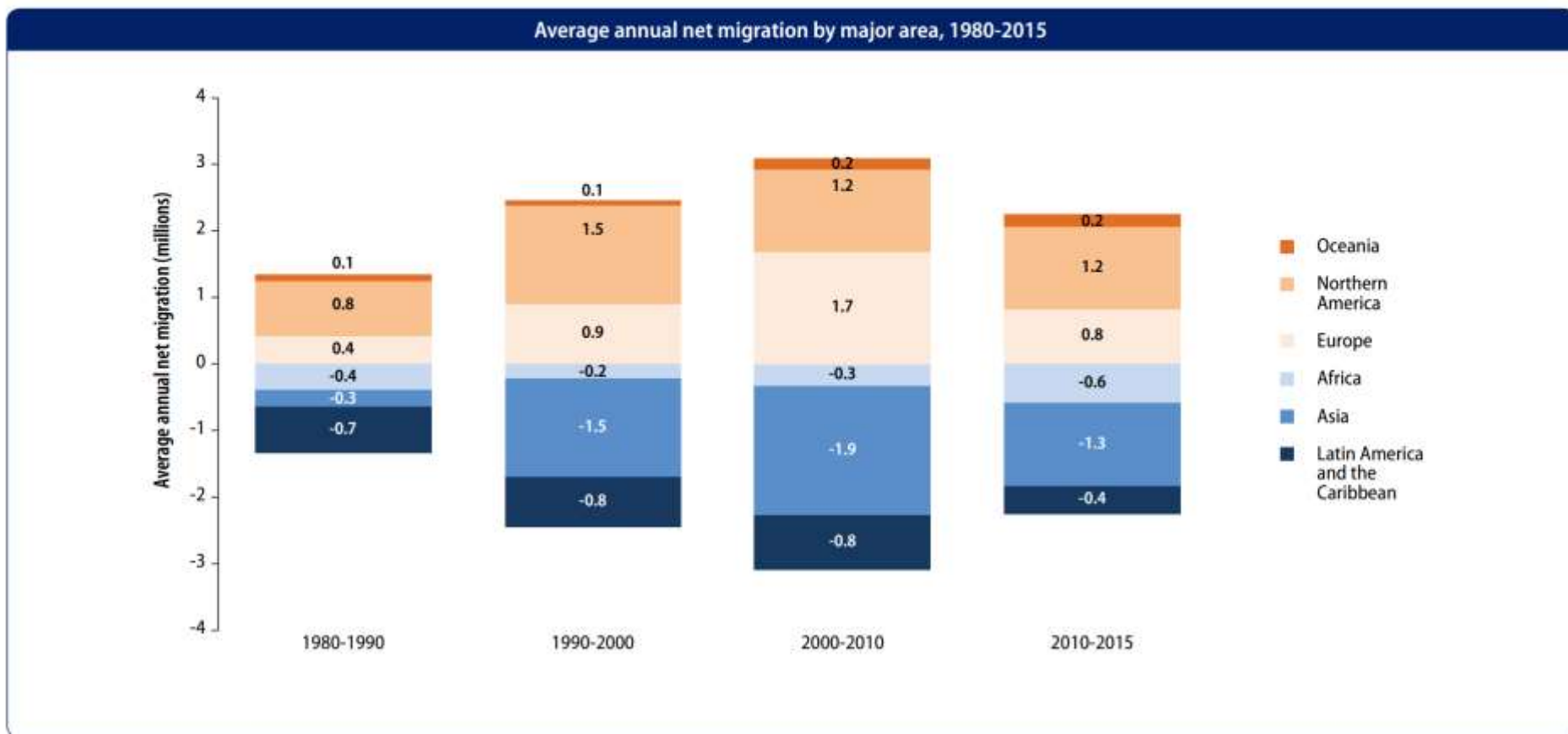
Number of international migrants (millions) by region of destination, 2000 and 2017



Source: United Nations (2017a)

AVERAGE ANNUAL NET MIGRATION DECREASING

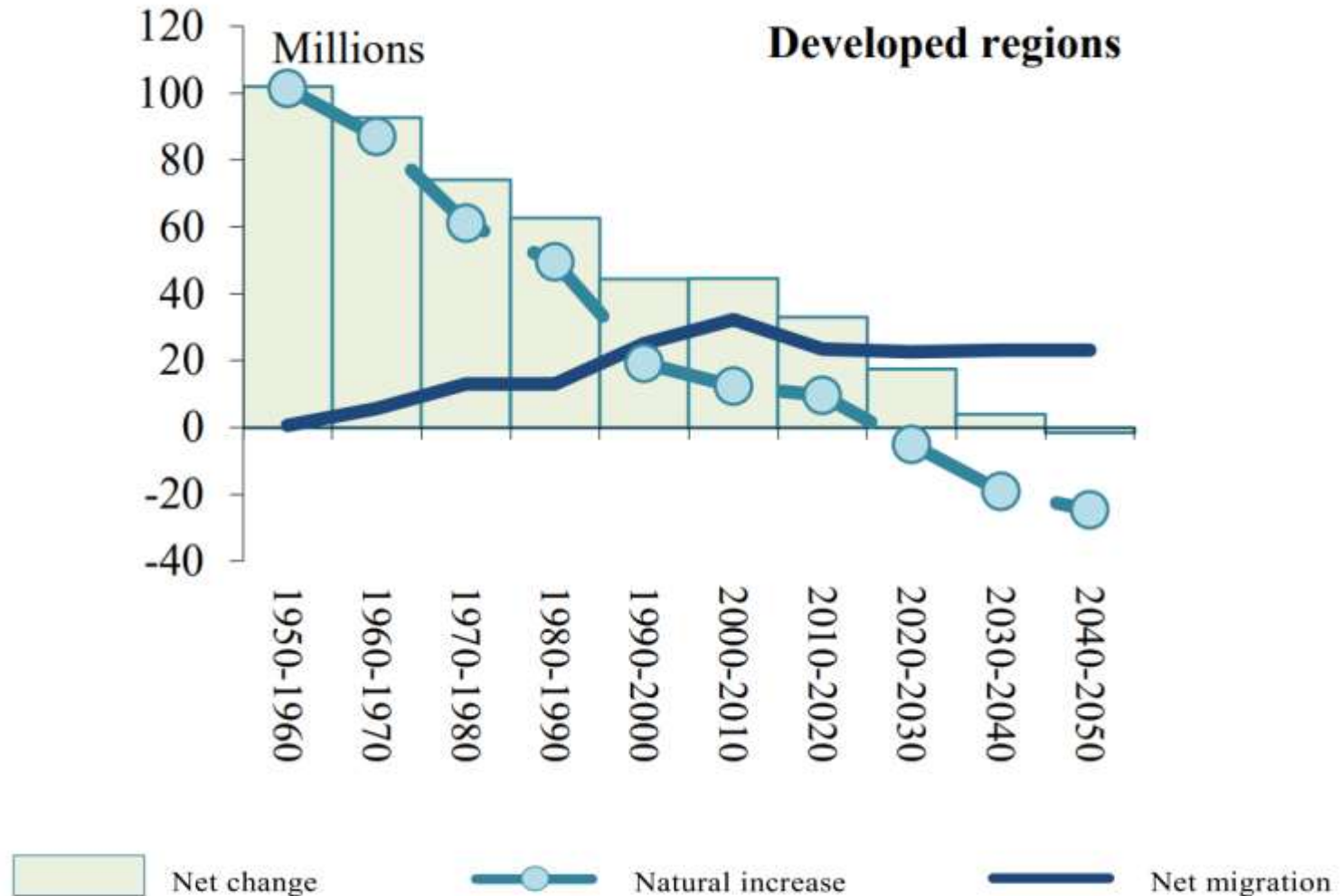
Europe, Northern America and Oceania are net receivers of international migrants; Africa, Asia and Latin America and the Caribbean are net senders



Source: United Nations, Department of Economic and Social Affairs, Population Division (2015). World Population Prospects 2015 – Data Booklet (ST/ESA/SER.A/377) p. 8

https://esa.un.org/unpd/wpp/Publications/Files/WPP2015_DataBooklet.pdf (20161122)

NATURAL INCREASE OR DECREASE AND NET MIGRATION



THE ABSOLUTE NUMBERS OF MIGRANTS AND THEIR PROPORTION IN THE GLOBAL POPULATION (MIDYEAR STOCK)

Major area, region, country or area of destination	International migrant stock at mid-year (both sexes)						
	1990	1995	2000	2005	2010	2015	2017
WORLD	152 542 373	160 700 028	172 604 257	190 531 600	220 019 266	247 585 744	257 715 425
More developed regions	82 391 619	92 331 345	103 417 894	116 295 565	130 683 517	140 250 197	145 983 830
Less developed regions	70 150 754	68 368 683	69 186 363	74 236 035	89 335 749	107 335 547	111 731 595
Least developed countries	11 073 226	11 708 074	10 073 307	9 803 046	9 994 197	13 804 757	14 441 715
Less developed regions, excluding least developed countries	59 116 432	56 701 134	59 155 202	64 483 287	79 393 605	93 572 872	97 330 919
High-income countries	75 239 010	86 645 274	100 404 811	117 786 056	141 789 049	156 816 897	164 846 887
Middle-income countries	68 475 181	64 413 423	64 042 290	64 661 461	70 204 762	79 772 836	81 439 828

0,5 percent increase since 1990 = 3,4 % in 2017!

Major area, region, country or area of destination	International migrant stock as a percentage of the total population (both sexes)						
	1990	1995	2000	2005	2010	2015	2017
WORLD	2,9	2,8	2,8	2,9	3,2	3,4	3,4
More developed regions	7,2	7,9	8,7	9,6	10,6	11,2	11,6
Less developed regions	1,7	1,5	1,4	1,4	1,6	1,8	1,8
Least developed countries	2,2	2,0	1,5	1,3	1,2	1,4	1,4
Less developed regions, excluding least developed countries	1,6	1,4	1,4	1,4	1,6	1,8	1,8
High-income countries	7,7	8,5	9,6	10,9	12,6	13,6	14,1
Middle-income countries	1,7	1,5	1,4	1,3	1,3	1,4	1,4

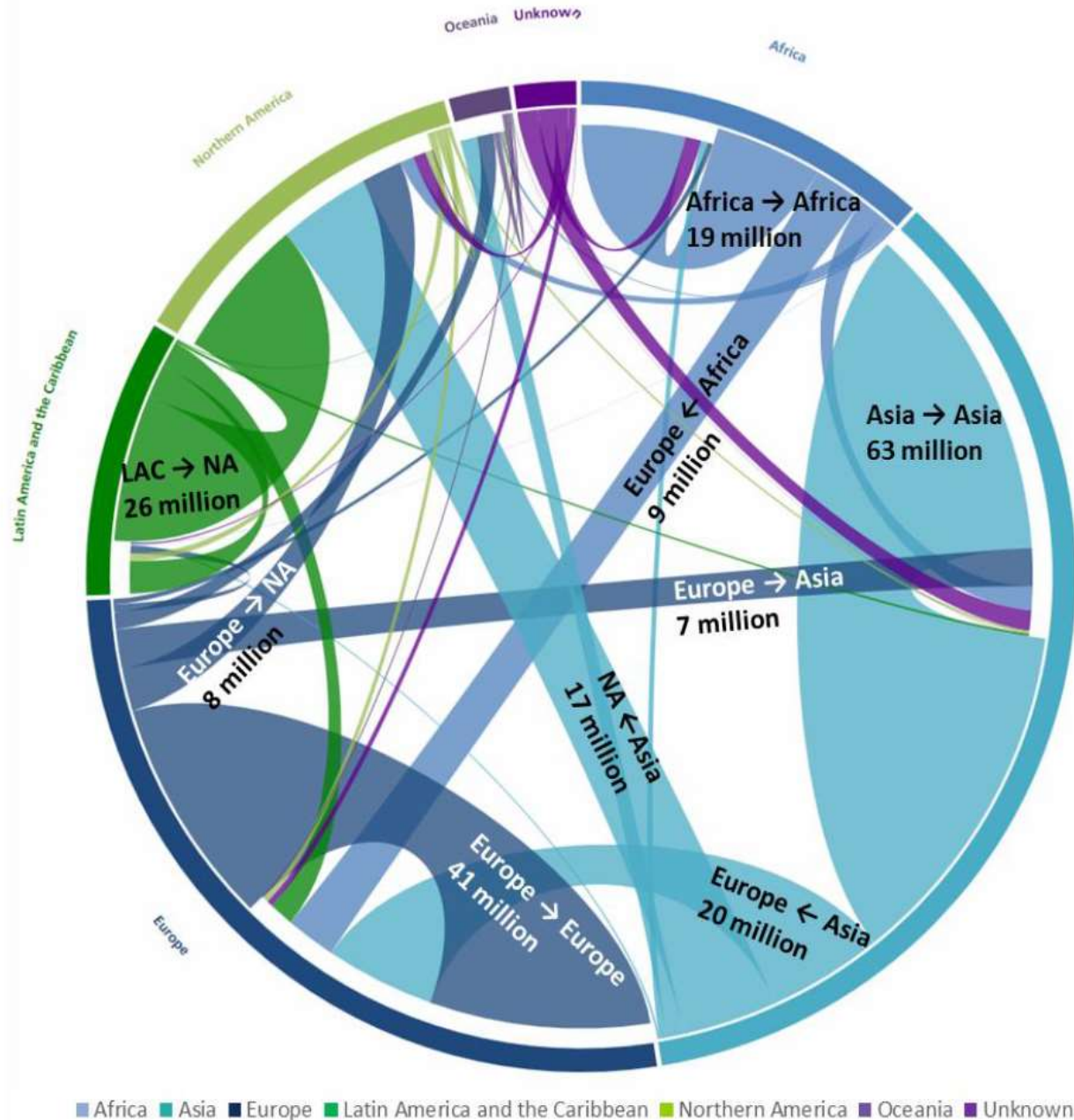
Figure 5

Number of international migrants classified by region of origin and destination, 2017

MIGRANTS' ORIGIN AND DESTINATION

CLOSE TO PERIMETER
 – DEPARTURE
 GAP TO PERIMETER:
 ARRIVAL

Source: United Nations, Department of Economic and Social Affairs, Population Division (2017). International Migration Report 2017: Highlights (ST/ESA/SER.A/404). P. 11



MAJOR MIGRATION DIRECTIONS

WHERE DID THE 232 MILLION MIGRANTS IN 2013 COME FROM?

(MORE MIGRANTS REMAIN IN THE SOUTH THAN MOVE TO THE NORTH!)

South

South: 82.3 (36%)

South

North: 81.9 (35%)

North

North: 53.7 (23%)

North

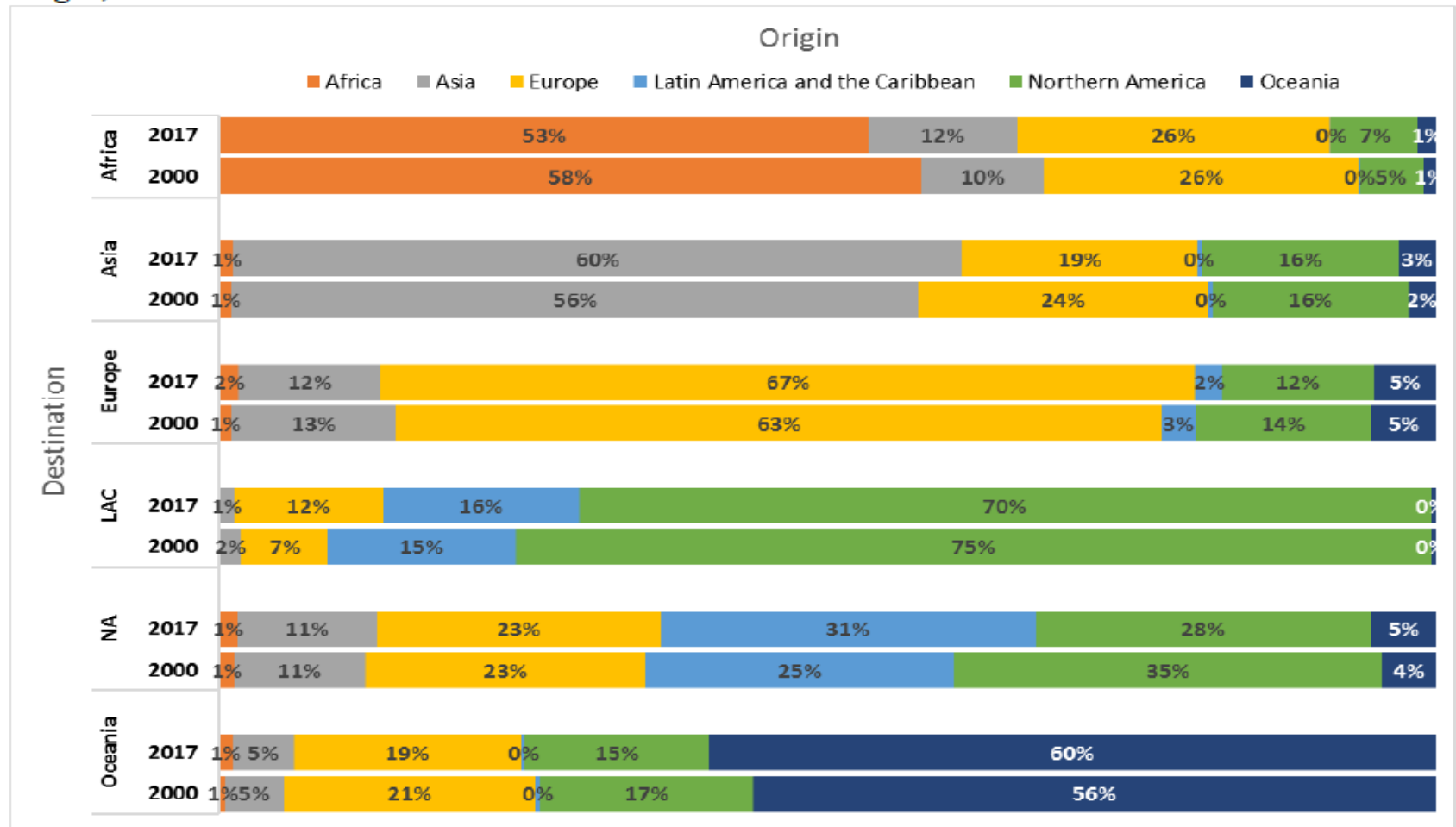
South: 13.7 (6%)

Source:
<http://esa.un.org/unmigration/wallchart2013.htm>

MOVEMENT LARGELY WITHIN THE REGION

Figure 6

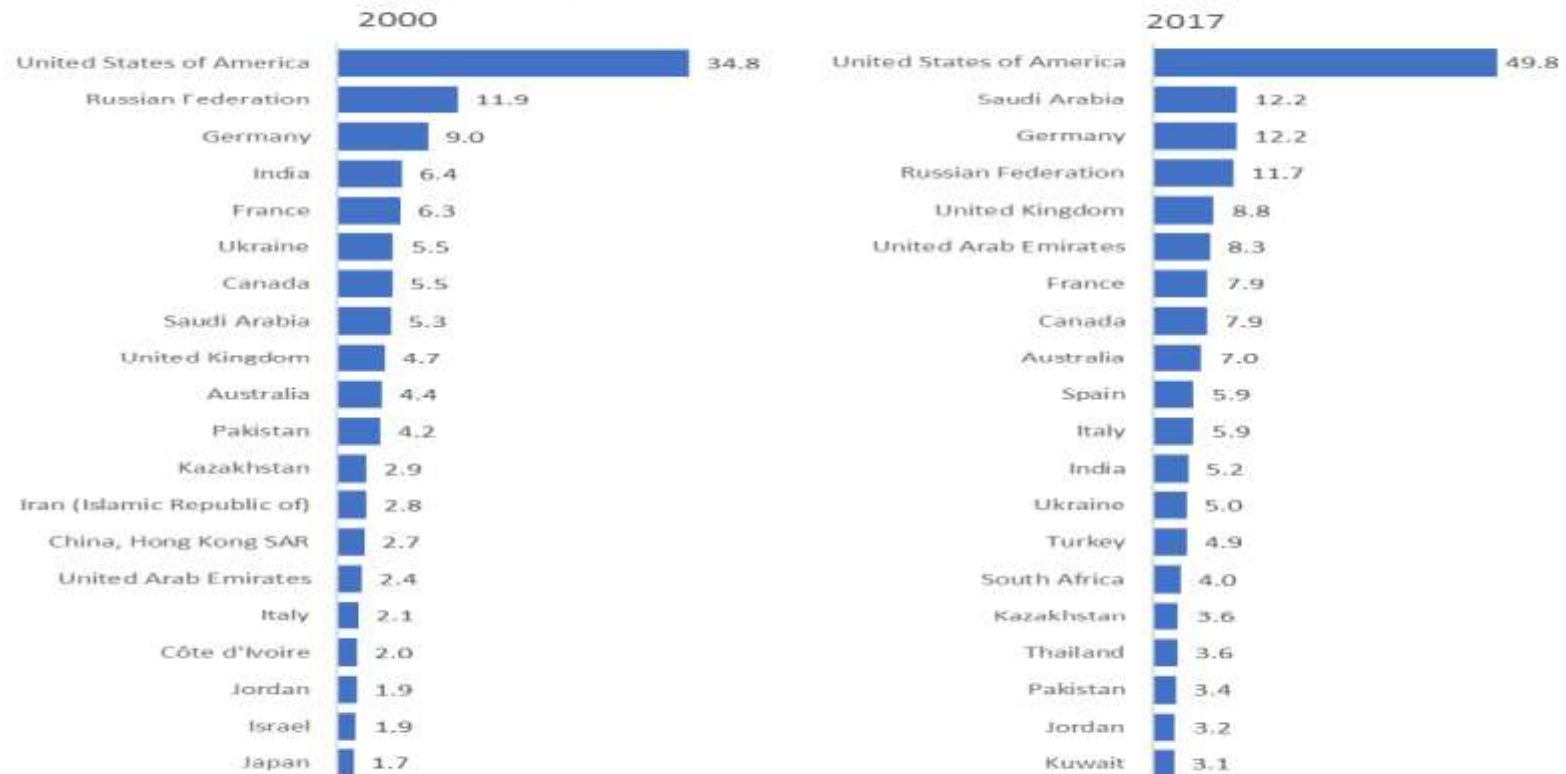
Percentage distribution of international migrants by region of destination, for regions of origin, 2000 and 2017



GROWTH OF MIGRANT STOCKS BY REGION AND MAJOR IMMIGRATION COUNTRIES

Figure 3

Twenty countries or areas hosting the largest numbers of international migrants, 2000 and 2017, number of migrants (millions)



Source: United Nations (2017a)

Notes: "China, Hong Kong SAR" refers to China, Hong Kong Special Administrative Region

STOCK OF FOREIGN BORN POPULATION (OECD DATA)

Table A.4. **Stocks of foreign-born population in OECD countries and in Russia**

Thousands and percentages

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Australia	4 877.1	5 031.6	5 233.3	5 477.9	5 729.9	5 881.4	6 018.2	6 209.5	6 399.4	6 557.6	6 710.9
% of total population	24.1	24.4	24.9	25.6	26.3	26.5	26.7	27.1	27.5	27.8	28.0
Austria	1 195.2	1 215.7	1 235.7	1 260.3	1 275.5	1 294.7	1 323.1	1 364.8	1 414.6	1 484.6	1 594.7
% of total population	14.5	14.7	14.9	15.1	15.3	15.4	15.7	16.1	16.7	17.4	18.7
Belgium	1 268.9	1 319.3	1 380.3	1 443.9	1 503.8	1 628.8	1 643.6	1 748.3	1 775.6	1 811.7	1 877.2
% of total population	12.0	12.4	12.9	13.4	13.9	14.9	14.9	15.8	15.9	16.1	16.6
Canada	6 026.9	6 187.0	6 331.7	6 471.9	6 617.6	6 777.6	6 775.8	6 913.6	7 029.1	7 155.9	7 286.9
% of total population	18.7	19.0	19.2	19.4	19.6	19.9	19.6	19.8	20.0	20.1	20.3
Chile	247.4	258.8	290.9	317.1	352.3	369.4	388.2	415.5	441.5	465.3	..
% of total population	1.5	1.6	1.8	1.9	2.1	2.2	2.3	2.4	2.5	2.6	..
Czech Republic	523.4	566.3	636.1	679.6	672.0	661.2	745.2	744.1	744.8	755.0	769.6
% of total population	5.1	5.5	6.2	6.5	6.4	6.3	7.1	7.1	7.1	7.2	7.3
Denmark	350.4	360.9	378.7	401.8	414.4	428.9	441.5	456.4	476.1	501.1	540.5
% of total population	6.5	6.6	6.9	7.3	7.5	7.7	7.9	8.1	8.5	8.9	9.5
Estonia	228.6	226.5	224.3	221.9	217.9	212.7	132.3	132.0	132.6	133.2	134.4
% of total population	16.9	16.8	16.7	16.6	16.3	16.0	10.0	10.0	10.0	10.1	10.2
Finland	176.6	187.9	202.5	218.6	233.2	248.1	266.1	285.5	304.3	322.0	337.2
% of total population	3.4	3.6	3.8	4.1	4.4	4.6	4.9	5.3	5.6	5.9	6.1
France	6 910.1	7 017.2	7 129.3	7 202.1	7 287.8	7 372.7	7 474.7	7 590.9	7 778.1	7 967.7	7 952.0
% of total population	11.3	11.4	11.5	11.6	11.6	11.7	11.8	11.9	12.2	12.4	12.3
Germany	10 399.0	10 431.0	10 529.0	10 623.0	10 582.0	10 591.0	9 807.0	10 102.0	10 465.0	10 853.0	11 453.0
% of total population	12.8	12.9	13.0	13.2	13.1	13.2	12.2	12.6	13.0	13.5	14.2
Greece	..	..	..	..	..	828.4	750.7	729.9	..	727.5	..
% of total population	..	..	..	..	..	7.4	6.7	6.6	..	6.6	..
Hungary	331.5	344.6	381.8	394.2	407.3	443.3	402.7	424.2	447.7	476.1	504.3
% of total population	3.3	3.4	3.8	3.9	4.1	4.4	4.0	4.3	4.5	4.8	5.1

Source: OECD. International Migration Outlook, 2017, pp 296-97

http://www.keepeek.com/Digital-Asset-Management/oecd/social-issues-migration-health/international-migration-outlook-2017_migr_outlook-2017-en#page298 (20180301)

STOCK OF FOREIGN BORN POPULATION (OECD DATA)

Iceland	24.7	30.4	35.9	37.6	35.1	34.7	34.7	35.4	37.2	39.2	42.0
% of total population	8.3	10.1	11.8	12.1	11.2	10.9	10.8	11.0	11.4	12.0	12.8
Ireland	520.8	601.7	682.0	739.2	766.8	772.5	752.5	749.2	754.2	767.8	788.9
% of total population	12.4	14.0	15.5	16.5	16.8	16.7	16.2	16.1	16.1	16.4	16.8
Israel	1 947.6	1 930.0	1 916.2	1 899.4	1 877.7	1 869.0	1 850.0	1 835.0	1 821.0	1 817.0	1 817.5
% of total population	29.5	28.6	27.7	26.8	25.9	25.2	24.5	23.8	23.3	22.9	22.5
Italy	..	..	..	5 813.8	5 787.9	5 759.0	5 715.1	5 695.9	5 737.2	5 805.3	5 907.5
% of total population	..	..	..	9.8	9.7	9.7	9.6	9.5	9.6	9.7	9.9
Japan	..	..	..	..	..	..	..	..	..	..	..
% of total population	..	..	..	..	..	..	..	..	..	..	..
Korea	..	..	..	..	..	..	..	..	..	..	..
% of total population	..	..	..	..	..	..	..	..	..	..	..
Latvia	..	..	335.8	324.9	313.8	302.8	289.0	279.2	271.1	265.4	258.9
% of total population	..	..	15.5	15.2	14.8	14.5	14.0	13.7	13.5	13.3	13.1
Luxembourg	168.3	175.4	183.7	194.5	197.2	205.2	215.3	226.1	237.7	248.9	260.6
% of total population	36.8	37.7	38.7	40.1	39.7	40.4	41.4	42.5	43.6	44.7	45.9
Mexico	611.8	631.2	722.6	772.5	885.7	961.1	966.8	973.7	991.2	939.9	1 007.1
% of total population	0.6	0.6	0.6	0.7	0.8	0.8	0.8	0.8	0.8	0.7	0.8
Netherlands	1 734.7	1 732.4	1 751.0	1 793.7	1 832.5	1 868.7	1 906.3	1 927.7	1 953.4	1 996.3	2 056.5
% of total population	10.6	10.6	10.6	10.9	11.1	11.2	11.4	11.5	11.6	11.8	12.2
New Zealand	840.6	879.5	898.3	916.6	931.0	945.7	956.3	965.0	1 001.8	1 050.2	1 108.5
% of total population	20.3	21.0	21.2	21.4	21.5	21.6	21.7	21.8	22.4	23.4	24.5
Norway	380.4	405.1	445.4	488.8	526.8	569.1	616.3	663.9	704.5	741.8	772.5
% of total population	8.2	8.7	9.4	10.2	10.9	11.6	12.4	13.2	13.9	14.4	14.8
Poland	..	..	..	..	..	..	674.9	..	..	..	..
% of total population	..	..	..	..	..	..	1.7	..	..	..	..
Portugal	742.1	753.0	769.6	790.3	834.8	851.5	871.8	902.5	879.6	885.4	893.3
% of total population	7.1	7.2	7.3	7.5	7.9	8.0	8.3	8.6	8.4	8.5	8.6

Source: OECD. International Migration Outlook, 2017, pp 296-97

http://www.keepeek.com/Digital-Asset-Management/oe.cd/social-issues-migration-health/international-migration-outlook-2017_migr_outlook-2017-en#page298 (20180301)

STOCK OF FOREIGN BORN POPULATION (OECD DATA)

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Russia	..	..	..	..	..	11 194.7	..	..	..	..	..
% of total population	..	..	..	..	..	7.8	..	..	..	..	..
Slovak Republic	249.4	301.6	366.0	442.6	140.7	145.7	156.9	158.2	174.9	177.6	181.6
% of total population	4.6	5.6	6.8	8.2	2.6	2.7	2.9	2.9	3.2	3.3	3.3
Slovenia	..	..	..	..	..	228.6	271.8	299.7	331.0	341.2	340.3
% of total population	..	..	..	..	..	11.1	13.2	14.5	16.0	16.5	16.5
Spain	4 837.6	5 250.0	6 044.5	6 466.3	6 604.2	6 677.8	6 759.8	6 640.5	6 283.7	6 162.9	6 109.2
% of total population	11.0	11.8	13.4	14.1	14.3	14.3	14.5	14.2	13.5	13.3	13.2
Sweden	1 125.8	1 175.2	1 227.8	1 281.6	1 338.0	1 384.9	1 427.3	1 473.3	1 533.5	1 603.6	1 676.3
% of total population	12.5	12.9	13.4	13.9	14.4	14.8	15.1	15.4	15.9	16.5	17.1
Switzerland	1 772.8	1 811.2	1 882.6	1 974.2	2 037.5	2 075.2	2 158.4	2 218.4	2 289.6	2 354.8	2 416.4
% of total population	23.9	24.2	24.9	25.8	26.3	26.5	27.2	27.7	28.2	28.7	29.1
Turkey	..	..	..	..	..	..	..	..	..	..	1 592.4
% of total population	..	..	..	..	..	..	..	..	..	..	2.0
United Kingdom	5 557.0	5 757.0	6 192.0	6 633.0	6 899.0	7 056.0	7 430.0	7 588.0	7 860.0	8 482.0	8 988.0
% of total population	9.2	9.5	10.1	10.8	11.1	11.3	11.8	11.9	12.3	13.2	13.9
United States	35 769.6	37 469.4	38 048.5	38 016.1	38 452.8	39 916.9	40 381.6	40 738.2	41 344.4	42 390.7	43 289.6
% of total population	12.1	12.5	12.6	12.5	12.5	12.9	12.9	12.9	13.0	13.3	13.5

Notes: For details on definitions and sources, refer to the metadata at the end of Table B.4.

Estimates are in italic.

Table A.5. **Stocks of foreign population by nationality in OECD countries and in Russia**

Thousands and percentages

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Austria	796.7	804.8	829.7	860.0	883.6	913.2	951.4	1 004.3	1 066.1	1 146.1	1 267.7
% of total population	9.7	9.7	10.0	10.3	10.6	10.9	11.3	11.9	12.6	13.5	14.8
Belgium	900.5	932.2	971.4	1 013.3	1 057.7	1 119.3	1 169.1	1 257.2	1 268.1	1 304.7	1 363.2
% of total population	8.5	8.8	9.1	9.4	9.7	10.2	10.6	11.3	11.4	11.6	12.1
Canada	..	1 758.9	..	..	..	..	1 957.0	..	..	..	..
% of total population	..	5.4	..	..	..	..	5.7	..	..	..	..
Chile	..	..	..	..	..	..	..	..	..	..	..
% of total population	..	..	..	..	..	..	..	..	..	..	..
Czech Republic	278.3	321.5	392.3	437.6	432.5	424.3	434.2	435.9	439.2	449.4	464.7
% of total population	2.7	3.1	3.8	4.2	4.1	4.0	4.1	4.1	4.2	4.3	4.4
Denmark	270.1	278.1	298.5	320.2	329.9	346.0	358.9	374.7	397.3	422.6	463.1
% of total population	5.0	5.1	5.5	5.8	6.0	6.2	6.4	6.7	7.1	7.5	8.2
Estonia	..	..	..	..	..	..	211.1	210.9	211.7	211.4	211.5
% of total population	..	..	..	..	..	..	15.9	15.9	16.0	16.1	16.1
Finland	113.9	121.7	132.7	143.3	155.7	168.0	183.1	195.5	207.5	219.7	229.8
% of total population	2.2	2.3	2.5	2.7	2.9	3.1	3.4	3.6	3.8	4.0	4.2
France	3 541.8	3 696.9	3 731.2	3 773.2	3 821.5	3 892.8	3 980.6	4 083.9	4 177.7	4 351.0	4 399.7
% of total population	5.8	6.0	6.0	6.1	6.1	6.2	6.3	6.4	6.5	6.8	6.8
Germany	6 755.8	6 751.0	6 744.9	6 727.6	6 694.8	6 753.6	6 930.9	7 213.7	7 633.6	8 153.0	9 107.9
% of total population	8.3	8.3	8.3	8.3	8.3	8.4	8.6	9.0	9.5	10.1	11.3
Greece	553.1	570.6	643.1	733.6	839.7	810.0	757.4	768.1	687.1	706.7	686.4
% of total population	5.0	5.1	5.8	6.6	7.5	7.2	6.8	6.9	6.2	6.4	6.3
Hungary	154.4	166.0	174.7	184.4	197.8	209.2	143.4	141.4	140.5	146.0	156.6
% of total population	1.5	1.6	1.7	1.8	2.0	2.1	1.4	1.4	1.4	1.5	1.6
Iceland	13.8	18.6	23.4	24.4	21.7	21.1	21.0	21.4	22.7	24.3	26.5
% of total population	4.6	6.2	7.7	7.9	6.9	6.6	6.5	6.6	7.0	7.4	8.0
Ireland	..	413.2	519.6	575.6	575.4	560.1	537.0	550.4	554.5	564.3	578.0
% of total population	..	9.6	11.8	12.8	12.6	12.1	11.5	11.8	11.9	12.1	12.3
Italy	2 670.5	2 938.9	3 432.7	3 402.4	3 648.1	3 879.2	4 052.1	4 387.7	4 921.3	5 014.4	5 026.9
% of total population	4.6	5.0	5.8	5.7	6.1	6.5	6.8	7.3	8.2	8.4	8.4
Japan	2 011.6	2 083.2	2 151.4	2 215.9	2 184.7	2 132.9	2 078.5	2 033.7	2 066.4	2 121.8	2 232.2
% of total population	1.6	1.6	1.7	1.7	1.7	1.7	1.6	1.6	1.6	1.7	1.8
Korea	510.5	660.6	800.3	895.5	920.9	1 002.7	982.5	933.0	985.9	1 091.5	1 143.1
% of total population	1.1	1.4	1.7	1.8	1.9	2.0	2.0	1.9	2.0	2.2	2.3
Latvia	456.8	433.0	404.9	382.7	362.4	342.8	324.3	315.4	304.8	298.4	288.9
% of total population	20.5	19.7	18.6	17.8	17.1	16.4	15.7	15.5	15.2	15.0	14.7
Luxembourg	191.3	198.3	205.9	215.5	216.3	220.5	229.9	238.8	248.9	258.7	269.2
% of total population	41.8	42.6	43.4	44.4	43.6	43.4	44.2	44.9	45.7	46.5	47.5
Mexico	..	..	..	..	262.7	281.1	303.9	296.4	..	326.0	355.2
% of total population	..	..	..	..	0.2	0.2	0.3	0.2	..	0.3	0.3
Netherlands	691.4	681.9	688.4	719.5	735.2	760.4	786.1	796.2	816.0	847.3	900.5
% of total population	4.2	4.2	4.2	4.4	4.4	4.6	4.7	4.8	4.9	5.0	5.3
Norway	222.3	238.3	266.3	303.0	333.9	369.2	407.3	448.8	483.2	512.2	538.2
% of total population	4.8	5.1	5.6	6.3	6.9	7.5	8.2	8.9	9.5	9.9	10.3
Poland	..	54.9	57.5	60.4	49.6	..	55.4	..	..	..	..
% of total population	..	0.1	0.1	0.2	0.1	..	0.1	..	..	..	..
Portugal	415.9	420.2	435.7	440.6	454.2	445.3	436.8	417.0	401.3	395.2	388.7
% of total population	4.0	4.0	4.1	4.2	4.3	4.2	4.1	4.0	3.8	3.8	3.8
Russia	..	..	..	..	..	687.0	490.3	621.0	715.8	872.6	1 051.8
% of total population	..	..	..	..	..	0.5	0.3	0.4	0.5	0.6	0.7
Slovak Republic	25.6	32.1	40.9	52.5	62.9	68.0	70.7	72.9	59.2	61.8	65.8
% of total population	0.5	0.6	0.8	1.0	1.2	1.3	1.3	1.3	1.1	1.1	1.2
Slovenia	..	..	..	..	99.8	95.7	101.9	103.3	110.9	117.7	126.9
% of total population	..	..	..	..	4.9	4.7	5.0	5.0	5.4	5.7	6.1

STOCK OF FOREIGN NATIONALS

Source: OECD.
International Migration
Outlook, 2017, pp 317-
318
http://www.keepeek.com/Digital-Asset-Management/oced/social-issues-migration-health/international-migration-outlook-2017_migr_outlook-2017-en#page298 (20180301)

STOCK OF FOREIGN NATIONALS (CONTINUED)

Table A.5. **Stocks of foreign population by nationality in OECD countries and in Russia** (cont.)

Thousands and percentages

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Spain	4 144.2	4 519.6	5 268.8	5 648.7	5 747.7	5 751.5	5 736.3	5 546.2	5 023.5	4 729.6	4 601.3
% of total population	9.4	10.1	11.7	12.3	12.4	12.3	12.3	11.9	10.8	10.2	10.0
Sweden	479.9	492.0	524.5	562.1	602.9	633.3	655.1	667.2	694.7	739.4	782.8
% of total population	5.3	5.4	5.7	6.1	6.5	6.7	6.9	7.0	7.2	7.6	8.0
Switzerland	1 511.9	1 523.6	1 571.0	1 638.9	1 680.2	1 720.4	1 772.3	1 825.1	1 886.6	1 947.0	1 993.9
% of total population	20.4	20.4	20.8	21.4	21.7	22.0	22.4	22.7	23.2	23.7	24.0
Turkey	..	..	98.1	104.4	167.3	190.5	242.1	278.7	456.5	518.3	650.3
% of total population	..	..	0.1	0.1	0.2	0.3	0.3	0.4	0.6	0.7	0.8
United Kingdom	3 035.0	3 392.0	3 824.0	4 186.0	4 348.0	4 524.0	4 785.0	4 788.0	4 941.0	5 592.0	5 951.0
% of total population	5.0	5.6	6.3	6.8	7.0	7.2	7.6	7.5	7.7	8.7	9.2
United States	20 836.0	21 696.3	21 843.6	21 685.7	21 641.0	22 460.6	22 225.5	22 115.0	22 016.4	22 263.4	22 426.2
% of total population	7.0	7.3	7.2	7.1	7.0	7.2	7.1	7.0	6.9	7.0	7.0

Notes: For details on definitions and sources, refer to the metadata at the end of Table B.4.

OPEN BORDERS?

THE FREEDOM OF MIGRATION (OPEN BORDERS) SCENARIO

Meaning: a right to **enter and settle** on the territory of a state **irrespective of the nationality** of the migrant and without the requirement to meet any specific condition. Border controls may exist

Adjustments/refinements

Conditionality/graduality/exceptions (suspension)

Arguments in favour and against

MWB / OPEN BORDERS

Carens, 1987

"Borders have guards and guards have guns"

"on what moral grounds can ...people be kept out?"

What gives anyone the right to **point a gun at *them***?"

"Liberal theories focus attention on the **need to justify the use of force by the state**. Questions about the exclusion of aliens arise naturally from that context."

WHAT IS TO BE EXPECTED?

HISTORY AND THE SUBSEQUENT ENLARGEMENTS OF THE EU AS EVIDENCE

As discussed ,migration **was** (largely) **free until WW I** (with few, limited , mostly temporary) exceptions

The EU enlargement experience

The lifting of the limitations **on migration from Greece (1986) and from Spain and Portugal (1992) did not change earlier migration patterns**

Increase between **2000 and 2007 of EU 8** (which acceded in 2004) nationals: from **706 thousand to 1 910 thousand** (rounded)

Britain's migration balance: 87 thousands (in 2007) dropped to 16 thousands by 2009.

MWB /Open borders

In favour

- Free movement **as right**, as an independent **moral principle**
- Intra-state **analogy** (free movement in federal states)
- Free movement as **a reduction of** political social and economic **inequalities**
 - poverty and aid
 - global redistribution
- Free movement offers **protection** to refugees

THE ARGUMENT AGAINST THE (COMMUNITARIAN) AND OTHER CRITICISM DIFFERENTIATION BETWEEN NATIONAL AND FOREIGNER

A **bounded community is entitled to keep itself closed** in order to protect democracy, security, culture, welfare. (See e.g. Walzer, 1983)

Communitarian assumption: **citizens are to be preferred** over others / foreigners. The community is made up of citizens only (long term foreign residents are not accounted for)

But: is the bounded community a reality or an imagined one?

What entitles *that* set of people to consider themselves as entitled to exercise exclusive control over the resources of a territory?

(Communitarism **ignores the question of title to territory**)

THE ARGUMENT AGAINST THE (COMMUNITARIAN) AND OTHER CRITICISM DIFFERENTIATION BETWEEN NATIONAL AND FOREIGNER

Five counterarguments against (automatically) preferring citizens over others

- The relationship must be of **moral value** (No duty to prefer **a fellow national fascist** over a foreign social democrat!)
- **Loyalty: not necessarily concentric** circles where nation comes after locality. Think of ethnic/national minorities who prefer their ethné over the fellow nationals
- Preferring nationals may **run counter to the overall duty to alleviate poverty**. (Welfare chauvinism)
- The **community of citizens is a fiction**. The society consists of nationals and (**resident**) **foreigners**. The **state must serve both** groups forming the society.
- If a community must accept the right to **emigrate (affecting the integrity of the community)** then it **should also accept that immigration is permissible**.

The argument against the (communitarian) and other criticism Protection of democracy from its enemies

- Communitarism: political **community of citizens** is entitled to **self determination**
↓
- - either migration lallowed but no access to citizenship (denizens)
or:
- - no access (but those nevertheless allowed in can naturalise)
- Bauböck: to preserve democratic institutions for the benefit of citizens and residents

- Question of **title to territory** (again)
- → **No democratic entitlement** (of the majority) **to exclude**
- **Sheer numbers won't destroy.** Migration has feed-back loops and migrants are rational decision makers + graduality (transitional phases)
- Enemies are inside („Weimar”)
 - „Jihadist attacks are committed primarily by homegrown terrorists, radicalised in their country of residence without having travelled to join a terrorist group abroad”

Europol, Te-Sat report 2018, p. 5

→ Most of the enemies of democracy grew up in it.

Failed, foiled or completed terrost acts, 2017, EU
Source: Te-Sat, p. 9



THE ARGUMENT AGAINST THE (COMMUNITARIAN) AND OTHER CRITICISM THE FATE OF THE CULTURE (OF THE BOUNDED COMMUNITY)

Communitarian thesis:

“The **distinctiveness of cultures** and groups **depends upon closure** and, without it, cannot be conceived as a stable feature of human life. **If this distinctiveness is a value**, as most people (though some of are global pluralists, and other only local loyalists) seem to believe, **then closure must be permitted somewhere**. At some level of political organisation, something like the **sovereign state must take shape and claim the authority to make its own admission policy**, to control and sometimes restrain the flow of immigrants.”

Walzer (1983), 39

That „**somewhere**” is the question! Quebec? Canada?

Three questions on culture

A

Do states have (a single) own culture?

B

Does a culture only survive within a relatively closed (bounded) community?

C

Is the stability (immutability) of a culture a value itself?

THE ARGUMENT AGAINST THE (COMMUNITARIAN) AND OTHER CRITICISM
THE FATE OF THE CULTURE (OF THE BOUNDED COMMUNITY)

Ad A) Culture (whether understood as **behavioural patterns** or as **normative prescriptions** or as **self image of the identity** of the individual) is normally **not an attribute of a state**. (Even if states occasionally are engaged in creating a „national culture“ – or groups are imagining such in the course of state-building)

Most states are home for many cultures, occasionally to hundreds. (E.g. India)

Ad B) **May be that cultures need relative closure, but not legal borders**. (Think of the **Amish** in the US!) True, migration **may threaten their survival if out of proportion and seeking dominance**.

Ad C) **The stability of a culture s not a value in itself**. (Think of the **open racism** of the US or of the **Fascism, Stalinism** in Europe, let alone the **situation of women** in preceding centuries).

Cultures of states/societies/cultural groups have immensely changed since 1945 **even if they were hermeneutically closed** (in migration terms)

CONCLUSION ON CULTURE

„States effectively lost any legal possibility to imagine themselves as rooted in homogeneous monocultural societies, unable to ask of their own nationals and of the growing numbers of new-comers anything more than mere respect for the liberal ideology...” Kochenov, 2011, p. 10

“Cultural continuity is perfectly compatible with cultural pluralism and cultural stability includes cultural change. The core issue is not the preservation of an existing culture or an existing ‘plurality of nomoi,’ but the rate of cultural change or, more precisely, the avoidance of externally enforced, excessive cultural disruption. Bader, 2005, p. 22

THE ARGUMENT AGAINST THE (COMMUNITARIAN) AND OTHER CRITICISM THE ECONOMIC IMPACTS ON THE RECEIVING AND ON THE SENDING COUNTRY)

Destination state: first assumption: citizens (or citizens and residents) may be preferred over foreigners.

If accepted → the role of the state in organising the economy. Assumption: enhance GDP growth/labour security/welfare

Economic studies:

Free global migration would increase global GDP by 50- 200 %! Harris, p.38

World Bank report on labour migration, 2011:

„...in general, over the period 1990-2000 immigration had zero to small positive long-run effect on the average wages of non-migrant natives in the rich OECD countries (Western Europe plus the US, Canada, Australia)”

Docquier - Özden – Peri, p. 3-4

An **average immigrant** (during her stay) is a net contributor to the state budget in the range of **50 000 euros in Germany** Ugur, p. 82.

+

Migration: **global redistribution of wealth for the benefit of the less developed** – a matter of **justice**

HOW TO GET TO THE OPEN BORDERS SCENARIO?

Ugur identifies five **steps of transition**:

- Changed role of state **from gate keeper to regulator**
- **Multilateral governance** is needed
- **Non-discrimination** between migrants and locals (and among migrants)
- **A new universal organisation** to be established
- A **multilateral readmission agreement** ought to be concluded

Increasing number of regions with free migration – step-by step extending these areas

(See next slides!)

Gradual introduction, feed-back loops, exclusion of persons constituting danger to national security or public order (public policy)

(SUB) REGIONAL ORGANISATIONS, POTENTIAL CANDIDATES FOR FREE OR FACILITATED MIGRATION

Macro-Region	Regional Arrangements
Africa	African Union (AU), Common Market for Eastern and Southern Africa (COMESA), Economic and Monetary Community of Central Africa (CEMAC), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), Southern African Development Community (SADC), Community of Sahel-Saharan States (CEN-SAD), Arab-Maghreb Union (AMU)
The Americas and Caribbean	Andean Community (CAN), Caribbean Community (CARICOM), Central American Common Market (CACM), North American Free Trade Agreement (NAFTA) and Southern Common Market (MERCOSUR)
Asia-Pacific	Association of Southeast Asian Nations (ASEAN), Pacific Island Forum (PIF), South Asian Association for Regional Cooperation (SAARC)
Europe	Black Sea Cooperation (BSEC), Benelux, Community of Independent States (CIS), Council of Europe (COE), European Free Trade Agreement (EFTA), Nordic Common Labour Market (NORDIC), European Union (EU), Eurasian Economic Community (EURASEC), Organisation for Democracy and Economic Development (GUAM), Economic Cooperation Organisation (ECO)
Middle-East and Northern Africa	Gulf Cooperation Council (GCC), League of Arab States (LAS)

	Regional arrangement	Categories of persons	Period of stay	Other remarks
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Residency Rights	BENELUX	All categories of persons		
	CACM (CA-4)	Pensioner, annuitant or investor; spouse of a national of the country in which the residence is requested (minimum period of their marriage); children of national or nationalized, minors or unmarried; parents of children with the nationality of the host country; temporary residents with at least two years of stay in the country; religious or featured in art, science or sports people. ¹	Temporary residence granted for a period of 2 years renewable; permanent residence must be renewed every five years. 1	
	EFTA	Employed and self-employed persons as well as to persons not pursuing an economic activity as long as they have sufficient financial means/health insurance	Not specified	Self-sufficiency required in case of non-economic activities
	EU	Right to reside up to three months for all categories of persons; for more than 3 months for workers, self-employed, student or self-sufficient person	Unlimited but different conditions apply	Residence permit required after three months
	NORDIC	All categories of persons	unlimited	No residence permit needed
	COMESA	COMESA citizens	n/a	MS shall endeavour to harmonise their national laws, rules and regulations having regard to the need to grant the right of residence

FREEDOM OF MOVEMENT (RIGHT OF RESIDENCE) WITHIN REGIONAL ARRANGEMENTS

FREEDOM OF MOVEMENT (RIGHT OF RESIDENCE) WITHIN REGIONAL ARRANGEMENTS CONT'D

	Regional arrangement	Categories of persons	Period of stay	Other remarks
Residency Rights /Economic Activity	EURASEC	EURASEC citizens	Not specified	Permanent citizens enjoy the same rights and freedoms and have the same obligations as compared to nationals of that country
	GCC	GCC citizens	Not specified	Non-discrimination of GCC nationals
	EAC	Workers or self-employed, spouses and children of migrant workers	Duration of work permit	Right of residence on the basis of a work permit, residence permit or dependant's pass
	MERCOSUR	MERCOSUR citizens (plus Bolivia and Chile)	Temporary residence for two years; possibility of permanent residence	Temporary or permanent residence guarantees equal civil, social, cultural and economic rights (including labour rights) as compared to nationals
	CARICOM	Person must be involved in economic activity and not be a charge on public funds	Right of residence after being granted indefinite entry	
	ECOWAS	Right of residence for the purpose of seeking and carrying out income earning employment	Not specified	Conditions entitlement to residence on possession of an ECOWAS Residence Card or Permit
	SADC		Temporary residence	Application for residence permit in host country
	CAN	Migrant workers	Temporary residence?	
NONE	NAFTA	No regional rules	n/a	No permanent residence envisaged
	AU	No regional agreement	n/a	Framework agreement for RECs
	CIS, COE, BSEC, ASEAN, CEMAC, CEN-SAD, ECCAS, IGAD, PIF, SAARC, AMU	No regional agreement		

**IS THERE A RIGHT TO
MIGRATE IN
INTERNATIONAL LAW?**

IS THERE A RIGHT TO MIGRATE?

UNIVERSAL DECLARATION OF HUMAN RIGHTS (Adopted by UN General Assembly Resolution 217A (III) of 10 December 1948)

Whereas recognition of the **inherent dignity and of the equal and inalienable rights of all members of the human family** is the foundation of freedom, justice and peace in the world,

Article 13

1. Everyone has the **right to freedom of movement** and residence **within the borders** of each state.
2. Everyone has the **right to leave any country, including his own, and to return to his country.**

IS THERE A RIGHT TO MIGRATE?

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,...

..Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,...

.Article 12

1. **Everyone lawfully within the territory** of a State **shall**, within that territory, **have the right to liberty of movement and freedom to choose his residence.**
2. **Everyone shall be free to leave any country, including his own.**

IS THERE A RIGHT TO MIGRATE?

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

LEGAL FRAME

Migrants are - beyond immigration law - subject to

Human rights

Conventions combating irregular migrations (**smuggling, trafficking**)

International **Labour Law**

Global Compact, draft

*We acknowledge **our shared responsibilities to one another as Member States of the United Nations** to address each other's needs and concerns over migration, and an overarching obligation to **respect, protect and fulfil the human rights of all migrants, regardless of their migration status**, while promoting the security and prosperity of all our communities*

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THANKS!

BOLDIZSÁR NAGY

E-mail: nagyboldi@ludens.elte.hu
www.nagyboldizsar.hu

CEU IRES

Budapest, 1051

Nádor u. 9.

Tel.: +36 1 242 6313, Telefax: +36 1 430 0235