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**MIGRATION TRENDS AND POLICIES
IN THE BLACK SEA REGION:
CASES OF MOLDOVA, ROMANIA
AND UKRAINE**

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ABBREVIATIONS

CIS	Commonwealth of Independent States
CSOs	Civil Society Organizations
EC	European Communities
EU	European Union
GDP	Gross Domestic Product
IOM	International Organization for Migration
MFA	Ministry for Foreign Affairs
NGOs	Non-Governmental Organizations
OSCE	Organization for Security and Co-operation in Europe
ROI	Romanian Office for Immigration
UN	United Nations
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

INTRODUCTION

This report is an outcome of the Trilateral Project named “Managing Migration in the Black Sea Region: Improving the Implementation of National Policies in Ukraine, Moldova and Romania through Regional Cooperation between NGOs” implemented by three think tanks from Bucharest, Chisinau and Kyiv, with a support of Open Society Foundation network and the Black Sea Trust for Regional Cooperation. The main goal of this report was to explore common problems in migration flows and migration policies in Moldova, Romania and Ukraine and to form an agenda for improving the implementation of national migration policies through intensification of bilateral, trilateral and broader regional cooperation in management of migration in the Black Sea region.

Migration, both legal and illegal, is one of the key challenges to the security, stability and economic development of the Black Sea Region. Factors such as unresolved territorial and ethnic conflicts, porous borders, weak democratic institutions, and poverty create conditions for uncontrolled migration either from or through the region to Western Europe. Although the last round of EU extension has catalyzed the process of institutionalizing regional cooperation in migration policy, the Black Sea countries continue to address issues of migration in isolation from one another.

While region-wide coordination of managing migration is a long-term strategic goal, tightening cooperation between neighbouring countries is a realistic and feasible mid-term objective. The Black Sea countries that are in focus of this report share common borders and therefore common migration flows and very often common problems in managing them. Since early 1990s Moldovan, Romanian and Ukrainian citizens have participated in the European Union labour markets. With Romania’s recent accession to the EU, its citizens have obtained or will obtain in the future an equal opportunities for employment along with other member states’ citizens in the European Union, Ukrainians and Moldovans are still among those third country nationals legally and illegally coming to the EU in a search of better jobs.

For all three countries, migration is a relatively new phenomenon, so legislation and migration management policy are still in the process of formation. Moreover, for all of these countries, the process of EU integration has extensively affected migration policies. Romania adopted the EU legislation and policies in the process of EU accession, while Moldova and Ukraine are participating in the European Neighbourhood Policy, in which migration is a priority for cooperation and convergence.

Recently, Ukraine, Moldova and Romania are turning into countries of immigration. All three countries have similar problems regarding the protection of refugees and asylum-seekers, the implementation of international conventions and asylum legislation, and the improvement of weak integration policies. The position of the countries in migration flows in the Black Sea region and Europe is defined by the fact that Ukraine has the fourth highest number of international migrants in the world, according to the 2006 UN Commission on Population and Development report, while Moldova is among the world tops according to a share of migrants’ money transfers to Gross Domestic Product.

All these factors have become initial points of trilateral research. Each of the three country reports was drafted by a team of national experts representing civil society organizations and followed by a national discussion with participation of the key interested parties – governmental agencies, members of parliaments, civil society organizations and expert communities. Findings and recommendations of the three countries have been a result of a common work of three national expert teams.

We hope that the implemented project and this report as a result of it has not been only a civil society contribution in public policy making in the field of migration in three respective countries, but also will promote cooperation between governmental and non-governmental actors from the neighbouring Black Sea countries.

1. MOLDOVA

1.1. Migration Trends in Republic of Moldova

1.1.1. Labour Migration from Moldova

The migration in Republic of Moldova represents a widespread and highly important process due to the fact that a significant share of persons able to work is involved thereinto, and related money transfers make up 1/3 of GDP¹. There is no adequate and complete information regarding the exact number of migrants working abroad. One of the reasons is the lack of an effective and long-life record-keeping of migration processes. In addition, the lack of overall national control on eastern borders of the country, resulting from the unsolved Transnistrian Conflict also has adverse impact on the labour migrants record-keeping process. Moreover, in principle, the Government of Republic of Moldova doesn't have information regarding the migratory movement of population from Transnistria, since 1992 this region actually has been out of control of Chisinau authorities². From this point of view, all data presented in this report refers to Republic of Moldova excluding its Transnistrian part.

Mass-media provides the figures as follows: from 340,000 up to 1,000,000. The results of social researches and the population census in 2004 testify that about 600,000 people are involved in labour migration process, practically each 3rd able-bodied country resident.

Moldovan labour migrants are mostly presented in Russia (60%), Italy (20%), Portugal (5%), Spain, Turkey, Greece, France, Romania, Ukraine. By labour type and gender preferences countries differ from "male" (Russia, Ukraine, Spain, Portugal – work in construction industry) to "female" (Italy, Turkey – services) destinations.

Further, a tendency of migrants to concentrate in big cities – megapolises is remarkable. 3/4 of all Moldovan labour migrants are concentrated in 10 big cities (Moscow, Rome, Sankt-Petersburg, Istanbul, Odessa etc).

Table 1. Moldovan labour migrants abroad.

	Place	Number of migrants	%
1.	Moscow (Russia)	145,388	51.69
2.	Rome (Italy)	12,815	4.56
3.	Sankt-Petersburg (Russia)	9,084	3.23
4.	Istanbul (Turkey)	8,597	3.06
5.	Odessa (Ukraine)	7,650	2.72
6.	Lisbon (Portugal)	6,294	2.24
7.	Milano (Italy)	5,801	2.06
8.	Padua (Italy)	4,849	1.72
9.	Paris (France)	4,222	1.50
10.	Tyumen (Russia)	3,893	1.38

In reality, this "army" of thousands of Moldovan labour migrants is not working abroad at the same time³. Undoubtedly, there exist certain temporary "peaks" (month) where the most part of migrants is going off in search for living (February, March, August, October) or periods where the majority of migrants comes back to Moldova for holidays, treatment etc. (December, April).

The labour migration to Russia is different by stay abroad from the one towards European Union. Moldovan Gastarbeiters stay in Russia about 7 month on average, so Moldovan migrants represent a temporary flux of migration, which has a mainly seasonal nature, migration to Russia (Mosneaga, Teosa, Zayonchkovskaya, 2003, p. 49). In European Union countries an average stay is more than one year (14-16 month).

Future plans of labor migrants is important to understand the situation and labour migration perspectives. It is remarkable that each fifth respondent working in EU countries has no intention to return back to his/her motherland, while they making or already made up their minds to stay as permanent residents in their hosting country. For labour migrants working in Russian Federation, this indicator is twice lower (Moşneaga, Rusnak, 2005, p.40).

¹ Source: National Bank of Moldova (NBM).

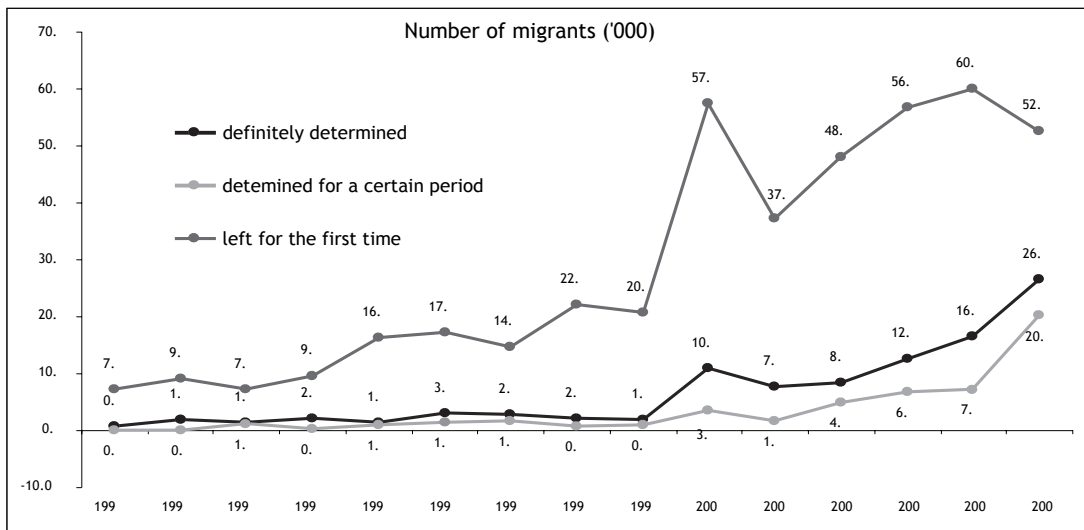
² Sources regarding the number of migrants from the Transnistrian region are controversial, thus according to official data of the proclaimed republic, the number of emigrants has been continuously decreasing since 1990 – 32.9 thousand till 10.8 thousand in 2007. According to other sources, about 1/3 of able-bodied Transnistrian population earns its existence outside the region.

³ According to estimations of the research IOM "Remittances and Migration in Republic of Moldova – 2006", 252 thousand people were working abroad at the moment of research realization and more than 1,5 million citizens of Republic of Moldova were living in households receiving remittances.

A middle-term forecast (up to 2010) of population evolution, GDP developments and money transfers in Moldova, within the context of labour migration of people, shows that no matter how a social and economical situation of the country develops, a growth of labour migration will be continuously increasing in Republic of Moldova.

After a deep studies of persons involved in migrations process, taking into consideration 3 indicators such as persons who left for the first time, those who came back for a certain period and those who have permanent intention – it seems that we have a decreasing trend of migration contingent. Thus, in 2004, 60,000 people left the country for the first time, compared to 52,500 in 2005.

Figure1: Dynamics of migration



Source: IOM.

The number of those left for the first time shows a more or less constant increase till 2004, except only for 1999–2000. We suppose that the return of migrants during 1999–2000 mainly caused by the Russian Financial Crisis effects in August 1998 that has flanged over Moldova’s population. However, during 2004–2005 this indicator showed decreasing rhythms, though with lower a ratio than in 2000–2001 (but considering that there was no big growth in the previous year), so we suppose that it was a natural evolution rather than a reaction to a shock period (Vladicescu, Cantirji, Jigau, 2008). At the same time, the quota of those permanently tempered in Republic of Moldova significantly increased. Owing to complexity of migration phenomena and multitude of determining factors, it is difficult to trend a forecast of number of emigrants for both medium and long term emigration directions, but it is absolutely necessary to create national and international policies.

Comparing the influence of factors determining the international labour migration, it is noticeable that a group of persons leaving for CIS countries is composed of poorer and more marginal migrants than those leaving for EU. This often affects their choice of going to Russia and Ukraine, which is much cheaper than getting to EU countries. Consequently, labour migration to CIS countries is mostly caused by the need of migrants and their family members to survive, while migration to EU countries is determined by wider opportunities for migrants and their households to live.

Table 2. Factors that determine and forward world migration
(Lucke et al., 2007, p. 27)

Factors that determine emigration	EU countries (%)	General average (%)
Unemployment	26,43	34,27
Consumers’ motivations (living standard)	46,56	46,78
Poverty	12,69	20,51
<i>forwarding factors</i>		
social contacts existence (capital)	31,90	27,54
guaranteed work	38,57	36,06
good labour conditions	44,72	34,21
reception country being recommended by a trusted person (advice)	51,55	40,86
there is a higher level of life abroad	5,89	3,36
low travel cost	14,18	49,10

While there are no problems for Moldovan labour migrants in getting to Russia and Ukraine, as they do not need to obtain visas, a visa to EU countries is mandatory and it requires additional and considerable expenses. As a result of our studies, an unofficial cost of trip to EU countries may vary from 2,500 up to 4,500 euro. However, illegal attempts to cross the state border on the way to European are very often.

Recent studies show a tendency of emigration for family reunification. More and more persons are leaving abroad to join their husband/wife, parents, children or even girlfriend/boyfriend. It seems to be an increasing trend, as a person who had left earlier acquired a certain status in his/her reception country already satisfying own emotional needs, so as accumulating financial resources which would allow him/her to finance an eventual illegal emigration of relatives.

Social and Demographic Portrait of Labour Emigrant

People of different ages, sexes, professional and educational groups all over the country are involved in the international labour migration, of which young and middle age people (more than 70% up to 40 years and almost 40% not even attained 30 years) are the most active. The average age of a labour migrant is 35-36 years. Both high-qualified and non-qualified persons are present in labour migration, together with representatives from area budgeted by the state (teachers, engineers, and doctors), industry, transport, constructions, agriculture households.

Thus, labour migrants are mostly males, but a portion of females is quite significant and constitutes about a quarter of all Moldovan migrants. Male labour migrants are mostly occupied in construction, transportation, industry and agriculture. 51% of all Moldovans work in construction sector. Female migrants work in services, sales, housekeeping and sex-services. The majority part of labour migrants do not work according to their occupation background. Persons working in EU countries have a higher level of education compared to the general emigrants' average.

Thus, remuneration in "CIS" group differs considerably from "EU" group, of which the first group's specialization (poverty, seasonality, rural population etc.) provides a bigger share of money transfers from salary received. It can be traced via money transfers and via those models of money transportation back to Moldova (Lucke, et al., 2007, p. 37-39).

It is also remarkable that almost each second dollar, euro, ruble etc. earned, is sent to native country through informal (non-official) channels caused by several reasons: illegal entry, staying and working activity of Moldovan migrant's status, cheapness of unofficial services in money transportation, lack of trust in banks.

1.1.2. Immigration to Moldova

Even being a typical emigration country, Moldova is experiencing some immigration. According to the census performed in October 2004, there were 180,255 people (less than 5.4%) living in Republic of Moldova, who are external migrants in view of their last residence country and length of permanent staying in Moldova. Wide majority of persons (173,200) came from CIS States. The length of staying and permanent residence in Republic of Moldova testifies their arrival yet in Soviet period.

Number of foreigners living in Republic of Moldova is considerably less, counting 13,973 persons (less than 0.5% of permanent Moldovan population). Majority of foreigners (74.6%) have a permanent resident status. A status of temporary resident is typical for each fourth foreigner in Moldova (25.6%). Among permanently foreigners who are residents 84.4% are citizens from other countries. A stateless person (or person with no citizenship) is each sixth foreigner (15,6%) permanently living in Republic of Moldova.

Legal migration is possible according to effective legislation and certain established immigration quotas. Since 1990 Moldova has started to conduct a yearly immigrants' quotation policy. For the period of 1992 – 2006, that quota has practically remained unchanged: 0.05% of the total population, i. e. about 2200 persons. During that period, about 22,000 people entered the country, while a total quota is almost 33,000 people. Therefore, the immigration quota has basically never been totally passed over (except for 2007, when the immigration quota was exceeded in November 2007).

According to Bishkek agreement, CIS citizens are staying in Republic of Moldova with no visa required, whilst for citizens of "new foreign" countries – visa is mandatory. It is issued by specialized Moldovan governmental structures. Since 1st January 2007 Republic of Moldova maintain a non-visa regime for immigrants from EU States, USA, Canada, Swiss, Norway, Iceland and Japan.

Legal immigration to Moldova is realized in traditional, world well-known forms: family reunification, education or work. At same time, a number of immigrants with temporary residence is remarkably growing (education or work) and a number of permanent residents is decreasing. We suppose that the same tendency will remain for future. The reason for that is hidden in social-economical non-attractiveness of the country (one of poorest European countries) and low living standard of population.

By now, immigrants mostly came from Ukraine, Russia, Romania and Arab countries. The total number of immigrants includes people from 90 countries. If in the past there was a leading trend of families reunification and mainly immigrants were coming from Russia and Ukraine, today the leading purpose of immigration is education and work, and a number of immigrants from countries located out of post-Soviet migration system, like Turkey, Near East and Muslim world is growing. Statistical data also confirm the above mentioned trends.

Table 3. Distribution of immigrants depending on their staying purpose.

Purposes of stay	Number of persons
Work	1002
Studies	221
family immigration	847
total	2070

At same time, illegal migration relates to illegal entry of a country, so as to illegal staying and illegal employment. First of all, this is typical for CIS citizens who come to Republic of Moldova illegally, but the illegality is manifested by staying status and labour activity on the territory of Moldova.

1.1.3. Illegal Migration and Human Trafficking

The migration process in Moldova as seen in prism of inequity can be described by the following three indicators:

- ◊ illegal cross of borders by various methods and ways, which is especially typical to those leaving to European countries;
- ◊ illegal staying in reception country;
- ◊ illegal employment abroad.

To estimate a number of those entrained with illegal migration is practically impossible. One thing is for sure – the process does go on.

Illegal migration is often associated with human trafficking. In USA State Human Trafficking Report, it is stressed that 1% of all Moldovan migrants are human traffic victims. According to information provided by non-governmental organization which is active in this domain, the following countries is known as those where human trafficking is mostly used: Turkey (sexual exploitation) and Russia (labour exploitation)⁴. According to Ministry of Internal Affairs, in 2007, 507 violations regarding human trafficking have been detected; and 352 violations – for the first semester of 2008.

The uncontrolled mass labour migration has an adverse impact on relations of Moldova with countries hosting labour migrants; therefore illegal entry and staying, anti-social behavior, violation of rules and moral norms, impedes the image of Moldova as a civilized democratic country. Such attitude to Republic of Moldova is often intensified by the human trafficking problem, first of all, young women from Moldova are taken away for sexual exploitation. Thus, over the recent years, there was another aspect that has been occurred in relationships of Moldova with other countries in the context of international labour migration of Moldovan citizens – they become a “small change”, an instrument of political Russian pressure, and its political and governmental structures. Events in 2005-2006 are more than indicative.

The illegal transit migration has also obtained a certain development in Moldova, which is a new thing in Moldovan immigration processes. People participating in such type of migration are citizens of either CIS countries, or other foreign countries, mainly from South-Eastern Asia and Africa. Particularly those are the persons who stayed in Moldova and can't or don't want to get back home (students). But this also includes illegal transit migrants who are trying to move into Western-European countries using the relative “transparency” of CIS borders.

One of those unofficial itineraries of illegal transit migration to Western Europe passes through the territory of Moldova. However, the Moldovan itinerary is less popular than other similar ways of illegal transit migration (through Belarus or Ukraine).

From our point of view, it is preconditioned by the need to cross one more State border that is inconvenient for one illegal transit migrant, who will have to experience additional risks, financial and organizational expenses on search of organizers / transporters etc.

When crossing borders, illegal transit migrants are mostly using well-known forms and methods of entry into other country's territory. We can point out the following illegal cross borders channels:

- ◊ illegal border trespassing through the green zone (“green border”);
- ◊ passing borders through legal customs-points using fake (falsified) or original but belonging to another person documents;
- ◊ often big motor vehicles are used as an illegal way of trespassing borders (transportation of all types of raw materials and constructions); such channels are well-known in the world illegal transit migration practice.

Current practice shows that migrants who try to illegally trespass State borders are often hidden in automobiles transporting wood, wool, cigarettes, toys, metal goods, nails and carpets. Such an illegal migration is often accompanied with frost-bitten, catching cold, other illnesses, in some cases with a lethal outcome.

Functioning of those channels represents one high risk barrier that a transit migrant has to overcome. Often such actions of illegal transit migration take a very long period of time. For example, the case revealed by Moldovan customs (April 2008), when 7 Afghans illegal transit migrants were trying to get to Italy, spent about 2 years for trespassing borders of Moldova in April 2008 – people were hiding between cargo of one truck.

Any illegal border trespassing is impossible to be realized without intermediaries that support the functioning of that transit channel into immediate proximity territories in different countries. Activity of Intermediaries is quite diverse, including provision of documents when that itinerary assumes a cross of one State borders through legal customs points.

But if green zones borders are trespassed, it is the intermediary's responsibility to find and provide guides knowing local conditions, geographic location and border situation, shifts of customs guards, which is very important and necessary. Plus, people involved into illegal transit migration need guides to accompany them while crossing an unknown country partially or totally. For example, Mali citizens who were going to Europe from Senegal by sea, and came incidentally to Moldova through Odessa and Transdnistria. (In fact, there shouldn't be objections: Really Moldova is an European country. Organizers of migration who promised Europe to Africans were absolutely right).

It is obvious that illegal transit migration is mostly effected in an organized form: migrants organize themselves into groups, those groups may be either nationally uniform or mixed – composed of citizens from different countries.

A number of illegal transit migrants is insignificant yet. They are mainly composed of Central and South-Eastern Asia migrants coming from Ukraine and Russia (“long euro-asian migrations transit”) and migrants from Africa⁵ trying to find new itineraries of entry into EU countries (mostly originating from Afghan, Pakistan, Iraq, Senegal, Mali and other African Countries)

In the middle of 1990s, several cases of illegal transit migration from West to East were found, when Iran citizens illegally passed the Romanian-Moldovan border to Moldova, in order to move forward to East, in Iran.

4 Information provided by Center for Preventing Female Trafficking, Activity Report for 2003-2006, www.antitrafic.md, and International Center La Strada, Statistical Data, www.lastrada.md.

5 For further details see Fall P.D. Senegal and Mali, New African Ports of Europe, “IMISCOE Conference: (Irregular) Transit Migration in the European Space: Theory, Politics, and Research Methodology”. KOC University, Istanbul, Turkey, April 18–19, 2008.

It proves that Moldova is integrated into global migrations system which is featured by mass human movements by “East-West” and “South-North” axis. However, “East-West” migration is dominating one.

1.2. Migration Policies of Republic of Moldova

The migration regulation policy has been evolving to some extent, as purposes of the migration policy Republic of Moldova have been reformulated. At the first stage (1990-1994), the migration has been examined from the point of view of state security, native Moldovan population protection and in the context of mass migration from the soviet and post-soviet space. During the period 1995-2006 (the second and the third stages), the concept of migration policy remains unchanged, but its purpose changes. The Government tries to protect the interests of Moldovan citizens who are working abroad.

Over the recent period, it is noticed that the concept undergoes some modification. The migration is seen as a developing policy. The stages of development (since May 2006) include reviews of conceptual approaches regarding labour migration regulation, institutional reform, tight collaboration with European Union, counteracting illegal migration and illegal transit migration.

1.2.1. Reform of Institutions

While the government is undoubtedly incentivized to deal with regulation of migration, the main goal – to legalize Moldovan labour migrants abroad and their legal and social protection – was not accomplished. The reform was projected in respected of changed priorities of migration policies seen as a main social policy component. Besides, tendencies to unify the regulation of Moldova’s migration system with the migration processes managing system which is typical to EU countries have changed the nature and functions of the specialized migration structure. The National Bureau of Migration has been subordinated between Ministry of Economy and Reade, the Ministry of Internal Affairs (National Bureau for Migration and Refugees) and the National Employment Agency. The President, the Parliament, the Ministry of Foreign Affairs and European Integration, the Ministry of Internal Affairs, the Customs Service and the Intraethnic Relations Department (National Bureau) are involved in migrations processes regulation.

The most important in regulation of migration was the work of Moldovan government with immigrants, refugees and repatriates, development of an appropriate immigration policy, counteraction of human trafficking, illegal / uncontrolled and transit migration and provision of asylum to refugees etc. Some approaching to EU countries’ position regarding migration regulation can be also observed. In August 2006, the Committee for Coordination of Migration Process was created with a Vice-Prime Minister, the Minister of Foreign Affairs and EU Integration at its head.

1.2.2. Improving Legislation and Reviewing Policy Goals

The legal and regulatory framework for migration is today represented by Migration Policy Concept, Law “On Migration”, Law “On Citizenship”, Law “On Exit and Entry into Moldova”, Law “On Legal Status of Foreign Citizens and Stateless Persons in Moldova”, Law “On Refugees Status” and Law “On preventing and Counteracting Human Trafficking” (December 2005). A big regulatory base regarding the management migration exists in Moldova: Program of Government Actions for 2005-2009 “Country Modernization – People Well-Being”, National Plan for Migration and Refuge Measures” (2006), National Plan for Preventing and Counteracting Human Trafficking for 2008-2009 (April 2008), Program of Measures to Support Native Moldovans Living Abroad (Moldovan “Diaspora”) for 2006-2009 (2006) etc.

Moldova cooperates with international structures specialized in the area of migration (International Migration Organization, International Labour Organization, Supreme Commissar’s Administration regarding Refugees). At present, draft laws regarding foreigners in Moldova and labour migration are under development. Adoption of a law changing principles in determining and forming a migration quota is proposed. Revolutionary approaches may be observed even regarding stimulation of labour and investing immigrants’ possibilities.

In Law “On Labour Migration”, a lot of attention is paid to counteracting uncontrolled Moldovan labour migration. Legislative bodies exercise a bigger control over activity of agencies involved in employment of Moldovans abroad: companies must submit reports to the national statistical bureau and population employment agency. These reports must contain data on who/ where/ for what period has left and when is coming back. Parents planning to work abroad must notify the agency that their children will be under attendance.

An automatic integrated informational system has been elaborated. Together with International migration organization, a tender has been conducted and companies that will supply necessary technical provision have been selected. In 2008 it is planned to create a mixed financing system established by Program “Electronic Moldova”. Action Plan regarding migration and asylum is implemented now. In April 2008, a new building for illegal refugees’ placement has been opened.

A new approach that regulates labour migration processes depending upon solution of poverty problems, improvement of people employment, growth of social and economical country’s potential and people well-being – has been adopted within Moldovan Government Structures. Migration policy has be reviewed in the social policy context, migration goals should be subordinated to national priorities and linked to development priorities of the country.

Creation of conditions for normal labour activity in Moldova, attracting migrants’ money transfers into investment operations, small and middle business development and country’s social-economical development was given a big attention. In this regard, in 2007-2008 “More than Fighting Poverty: Elaboration of Legal and Institutional Structure and Regulatory Basis for Using Money Transfers for Business Development in Moldova” is implemented. Thus, it is important and necessary to inform population and labour migrants about advantages of labour migrants bank transfers and bank accounts. The collaboration with “old” and “new” Moldovan “diaspora” is underway, implementing Action Plan for “Diaspora” Management and its attraction to Moldova’s economic development, which was developed by National Bureau of Intraethnic Relations.

Social protection of migrants refers two main aspects: 1) social protection of migrants in reception country on the one hand, and 2) their social security from perspective of their returning to Moldova on the other, because most of them don't contribute to social policies and mandatory medical policy funds. Although in December 2006 modifications⁶ have been made to Law "On State Social Insurance Pensions" by inserting an individual working contract concluded directly by National Social Insurance House, few migrants do appeal in order to ensure their pension provision. Also, persons left working abroad can buy themselves a mandatory medical insurance policy.

Moldovan citizens abroad contact doctors only in case of emergency, as medical services are very expensive, and most of them are not able to pay for the services, or they are making great financial efforts to be able to. Mostly migrants try to solve their health problems by traditional methods or taking some medicines in domestic conditions. Persons working abroad return to Moldova to take dentist services, surgical interventions etc (IOM, 2007). We have to take into consideration that many migrants are forced to accept any working conditions such as hazardous or risky ones.

A consistent government policy and strategy is absolutely necessary in order to create favorable conditions stimulating migrants to contribute to social insurance and health systems and providing them with public information on importance of those contributions. If bilateral treaties between countries are difficult to manage, than maximum efforts should be made internally.

1.2.3. Tighting Cooperation with the European Union

The Moldovan migration policy is developed in EU in the context of migration initiatives. Within those initiatives, it is in line with the global approach to migration in Eastern and South-Eastern regions neighboring EU, partnership regarding mobility and rotation of migration; European Instrument of Neighboring and Cooperation; EU Mission for Borders Assistance (EUBAM); "Black Sea Synergy"; a new subject program of cooperation with third countries regarding migration and asylum, creating a unified EU visa center; the Agreement of Facilitating Visa-Regime and Readmission.

Taking into consideration that Individual Action Plan "EU – Moldova" is ending up, the Moldovan Government signed a new partnership document with EU. This document should be more consolidated from a political point of view, ensuring the continuation of reforms in Moldova undertaken towards European integration. Moldova insists that the name of the documents should be "Plan of Moldova's Integration into EU". Moldova wants this document to define that it will get access and possibility of using all 4 freedoms that EU offers to countries in their ways of integration.

Moldova has expressed its desire to join as a Pilot Project Country with rotational migration, suggesting a wide range of proposals and comments as to mobility and improvement of rotational migration mechanism. Two rounds of negotiations have been conducted. In June 2008, Moldova has been chosen as a country which implements a "pilot" project in the area of rotational migration field – the importance of such agreement regarding partnership and mobility should be vivid. It is not a secret that the majority of EU initiatives regarding migration are restrictive. This agreement undelins stimulating aspects, first of all, paying attention to rotational migration of high quality labour force being well-informed, according to EU requirements, of a following return and reintegration in their native country. The Agreement assumes the signing of agreements regarding social protection of illegal labour migrants, attention to cooperation with "diaspora", refugees problems, counteracting of illegal migration, consolidation of migration management and borders control. According to this Agreement, since the fall 2008, two projects should be implemented, total cost of which is 5.5 million EUR.

In general, Republic of Moldova evaluates positively results of EUBAM Mission's activity: real strengthening of borders; illegal migration, reduction of drugs and stolen cars traffic etc. Application of contemporary technologies permits to detect unmarked cigarettes traffic. The President of Moldova said that, owing to Mission's activity, opportunities for Moldovan legal business grew, so as increased export of Moldova Transnistria⁷ (19% in 2007, compared to 2005).

Opening in 2007, a unified EU Visa-Center allowed simplifying the situation with receiving a visa of EU countries without involvement of representatives of embassies in Moldova. The center has processed (according to existing rules) 10 thousand applications for visa issuing. Seven countries participate in operations of the Center. For 2008, it is planned to increase its capacities up to 30,000 applications per year, with participation of 10 EU countries. The main weakness of the Center is the limited number of participating countries. Though, it contributed to EU countries' aspiration to open their Embassies in Moldova.

Since 1st January 2008, the Agreement "Simplified Visa-Regime between Moldova and EU countries" has been implemented. Thus, a short-term visa registration has been simplified, so as the procedure itself (scope and terms of processing). Fees for visa issues are lowered, as well as categories of persons receiving free, multi-purpose and long term visas are established. The visa regime for transit through Romania and Bulgaria has been simplified by certain measures. Since 11th July 2008, Moldovan citizens are able to transit the territory of Romania without a transit-visa, for no longer than 5 days period, if he/she has a visa or a residence permit of one of EU countries.

Unlike other countries, an agreement on readmission of Moldovan citizens and citizens of third countries citizens entered EU via Moldova's territory has been in effect since 1st January 2008. Besides, Moldova signed readmission agreements with Czech Republic, Hungary, Lithuania, Poland, Romania, Ukraine, Norway, Swiss and Italy.

Under Budapest and regional cooperation within "Black Sea Synergy", Moldova participates in cooperation in respect of counteracting illegal migration, contraband, trans-border criminality, strengthening and modernizing borders control, improving fees collection and monitoring information etc

⁶ Art.2 modified by LP399-XVI from 14.12.06, MO39-42/23.03.07 art.169

⁷ Quoted by «Merchant», 12th March 2008.

1.2.4. Combatting Human Trafficking

First attempts in fighting illegal Moldovan labour migration have been connected to human trafficking counteracting, which was initiated by international organizations worried about women trafficking in view of sexual exploitation. According to international organizations' recommendations and real situation, Moldovan Government decided to create a National Working Group for fighting with human trafficking (May 2002), that is claimed to be a national partner in implementation of IOM project regarding Moldovan human traffic. At the same time, a Human Trafficking Fighting Action Plan has been developed, which is putting a stress on cooperation and joint actions governmental structures and non-governmental organizations. A standing Working Group which includes representatives of ministries, parliamentary members and representatives of non-government organizations has also been created. Under the auspices of the Ministry of Internal Affairs, a Department for Fighting with Organized Crime has been created, including a Center for Fighting with Human Trafficking.

In August 2005, a new National Action Plan for Fighting Human Trafficking has been adopted. In order to undertake various traffic counteraction measures: first, by informing population of danger and risks of illegal / uncontrolled migration, human traffic for labour and sexual exploitation, counteraction of human trafficking and their consequences; second, by increasing control over travel agencies and agencies offering employment services abroad for Moldovan citizens; and third, by punishing those who organize, recruit and transport "live slaves".

In 1998, special Clause No.105 has been added to the Criminal Code. Changes have been made to Criminal and Criminal and Procedural Codes of Moldova (July 2001) regarding human traffic, especially Clause No.113-2 which provides a long-term punishment for illegal human traffic. Over last years, the activity of legal structures against crimes in the area of fighting with human traffic has been encouraged.

Regarding the above, some actions have been taken. However, there are still many reserves for fighting with illegal migration and human trafficking. In first instance, it relates to non-consecutive actions of Moldovan Government in respect of punishment of government official who cover up tracks of illegal migration and human traffic for future employment abroad. Those events make USA State Department moving Moldova from the second group to the third group of countries that do nothing / or just imitate fighting that social phenomenon (in their report regarding counteracting illegal migration and human trafficking in 2007).

Pointing out positive aspects of migration management in Moldova supported by tight and active cooperation with EU, several reasons minimizing efficiency of migration processes regulation should be mentioned. First, investigation and punishing of governmental officials covering illegal migration and its organizers. Unfortunately, only the strict decision adopted by USA State Department forced Moldova's officials to somehow react. When meeting officials of Illegal Migration Fighting Center, the President announced a 50% reduction of its staff. This decision does not correspond to existing democratic principles and has an administrative nature, which does not relate to punishment of officials whose guilt was found at court.

Second, in counteracting illegal migration, activity is often imitated, with giving preference to prohibitive administrative punishment measures. As an example, we may use some private (unofficial) recommendations to foreign consulates regarding a fixed (limited) number of visas issued during one working day.

Third, a complex long-term collaboration with "diaspora" which requires a combination of patriotic, social-economical, legal and information aspects is often replaced with bureaucratic approaches, appeals to invest into the national economy, playing on migrants' nostalgia, and insensible lies.

Finally, truly paying attention to Moldova's European orientation and EU cooperation regarding regulation of migration, Moldovan officials do omit Eastern (Russia, Ukraine and other CIS countries) vector of cooperation in the area of regulation of migration and counteracting illegal migration and various exploitation forms of human trafficking. It is supposed that we should not omit such activity aspect, especially in the context of growing labour migration concurrence to change the Russian migration policy as a main contractor of Moldovan labour force.

Moldova is a small country with a shallow labour market. It would not be able to independently become an economically attractive for all population to minimize its labour migration and decrease EU's risks caused by illegal migration. Thus, it is obvious that without having a long-term considered and goal-oriented investment policy from EU's side, all measures undertaken by the Moldovan Government regarding regulation of migration will fail to be successful. Though, an effective illegal traffic counteracting is a complex, well-planned cooperation which combines both enforcement and economic actions and requires a multilateral cooperation of both international and national structures, government institutions and non-governmental organizations.

1.2.5. Asylum and Immigration Policy

Since 2002, Moldova has begun to participate actively in international refugee aid programs. In general, during that period, more than 400 persons have received a status of refugee, about 600 persons have been recognized as people searching for asylum, including representatives from all continents, more than 25 countries. The majority of recipients of international humanitarian aid are natives from Chechen Republic and Russian immigrants (40%). It is remarkable that a share of Russian refugees is decreasing in the total number of refugees accepted by Moldova. In 2002-2003 they made up 89.1% and 90.2%, while after that they were 71.9%–2004; 3.3%–2005; 18.8%–2006; 31.5%–2007. Refugees from other copuntries came from Armenia, Jordan, Syria, Turkey, Iraq.

In 2007, 42 new persons have been registered as those searching for asylum. 6 refugee cards and 183 temporary ID cards for asylum searchers have been issued. At the same time, Center for Asylum Seekers accepted 61 assigned persons and 51 evacuated persons. By 1st January 2008, 73 persons have been living at the above mentioned Center. Also by 1st January 2008, 230 foreigners, including 89 refugees, 64 persons receiving humanitarian aid and 79 asylum seekers have been registered at Migration and Asylum Department.

The policy of Moldova for regulation of immigration processes regulation is relying upon the following legal and regulatory framework: Constitution of Moldova adopted in July 1994, Law "On Migration" (December 1990); Law "Exit / Entry into Moldova" (November 1994); Law "Legal Status of Foreign Citizens and Stateless Persons in Moldova" (July 2002); Law "Ratification of Treaty for Cooperation of CIS-members Fighting Illegal Migration (February 2002); Law "Ratification of Treaty for Cooperation between Government of Moldova and International Migration Organization (October 2002); Law "On Migration" (December 2002); Law Adoption of Consti-

tuoin of International Migration Organization” (May 2003); Law “Ratification of Additional Protocol against Traffic of Illegal Migrants by Land, Sea and Air, in addition UN Convention against Transnational Organized Crime” (February 2005).

The immediate proximity to EU requires an appropriate migration policy coordinated with EU policies and brought into line therewith. In February 2005, Moldova signed Individual Action Plan “Republic of Moldova – European Union” which pays considerable attention to migration problems, mechanism of counteracting illegal migration, human trafficking issues, refugees and people who are seeking for asylum help.

It is obvious that measures undertaken by Moldova basically have a restrictive (prohibiting) character, oriented on legal regulation of migration processes and counteracting illegal (uncontrolled) migration and human trafficking. That is why this approach of regulation of migration begins to be complemented by economic incentive mechanism that is reflected in several draft laws that were developed and are under consideration of Moldovan Parliament.

We mentioned Law “Amendments to Law on Migration” (2002). This Law was supposed to change clause 1 of the old law which defines a immigration quota. The Ministry of Economy Trade suggested to to replace the old wording “immigration quota” with “immigration quota for work – a limited number of foreigners and stateless persons who are allowed to immigrate into Moldova fro the purpose of work, which is established yearly depending upon needs of the contry”. This wording completely modifies the main principle of immigration policy of Moldovan Government.

The Draft Law “On Labour Migration” is under national consideration now. The main problem detected in the Draft is how to maintain an effective social and economic development of the country. Thus, labour migration is seen as one labour activity for both Moldovan citizens involved into international labour migration and foreign citizens and stateless persons involved in labour migration to Moldova. Attention is paid to legal employment aspects, legal and social protection of both Moldovan labour migrants and of foreign citizens and stateless persons who are labour immigrants.

Besides, we stress a new nuance that has not been typical for Moldovan legislation: encouragement of business migrants by principle of “the bigger investment volumes into Moldovan economy are, the longer legal status of staying in the country will be”. In general, this Law contains many revolutionary ideas for Moldovan policies for regulation of labour migration (immigration / emigration), for both Moldovan citizens and foreigners.

According to National Program of Actions for Migration and Asylum (Government Resolution No. 448 of 27th April 2007) and the regulatory framework for free movements and migration of foreign citizens in Moldova, owing to the necessity of adopting a new regulatory basis corresponding to EU legislation, a Draft Law “Foreigners in Moldova” has been prepared and sybmitted to the Government for consideration.

Draft Laws which provide for “changes and amendments to a wide range of legal acts (Law “On Exit/Entry into in Moldova” (No. 269-XIII of 9th November 1994); Law “On ID Cards Identical to National Passport System” (No. 273-XIII of 9th November 1994)) have been written and submitted to the Parliament for consideration.

Besides, we will stress a new positive aspect in real immigration management practice. According to Government Resolution No. 40 of 12 January 2007 regarding creation of an Integrated Automatic Migration Informational System, and the Conception IAISM has been drafted and adopted by the Government (November 2007).

In order to improve the mechanism of deporting foreign citizens and stateless people that have broken their staying regime, a new fund for readmission / deporting / returning of foreign citizens back to their origin countries was created. Thus, the Ministry of Finance suggested to change a number of regulatory documents to plan state budget resources. The funding in the amount of 405.000 lei was projected for 2008.

The existing Center for Temporary Placement of Foreign Citizens which accepts illegal migrants has been truly called a “prison” by international experts and employees of international organizations for its penury and bad appearance. In view of solving problems regarding financing and improvement of the Center, the project “Consolidation of Moldova’s Migration Management – MIGRAMOL” has been implemented jointly with IOM. The Project has been financed by European Commission and Government of Finland. It is ending up by June 2008. As a result of the Project Implementation, the first accomodation block of the Center for 100 people has been put into operation. In addition, under the same Project, jointly with specialized research and legal institutions, a new regulatory base for operations of Centers has been created in accordance with EU standards.

A comparative statistical analysis proves that a increasing activity of government structures regarding suppression of violations foreign citizens is associated with approximation of EU to Moldovan borders, as Moldova is becoming an immediate EU neighbor. In our opinion, it was related to some increased activity of illegal migrants, including transit migration, as foreign citizens want to use Moldova’s territory for further relocation to the West.

The main type of punishment applied to foreigners who violated rules of staying in Moldova constitute administrative recovery measures (87.76% of all punishments applied). Deportation from the country represents the second measure applied to foreigners violating Moldovan “hospitality law” (6.11%). Reduction of terms of stay was applied in 4.57% of all cases; criminal penalties for crimes committed by foreign citizens in Moldova counted 1.56%.

1.2.7. Government-NGOs Cooperation

Civil society implication in migration policies is mostly connected with the following 2 essential domains: awares of population and provision of recommendations in view of reduction and solution of problems associated with migration and a level of perception of certain problems at governmental institutions.

Programs and strategies of public awareness are more like a collaboration between civil society and international organizations. Vast information campaigns are conducted to highlight risks of illegal migration, human trafficking as well as other issues like: protection against sexual transmissible diseases in migration context, efficient money transfers, children left under no tutelage etc.

Most programs fighting human trafficking have been realized by international organizations: IOM, UNICEF, UNFPA, OSCE (Reiko, 2006). An important role in informing Moldovan population about the risks of human trafficking play the following such Moldovan

non-governmental organizations: «La Strada», «Inițiativa civică», «Compassiune», «Milena SM», «Adjuta civis», «Regina Pacis», National Center for Researches and Female Informing, Female-Jurists' Association, «Salvați copiii» etc.

Basic directions of their activity are as follows: informing people at workshops about traffic dangers, conversations and training courses within students, organization and maintaining a "hot line", preparation of different types of informational materials, stories about traffic victims and traffickers, assistance in social and psychological rehabilitation of victims.

Counteraction of trafficking and assistance to trafficking victims are realized in tight cooperation with the Government of Moldova, international organizations and similar non-governmental organizations from other countries. It is remarkable that since 2000 the cooperation with governmental structures has become more effective due to the fact that international organizations, governmental structures from EU countries (the Netherlands) and USA encouraged fighting against human trafficking from Moldova for sexual exploitation and drew attention of Moldovan officials to the necessity of counteracting those processes.

Together with IOM Mission, there were different measures organized in view of informing population about trafficking of women and young women for sexual exploitation in Moldova and Transnistria whose non-governmental organizations cooperated within this field. It should be mentioned that the process of preventing the human trafficking with a view of sexual exploitation, sale or deprivation of organs and hunting out and punishing traffickers involves law enforcement bodies from the both Nistru sides.

Under other aspects of regulation of migration, monitoring and statistical data about migration processes exchange were not subject to cooperation 1998. Moldova is oriented on EU exigencies and cooperation, meanwhile Transnistria is more like Russian Federation with principles oriented in migration regulation processes.

An important role in promoting legal migration and counteracting human trafficking is the actions developed by International Labour Organization. Thus, several actions have been implemented within regional project "Eliminating Human Trafficking from Moldova and Ukraine by Labour Market Measures" (2007-2008).

In the course of information campaigns, the support of governmental institutions to: the Ministry of Internal Affairs, the Ministry of External Affairs and European Integration, Justice, the Ministry of Social Protection Family and Child Issues, the Ministry of Education and Youth, Migration Department, Customs Department etc. was stressed even if their collaboration is often narrowed to declarations or common meetings and participation in conferences.

There are attempts of reciprocal assessment of information and exchange of responsibilities in the cooperation process (ex.: Collaboration Memorandum signed on 23rd May 2008 between 2 governmental structures: the Ministry of Internal Affairs and the Ministry of Social Protection, Family and Child Ministry and General Public Prosecutor's Department) and between other 3 non-governmental: International Organization for Migration, Moldovan Mission, Women Association of Juridical Carrier/Center for Female Trafficking Prevention and International Center for Protection and Women's Rights Protection "La Strada".

Within the context of European Commission Report context of 4th December 2006 and due to 2 years that have passed after Actions Plan Moldova – EU was signed, a group of 13 non-governmental organizations prepared and signed an Independent Report "Civil Society – for European Moldova!" which discloses the results for 2-year implementation of the above mentioned Actions Plan within European Policy for Neighbors and provides some recommendations. As a propriety, migration problems (legal and illegal migration, readmission, visa and asylum) and fighting against organized crime (including human trafficking) have also been addressed in this report⁸.

Sometimes the cooperation of the Government of Moldova with NGOs is determined by international organizations according to grants conditions. In annual USA State Department Report regarding human trafficking (March 2007 – March 2008), the Government of Moldova has been accused that it doesn't finance non-profit organizations for human traffic to provide aid victims. After those notifications on suspending Moldova's financial support adjusted by USA for counteracting human trafficking, the Vice Prime-Minister has declared that the Government will further allocate more resources to NGOs for providing aid to victims, either from the State Budget or from extra-budgetary funds⁹.

1.3. Conclusions

Republic of Moldova delivers labour force to both CIS countries and EU. Higher standards of living is the essential reason that inspires the big majority of citizens to leave for working abroad. Being a small country, Republic of Moldova is sensible to any movements of persons, and about 1/3 of its population which is economically active is involved into the emigration process, which has a negative impact on demographic, social and economic long-term processes, although a quota of Moldovan migrants is quite insignificant for hosting countries.

Money transfers represent an important element in supporting families in Republic of Moldova, where approximately 1.5 million citizens are living in households that receive money from abroad, and other citizens do also become indirect beneficiaries. Moldova is on the first position in the world regarding a share of money transfers as a percentage of GDP. Money transfers are mainly purposed for consumption. There are attempts at governmental level, with support of international organizations, to promote an efficient administration of money transfers. Those actions should be in line with creation of a favorable investment environment which is stable and transparent.

A large number of Moldovans still continue to go illegally to EU countries. The restrictive conditions are favourable for finding out new ways of how to trespass borders and to make emigration costs higher. Any illegal departure forces Moldovan migrants to stay longer on the territory of hosting countries which makes social costs much higher because of a big distance from origin community, separation of families, children don't see their parents for years etc. Promotion of seasonal migration to EU countries would be beneficiary for both Republic of Moldova and hosting countries.

8 Independent report of those thirteen representatives of the civil society from Republic of Moldova, "Civil Society – for a European Moldova!", Chișinău 30th March 2007.

9 Moldova lost one position in the State Report of USA regarding the human trafficking [5th June 2008], http://www.lastrada.md/agenda/index.html#05_062008.

Over the last years, Republic of Moldova has made progressive changes at legislative and institutional levels in respect of migration management. However, Moldova still has to enter into bilateral agreements with several countries regarding the labour force migration. This aspect, in first instance, refers to social protection of migrants in hosting countries, so as to the social protection system in Moldova. We don't have government motivation policies for migrants regarding their contributions to the social protection system, though certain attempts have been made but turned out to be insufficient – they are poorly promoted and do not inspire trust to those who work abroad.

Considerable efforts have been made by international organizations, NGOs, as well as by governmental institutions of Moldova, to cut down human trafficking. Nevertheless, the human trafficking process continues to be a problem for our country, especially when public civilians are involved into organization and/or hushing up cases of trafficking, rehabilitation and social reintegration of trafficking victims etc.

As far as the issues of immigration, Moldova is not an attractive country for citizens of other states. The policies regarding asylum seekers and refugees are step by step brought in line with EU requirements; however we still have obligations to guarantee rights of refugees and asylum seekers, providing them with decent conditions of life and social involvement opportunities.

The proximity to EU offers us some collaboration advantages so as a considerable financial support. The European Union contributes its funds to consolidation of trans-frontier cooperation. Republic of Moldova has been the first country to sign the Mobility Partnership EU and Republic of Moldova in June 2008 that provides new perspectives for Republic of Moldova with the view of common management of migration fluxes. However, some advantages are not made available – such as an agreement regarding small border traffic with Romania that has not been signed yet.

2. ROMANIA

2.1. Romania as an EU Frontier Country

Since January 1, 2007 Romania is a member of the European Union. Moreover, Romania is bound to join the “Schengen Space”. According to the “Schengen Accession National Strategy Project” and the “Schengen Action Plan” adopted by the Romanian Government in September 2007, Romania would fully join the Schengen Space by 2011. These documents stipulate that the preparations for the accession will be finalized during 2010, when Romania’s European Integrated Frontier Security’s System and the Schengen 2 Database System will be operational and compatible with the rest of the EU member countries systems. The evaluation period and the final decision of lifting border controls are conditioned by the fulfilment of the Schengen standards of the member state acceding to the Schengen zone; the final decision is taken by the EU Council in the fall of 2010 or the spring of 2011. Therefore, the legislation and the institutions dealing with the migration issues from Romania are and should be integrated within the European institutional system. In fact, the whole philosophy of the Romanian migration’s institutional framework is similar with the European Union’s one.

After Romania gained the EU membership accepted on January, 1st 2007, national authorities accelerated their efforts in the long-run process of integration. The new member state position requires a gradual process of alignment to the Community’s standards in the field of cross-border security, visa policy, police cooperation, the Schengen Informatic System, personal data protection – Romania being bound to join the Schengen Space by 2011. The evaluation period, which is on-going at this moment, and the final decision of lifting border controls are conditioned by Romania’s capacity to fulfil the Schengen standards within a limited period of time.

At the same time, Romania’s strategic position as the new eastern border of the EU raises serious challenges in relation to its traditional cooperation with representatives Moldova and Ukraine. While conditions that are to be imposed to cross-border control, visas and migration policy deriving from the Schengen Space access criteria’ are becoming much stricter, Romania is seeking for diplomatic and strategic partnership with its geographical and geo-strategic neighbours. Despite fragmented communication and vulnerable bilateral cooperation generated by territorial design in some cases, Romania shall continue its efforts of consolidating the institutional and infrastructure capacity for meeting the Schengen standards, while being an active partner in the region for the neighbouring countries bordering EU (Ukraine and Moldova). Moreover, the European Neighbouring Policy seems not to be accepted as a compromise solution by Ukraine, for example, who stated in a recent position presented by Dr. Oleksander Derchacov over ENP and Prospects for Cooperation with the EU that “ENP does not make a fair compensation for the enlargement that objectively complicates development of relations with the new member states among which there are important partners and allies of Ukraine¹⁰”.

The recent experience of other Central European member states such as Poland, Slovakia and Hungary (as members of the Schengen Space since 2007) showed that the (im)migration policy was one of the most sensitive issues that they had to deal with. This was especially the case of Poland which has been forced to design a stricter migratory regime and its border (stretching across 1,200 km from the Baltic to the Carpathians) officially became one of the few points in Europe where human spatial mobility was able to be controlled on an east-west axis. Professor Krystyna Iglicka, an economist and social demographer from Poland raised a problem at the time of Poland’s accession to Schengen Space, which seemed to be equally valid for Romania today: “the question is how to make the EU’s external borders as friendly as possible for legal migration and as tight as possible for illegal migrants”.

2.2. Migrations trends in Romania

2.2.1. Romania as a Transit and Destination Country

The fact that Romania would continue to be a country of origin in terms of immigration, combined with the increasing need of labour in our economy will certainly influence the future trends. It is expected that in the very near future, Romania will become an attractive destination for immigrants, especially for these coming from the third countries. In addition, the emigration of qualified labour from Romania would force the local entrepreneurs to look in any third country for labour force in order to keep developing their businesses.

Under these circumstances, the Romanian National Forecast Commission estimates that very soon, by 2013 there would be 200.000 – 300.000 foreigners working in the Romanian labour market. As we speak, the economic fields that are in greatest need of labour are the following: construction and agriculture. Romania expects that the tourism industry and the medical services would be in need as well which will attract foreigners more than in the past. It is true that the formalities required by the law to any employer who may want to hire such a foreigner are more difficult compared with the same formalities somebody have to follow in case of hiring a Romanian citizen.

¹⁰ Quoted from http://www.fesukraine.kiev.ua/Dokument/der_enp.pdf.

In September 2008 Romanian Office for Immigration (ROI) had in evidence approximately 43 588 foreign citizens with legal residence in Romania.

Table 4. Foreigners legally residing in Romania, September 2008.

Country of origin	Number of persons
Moldova	10, 973
Turkey	8, 677
China	6,759
Syria	1, 971
USA	1, 559
Lebanon	1, 443
Iraq	1, 063
Ukraine	1, 051
Iran	954
Serbia	1,156
Other countries	7, 983
Total	43, 588

According to the data available at the Ministry of Education for 2007, the highest number of foreigners residing in Romania for education purposes comes from Moldova (5,725 persons), Tunisia (987 persons), Israel (675), Greece (798) and Ukraine (466). As far as concerns the immigrants with temporary residence, Moldova is leading again (11, 852 persons), then Turkey (6,227) and China (4,366). Immigrants with permanent residence in Romania come mostly from China (1,070 persons), Turkey (976) and Syria (757).

As expected, the regions of Romania preferred by immigrants are those with the highest level of economic development. Most of immigrants live in: Bucharest (17,132 persons), Timiș (3,403 persons), Cluj (3,332 persons), Iasi (3,158 persons). Still, those with permanent residence in Romania prefer also Ilfov (282 persons), near Bucharest and Constanta, South- East, near the Black Sea coast (262 persons).

As far as requests for staying in Romania during the first months of 2008 are concerned, 55,920 applications were submitted, out of which 47,391 asked for temporary stay and 8,529 for permanent one. Official statistics indicates a significantly increased share of those asking for temporary stay in Romania in overt last years which again suggest that this country becomes one of the targeted countries, particularly in the context of entering into various agreements between Governments of neighbouring countries over the last period. Even more evident is the increase of those allowed for permanent stay in Romania: 4,985 reported in June 2007 compared to 8,529 in June 2008. In the first semester of 2008, 4,920 requests for more than 3 months stay in Romania were filed by persons coming from European Union and South Eastern Europe; 186 permits were issued by the territorial branches of ROI, the institution working towards strengthening its branches in the last years.

As far as the EU citizens are concerned, in April 2008, there were 17,619 EU citizens residing in Romania. The majority of them comes from Italy (4,366 persons), Germany (3,268 persons) and France (2,298 persons).

The trend regarding the illegal immigration in Romania is increasing. In 2007, the Romanian Border Police managed to stop 331 groups with 1,083 illegal immigrants and 135 traficant's comparing with to 232 groups with 738 illegal immigrants and 127 traficant's in 2006. Also, in 2007 the Romanian law enforcement agents found 672 illegal immigrants in Romania comparing with 537 in 2006. This shows a dramatic increase of persons using false Romanian (or Bulgarian) IDs in order to come to Romania.

If analyzing the number of deportation/returning decisions issued by ROI in 2007 (4,470 persons) that is with 7% more than in 2006, we can conclude that such an increasing looks normal considering the overall increase of immigration. In general, most of the non EU citizens deported by the Romanian authorities come from Turkey (1,337 persons), Moldova (1,304 persons) and China (431 persons). In 2205 cases, Romania deported illegal immigrants. Some 1394 have been deported by request and 489 because Romania denied their applications for residence. Overall, in 2007, the biggest pressure of illegal immigration came from republic of Moldova and Turkey.

In 2007, decisions concerning a number of 4,044 foreigners asked to leave the territory of Romania were adopted of which 88 % fully respected the decision but 12% choose not to respect it, continuing to live in Romania. ROI was very active in this respect, working towards identifying those refusing to accept such decisions to make them accept the state of facts. It was obvious that cooperation with other organisations, such as the International Office for Migration, proved to be very important, as 8 of the above mentioned persons were assisted in this process of voluntary repatriation. Still, for 257 foreigners who practically could not be found in order to leave Romania in 24 hours, ROI contacted the Prosecutor Office next to the Court of Appeal in order to take them in public custody.

Over the last years, ROI also played a very important role in respect of what concerns foreigners deciding to leave the territory of Romania, thus contributing to dealing with the negative side of the phenomenon when persons choose not to respect the decision of repatriation. It is important to mention, in this context, that the increased capacity of managing information by the responsible units of the ROI as well as an improved operational capabilities to share appropriate and necessary data on persons among various parts of the Government (ROI, Police, Customs, Labour Decentralised Departments, National Gendarmery, etc). Out of this category, 1,914 received the decision of repatriation (1,754 already left Romania or are about to leave), 8 asked for being integrated into the asylum receiving evaluation process, 68 appealed decisions for them to be repatriated. Also, 31 are still looked after as they passed over a deadline for leaving Romania; 5 were actually escorted back home and 3 were located in the centres in order to prepare their repatriation under escort. 2 foreigners benefited from the assistance of the IOM voluntarily asking to go back home.

The very low number of these persons whose case fall under IOM shows that the roles of those institutions are still to be communicated to the beneficiaries and that the concerned beneficiaries who decided to come to Romania are very reluctant to be sent back to their homes. In the first semester of 2008, 201 foreigners were repatriated, which is 14,5 % less than in the first semester of 2007. In this

context, it is important to point out the recent legislation changes which indicate a more strict procedure under which a person could be escorted back home. Again, in the first semester of 2008, 153 foreigners who had to leave Romania in 24 hours but could not be found, got into the situations in which ROI approached the Prosecutor Office next to the Court of Appeal in order to be taken under public custody. The role of ROI should be also firmly exercised in this respect too, in order to show that those who are not observing Romania's laws and procedures have to be fully made responsible.

Talking about asylum seekers, we need to make a clear distinction between the solicitants of asylum, persons who received a form of protection (refugee statute, subsidiary protection, or temporary protection) and other migrants' categories. The simplest distinction consists in the fact that while asylum solicitants (a person who received a form of protection) were forced to leave their origin countries because their life or freedom was threatened, in migration person's cases, chose to live their origin countries from various reasons and decided to settle down temporarily or definitively on the territory of another State. Their reasons could have economic nature, social, cultural, family related.

Starting from this premise, through a number of international documents that Romania ratified, the state's obligation to ensure the free access to asylum procedures and respect of un-returning principles (prohibition of returning measures, expulsing, extradition of an asylum solicitants or of a person which received a form of protection) was established. Also, it was agreed that assistance for this category of persons denying of asylum procedures and after it, will receive a form of protection.

After adopting the first legislation and creating of an institutional mechanism with competences in this field, in 1992 followed a increase of asylum solicitants with 50% in 1993. The biggest increase was registered in 2001, after the implementation of Government Ordinance no 102/2000 (regarding refugees in Romania).

According to ROI, there were more than 810 persons who received a form of protection in Romania, 549 adults and 261 children's. Majority is coming from Iraq, Iran, Palestine and Congo.

Asylum requests proved to increase in Romania over the last years. According to ROI statistics, in 2007, 605 foreigners applied for asylum in Romania, none of such requests were denied. These figures show an increase of aprox. 40 %, if compared with the year of 2006 when 381 requests were filed. All these persons went though a very strict checking procedure in order to determine their identity and 578 foreigners were checked for criminal records. All solicitors were finger printed and 562 of them were checked via Automated Fingerprint Identification System (AFIS) System.

Also solicitors, except for those hosted in centers where persons are under public custody (located in Otopeni and Arad), got an ID. Those not accepted were either considered un-accepted or decisions to leave Romania were adopted against them. In 2007, 533 solicitations were administratively solved in the sense that 314 were rejected, 113 approved of which 107 with a status of refugee and 6 with subsidiary protection – 106 who decided to give on the initial inquiry and 97 completely approved. The rest is still pending. The increased number of such inquiries in 2007 is partly explained by a number of illegal Serbs of Roma origin applying for asylum in Romania. In 2007 ROI was also approached by 75 persons requesting access to a new evaluation procedure for receiving asylum. 40 were not accepted but 35 were allowed to initiate a new procedure. 262 complaints were issued against ROI decisions to reject these inquiries. Courts accepted 10 cases allowing persons to obtain status of refugee in Romania and decided that 9 persons will benefit from subsidiary protection.

In the first months of 2008, 407 persons solicited asylum in Romania, 40 of them requiring to be accepted in a second round. If compared to the same period of the previous years, the increase is more than evident and is associated to the North illegal cross of Romania's border. It is also worth mentioning that a significant number of requests came from Iraq, a country where conflicts and lack of authority of the State institutions directly affected the citizens in general. An interesting observation displays the fact that no deny of the possibility to issue a solicitation for asylum was found out in the first months of 2008. When it came to forms of assistance provided by the Romanian State, 516 asylum solicitors were supported by the regional centers of the Office, including through financial support.

The responsibilities related to asylum performed by ROI is still a very important area of further legislation in Romania. Being already a member of EU, Romania is constantly interested in integrating European norms and standards in its internal legislation and policies. One example is the preparation for implementing DUBLIN II programme which will better share responsibilities among institutions at the European level whenever solicitors of asylum approach a national agency. Romanian authorities have already started to cooperate with DUBLIN system informing it about situations of persons from a third country applying for asylum, who shouldn't be under consideration by Romania.

2.2.2. Romania as a Country of Origin

The statistics are vague and contradictory on Romanians leaving the country. There is usually admitted that the Ministry of Foreign Affairs (MFA) is responsible to keep the track of Romanian citizens abroad and is also responsible to maintain the relations with the Romanian communities established worldwide. In fact, the Romanian MFA can only speculate about the number of Romanians settled abroad in a form or another.

There are two reasons why the Romanian Government cannot officially state the number of Romanian immigrants. Firstly, the Romanian legislation granted to Romanian citizens the right of free movement. There is no obligation for Romanian citizens who travels abroad to declare why they are leaving the country, where are they going to stay and the purpose of their travel. There is a general recommendation that Romanian citizens, especially those who intend to stay for a long while abroad, should register themselves with one of the Romanian diplomatic or consular missions. But, in reality, such a registration is not happening.

Secondly, since Romania joined the EU, the travel of Romanians inside the EU is totally free. A Romanian can travel inside the EU even without a passport, the regular ID being enough to pass the border check.

What is well known in statistics is that the main countries chosen by Romanian immigrants are the EU members, mainly Italy and Spain. The explanation is that both Italy and Spain just passed periods of economic growth offering to Romanian labour salaries higher than those they could get in Romania. Also, the fact that, culturally speaking, Italy and Spain are very similar with Romania

(in terms of language, habitudes, attitude toward life etc) has been perceived as an encouragement. In general, Italians and Spanish were very tolerant with Romanians, who felt comfortable and did not have to overcome significant obstacles in their intentions to integrate. Also, there is important to remind that Italy and Spain were among the first EU countries that opened their labour market to Romanian citizens.

Besides the cases of Italy and Spain, significant communities of Romanian immigrants could be found in Germany, France and the UK. Also, Romanians who immigrate aims to reach extra European countries, especially New Zealand, Australia and Canada. Finally, the US remains an important country of destination for emigrants of Romanian origin. The estimation of the Romanians who are settled abroad varies from 1.5 to 5 millions. It is generally accepted that 70% – 75% of them are in EU countries.

Since the statistics lack, it is difficult to assess what was the impact of Romania's EU accession upon the outgoing migration flow. What is absolutely sure is that the opening of the labour markets for Romanians in Europe has been seized as a great opportunity by many of them. After the EU accession, there are strong reasons to believe that the outgoing migration has dramatically increased. In October 2007, Mr. Johan Ten Geuzendam, Head of the Direction for monitoring the labour in the EU Commission, stated that approximately 850.000 Romanians are working inside the EU and that they are mainly low qualified workers. In fact, Mr. Geuzendam underlined that they were even less qualified than the low qualified EU workers (*Business Standard*, October 1, 2007). In a World Bank Report issued at the end of 2007, Romania was ranked as the 10th country in the world, in terms of money that is sent back home by emigrants: 6.8 billion USD¹¹.

All this figures, along with the general social perception, take us to the conclusion that Romanians heavily fructified the opportunity that has given to them by the EU accession when it came to freedom of movement. Based also on social perception, the main social category that emigrated for economic reasons in the last years is composed of youngsters (around 30), with low skills coming from rural or disfranchised areas. Also, they did not emigrate for good, since they kept sending money back in to their communities, to build up houses and to buy real estate. Also, the fact that Romania faced a huge outgoing migration flow is the persistency with which the media cover dramatic stories of children left behind under the surveillance of relatives by couples who emigrate. The social problems that occur in this respect are numerous in the last years and the public opinion pushes the Government to develop a social policy regarding to these children.

The economic impact of labour migration in Romania has not yet been assessed in comprehensive terms. It is only certain that the volume of remittances increased continuously until 2006. In 2002, the volume of remittances was estimated to be approximately USD 1.5-2 billion, and Romania was placed the 23rd in the list of the top 30 developing countries with the highest volume of remittances received in that period¹². Recent reports showed that, since then, the volume of remittances almost tripled: the National Bank of Romania reported the record amount of EUR 4.8-5.3 billion for 2006. It seems that a large part of this money goes towards increasing the overall living standards of migrant households, and only a small part is invested in entrepreneurial activities¹³.

Beyond the positive economic aspects for households, widespread engagement of Romanians in labour migration has several negative consequences at the same time, particularly on the lives of affected families. Perhaps the most problematic issue is the temporary abandonment of minors by their labour migrant parents. At the beginning of the 1990s, only one member of the household tended to migrate, meaning that only one family member (usually the father) was absent. It is also true that since then, the number of women engaged in labour migration increased. Now it is common for couples to emigrate, leaving minor children behind without direct parental supervision. These children are not necessarily abandoned; rather, parental roles are assumed by relatives, neighbours or friends. However, the lack of direct parental supervision has led to a rise in social problems among children and adolescents and the authorities in charge of child protection have been forced to formulate policies to monitor the situation.

At the end of 2006, approximately 60,000 children were identified by the National Authority for the Protection of Children's Rights as being in risk because one or both parents were working abroad; in one third (21,400) of these cases, children had been deprived of both their parents¹⁴.

On another level, the political discourse recently acknowledged the emigration problem. Any major political party in Romania is talking about this phenomenon using two main ideas. The first is to complain about the fact that Romanians are leaving Romania due to local unsatisfactory conditions. The second is to try to get them back. In fact, we assist nowadays to a veritable contest among the political leaders on how to bring back the Romanians that left Romania in the last years.

It is reasonable to say that, for some years to come, Romanians would still immigrate in significant numbers. Also, is reasonable to say that the main countries targeted by Romanian immigrants would remain the same. On the other hand, the economic growth of Romania and the recession in some of the countries that Romanians obviously prefer to immigrate to could slow the process. A reputed expert such as Mr. Rainer Munz, Head of the Research and Development Direction with the Erste Bank recently said that, for Romanians, migration in Western Europe would make less and less sense in the future. We can soon be in the situation that countries such as the Czech Republic, Poland or Slovenia will report more immigration than emigration¹⁵.

2.3. Migration Policies of the European Union

The European Union Member States have taken in consideration a series of migration policy to determine an efficient administration of the process such as: efficient settlement and control policy of the phenomenon, policy for reinforcement of legislation in combating illegal migration and illegal employment of foreign workers, integration policy of immigrants and policy regarding international cooperation in migration field.

11 Mediafax News Agency, December 2nd, 2007.

12 For further details see "Romania", Focus Migration Policy Brief 2007, No.9, retrieved September 25 from http://www.focus-migration.de/typo3_upload/groups/3/focus_Migration_Publikationen/Laenderprofile/CP_09_Romania.pdf.

13 For further details see "Remittances – A Bridge between Migration and Development?", Focus Migration Policy Brief 2006, No 5, retrieved September 25, 2008 from http://www.focus-migration.de/uploads/tx_wilpubdb/PB05_Remit.pdf.

14 Internal Statistics of the Government Department for the Protection of Children's Rights.

15 Quoted by "Săptămâna Financiară", July 25, 2008.

According to EUROSTAT¹⁶, the EU countries might expect a dramatic decrease of the working population in the next 4 – 5 decades. Therefore, everybody inside the EU agrees that a global and coherent management of the migration phenomenon would contribute to the evolution of the whole Union. EU members alongside with the EU Commission should comprehensively and continuously manage the process instead of having spontaneous reactions to a chaotic natural evolution. Due to the specificity of the European integration policies that implies the openness of the labour markets and free movement of persons inside the Union, every decision adopted by a single country immediately influences the migration flow among all the rest member states. Thus, the EU members decided to pursue a common policy on migration and the European Commission took the charge of proposing the development of this policy. Much of this common policy is today part of the *aquis comunaitaire*. This policy of managing the migration to the EU through coordinated actions observed the labour need of the common market and the demographic evolution of the EU countries. These challenges are very important in the next European environment.

At the Conference on Legal Immigration from Lisbon (September 2007), the European Commissioner, Mr. Franco Frattini stated¹⁷: “Legal immigration should be perceived as a inevitable phenomenon of the contemporary world and not as a threat. For the European Union this phenomenon is an advantage considering the decrease of the labour in the next decades. On the other hand, we should take into account the statistics that shows that 85% of the low qualified labour that immigrate in the world, reach the European Union and only 5% reach the United States. Meanwhile 55% of the medium and high qualified labours that immigrate go to the US and only 5% come to the EU. We have to change these statistics by a new vision and new policies”.

The conclusion that the EU came to is that a global and coherent approach of migration is mandatory. The EU Commission became responsible for a common migration policy and it already proposed a significant legislation in the matter observing, both, the economic and demographic situation of the EU.

2.3.1. Overview of Core Legislation

1. *Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof*
2. *Council Directive 2003/9/EC from January 27, 2003, on minimum standards for the reception of asylum seekers in the EU* – this Directive is laying down minimum standards for the reception of asylum seekers.
3. *Council Regulation (EC) No. 343/2003 of February 18, 2003, establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national* – a common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union’s objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Community. The Council Regulation is based on a method that should make possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for determining refugee status and not to compromise the objective of the rapid processing of asylum’s applications.
4. *The Treaty of Lisbon*¹⁸ – chapter IV – Area of freedom, security and justice – Commission Regulation (EC) No 1560/2003 of September 2, 2003, laying down detailed rules for the application of Council Regulation (EC) No. 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

Ratification by Romania

Romanian President Traian Băsescu ratified the Treaty of Lisbon on March 11, 2008; the Treaty was designed to reform the European Union following the fail of its Constitution and it amends the current EU and EC treaties, without replacing them.

The Romanian Parliament adopted on February 4 the Treaty of Lisbon with 387 votes in favor. Romania is the fourth member state to ratify the Treaty following Hungary, Slovenia and Malta.

The Treaty was signed on December 13, 2007 at a Summit in Lisbon, Portugal.

5. *Council Directive 2003/86/EC from September 22, 2003, on the right to family reunification* – according to this Directive, measures concerning family reunification should be adopted in conformity with the obligation to protect the family and to respect family’s life enshrined in many instruments of international laws. This Directive respects the fundamental rights and observes the principles recognized in particular in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the Charter of Fundamental Rights of the European Union.
6. *Council Directive 2004/83/EC of April 29, 2004, regarding minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted* – the main objective of this Directive is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection, and, on the other hand, to ensure that a minimum level of benefits is available for these persons in all Member States. The approximation of rules on the recognition and content of refugee and subsidiary protection status should help to limit the secondary movements of applicants for asylum between Member States, where such movement is purely caused by differences in legal frameworks.

¹⁶ EUROSTAT represents the Statistical Office of the European Communities, retrieved from http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1090,30070682,1090_33076576&_dad=portal&_schema=PORTAL.

¹⁷ Lisbon High Level Conference regarding Migration, September 2007, http://aps.mai.gov.ro/pagini/inf_publice/Migratia_si_azilul_in_Romania_2007.pdf.

¹⁸ The Treaty signed by the Heads of State or Government of the 27 Member States in Lisbon on 13 December 2007 provides the EU with modern institutions and optimized working methods to tackle both efficiently and effectively today’s challenges in today’s world. In a rapidly changing world, Europeans look to the EU to address issues such as globalization, climatic and demographic changes, security and energy. The Treaty of Lisbon reinforces democracy in the EU and its capacity to promote the interests of its citizens on a day-to-day basis.

7. *Council Directive 2004/114/EC from December 13, 2004, regarding the admission of the citizens of a third country who travel for education, student exchange programs, training or volunteering* – for the gradual establishment of an area of freedom, security and justice, this Directive provides measures that have to be adopted in the fields of asylum, immigration and the protection of the rights of third-country nationals. The Directive provides that the Council has to adopt measures on immigration policy relating to conditions of entry and residence, and standards on procedures for the issue by Member States for long-term visas and residence permits.
8. *Council Directive 2005/71/EC from December 12, 2005, regarding the admission of the citizens of third countries who travel for scientific research purposes* – this Directive is intended to contribute to achieving these goals by fostering the admission and mobility for research purposes of third-country nationals for stays of more than three months, in order to make the Community more attractive to researchers from around the world and to boost its position as an international centre for research.
9. Hague Programme to consolidate the area of freedom, security and justice within European Union – covering the period 2005–2009, encompasses all aspects of policies on freedom, security and justice, including the external dimension, notably fundamental rights and citizenship, asylum and immigration, border management, integration, the fight against terrorism and organized crime, judicial and police cooperation, and civil law.

Five years after the European Council's meeting in Tampere, EU leaders considered that is time for a new agenda to enable the Union to build on the achievements and to meet effectively the new challenges it will face. To this end, the European Council has adopted this new multi-annual Hague Programme. The Hague Programme is a five-year Programme for closer co-operation in justice and home affairs at EU level from 2005 to 2010. It aims to make Europe an area of freedom, security and justice.

The objective of the Hague Programme is to improve the common capability of the Union and its Member States to guarantee fundamental rights, minimum procedural safeguards and access to justice, to provide protection in accordance with the Geneva Convention on Refugees and other international treaties to persons in need, to regulate migration flows and to control the external borders of the Union, to fight organised cross – border crime and repress the threat of terrorism, to realise the potential of Europol and EUROJUST, to carry further the mutual recognition of judicial decision and certificates both in civil and in criminal matters, and to eliminate legal and judicial obstacles in litigation in civil and family matters with cross – border implications. This in an objective that have to be achieved in the interest of European Union citizens by the development of a Common Asylum System and by improving access to the courts, practical police and judicial cooperation, the approximation of laws and the development of common policies.

In 2005, a joint European Council and Commission Action Plan set the priorities on which The Hague Programme had to focus in the years ahead. A strategy for the external dimension of the area of freedom, security and justice was also mapped out within the same context.

Immigration and asylum topped the Hague agenda alongside the prevention of terrorism. EU leaders agreed to use qualified majority decision-making and co-decision in the fields of asylum, immigration and border control issues. Legal immigration remained subject to unanimity.

In the field of asylum, immigration and border control, the Hague Programme contains the following key measures:

- ◊ A common European asylum system with a common procedure and a uniform status for those who are granted asylum or protection by 2009;
- ◊ Measures for foreigners to legally work in the EU in accordance with labour market requirements;
- ◊ A European framework to guarantee the successful integration of migrants into host societies;
- ◊ Partnerships with third countries to improve their asylum systems, better tackle illegal immigration and implement resettlement programmes;
- ◊ A policy to expel and return illegal immigrants to their countries of origin;
- ◊ A fund for the management of external borders;
- ◊ Schengen information system (SIS II) – a database of people who have been issued with arrest warrants and of stolen objects to be operational in 2007;
- ◊ Common visa rules (common application centres, introduction of biometrics in the visa information system).

In the fields of justice and security, the Hague Programme highlights the following key measures:

- ◊ Police information to be available between all EU countries (threats to the security of another EU state must be communicated immediately);
- ◊ Address the factors that contribute to fundamentalism and to the involvement of individuals in terrorist activities;
- ◊ Make greater use of Europol, the EU's police office, and EUROJUST¹⁹, EU's judicial co-operation body;
- ◊ Ensure greater civil and criminal justice co-operation across borders and the full application of the principle of mutual recognition.

2.3.2. Key Policy Priorities for 2005–2010

On May 10, 2005, the Commission adopted an Action Plan, “a roadmap” implementing the Hague Programme which identified ten specific priority areas for 2005–2010. The Action Plan takes the overall priorities for Freedom, Justice and Security set out in The Hague Programme – endorsed by the European Council in November 2004 – and turns them into concrete actions, including a timetable for their adoption and implementation.

¹⁹ European Union's Judicial Cooperation Unit, EUROJUST is a new European Union body established in 2002 to enhance the effectiveness of the competent authorities within Member States when they are dealing with the investigation and prosecution of serious cross-border and organized crime, <http://www.eurojust.europa.eu/>.

It identifies ten key areas for priority action. These key areas/chapters are crucial targets for the policies to come in order to build up a cohesive and effective immigration common policy. They have been identified after the evaluation done at the end of the Tampere Programme and after the close examination of the economic and demographic trends in Europe and in the world. Their presentation is below:

1. *Fundamental rights and citizenship: development of policies enhancing citizenship, monitoring and promoting respect for fundamental rights.*

Fundamental rights are placed at the heart of the European project, as proven by the integration of the Charter of Fundamental Rights in the Constitution. The Union is bound to the respect of fundamental rights, but it is also engaged in actively promoting them. Over the coming five years, the protection of personal data and the fight against discrimination in all its forms will be further promoted. The Commission will also pursue its efforts to combat violence against women and provide support to victims in collaboration with member States. Special attention will be devoted to the rights of the child. The Daphne II Programme will continue to support European organizations that develop measures and actions to prevent or to combat all types of violence against women and children and to protect the victims and groups at risk. Moreover, the Group of Commissioners on Fundamental Rights will enhance consistency among different Commission' activities in favour of children.

In 2005, the Commission proposed the conversion of the European Monitoring Centre for Racism and Xenophobia into a Fundamental Rights Agency. The Agency will constitute a point of reference for the civil society: it will promote dialogue at European level and will contribute to raising awareness of general public. Other tasks of the Agency will be to provide European institutions and Member States with assistance and expertise, to collect and disseminate reliable and comparable information and data and to produce an annual report with regards to these aspects.

Citizenship of the Union entails a number of rights which the Union will further promote in the next five years. These are for example free movement within the EU, but also diplomatic and consular protection if a Union's citizen is in distress in a country outside the EU and there is no local accessible representation of his/her own country. Finally, Electoral rights in the European Parliament and municipal elections in the Member State of residence are sensitive and important issues, which the Commission will attentively examine.

2. *The fight against terrorism: prevention, preparedness and response*

The European Union can contribute decisively to the defeat of terrorism, countries working together towards a global Strategy established on the basis of their founding values: democracy, fundamental rights and the rule of law. The Union's attention must focus on different aspects of prevention, preparedness and response to further enhance, and where necessary complement, Member States' capabilities to fight terrorism.

This Strategy also entails close cooperation with third countries, including assistance in funding counter – terrorism and capacity-building projects. Cutting the access of various terrorist organizations to financial and economic resources is a strategic objective for the Member States and the EU: a number of different measures that are foreseen over the coming years will aim at enhancing transparency of legal entities and information exchange among relevant actors at national, EU and international levels.

In order to maximize the capacity within EU bodies and Member States to detect, investigate and prosecute terrorists and prevent terrorist attacks, the Union will promote cooperation between all the competent authorities of Member States, most notably in exchanging information relevant to the investigation of terrorist activities.

The Union will work together with Member States to enhance their capability of dealing with the consequences of a terrorist attack: in 2005, a Programme on the Protection of Critical Infrastructures has been established and the Commission presented a proposal creating a Critical Infrastructure Warning Information Network (CIWIN), in order to assist Member States to exchange information System, on shared threats, areas of vulnerability, appropriate measures and strategies to mitigate risk in support of critical infrastructure protection.

In 2006, the results have been assessed as a follow-up to the pilot project for the victims of terrorist acts. In this framework, the Union's budget provided assistance and training to professionals for psychological support to victims and their families, created reception centers for the victims and their families, also collecting "best practices" with regards to the support for victims of terrorism acts raised awareness amongst the European public regarding the terrorist threat.

3. *Migration management: developing a common EU immigration policy and countering illegal migration*

The Commission believes that there is a clear agreement on transparent and more harmonized common rules and criteria at EU level, for admitting legal migrants. However, decisions to admit such third country nationals in one Member State affect others in the following direction: the right to travel within the Schengen area, to deliver services in other Member States, to move to other Member States once long-term residents' status has been acquire, the admission of third country workers on the EU labour market.

Moreover, the need for a common European strategic initiative is strengthened by the fact that, in its absence, migration flows are more likely to be able to bypass by national rules and legislation. As a consequence, in the absence of common criteria for the admission of legal migrants, the number of third country's citizens entering the EU illegally and without any guarantee of having a declared job – and thus of integrating in our societies – will grow.

The Union aims at developing a balanced approach: it implies the establishing a common immigration policy, covering admission procedures and criteria with which legally enter its territory, ensuring a secure legal status and a better defined set of specific rights to third country nationals temporarily working or staying for other reasons in the EU. Consequently, another aim was of carrying out a policy against illegal migration, which has to be both firm yet respectful towards the rights and dignity of third country nationals, including those in an irregular situation in the Union.

An in-depth public discussion on the most appropriate form of Community rules for admitting economic migrants and on the added value of adopting such a common framework is currently taking place. On that basis, a policy plan on legal migration including admission procedures has been presented in 2006 by the Commission. It aims at setting up a system capable of responding promptly to fluctuating demands for migrant labour in the labour market.

Adoption of national legislation

In April 2004 Romania established a National Migration Strategy. Implementation of the National Immigration Strategy continued in 2005 and in January 2005 a Plan was approved to combat illegal immigration and a new reception centre was opened. The second National Strategy on Migration was established in 2007.

4. *Internal & external borders, visas: further develop of an integrated management of external borders and a common visa policy, while ensuring the free movement of persons.*

The ensemble of rules known as the “Schengen acquis” ensures the free movement of persons over EU territory. This includes a number of “compensatory measures”, aiming at coordinating controls at external borders and improving coordination between national authorities in order to achieve this goal.

By 2009, the Member States that joined the Union in 2004 will be fully integrated in the Schengen area and internal borders checks will be lifted with and between them. By 2011, the Member States that joined the EU in 2007 would be also part of the Schengen System. This implies the development of a new information system (Schengen Information System II – SIS II), which became operational in 2007, after thorough evaluation procedures.

The EU is developing an integrated management system for external borders. The FRONTEX²⁰ is further responsible for coordinating and assisting Member States’ action in surveillance and controlling of external borders. In order to enhance travel documents security while maintaining full respect for fundamental rights, biometric identifiers are integrated in travel and identification documents from 2005 onwards.

The development of an effective visa policy will be facilitated through the availability of the Visa Information System, aimed at enhancing exchange of visa data between Member States, thus improving the assessment of visa applications and the verification and identification of applicants. This will call for the reinforcement of the cooperation between Member States to create common application centers for visas that could be a first step towards a future European common consular service. To that end, the Commission will put forward a Proposal, in order to satisfy the need for a better synergy in consular activities, regarding both European citizens travelling abroad and third country nationals needing a visa to enter the EU territory.

Adoption of national legislation

Considerable progress has been made on visa policy. In April 2001 Romania amended the Aliens Act and introduced provisions on visas. Visas can now only be obtained in a Romanian consulate or embassy and are issued at the border only in exceptional cases. The National Visa Centre receives all visa applications and takes the final decision. The Aliens Directorate carries out additional checks on applications from countries with high levels of migration. A new visa sticker was adopted in April 2003 and has been used since the beginning of 2004. The first phase of the on-line visa system is operational and connects the authority responsible for aliens with the diplomatic missions in Egypt, Russia, Serbia and Montenegro, Turkey and Ukraine. Romania has largely aligned its visa policy on EU policy; as a result, it has benefited from a visa-free regime in all Schengen Member States since January 2002

In June 2002, Romania adopted legislation for the issuing of new identity and state border crossing documents for third-country nationals. The Government also concluded an agreement with the International Organisation for Migration on cooperation in the field of voluntary humanitarian assisted repatriation. In May 2003 a government decision waived the long-term visa requirement as regards economic and commercial activity involving nine acceding countries.

Major progress has been made on controls at external borders. Two emergency ordinances were adopted in June 2001, the first on Romania’s borders, the second on the organisation and functioning of the border police (it provides for a new structure and a framework for cooperation between the border police and other bodies).

Legislation on the Romanian state borders and on the organisation and functioning of the Border Police was adopted and entered into force in March and in May 2002 respectively. The professionalization of the Border Police has continued thanks to the ongoing replacement of conscripts with professional staff.

As regards alignment with the Schengen acquis, Romania has introduced most of the Schengen procedures. It presented a first Schengen Action Plan in December 2001, and a strategy on border security for 2003-2007, and a second Schengen Plan were adopted in 2003, along with an integrated border management strategy for 2003-2006. In October of the same year an Integrated Border Security System was adopted incorporating the measures to be taken before accession. However, the European Commission has called on Romania to accelerate preparations for future participation in the Schengen Information System (SIS II) and the Visa Information System (VIS). A cooperation protocol was signed by the Border Police and the General Customs Directorate in March 2003 and common border posts have been established at four Romanian border crossing points.

5. *A common asylum area*

After having built the foundations of a common asylum policy during the past five years, the need of assessing the impact of existing instruments, as well as committing to a second phase of development of the Common European Asylum System (to be completed before the end of 2010), become obvious. The future measures will seek to establish a common procedure and uniform status for persons benefiting from asylum or subsidiary protection, in accordance with the Union’s values and humanitarian tradition.

In addition to the completion of the Common European Asylum System, the European Union will concurrently assist countries in regions where asylum seekers come as well as countries of transit in order to enable them to provide adequate refugee protection in line with international standards. Enhancing the protection capacity of regions of origin will diminish the need for refugees to search protection elsewhere. This will reduce the dangers that asylum seekers have regularly to face while attempting to reach a safe country.

²⁰ **Frontex**, the EU agency based in Warsaw, was created as a specialized and independent body tasked to coordinate the operational cooperation between Member States in the field of border security. The activities of Frontex are intelligence driven. Frontex complements and provides particular added value to the national border management systems of the Member States (<http://www.frontex.europa.eu/>).

The Regional Protection Programmes²¹ will propose concrete and operational measures to be developed in close partnership with the concerned countries, aiming at enhancing protection capacities by enabling refugees to access durable solutions. While the numbers of asylum applications in Europe had steadily fallen in recent years, this has not meant a reduction of the numbers of refugees and persons seeking international protection at a global level. It is a fact that the vast majority of refugees remain in their regions of origin in circumstances of extreme poverty and questionable safety. It is therefore important to ensure that those who need protection are able to access it as quickly as possible and as closely as possible to their needs. In this context, and following the call of the Council of November 2004, the Commission was to develop Regional Protection Programmes in close cooperation with UNHCR and the third countries involved. The aim of Regional Protection Programmes was to deliver direct benefits to refugees as well as to contribute to improvement of the protection and human rights situation in the host country. A Programme of 5 or 6 actions could therefore be envisaged for each Regional Protection Programme, which includes registration and other projects which are focused on the delivery of practical benefits (training, infra-structure building, the provision of equipment etc).

In the long term, the Regional Protection Programmes should result in the fulfilment of a range of goals: third countries receiving this support shall adopt or amend their national asylum legislation, thus agreeing to the international standards and namely to the obligations entailed under the Geneva Conventions²²; reception and admission standards should therefore be enhanced. The Programmes will also provide general assistance for the improvement of the local infrastructure and assistance for persons return to countries of origin and resettlement.

Adoption of national legislation

In the asylum field the 1996 Law on Refugees has been amended to introduce new concepts such as “manifestly unfounded application”, “safe third country”, “country of origin” and “accelerated procedure”. Persons with refugee status in Romania received financial assistance for nine months. Provision was also made for additional aid for certain categories of person, such as unaccompanied minors or single mothers.

As a general rule, refugees have the same rights as Romanian citizens, including access to the labour market. Since February 2003 the new employment code has released persons with acknowledged refugee status in Romania from the obligation to hold a work permit before taking stable employment.

A Government Decision on Refugee Integration was adopted in November 2001. In March 2002 legislation was adopted establishing a procedure for reuniting refugees with their family members. This legislation remediated the most significant shortfalls in the previous legislation on family reunification.

The 2005 Report stresses that further legislative alignment is needed on minimum standards for the reception of asylum seekers, the Dublin II Regulation, international protection and temporary protection. On the implementation side, a database to record refugees’ country of origin became operational in August 2003, and it was used in the procedure for determining refugee status.

In April 2004 legislation aimed at bringing the regime for refugees more into line with the 1951 Geneva Convention entered into force. Further amendments relating to their social integration were implemented in May. In addition, more staff was recruited to the National Refugee Office and the capacity of the Romanian asylum system was expanded considerably.

In 2005 Romania formally adopted a Plan for implementing EURODAC²³ but further efforts on this front was still needed. The Automated Fingerprint Identification System (AFIS) workstations at the National Refugees Office and the Institute for Criminology needed to be upgraded.

6. Integration: maximizing the positive impact of migration on society and economy

During the coming years, the European Union will support and encourage Member States to deliver better policies on integration in order to prevent isolation and social exclusion of immigrant communities.

A European Framework on Integration based upon common principles will be established to favour greater contact between national authorities and facilitate exchange of experiences and information on integration. Moreover, the edition of a Handbook on Integration²⁴ will be pursued. This instrument is intended to provide practitioners (national and local governments, employers, unions, religious organizations, civil society, migrants’ associations, media, NGOs) with examples of best practices, with a view of driving the exchange of information and promoting policy initiatives.

The first edition depicts successful examples of integration policies, concerning introduction courses for newly arrived immigrants (for example, a UK company supplying casual labour that has developed a training scheme for employees who are immigrants mostly recently arrived in the country) and civic participation (in order to develop intercultural competences, religious dialogue and participation in political processes).

21 Regional Protection Programmes are designed to enhance the protection capacity of the regions involved – both regions of origin and transit regions alike – and to improve refugee protection through durable solutions (return, local integration or resettlement in a third country), <http://europa.eu/scadplus/leg/en/lvb/l33222.htm>.

22 The Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules limiting the barbarity of war. They protect people who do not take part in the fighting (civilians, medics, aid workers) and those who can no longer fight (wounded, sick and shipwrecked troops, prisoners of war), <http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/genevaconventions>.

23 The objective of this Regulation is to establish a system for comparing the fingerprints of asylum seekers and illegal immigrants in order to facilitate the application of the Dublin II Regulation which makes it possible to determine the Member State responsible for examining an asylum application. The Eurodac system enables Member States to identify asylum applicants and persons who have been apprehended while unlawfully crossing an external frontier of the Community. By comparing fingerprints, Member States can determine whether an asylum applicant or a foreign national found illegally present within a Member State has previously claimed asylum in another Member State or whether an asylum applicant entered the Union territory unlawfully. Eurodac consists of a Central Unit within the Commission equipped with a computerised central database for comparing the fingerprints of asylum applicants and a system for electronic data transmission between Member States and the database, <http://europa.eu/scadplus/leg/en/lvb/l33081.htm>.

24 Migration Policy Group acts as independent consultant to the European Commission (JLS) for the drafting of a Handbook on Integration for policy-makers and practitioners. The first edition was published in November 2004. Publication of the second edition is foreseen for September 2006. The Handbook on Integration acts as a driver for exchange of information and best practice, and enables the development and promotion of policy initiatives. It is a collaborative product of the European Commission, the National Contact Points on Integration, and MPG as independent consultant, all of whom can be seen as “editors” of the Handbook, <http://www.migpolgroup.com/infopages/2691.html>.

7. *Privacy & security in sharing information: balancing the need to share information among law enforcement and judicial authorities with privacy and data protection rights*

The need for effective investigations of cross-border criminality and the maintenance of law and order in an area of free movement, which has been exacerbated by the threat of terrorist attacks, led the Union to multiply its efforts to facilitate exchange of information between law enforcement authorities from different Member States. Member States should use the powers of their intelligence and security services not only to counter menaces to their own security, but also to protect the internal security of other Member States. A high level of exchange of information between law enforcement authorities must be maintained and improved, taking into account the overall principle of availability.

Information for law enforcement purposes needed by the authorities of one Member State should be made available by the authorities of another Member State, subject to certain conditions. In 2005, The Commission presented proposals to this end. In doing so, the Union needs to strike the right balance between privacy and security in sharing information among law enforcement and judicial authorities. Obviously, this is not easy since the fight against terrorism is a global issue and involves major actors outside the EU to whom member states needs to coordinate.

The lack of a unique legal framework brings about the need for the adoption of new instruments regulating protection of data collected and used for law enforcement and judicial purposes.

Hence, the principle of availability will be balanced with the protection of fundamental rights through the establishment of adequate safeguards for the transfer of personal data. The Commission is also about to put forward a proposal aiming at regulating and providing specific guarantees in respect of the retention of data processed in connection with the provision of public electronic communication services for the detection, investigation and prosecution of criminal offences.

In order to follow a coherent approach, tasks within the Commission have been redesigned, concentrating responsibilities relating to data protection under the Directorate General "Justice, Freedom and Security" (JLS).

Adoption of national legislation

Romania adopted several pieces of legislation on data protection at the end of 2001. It ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data in February 2002 and its additional protocol in July 2005. Further progress was made in 2003 with the adoption of a law laying down a scale of charges for the notification of personal data processing operations. In May 2005 a law was adopted establishing the National Supervisory Authority for Personal Data Processing²⁵, an independent body separate from the Ombudsman's Office starting with January 1, 2006.

8. *Fight against organized crime*

It includes also the development and implementation of a strategic concept on tackling organized crime at EU level, knowledge of the phenomenon, law enforcement cooperation, judicial cooperation, legislative and non-legislative initiatives, and cooperation with third countries and international organizations. Make full use of and further develop Europol²⁶ and EUROJUST.

Fighting against organized crime is a priority in the context of Commission's actions. A Communication on developing a strategic concept on tackling organized crimes has been presented. This communication outlines an overall European Strategy for the coming years. The Commission recommends developing common methodologies among national and EU bodies contributing to the fight against organized crime, as well as an EU Crime Statistics System to be under construction, collecting information and measuring crime and victimization of specific groups constituting the core of a European Criminal Intelligence Model. This will improve knowledge of the phenomenon and enable decision-makers to define European strategies based on thorough assessments. The strategic concept on tackling organized crime includes measures designed for:

- ◇ Strengthening prevention, namely developing a model for crime proofing
- ◇ Legislation and new products and services; this should avoid creating new
- ◇ Opportunities for organized crime.

Further development and implementation of a comprehensive EU anti-corruption policy, together with actions aiming at fostering public sector transparency, should prevent organized crime from infiltrating licit markets. Moreover, Partnerships between the public sector and enterprises could be an effective tool for preventing crime in general, and organized crime in particular. The preparation and implementation of an EU Action Plan on Public Private Partnerships is a priority for the Commission. Cooperation among national law enforcement services (police, justice, customs) needs to be improved in order to combat organized crime in a more effective way and the potential of Europol and EUROJUST has to be fully exploited, for example by involving these bodies more closely in the investigation phase of cross-border organized crime. Concurrently, investigation and tools to address financial aspects of organized crime will be strengthened. In particular, the Commission will promote stronger investigation skills and the establishment of criminal asset intelligence units in EU Member States. The Strategy must also contemplate on best means for intensifying cooperation on this issue with third countries and international organizations.

An agreement has also been ratified between Romania and Bulgaria for cooperation in the fight against organised crime, drug trafficking and terrorism and it entered into force in July 2005.

²⁵ The Authority has the goal of protecting the fundamental rights and freedoms of the natural persons, especially the right of intimate, family and private life, in connection with the processing of personal data and the free circulation of these data. The National Authority for the Supervision of Personal Data Processing carries out its' activity in terms of complete independence and impartiality. The authority supervises and controls the legality of the personal data processing which falls under the Law no. 677/2001. The Authority is directed by a president whose position is assimilated to the one of secretary of state. The president of the Authority is named by the Senate, for a mandate of 5 years, which can be renewed only once. Before starting to exercise the mandate, the president of the Authority takes the oath of fidelity in Senate's plenum, <http://www.dataprotection.ro/index.jsp?page=about&lang=en>.

²⁶ Europol is the European Law Enforcement Organization which aims at improving the effectiveness and co-operation of the competent authorities in the Member States in preventing and combating terrorism, unlawful drug trafficking and other serious forms of international organized crime, <http://www.europol.europa.eu/>.

Adoption of national legislation

In the area of immigration policy the Romanian legislative framework is now aligned on the *acquis*. Romania has concluded and ratified 30 readmission agreements with Member States.

The Aliens Act, which was adopted in December 2002, contains provisions on entry and residence and rules governing expulsion. An agreement has also been signed with the International Organisation for Migration to set up a temporary refuge for female victims of trafficking in human beings. In March 2004 an Authority responsible for Aliens was set up; an autonomous body, it has signed a cooperation agreement with the General Directorate for Consular Affairs. It is also consulted by the National Visa Centre on cases and applications to extend the right of residence. With regard to police cooperation and the fight against organised crime, the Organised Crime Prevention Act was passed in January 2003.

9. *Civil and criminal justice: effective access to justice for all and the enforcement of judgments*

Aiming at creating an area where effective access to justice is guaranteed, in order to obtain and enforce judicial decisions, the Union must envisage rules on jurisdiction, recognition and conflict of laws, but also measures that build confidence and mutual trust among Member States. Such measures should create minimum procedural standard of quality of justice systems, in particular with regards fairness and respect for the right of defence.

Civil and commercial judicial cooperation is a policy area which has a direct impact on the citizens' daily life. It can ease the recovery of debts across Europe, simplifying the procedures or the access to justice by determining clear rules on the law applicable in cases which have cross-border implications. The Commission has already presented a number of legislative proposals to this aim and new legislation is under preparation. This will involve preliminary consultations, on the model of the one launched based on the Green Paper, on applicable law and jurisdiction in divorce matters (which aims at gathering opinions and suggestions in view of regulating this specific matter). The increasing mobility of citizens within the European Union has resulted in an increasing number of "international" marriages where the spouses are of different nationalities, live in different Member States than the one of his/her nationality. In the event that an "international" couple decides to divorce, several laws may be evoked.

The Green Paper provides examples of situations that could find a suitable solution thanks to a European regulation. For instance, under current legislation, a Finnish – Swedish couple may find out that the conditions for divorce change dramatically the case they decide to move to Ireland; irrespective of the nationality of the spouses, Irish courts apply Irish law to divorce proceedings, which requires a four years separation period to establish that the marriage has broken down (compared to a six months period under Swedish and Finnish law!). An EU regulation would thus ease and clarify conditions for divorce for a wide number of people (approximately 15 % of the divorces pronounced in Germany each year concern couples of different nationalities).

Regarding criminal justice, harmonization and the establishment of minimum standards of several aspects of procedural law (such as *ne bis in idem*, handling evidence or judgments *in absentia*) are instrumental in building mutual confidence and pursuing mutual recognition. EUROJUST is a key factor for developing European judicial cooperation in criminal matters. Established in 2002, EUROJUST works with the authorities of the Member States to improve the co-operation and coordination of investigations and prosecutions in a wide range of cases, including terrorism, fraud, trafficking in human beings and drugs. EUROJUST members – a high-level team of senior prosecutors and judges seconded from each EU country – provide expert knowledge and rapid access to the legal systems of their own country. EUROJUST can pinpoint patterns in European crime more easily than single national authorities. It can recommend that national law-enforcers take specific action and initiate investigations and prosecutions. EUROJUST role should be supported by nationals and its potentialities fully exploited in the light of the experience acquired and of future developments.

Adoption of national legislation

The Prevention and Combating of Trafficking in Human Beings Act and an Action Plan for Combating Trafficking in Human Beings were adopted in December 2001. An interministerial working group on trafficking in human beings was set up in February 2003. A Programme aimed at Preventing and Combating Trafficking in Children was also launched at the end of 2003 by the Romanian Police Institute for Crime Prevention and Research.

In July 2002 Romania and Bulgaria signed a protocol designed to combat cross-border organised crime more efficiently. Other international agreements have been concluded with Albania, Armenia, and the Czech Republic. In November 2002 Romania ratified the United Nation Convention against Transnational Organised Crime, and the Protocols against Trafficking in Persons and Smuggling of Migrants by land, sea and air. A Cooperation Agreement with Europol was approved in May 2003. Finally, a Strategy to Fight Organised Crime was adopted in December 2004 and an Action Plan in September 2005. As regards the fight against terrorism, Romania ratified the United Nation Convention for the Suppression of the Financing of Terrorism of 1999 in November 2002.

10. *Freedom, security and justice: reviewing the effectiveness of policies and financial instrument in meeting the objectives of freedom, security and justice*

It is crucial to give meaning to notions of *shared responsibility* and *solidarity* between Member States by reviewing the type of policy and financial instruments that can meet the objectives of Freedom, Security and Justice in the most efficient way. The Hague Programme underlined the importance of supporting political priorities in the field of Freedom, Security and Justice through adequate funding. The adoption of the Hague Programme has coincided with the preparation of the Commission proposals for the new Financial Perspectives (2007-2013) and this has allowed the Commission to fully ensure coherence between the political priorities defined in the Hague Programme and the financial instruments supporting their implementation, (for 2007-2013). The proposals for the three framework programmes covering the domains of Freedom, Security and Justice follow closely the structure of the Hague programme. Therefore, policy objectives are associated with adequate resources and seek to give practical meaning to the concepts of shared responsibility and solidarity between Member States (Solidarity and management of migration flows, to support the principle of solidarity in managing people flows by ensuring a fair share of responsibilities between Member States as concerns the financial

burden arising from the introduction of an integrated management of the Union's external borders and from the implementation of common policies on asylum and immigration).

Hague Programme represents the main part of the funding envisaged for the area of freedom, security and justice with around 60% of total appropriations. This is due to the political goal of EU's intervention in this field, which is to support burden – sharing between Member States in the areas of external borders control, asylum and immigration. Currently, 0.5% of the total EU budget is dispensed in this area, but over the time, the percentage will gradually increase to 1.3% (in 2013). This almost amounts to a trebling of expenditure.

Experts consider that, if the amounts proposed for 2007–2013 are compared to the current levels of funding, some important conclusions could be underlined:

- ◊ The most significant progress is surely in the field of Security. In 2013, amounts allocated to this policy will increase by almost twelve times compared to funding in 2006;
- ◊ Increases in other policy fields are also significant: overall, the policy area of Solidarity and management of migration flows will have an increase of over 250% between 2006 and 2013. As regards Fundamental Rights and Justice, amounts allocated will be more than double, with an increase of 125%;
- ◊ There is an obvious importance that the Commission gives to EU action in the field of prevention of, and the fight against, crime and terrorism;
- ◊ Increases in other policy fields are also significant: overall, the policy area of Solidarity and management of migration flows will have an increase of over 250% between 2006 and 2013.

The Action Plan following the Hague Programme has been highly expected and, at the moment of its public presentation, on May 10, 2005, launched by the European Commission as a five years programme, generated important reactions. It is interesting to remember some of them, because we can grasp both the hopes and the concerns that officials and major institutions of civil society have regarding the way in which the EU manages the migration issue.

Presenting the Action Plan, Mr. Franco Frattini, the then Commissioner for Freedom, Security and Justice, said that closer European cooperation would offer new possibilities of success in responding effectively to threats to security or personal freedom. "This 5 year plan maps out concrete measures to strengthen citizen's security, to tackle terrorism, to strengthen the Union's external borders and the fight against illegal-drugs, people-trafficking and organized crime", said the Commissioner ²⁷.

During the Summit, the then UK Prime Minister, Mr. Tony Blair was urged not to use the UK's 'opt-out' over asylum and immigration to undermine Europe's new era of cross-border co-operation. The President of the European Council, Mr. Jan-Peter Balkenende said that there had to be "one reality" in Europe on asylum and immigration policy. "We are stressing the importance of following the *same* line. That is the message to the UK", he said.

Mr. Ruud Lubbers, the UN High Commissioner for refugees, urged the EU to share responsibilities with the developing countries where most of the world's refugees are sheltered. He warned that if EU plans aim to shift the burden to developing countries, "not only will they be doomed to failure, they will also seriously undermine the global refugee system, to the detriment of everyone including the EU itself."

In an open letter to the European Council, Amnesty International expressed concerns that "despite the intentions and appropriate references to fundamental rights there is too much of a vacuum in the substance of the programme as to how the stated ambition is to be realized. There is a lack of coherence when it comes to the instruments and structures needed to safeguard fundamental rights, and a lack of resources to match. The fact that asylum is principally a human rights issue seems to be lost amid all the discourse surrounding migration management. With the EU's justice and home affairs agenda driven by counter-terrorism and the fight against "illegal immigration", there is a growing risk of a one-sided emphasis on "security" at the expense of the elements of "justice" and "freedom".

Finally, Mr. Jørgen Strube, President of the European employers' Federation UNICE called on the Council to enable legal economic migrants to work in any member state and to introduce a one-stop-procedure for issuing residence and work permits. "It is of utmost importance that the Council enters substantive discussions and sets a deadline for adoption of the Directive on admission and residence of third-country nationals for employment purposes," Mr. Strube said.

2.4. Romania's Migration Policies

During the period 2000 – 2006, Romania has made significant efforts for harmonizing the national legislation regarding migration, trafficking in human beings with the European one. There was given a special attention to accomplishing an institutional reform for increasing efficiency of the specialized institutions in the field of migration.

Once with Romania's accession to EU in January 2007, here is localized an East external border of European Union. This requires a strict applying of concrete measures stated both at European and national levels.

2.4.1. Legislation

The long and widening process of Romania's accession to the EU implied, as a main aspect, the absorption of the *acquis*. The Romanian immigration system had to undergo a dramatic reform during the adhesion process. At the end of this process, Romania has to have legislation in the matter of immigration fully compatible with the EU standards and also having the appropriate institutions to implement such legislation.

In order to increase the efficiency of the immigration management on the Romanian territory, the Romanian Government approved the *2007–2010 National Strategy on Immigration*, in September 18, 2007.

²⁷ Quoted by "Euroactiv", retrieved from <http://www.euractiv.com/en/security/hague-programme-jha-programme-2005-10/article-130657>.

Romania's accession to the European Union in January 2007 and the new approach to migration in the EU context have made this step necessary, following the previous 2004 Strategy on Immigration. The new Strategy focuses on the government's aims regarding controlled immigration, prevention and control of illegal immigration, asylum and social integration of immigrants.

This Strategy could be also understood as the official position of the Romanian Government on the immigration phenomenon. Having a limited period of implementation, this Strategy assumes the obligations that Romania has in this issue as EU member and also tries to shift the vision from the former one, (that was proper for a mainly transit country) to a new one, proper for a destination country. In the Strategy, some elements such as The Hague Programme and the Action Plan have been a major source of inspiration along with the relevant documents issued by the European Parliament.

The National Strategy for Immigration establishes concrete measures for:

- 1) Controlled migration:
 - ◊ Ensuring the administrative framework for the usage of the right to free circulation and residency of citizens of EU member states;
 - ◊ Promoting the admission of third part countries citizens with the purpose of working in accordance with the needs of the labour market;
 - ◊ Encouraging the admission of foreigners that intend to invest in commercial activities;
 - ◊ Promoting an efficient selection system for admitting foreign citizens to pursue studies on Romanian territory;
 - ◊ Development of IT technologies for controlling information towards migration on national territory.
- 2) Prevention and combating illegal migration:
 - ◊ Efficient informing of potential migrants on legal possibilities for admission and on measures taken by Romanian state against illegal migration;
 - ◊ Intensifying the cooperation between authorities for fighting against the illegal migration and trafficking in human beings;
 - ◊ Intensifying the measures of returning the foreigners that are illegal on Romanian territory or that entered legally and their status expired;
 - ◊ Preparing Romania for accession to Schengen Space;
 - ◊ Intensifying the cooperation between Romanian authorities and similar institutions from EU member states.
- 3) Social integration and voluntary return/repatriation of foreigners with illegal status:
 - ◊ Supporting resident foreigners on Romanian territory to actively participate in legal economic, social and cultural activities with ensured respect for their cultural identity;
 - ◊ Ensuring that accepted foreigners categories make sufficient efforts to become integrated in Romanian society including specific programs organized with this purpose by Romanian state;
 - ◊ Increasing awareness of the people involved in this field – public workers, society and the foreigners – towards the importance of the support of integration.

The new elements brought by this Strategy are:

- ◊ The admission of foreigners would be based on the need Romania has on her own labour market;
- ◊ The encouragement of the admission of foreigners who want to develop certain private businesses in Romania;
- ◊ The implementation of an articulate and efficient system to select those aliens who comes in for education purposes;
- ◊ The decrease of the illegal immigration, by discouraging those who want to immigrate in Romania but do not fulfil the requirements of the Romanian legislation of admission and also through a more efficient fight against illegal presence on the Romanian territory, illegal workers and human traffic;
- ◊ Enhance the international cooperation aiming to control the illegal immigration;
- ◊ Enhance the cooperation in the field of returning together with other EU countries through initiatives like participating of Romania in common flights bound to certain countries outside the EU for returning the illegal immigrants in their countries of origin;
- ◊ Assuming an active role in building up the necessary capacities for a regional approach in the matter of asylum, in Eastern Europe.

The basic philosophy of the Strategy is that immigration is a process that should be handled and not a problem that could be solved through a similar intervention. This four years Strategy is to be divided into Annual Action Plans that would have concrete actions and responsibilities and also the necessary funding of these activities.

As stated in the project of the 2007–2010 National Strategy for Immigration, the accession of Romania to EU and the supposed increasing economic development in the post-accession period will influence the existing migrational flows and will make Romania a target country for various categories of migrants.

Under this Strategy, the Romanian Government also intends to abide by international standards adhered to through the treaties and conventions to which Romania is part. It also aims to ensure and maintain Romania's capacity to assume the duties assigned to it as an EU Member State, by way of efficient enforcement of the specific policies, procedures and practices defined to prevent, deter, and punish abuse of the asylum process – all while assuming an active role in the development of functional asylum systems in Eastern and South Eastern Europe. In order to improve the processing and conditions of asylum seekers, Romania has to take the necessary steps to carry out projects supported by EU funding which target refugees and integration processes.

The Strategy was introduced through the Technical Secretariat of the Interministerial Coordination Group, and the steps marked out for the fulfilment of the aims of this Strategy are outlined in detail in the Annual National Action Plans. The main institutions²⁸ involved would have a high ranking representative in the Coordination Group that implements the Strategy, stirred by one of the Secretary of State from the Ministry of Interior and Administrative Reform in Romania.

In direct relation to this very important legislation, a separate National Strategy on joining Schengen Space has been recently adopted by the Government in a revised form. The Strategy concerns the necessary implementing activities for the period of 2008–2011. All tasks should be fulfilled until March 2011, according to the statements of the Romanian authorities. It also includes a detailed Action Plan which is in fact an updated version of the last year document. It is a very important document as it sets the risks and the consequences of joining Schengen Space. In the Action Plan, very concrete tasks for several institutions including the need to prepare the person were identified. Among these tasks the document speaks about: legislative bills that should be soon drafted and adopted until the end of 2010 (with the exception of the Schengen visas), the need to eliminate the internal borders' control, the need to connect Romanian system to the National Information System of Alert and to the Information Schengen System, its second generation. Adoption of the strategies and the action plans do not implies that the entire needed legislation is in place already.

Key legislation on regulation of migration in Romania

1. *Emergency Ordinance no. 194/2002, regarding foreign national treatment in Romania*, modified by the law no. 482/2004, creates the framework for policies related to settlement of the foreigners, the staying and the leaving of these categories in/from Romania, their rights and obligations, and also the specific measure for immigration control.
 2. *Law no. 374 from September 22, 2002, ratifying the Understanding Memorandum between Romanian Government and International Organization for Migration (IOM) regarding cooperation in the field of assisted humanitarian voluntary repatriation, signed at Bucharest on June 28, 2002.*
 3. *Government's Decision no. 616 from April 21, 2004, approving the National Strategy for Migration* – Romanian National Strategy on Migration has as main goal to promote a unitary policy in the fields of migration, asylum and social integration of foreigners, bringing the domestic legal framework in line with the international legislation and the EU acquis. It describes the new institutional framework for the implementation of the policies in these fields and defines the internal co-ordination mechanism of the implementing institutions.
 4. *Law no. 185/2004 approving Government Ordinance no. 44/2004 regarding social integration of foreign nationals who received a form of protection in Romania.*
 5. *Ordinance no. 73/2004 for abrogation of article 11, paragraph (2) from Government Ordinance no. 44/2004 regarding social integration of foreign nationals that received a form of protection in Romanian society.*
 6. *Law no. 474/2004 approving Government Ordinance no. 73/2004 for abrogation of article 11, paragraph (2) from Government Ordinance no. 44/2004 regarding social integration of foreign nationals that received a form of protection in Romanian society.*
 7. *Ordinance no. 44/2004 on social integration of foreigners who received a form of protection in Romania* – the Ordinance on facilitation of social integration of the foreigners who received a form of protection in Romania (ensuring the access to the several rights such as: right to work, to have a house, to medical and social assistance, social insurance, right to education, and also by developing of specified activities for cultural accommodation, advising and learning of Romanian language, gathered in integration programs)²⁹.
 8. *Emergency Ordinance no. 113/2005 modifying and completing the Emergency Government Ordinance no. 194/2002 on foreign nationals treatment in Romania.*
 9. *Methodological standards for applying of Law no. 122/2006 on asylum in Romania.*
 10. *Ordinance no. 41/2006 on modifying and completing of Government Ordinance no. 44/2004 regarding social integration of aliens who received a form of protection in Romania.*
 11. *Law no. 122/2006 on asylum in Romania* – the law establishes the legal status of aliens applying for a form of protection in Romania, the granting, cessation and cancellation of a form of protection for them in Romania, as well as the procedure of establishing the Member State responsible for the analysis of the asylum application.
 12. *Order no. 123 from February 21, 2008, regarding constituting and functioning of Social Security Commission of Migrant Workers*³⁰.
- Every piece of this legislation is implemented through a list of second legislation that has been adopted by the Government or issued by various ministers in the last years in Romania.

Regarding Romania's visa policy, according to the national, that addresses the EU standards, all the Romanian visas are issued outside the national territory, through the Consulates of Romania. The possibility of having the visa obtained at the check-in point is permitted only in exceptional cases, emergencies or humanitarian related situations.

²⁸ The institutions in charge of implementing the plans are primarily, the Ministry of Interior and Administrative Reform (through Romanian Office for Immigration) and the Ministry of Labour, Family and Equal Opportunities, with the support of the Ministry of Education, Research and Youth, the Ministry of Foreign Affairs and the Romanian Agency for Foreign Investment.

²⁹ In the 2007–2010 Strategy, there is a very important emphasis on the integration of immigrants in Romania once they have been accepted as residents. In 2007, ROI and other public authorities work seriously in this direction. At the same time, although the assistance programs are opened to every immigrant, there have been very few of them asking for it. In 2007, 77 immigrants benefited for a form of social protection granted by the Romanian Government and 66 got into the integration program, compared to only 66 beneficiaries of this program, in 2006. ROI is looking to find valid partners in the civil society for the integration program. According to their officials statements it is hard to find such partners since this kind of preoccupation is not at the top of the Romanian NGOs agenda.

³⁰ The Commission for Migrant Workers has been set up, as an interministerial organization. The Commission comprises 9 members, with the Minister of Labour, Family and Equality of opportunities as president. The other members of the Commission are representatives of the Ministry of Labour, the National Pension Authority and the National Health Insurance Authority. The Commission's attributions include: coordinating the application of the Regulation, and organizing training of staff from relevant state institutions, provision of information about social security rights available to migrant workers.

Since January 2003 Romania has introduced a visa requirement for nationals of the Former Yugoslav Republic of Macedonia. A bilateral agreement with Singapore on removing the visa requirement entered into force in February 2003, and a similar agreement has been concluded with Estonia, Lichtenstein, Lithuania and Switzerland. In 2004, a visa application system was introduced for four countries on the EU's "negative" list (Russia, Serbia and Montenegro, Turkey and Ukraine). The 2005 Report points out that Moldova remains the only country on the list with which Romania has not introduced a visa regime. Romania needs to start preparing for implementation of the Visa Information System (VIS) in advance of the removal of the internal borders on accession to the Schengen process.

In the case of short term visas with applicants that belong to a country with a high immigration rate/potential or for any long term visas, the applications are directed from Consulates to the Romanian Office of Immigration. Here, the applications are individually evaluated according to the legislative framework and the solicitant's arguments.

In 2007, the ROI received 24.518 applications (that is 20% more than in 2006) out of which 10.262 for short term (plus 9% than in 2006) and 14.256 for a long term (plus 28% than in 2006). From the total number of applications, there have been admitted 85% and 15% have been rejected. Visa policy takes in to account the historical and political relations of Romania with its neighbours (e.g., Republic of Moldova).

Romania also cooperates with countries in the field of legal and illegal migration through agreements and bilateral conventions. Currently, in the field of working labour and recognition of education standards at European level, there are a number of agreements and conventions that were signed by Romania with Bulgaria, Germany, France, Hungary, Lebanon, Luxembourg, Moldova, Portugal, Slovakia, Spain and Switzerland. Readmission treaties that were signed with Albania; Belgium, Grand Duchy of Luxembourg and the Netherlands; Bosnia and Herzegovina; Estonia; Island; Switzerland; Turkey; UK; Portugal.

2.4.2. Institutions

The main institutions responsible with migration policy are Romanian Office for Immigration, Schengen Department and Border Police. All the structures are within the Ministry of Interior and Administrative Reforms of Romania.

Romanian Office for Immigration (ROI) is the main institution for Romania responsible with the migration policy. ROI is defined by law as a specialized institution of central public administration with legal personality, part of the Ministry of Interior and Administrative Reform, founded on June 26, 2007, through the reorganisation of the Foreign National Agency and National Agency for Refugees. Once with the reorganisation, the Romanian Office for Immigration assumed also the issue of realising the papers needed by the immigrants to work in the country.

Its mission is to implement Romanian policies in the field of migration, asylum, foreign integration and also of the legislation relevant to these fields. It has different and essential prerogatives in the migration field as asylum, visas etc. It is also the main official channel of communication with those interested in information regarding the legislation, the documents needed by UE/SEE citizens and with those from third countries and with asylum solicitants.

ROI identifies and implements eligible projects with non-repayable external financing, aiming to get together the legislation, the rules and procedures, the institutional framework in the field of migration and asylum at European acquis and institutional framework existent in UE states.

ROI has as main responsibilities:

- ◇ Regulates and decides upon granting the legal right of staying for third countries nationals;
- ◇ Decides, according to law's provisions, upon granting of the work permit for the purpose of obtaining the right of staying for work purpose;
- ◇ Regulates the staying and residence in Romania of EU/EEA, as well as of family members;
- ◇ Decides upon granting a form of protection on the part of the Romanian state to persons in need of international protection;
- ◇ Manages the National System for Aliens Registration, ensuring the custody, maintenance and performance of the registrations, according to the provisions of the law;
- ◇ Sends and analyse, take charge/take back requests and operates, in collaboration with the General Inspectorate of Border Police, the transfer of the asylum seekers to third safe countries;
- ◇ Coordinates the activity of public institutions, authorities of public administration and non-governmental organisations that activates in the field of social integration of aliens beneficiaries of a form of protection, of the legal right of staying or are EU/EEA citizens;
- ◇ Co-operates with other Ministry of Interiors and Administrative Reform subordinated bodies and public institutions with competencies in the field of migration and asylum, and collaborates with citizens, in the conditions established by Law;
- ◇ Co-operates with similar foreign institutions and with other international bodies with competencies in the field of migration, asylum and social integration of aliens, on the basis of the international arrangements Romania is part to;
- ◇ Exercise any other attribution granted by Law.

Among the medium and long time objectives of ROI are:

- ◇ Developing an asylum system of protection based on criteria of efficient and qualitative procedures in the field, so as the continuous approximation of the EU Acquis (including the provisions of "Priorities of the Solidarity and Management of the Migration Flows Programme for 2007-2013") by permanently ensuring the observance of the fundamental human rights, as well as preventing and countering illegal migration within the EU;
- ◇ Maintaining the Romanian capacity to commit its responsibilities and obligations as EU Member State;

- ◇ Maximize the positive aspects of immigration and to limit the negative ones for our country and, subsequently, for Romanian citizens. For that reason the ROI will act to clearly establish the categories of migrants who can be admitted and can stay on the national territory, according to the national interests but in correlation with the policies and programmatic documents adopted at European Union level, as well as guaranteeing the migrants' rights;
- ◇ To decrease the contribution of the illegal factor within the migratory phenomenon by preventing the immigration of those categories of persons who don't satisfy the conditions stipulated by law, as well as combating illegal stay, illegal work and migrants trafficking;
- ◇ To secure free access to the national asylum procedure while respecting the principle of non-refoulement according to international standards enforced and ratified by Romania through the treaties and conventions to which it is party;
- ◇ To back up for an active involvement of aliens residing or having legal stay on the Romanian soil to the country's economic, social and cultural life preserving in the same time their cultural identity;
- ◇ To prepare in the view of the accession to Schengen Area;
- ◇ To take on an active role for regional and international cooperation in the field of migration and asylum and to promote the development of effective asylum and migration systems in Eastern and South-Eastern Europe.

The following statistical data indicates the major categories of activities that ROI undertook in the last years. One direction is dealing with the positive aspect of the migration phenomenon that concerned Romania in these last years, and ROI is actively involved in coordinating all necessary support to foreigners' stay while they are in Romania. Under these circumstances, one important area of intervention is how to issue visas for those applying for them in Romania.

In 2007, 23,045 solicitations (27,23% more compared with the previous years) were recommended by ROI to the Romanian authorities as these were considered appropriate to be accepted by the Office. ROI is also approached by foreigners interested in getting a work permit to find a job in Romania. In 2007, ROI accepted 1,704 such inquiries, out of the 3,421 requests. With regards to solicitations of temporary or permanent stay in Romania, ROI was approached in 2007 by a total number of 50,240 solicitors, out of which 43,786 applied for a temporary stay permit and 6,454 applied for a permanent one. Finally, 10,403 citizens of EU and South East European countries were included in the ROI's Record of persons with more than 3 months of stay in Romania. All these figures indicate a particular area of interest for ROI in collecting relevant data to support the national policies in the area.

In the first semester of 2008, a number of solicitors increased even more (25 % more compared with the same period of 2007). More specifically, 12,638 persons were recommended for receiving a visa to the Romanian authorities in the first months of 2008. Due to their citizenship, Moldavans were issued the highest number of solicitations in the above mentioned amount of time. The following countries are China, Turkey, Egypt (mostly due to requests for tourism) and India. ROI also reported that more Chinese citizens asked for visas than in the similar period of the previous year while less Iraq citizens applied for visas early in 2008. In general, the highest number of approved solicitations related to persons coming from the Republic of Moldova (948 cases) or those from China (667 cases). For the Moldovan citizens, the high number of approved solicitations is related to their attempts for family reunification which is the largest part of their inquiries being issued in Chisinau.

The recently outsourced responsibilities related to identification of a job opportunity in Romania strengthen even more the role of ROI in this area. Starting from June 2007, ROI took this responsibility over and aimed its activity at simplifying the procedures for any interested foreigner. Starting from 2008, 6,074 work permits were issued due to ROI implication. Most of them, precisely 4,011, were given for permanent work and 1,637 – for work of contractual base. Interestingly enough, solicitations aimed at developing business in Romania decreased at the beginning of 2008, according to the same ROI statistics made public on the basis of the Institute's for Public Policy official request.

ROI has branches in every Romanian county and is responsible for combating the illegal immigration as well. Since its creation, only 2 years ago, ROI organized almost 4000 operations of different kinds against illegal immigration in Romania. In Romania, ROI organized up to 800 operations with local police, 317 operations with the Border Police and up to 300 operations with the local labour inspectors. ROI budget for 2007 was approximately 6.170.000 Euro, and for 2008 the budget is 9.076.000 Euro.

On their web site (<http://aps.mai.gov.ro>) one can find the necessary documents for granting asylum and residence and everything that such process involves. Also there are announcements, press official statements, useful information, links and public relations details on this web page. According to the leader of the institution, ROI plays a crucial role in Romania not only in combating but also in preventing illegal immigration, acting in close partnership with the counterparts from the region.

ROI (its main headquarter and the territorial branches) can issue a decision to leave the Romanian territory and it sets the obligation for a foreigner to leave the territory of Romania in a certain amount of time. This is the main tool that sets the obligation of leaving the country and it implies that the person will respect such decision.

Another measure that falls under the responsibility of ROI concerns mandatory returning of the foreigners. The Returning represents an administrative measure issued by ROI aiming to send a foreigner back home from the territory of Romania. In this case, the process is initiated despite a persons' will. The person is accompanied to the border or to the home country. If this is not possible, the person is accompanied to any other country that allows his/her entrance into its territory. This concerns illegal immigrants or persons whose stay became illegal after entering the country. It also concerns those whose stay approval was cancelled or revoked at some point. Decision may also deny the persons' further entry to the Romanian territory for a certain amount of time. If a Prosecutor from the Court of Appeal in Bucharest states that a person is undesirable in Romania, ROI shall enforce this decision by sending the person back home.

As a general rule, returning of a person has to be accomplished in 24 h from the moment when the person that falls under the provisions presented above was found. In case such process could not be fulfilled in the amount of time indicated above (due to objective reasons such as lacking the travel ticket, the lack of time for purchasing the tickets etc), based on the Foreigners' Proposal, the Prosecutor who is assigned from the Court of Appeal Prosecutor Office, could solicit that the foreigner is taken out of the public custody, being introduced into one of the centers created with this purpose of hosting the persons, under the jurisdiction of ROI.

In situations mentioned in the law, ROI may issue a decision to accept a person on the territory of Romania, no matter how his/her removal from this territory was made (based on decision to leave the country or escorted). In 2005, such decision concerned a number of 1164 citizens, most of them originally from Republic of Moldova, Turkey and China.

Since its creation, ROI works with some nongovernmental organizations³¹. Scrutinizing the NGO life in Romania, we can say that immigration issues have not been unfortunately part of the greatest topic of interest. Though, there are some NGOs involved, mainly NGOs established by immigrants who need a form to protect their rights or NGOs generally dedicate to protect the minorities took various basis actions in the field of immigration. The most active are the Romanian National Council for Refugees, the Association of Refuge Women in Romania, the "Peace Culture" Association, the Center of Resources for Ethno Cultural Diversity and the Jesuit Service for Refugees.

In April 2008, ROI administrated five centres for accommodation for asylum solicitants and refugees in Bucharest, Timișoara, Rădăuți, Galați, Șomcuta Mare³². There are also two accommodation centres for foreign taken in public custody in Bucharest and Arad.

ROI role is considered very important for all policy makers in the Romanian Government. Any reference to foreigners directly relates to the role of ROI in coordinating policies to allow foreigners integrate in Romania, assimilate the necessary rules and values to be part of the Romania society. Statistics is again very important in support of this statement. In the first months of 2008, 78 foreigners benefited from a form of protection. Institutions contributing to their assistance noticed that the most of these persons represents very special, problematic cases – members of mono-parental families being located in the Bucharest assistance centre. ROI leaders constantly state that the institution role is to ensure a beneficial social coherence both for the Romanian society, the new-comers and those potentially considering Romania as a preferable place to live in the future. In this respect, their interest to cooperate with the non-governmental organisation in various forms of interventions (teaching Romanian language – mostly citizens coming from Turkey and China requested such support, assisting persons to prepare their documents etc) was already expressed in public.

The second institution dealing with migration issues in Romania, the Schengen Department, was established to ensure a coherent and unitary character of Romania's accession to Schengen Space³³. The accession to the Schengen area represents one of the top priority objectives of Romania after the January 1, 2007. The deadline that the Romanian authorities set for gaining this goal is 2011.

Schengen Department is a specialized structure within Ministry of Interior and Administrative Reforms, without juridical personality, with general competence to national level, for coordinating and monitoring all activities developed by responsible authorities and institutions in the field, according to National Strategy regarding Schengen Space, Indicative Plan regarding Schengen Facility³⁴, Schengen Action Plan and National Integrated Management Strategy of Romanian state borders. The Department is led by a State Secretary, appointed by the Prime Minister.

Schengen Department that currently has 75 employees, includes the following units:

- ◇ Schengen Aquis Unit;
- ◇ Self evaluation Schengen Unit;
- ◇ Facilitied Schengen Programs Unit;
- ◇ Cooperation – Unique contact point Unit;
- ◇ Technical – Secretarial Unit;
- ◇ Schengen Information System Unit;
- ◇ Classified Documents and Secretariat Unit .

Its main responsibilities in Romania are related to:

- ◇ Coordinating all national necessary policies and activities in this area;
- ◇ Coordinating the institutional including administrative capacity to implement the EU standards and recommendations in relation to Schengen Space;
- ◇ Monitoring the status of implementation by Romanian authorities in order to join the Schengen Space;
- ◇ Coordinating all necessary measures to ensure coherence in elaborating and in implementing policies, strategies and programs in the area of integrated management of the borders;
- ◇ Representing the main decision authority in the area of implementing the program related to the integrated System of the Borders' Security;
- ◇ Ensuring the implementation of the responsibilities in the area of Ministry of Internal Affairs' competency for coordinating the EU assistance through Schengen Facility
- ◇ Elaborating the national policies and the sectoral strategies in the area of Romania accession to Schengen Space, submitting them for approval to the National Commission.

The Schengen Action Plan was revised and adopted by the Romanian Government, on the 8th of July 2004. The Schengen Action Plan 2004 was a revised version of the initial Schengen Action Plan, presented by the Romanian authorities in 2001 as an annex of the Position Document, being set up to update the information related to the acquis implementation stage and to improve the manner of

31 According to the Romanian Office for Immigration the main NGO's partners are: United Nations High Commissioner for Refugees, Romanian National Council for Refugees Foundation, Romanian Forum for Refugees and Migrants, Save the Children Foundation, <http://aps.mai.gov.ro>.

32 According to information of "Amos News Agency", retrieved from http://www.amosnews.ro/Ziua_Aniversara_a_Oficiului_Roman_pentru_Imigrari-242488.

33 In 1985, France, Germany and Benelux countries signed Schengen agreements, allowing them to open their internal borders, on a boat located in the water near the village of Schengen (Luxembourg). Schengen agreements started in application in 1990. See http://www.schengenspace.com/history/history_overview.

34 The Schengen Facility was created in accordance with Article 35 of the Schengen Agreement in an effort to financially assist new EU Member States with actions needed to secure and effectively control the external borders of an enlarged European Union as well as to ensure that Schengen legislative acts are being applied to all border crossing issues, http://www.pmlp.gov.lv/en/par_pmlp/projects/schengen.html;jsessionid=99E14E4E3ACC F5CoB5CE8E4D8A2F8B70.

presenting the information. The Schengen Action Plan 2004 contains clear references at the relevant acquis, indicated by the European Commission and published in the Official Journal L 239 from the 22nd of September 2000, being totally accepted by Romania. In order to set up the general framework needed for a unitary, coherent and Euro-complying approach for the integrated border management, it was drafted the National Strategy for the Integrated State Border Management of Romania 2004-2006.

The Strategy addresses the securing of borders according to the present stage of pre-accession to the European Union (1st of January 2004 – 31st of December 2006). At the same time, the strategy aims at creating the premises that will assist Romania, in the period subsequent to its accession to the European Union, to meet the preliminary conditions in order to become part of the Schengen Agreement. The responsibility for the coordination and implementation of the Strategy lies with the Secretariat of The Romanian Inter-departmental Group for Integrated Border Management and the specialty boards functioning within this body, depending on the case. The actual implementation of the Strategy represents the task of each agency with attributions in the field, for those particular parts which concern them.

At national level, Schengen Department cooperates with different structures from the Ministry of Interior and Administrative Reform, with responsibilities in adaptation and application of Schengen Acquis stipulations. At international level, the Department established and maintained necessary contacts to fulfil its attributions with similar institutions from EU member states, diplomatic representative from Romania and EU Member States, and also internal affairs attaché from Romania or other countries.

The Schengen Department in Romania carried out, in 2008, an intensive monitoring activity in respect of all major results of implementing the legislative, institutional and technical – administrative measures stipulated in PAS 2007. To meet the deadlines of each and every stipulated measures was among the priorities of the Department. The Schengen Department supervised the institutions complementarily implementing the necessary measures while also supports them whenever necessary and required.

Moreover, based on the recent self-evaluations, the Department decided to increase its role in monitoring deficiencies in the system. Once a month, reports on the topic of data protection and cooperation amongst police forces are drafted and once two months – in the area of borders' management.

Whenever necessary, the Department raises awareness of other institutions to promptly eliminate their weaknesses in order to fully contribute to the national consistent effort of aligning our country to Schengen European standards.

Border Police (BP) is another institution that is heavily involved in immigration policy in Romania and is the main partner of ROI in implementing the relevant legislation. BP is defined by the law as the specialized institution, part of Ministry of Interior and Administrative Reform, responsible to supervise and control Romania's borders in preventing illegal access of person on Romania's territory while also preventing and fighting with various forms of transborder crime, including the illegal trafficking of human beings. The BP inspects the passports of those who travel in or out Romania and protect the specific interest of the state along the interior Danube and Sulina Channel.

BP is organized after the model of similar institution within European Union. With approximately 3.150 km of borders in responsibility, BP is in permanent confronting with illegal migration, illicit transportation of products, arms, etc. Illegal immigration issues top the daily agenda of the BP. Since Romania became the Eastern border of the EU, everybody expected an increased pressure on Romania's Eastern borders including BP. In the first semester of 2008, BP has been hunted down 208 groups of immigrants, from which 88 traders and 792 immigrants. This represents an increase of approximately two times compared with the same period of last year. Such an increase could be explained by the fact that the borders of Romania with other EU countries are more relaxed after the EU's integration but also by the fact, already forecasted by experts, that Romania would turn from a transit country to a destination country. Both the EU membership and the economic growth from the last years represent very good reasons to believe that such a prediction is very realistic. The BP budget for 2008 is approximately 327.737.720 Euro.

BP's main attributions are:

- ◇ Supervise the state borders of Romania;
- ◇ Prevents and combating illegal migration and trans-border criminality in the area of competence;
- ◇ Realise documents control for crossing the borders opened to international open traffic, at the entrance and leaving;
- ◇ Assure fluent and correct development of persons and merchandise traffic within the points of crossing thru state borders;
- ◇ Assure application of treaties, agreements, conventions and protocols provisions settled by Romania with other countries, international or regional organisations;
- ◇ Assure the maintenance of public order to the state borders;
- ◇ Introduce and exploit the data from National System of Information regarding movement of persons and goods thru the state borders.

Representations in Bucharest of the United Nations High Commissioner for Refugees Romania and International Organization for Migration play important advisory role to the government of Romania in the field of protection of asylum seekers and managing migration. Along with the Romanian Government, IOM is trying to implement a program which promotes humanitarian voluntary repatriation of the asylum solicitants, whose requests have been rejected, and also of other foreign citizens who come to Romania or are already here, but on illegal base. This is a very important task that unfortunately could only be implemented in the very few cases of individual solicitations of being repatriated. In most of the cases, solicitants changed their minds during the process which lead to a very small number of official cases in the registry of IOM. Still, the institution plays a very important role in assisting the person in eventual need for being help for repatriation. The institution is also well known in Romania for public campaigns aiming at preventing human traffic.

2.5. Conclusions

There has been no diligent estimation of a number and profile of population from Romania who left the country over the last years. Romanian authorities seem to be quite surprised when media reported the results of the revenues transferred by Romanians working abroad to their relatives at home. This important financial resource has to be rigorously monitored as it brings revenues for the local Romanians living in Bucharest and in the countryside. In some cases, these revenues represent the only source of living for Romanian citizens.

A separate discussion refers to the visa policy in Romania. Here, with regards to neighbouring countries such as Republic of Moldova and Ukraine, decisions could not exclude political agenda. Let's give just one example, the regime of visa for the citizens of Moldova certainly had a political implication over the last years, due to the entire set of EU responsibilities that our country had to follow after joining EU.

The same delicate discussion linked very directly with the above one. It relates to the policy for citizenship that prompted a number of debates in Romania. With its new statute of EU member, Romania has become attractive for many neighbouring countries where citizens gamble on their historical background just for the sake of obtaining a *green line* to travel to Europe. At the same time, as the current challenges of Romania are related to insufficient human resource particularly in key sectors of economy, it is important for the national authorities to admit this deficit and ease the conditions for foreigners who might be interested in working in Romania. Still, the issue of human resources deficit in some key sectors of Romania economy shouldn't be politicized. Unfortunately, some political leaders have already started to plan how to politically benefit from this problem of lack of human resources due to the fact that Romanians leave the country. One even promised no less than 20,000 USD to each Romanian who is willing to return back to Romania.

The issue of emigration for Romania could not exclude a very important component which is education. The authorities have to admit that emigration for persons whose education is very poor is not exclusively a topic of the Ministry of Labour's interest as much as it is a matter for the Ministry of Education. We can't criticize Governments of other countries where our Romanians currently live for issues that we have to solve locally before their departures to other destination.

It is fair to admit that once Romania was accepted into EU, its citizens started to enjoy the possibilities of freely travelling to various countries on the continent. This is a natural phase that will certainly change in the years to come. The recent stories of Romanians bringing their children back home to study at Romanian schools indicate a change in the trend. For some of these Romanians, the period they have lived abroad may positively change their behaviour/education, values which ultimately may help them to raise the overall level of education in the Romanian society. Institutions and legislative bodies should take into account these realities and become flexible and constantly interested in assessing those trends.

The status of EU membership of Romania still has a number of unsolved issues, such as a free access to labour market for Romanians in European Union. The fact that Romanians could not benefit yet from access to labour market, even if the accession was in 2007, indicates that the admission to EU is a long term process. This could be one explanation that EU and also Romanian authorities should take into consideration when assessing the illegal emigration process.

In order to perform their work, nongovernmental organizations have to be fully provided with information of public interest. NGOs could not only provide an informal framework for debating the relevant aspects but could exercise their watch-dog mission, showing the Government where the legislative, institutional or practice-related weaknesses are. Unfortunately, in Romania there still is a lot of steps to be undertaken in this direction. Institutions dealing with the phenomenon are not used with civil society demanding information about statistics on population coming to or leaving the country. Attempts such as the one represented by this project are very important and should be multiplied.

Migration is definitively not a policy that should rely on NGO's involvement only. Cooperation between institutions involved in monitoring both immigration and emigration should function maybe more than in other sectoral cases. Also, national institutions should cooperate with their counterparts from Europe, learn their language and share best practices. Controls over the phenomenon should be exercised internationally and Romanian authorities have to internalize skills and expertise to make them professional counterparts from partners from all over the world.

No matter the national political agenda, Romanian authorities have to follow the rigorous standards and rules of the European Union that Romania recently joined. Romania's status as a EU member comes with obligations that might affect, to some extent, the perception upon historical relations with neighbouring countries. In fact, this will help the whole region to overpass a phenomenon of illegal immigration that should be better and internationally kept under control.

3. UKRAINE

3.1. Migration Trends in Ukraine

Ukraine is a country of transit migration, of emigration, and is also turning into receiving country for migrants from many parts of the world. According to a World Bank report published in 2007 Ukraine ranks third on the list of sending countries, following the Russian Federation and Mexico, but followed by India and China, and fourth on the list of receiving countries, after USA, Russian Federation and Germany (World Bank, 2006, p.25).

Most Ukrainian migration is irregular, and Ukrainian illegal immigrants seem to take over from new EU member states nationals the jobs at the bottom of EU labour markets, including those in new EU member states. Thus, Ukraine not only is the major supplier of migrant labour to Europe, but also the major sending country of irregular immigrant workers. Nevertheless, from a European Union perspective, most concerns relate to transit migration through this country (Děvell, 2006).

3.1.1. Ukraine as a Transit Country

Like Romania, Ukraine is one of the Black Sea Region countries that have significant transit migration. Ukraine lays on one of the five main routes of global illegal migration to the EU – the Central European route. The total number of illegal migrants registered by Ukraine's state services grows every year: from 25 thousand detained in 2004 up to 45 thousand in 2007. The majority of transit migrants are coming from the CIS countries, but also from Southern and Eastern Asia and Africa. The volume of migration to the EU via East of Europe is not such a significant in comparison with that of South.

Table 5. Number of illegal migrants in Ukraine in 2004–2008

	2004	2005	2006	2007	2008 (I half)
Registered by the SBGS	9,945	17,941	25,782	31,8	15,6
Registered by the MIA	15,594	14,785	12,280	13,644	8,349
Total	25,539	32,726	38,062	45,444	23,949

Source: the State Border Guard Service of Ukraine, the Ministry of Internal Affairs of Ukraine

Even though the number of illegal migrants registered by the state services in Ukraine has been growing steadily, the number of illegal migrants detained on the common border with the EU has been decreasing continuously since 2003-2004. According to the State Border Guard Service (SBGS), that has happened due to the fact that in 2003-2004 bilateral readmission agreements with Ukraine's EU neighbours began to be implemented. Moreover, since 2003 the SBGS has got right to deport illegal migrants. These two factors had negative consequences for profits made by the international criminal groups organizing illegal migration.

The number of migrants from Southern and Eastern Asia went down, while the majority of illegal migrants came from the CIS countries. The border guards explained this by the fact that migrants from Asian countries are mainly transported in groups and more resources are needed for trafficking, thus organizers chose other routes than Ukraine. CIS countries' citizens can legally entry Ukraine due to visa free regime and then prolong its stay in Ukraine or attempt to enter the EU illegally.

Third factor that has had a positive impact on the decrease of number of migrants detained at Ukraine's western border is that the SBGS applied preventive mechanisms by regulating the procedures of entrance for persons travelling with student or tourist visa. By the moment, the majority of those registered by the SBGS as illegal migrants are those denied in the entrance to the country.

3.1.2. Ukraine as a Country of Origin

Together with Romania and Moldova, Ukraine belongs to the group of Black Sea region countries experiencing population declines owing to both more deaths than births and more emigration than immigration (World Bank, 2006, p.4). Ukraine and Moldova are also unique in having significant migrant flows both to Western Europe and to resource-rich CIS countries (World Bank, 2006, p.35-36). Romania, Moldova and Ukraine belong to the Black Sea region countries of origin for victims of trafficking.

Ukraine is a donor of labour migration to the European Union and Russian Federation. Only an insignificant part of Ukrainians work abroad legally. According to the Ministry of Labour and Social Policy information, in 2007 Ukrainians employed abroad via licenced companies mediators were about 73 thousand persons, that is around 2% of estimated number of Ukrainians working abroad³⁵. Ac-

³⁵ Official website of the Ministry of Labour and Social Policy, retrieved 17 June 2008 from http://www.mlsp.gov.ua/control/uk/publish/article?art_id=81570&cat_id=34946.

According to the Ministry for Foreign Affairs data, around 231 thousand Ukrainian nationals legalized their stay and work in the countries of destination due to changes of the national legislation in those countries (MFA, 2008).

According to the IOM data the number of labour migrants from Ukraine is 2,1 million, or about 5% of Ukraine's population. This estimation is widely shared by the Ukrainian government and most independent experts. About 37,2% of migrants go to Russia, 18,7% work in Poland, 16,9% choose the Czech Republic, 8,5% – Italy, 3,8% – Portugal, 2,5% – Hungary, 2,2% – Greece, 2% – Slovakia (IOM, 2006, p.6).

3.1.3. Ukraine as a Destination Country

Since 2005 registered migration trends have shown that Ukraine shifts from being a country of origin to a country of destination. In 2005 emigration losses to the Western countries were compensated by immigrants from the former Soviet Union countries. In 2006, however, for the first time in over a decade, Ukraine also had positive net migration with the Western countries (Pribytkova & Gro-movs, 2007, p.9).

Majority of immigrants come from CIS countries. According to the last data of the Ministry of Internal Affairs, in the first 6 months of 2008 most foreign nationals which came to Ukraine were Russian nationals (22,593 persons from 93,666 total or 25% of foreigners). The second and the third largest groups of foreigners were citizens of China (8,474 persons, 9%) and Turkey (5,159 persons, 5%). They were followed by other CIS countries: Azerbaijan (4,587), Uzbekistan (4,577), Georgia (4,301), Moldova (3,794 people or 4%), Armenia (2,762) and Belarus (1,529). Other dominant legal resident groups include nationals of Syria (2,730), Jordan (2,835), India (2,831), Iran (2,484) and Vietnam (2,368).

According to the Ministry of Internal Affairs, in 2008 there are about 264 thousand foreigners registered in Ukraine. Estimations on the total number of immigrants, both legal and illegal, range from 60,000 to 1.6 million, though a figure of half a million is considered realistic (Dyvell, 2006). **Most populated by legal immigrants regions are the capital Kyiv, Donetsk, Kharkiv and Odessa regions.** Immigrants are mainly employed in retail trade, construction, agriculture.

3.2. Ukraine's migration policies

3.2.1. Institutional puzzle

In Ukraine, migration policy largely comes down to battling illegal migration and carrying out its international commitments regarding protection for asylum-seekers. The former, in turn, is mostly the result of problems with equipping and organizing the state borders and the lack of a readmission treaty with origin and transit migration countries.

Such general issues as migration flow management, especially attracting immigrants to work as a way of ensuring sustainable demographic and socio-economic growth, taking advantage of the potential represented by Ukraine's Diaspora, establishing effective migration control aimed at preventing the negative consequences of migration while ensuring that the rights, freedoms and lawful interests of migrants and citizens alike are not violated, remain outside the pale of Ukraine's policy-makers. Lack of a legislative base in this area – for instance, Ukraine still doesn't have a law on the basis for migration policy, although the Constitution requires this – has resulted in the lack of institutional support.

Ukraine has a sufficiently evolved and at the same time multifarious legislative base for migration policy, including: the Law "On immigration" (2001), the Law "On refugees" (2001), the Law "On Ukrainian citizenship" (2001), the Law "On legal status of foreigners," (1994, with the last edition 2005), the ratification of the 1951 Convention on the Status of Refugees and the 1967 Protocol (2002), the Law "On the State Border Service of Ukraine" (2003), and the Law "On amending certain legislation due to the adoption of the Law 'On the State Border Service of Ukraine'" (2003). The mechanisms for implementing these laws are numerous Cabinet resolutions that regulate specific issues.

However, Ukraine still doesn't have a law on the basis for migration policy, although the Constitution requires this – has resulted in the lack of institutional support. After more than 10 years, the mechanism for working with illegal migrants and asylum-seekers remains chaotic in its approach, inconsistent at the inter-agency level – not to mention that it contradicts European standards.

Ukraine has been talking about setting up a single migration service since 2002. Today, seven central executive bodies handle different aspects of migration policy: the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Labor and Social Policy, the Ministry of Health, the State Committee for Nationalities and Religions of the Ministry of Justice, the State Border Service, and the State Security Service of Ukraine (SBU). The lack of a single executive agency responsible for developing and implementing migration policy has made it impossible to use a comprehensive approach to managing migration processes.

The lack of a single migration service makes it impossible to fulfill the basic tasks of migration control, such as coordinated control over the entry, temporary residence and exit of foreigners and interdepartmental information exchanges regarding individuals with entry visas who have crossed the border and those who have been prohibited to enter Ukraine.

The division of responsibilities between the State Border Service and the Ministry of Internal Affairs for deporting illegal migrants – those who illegally entered Ukraine, which is the responsibility of the State Border Service, and those who legally entered Ukraine, but failed to leave Ukraine after the specified period of stay was over and thus became illegal migrants, which is the responsibility of the Ministry of Internal Affairs – makes migration control less than effective (Chumak, 2006, p.24-25).

A number of Bills have been presented to the Verkhovna Rada for consideration at this point, establishing the basis of migration policy and establishing a single managing body in the field of migration, yet none of them have passed because of interagency contradictions among the central executive bodies that currently handle migration issues. The main visible conflicts arose around the issue of combining humanitarian and law enforcement functions in a single body, which could possibly lead to conflicts of interest. But other

interagency conflicts that have not been brought out in public include a struggle to keep the functions with the individual agencies and thus to ensure that these agencies continue to be supplied with human and financial resources.

Thus, for instance, just handing over the functions of pre-trial investigations of illegal crossings of borders meant handing over, at the same time, 80% of the personnel in the SBU investigative units in border oblasts where criminal cases related to border legislation constitute the absolute majority. Another difficult issue was the question of sub-agency centers for holding illegals and refugees. The transfer of these centers to a migration service would withdraw considerable human and financial resources, including international technical assistance, from those bodies that were responsible for them.

The question of setting up a “single migration service” in Ukraine was also continually on the agenda of Ukraine’s international partners. In the EU Action Plan regarding justice and internal affairs for 2006–2008, it was defined as one of the main goals in the section “Migration and asylum.” In the context of this Plan, broad-based technical assistance in this area was also offered, provided that Ukraine embarked on such reforms. In the Ukraine–NATO Target Plans, this issue was also one of Ukraine’s main commitments over the last three years.

New challenges in migration that arose with the signing of a Readmission Treaty with the EU and pressure from the country’s European partners have forced the Ukrainian government to return to the issue of comprehensive management of migration process. On 15 June 2007, the National Security and Defence Council (NSDC) of Ukraine passed a resolution approving Presidential Decree №657/2007, wherein facts are noted that, until that time, had not been at the heart of state policy in Ukraine. Among others, the urgency of “immediately establishing the underpinnings of Ukraine’s migration policy and increasing the effectiveness of efforts to counter phenomena that represent real threats to national security: illegal migration, a deepening demographic crisis, and the outflow of the most qualified part of the nation’s human and intellectual resources.” The resolution also declares that “Ukraine’s conceptually ill-defined state migration policy, including its principles, strategic goals, current objectives, and standards for protecting human rights.”

The Decree called for “drafting a Concept of State Migration Policy in Ukraine by the end of 2007 with the participation of CSOs, academics, specialists and experts, submitting it to the Verkhovna Rada of the 6th Convocation for debate in the proper procedure, carrying out the measures necessary to optimize a state migration management system over 2007–2008, and considering the value of establishing a central executive body responsible for migration issues, whose activities will be directed and coordinated by the Cabinet of Ministers through the Ministry of Internal Affairs of Ukraine.”

In response to this Decree, the Cabinet of Ministers drafted Resolution №558 of 18 June 2008 “On certain issues of state management in the area of migration policy.” This Resolution provided for the Ministry of Internal Affairs to “carry out the functions of the specially authorized central executive body for migration, within the limits established by legislation on refugees, and coordinate the activity of other central executive bodies to ensure the enforcement of state migration policy until the such time as matters regarding the establishment of suitable central executive body are resolved by law, during the course of one year.”

The difference between this Resolution and the Presidential Decree is that the Cabinet of Ministers has not proposed setting up a new central executive body but has temporarily placed responsibility for such functions with the Ministry of Internal Affairs (MIA). At the same time, the Resolution calls for a State Migration Services Department under the Ministry whose administration will cover all the temporary holding centers for refugees in Ukraine and all financial resources related to the carrying out of these functions, and all regional migration service offices. This also includes authority to review cases and to offer official refugee status in Ukraine and control over all the financial resources related to carrying out this function.

In essence, the Cabinet did not set up a central executive body whose activities would be directed and coordinated by the Cabinet of Ministers through the MIA, but a state administrative organ that is part of MIA and whose activities would be directly determined by the Interior Minister. In general, this is the most widespread practice among European countries: setting up a migration service under the MIA, and is the option favored by Ukrainian experts.

The establishment of the migration service under the Ministry of Internal Affairs, similar to those in place in most European countries, would enable to cover these main tasks in a single administration:

- ◇ examine applications for Ukrainian citizenship;
- ◇ accept applications and subject foreign ers and stateless individuals to the proper procedures for obtaining refugee status in Ukraine;
- ◇ accommodate and detain individuals who are going through the process of obtaining refugee status;
- ◇ detain, categorize and identify individuals detained for illegal entry or stay on Ukrainian territory ;
- ◇ track and deport individuals who are on Ukrainian territory illegally or who have lost the right to a legal stay.

The Government’s failure to execute the Presidential Decree to suspend the effect of the Resolution was formally due to a simultaneous appeal to the Constitutional Court to have it declared unconstitutional via Presidential Decree №643/2008 of 21 July 2008. In justifying his decision, the President accused the Cabinet of overstepping its authority and issuing the Resolution in violation of provisions of the Constitution. According to Mr. Yushchenko, only the Verkhovna Rada is authorized to establish the basis for migration processes, to change functions, powers and the overall structure and size of the Ministry of Internal Affairs.

In this way, the issue of establishing a single agency to take on the functions and powers involved in drafting, coordinating and carrying out Ukraine’s migration policy remains open, once again, until such time as the Constitutional Court hands down a ruling in the case brought by the President of Ukraine.

3.2.2. Combating illegal migration

Over the last years the migration policy of Ukraine has been mainly focused only on one aspect, which is to react against illegal migration. The transit illegal migration has become a major reason of intensive development of relationship between Ukraine and EU in the area of migration.

In 1998–2003 the territory of Ukraine was used for main channels of the eastern European route for transportation of illegal migrants. At that time bilateral treaties between Ukraine and neighbouring countries which were candidates for EU members (Poland, Hungary and Slovak Republic) on acceptance and transfer of persons who crosses the common border illegally. Illegal transit migrants from Central and South-East Asia formed the major contingent subject to those treaties.

Due to the fact the Ukrainian infrastructure that might enable to retain and support that large number of migrants, Ukrainian authorities tried, for any reason, to avoid acceptance of persons who were not detained immediately when they crossed the border. This encouraged European partners of Ukraine to put more pressure on the Government for introducing institutional and legislative changes in the area of border management of Ukraine.

In order to implement the Ukraine-EU Action Plan in the area of justice and internal affairs in 2002, Verkhovna Rada of Ukraine adopted Law of Ukraine “On the State Border Guard Service of Ukraine”. This Law changed the legal status of border guards who lost their military service status and turned into a special law enforcement body. The Law provided more authority in the area of law enforcement, including reaction against illegal migration. In particular, body guards were given the right not to allow persons who may be considered as potential illegal migrants to come into Ukraine. That reduced drastically a number of people who came into the country with a legal goal for education, tourism or employment but then made attempts to illegally cross the border with European countries.

At the same time, after the Illegal Migrant Detention Center in the village of Pavshyno of Zakarpattia Oblast, which was the only one at that time, started to operate, the policy of State Body Guard Service as to acceptance of illegal migrants from adjoining countries has changed as well. More and more migrants detained inside Poland, Slovakia and Hungary but it was proved that they crossed the border of Ukraine illegally have been accepted by Ukraine. That made indicators of illegal migrants’ detention by Ukraine better at all sections of the border.

In the same years, EU and other international donors (USA, UN, OSCE, International Atomic Energy Agency, Italy, Canada, Sweden, New Zealand, Germany, Hungary and Poland) increased their technical assistance for improvement of the border infrastructure and development of border management. In 2007, the Administration of State Border Guard Service was a beneficiary of 26 projects of international assistance. The assistance was directly received by 18 border guard detachments and 5 coast border detachments (all regional branches are covered), the checkpoint “Kyiv” at the airport of Boryspil, the National Academy of Border Guard Service, and three training centers, the Central Hospital and the Pavshyno Detention Center. In 2007, the State Budget of Ukraine allocated EUR 3,000,000 for the reconstruction of temporary detention of foreigners and people holding no citizenship who stay in Ukraine illegally in Volyn and Chernihiv Oblasts, and almost the same amount was provided as international financial assistance, mostly from European Commission. During 2007, the implementation of the projects was funded by approximately EUR 9,700,000 (EUR 5,200,000 in 2006)³⁶.

The implementation of the Roadmap for Ukraine-EU in the area of justice, freedom and security shows that the most priority areas for EU are those which are critical for EU’s security, i.e. which relate to elimination of illegal migration, policing of borders, implementation of readmission agreement and working arrangements for operational collaboration between the State Border Guard Service and FRONTEX. Instead, the development of institutional capacities in the area of migration, in particular creation of a unified migration service, improvement of asylum policy in Ukraine, safety of documents – one of the most important issues for introduction of visa-free regime with EU are moving from one wording of the Plan to another.

3.2.3. Asylum policy

After Ukraine joined Geneva Convention for Protection of Refugees in 2002, it took over the obligation to provide asylum-seekers with access to the procedure for recognition of refugee status, acceptance location and adaptation of recognized refugees. Over the last 5 years (2003-2007), on average 2,000 persons apply every year to competent authorities for obtaining a refugee status in Ukraine. Besides, a number of submitted applications is growing every year. The state of refugee in Ukraine is given to 3% of asylum-seekers. On average 50 statuses are issued per year.

Asylum-seekers come from different countries of Asia, Africa and post-Soviet countries. Today we cannot say that there is a domineering group of refugees from a certain country, such as citizens from Afghanistan or citizens of Russian Federation of Chechen origin. The latest tendency is a sharp growth of applications from citizens of Belarus and emergence of applications from Russian Federation’s citizens from non-ethnic areas, who are quite wealthy.

Table 6. Application for Refugee Status and Recognized Refugees in Ukraine, 2003–2007

Year	Number of applications received	Refugee status given	Recognition rate (2003–2007)
2003	1367	56	3%
2004	1364	80	
2005	1765	49	
2006	2101	76	
2007	2272	33	

Source: *Cross-Border Co-operation/Soderkoping Process Secretariat*

³⁶ Based on information on the official site of the State Border Guard Service of Ukraine retrieved 14 June 2008 from http://www.pvu.gov.ua/control/uk/publish/article;jsessionid=0F068C2F24D6BA155EF717AC14BACEA0?art_id=55750&cat_id=46786&search_param=%D0%BA%D0%Bo%D1%82%D0%B5%D1%80%D1%96&searchForum=1&searchPublishing=1

The problems existing in the Ukrainian refugee and asylum policy can be split into two types. The first type relates to assurance by Ukraine of human rights for asylum-seekers and migrants, with keeping to international obligations in that area. Often non-government and international organizations accuse the Government of Ukraine in violation of rights of asylum-seekers and provisions of international treaties.

The report of the affluent international organization Human Rights Watch's: «Ukraine: On the Edge. Violation of Human Rights of Migrants and Asylum-Seekers on the New Eastern Border of European Union» published in November 2005 displays regular violations of human right of migrants and asylum-seekers. Neither United Nations High Commissioner for Refugees, nor European Commission consider Ukrainian a third secure country, i.e. a secure country for return of migrants-foreigners and asylum-seekers whose applications for refugee status in EU countries is denied, or a secure country for asylum, i.e. a secure country for asylum-seekers.

The second type of problems refers to the implementation of a law enforcement function of the State. The current asylum system allows potential illegal migrants to misuse the opportunity to obtain a refugee status in Ukraine. This makes rates of unregulated and uncontrolled migration higher, that creates a number of threats for safety of people and the state.

The reasons under which Ukraine is facing up problems with enforcement of human rights for asylum are complicated and divided into two parts. The first part is associated with underdevelopment of legal standards which regulate the protection of foreigners, issue of refugee status and provision of asylum. To solve this problem, the deficiencies in current law have to be eliminated and new regulatory documents have to be developed to fill the gaps in asylum policy of Ukraine.

The second part contains the problems arising from implementation of current laws of Ukraine and international treaties which Ukraine has joined. This is an ineffective institutional system for administration of migration and asylum (organization, rules and procedures and staff), limited financial resources and infrastructural capabilities to support refugees and asylum seekers.

The common denominator of all problems in the policy for refugees and asylum is the lack of a strategic national approach in that area in Ukraine. On one hand, the administration of asylum system is institutionally excluded from the system for administration of migration flows, but on the other hand, you may see a mistaken approach of government bodies to asylum-seekers, who are considered as illegal migrants and criminals in first instance. Moreover, the State does not treat the recognized refugees as its potential citizens, does not consider them as labor resources which are importance for economic growth. Apparently, the lack of proper attention of the State to the issue of asylum provision is preconditioned by the fact that Ukraine is not experienced in managing spontaneous migration flows, there are no traditions for supporting and integrating refugees, the culture of assurance of human rights is underdeveloped and non-reformed law enforcement bodies still serve as supervisory and punitive bodies of the State and not as guarantees of human rights and freedoms.

Laws of Ukraine “On Refugees” and “On Legal Status of Foreigners” have serious deficiencies that do not allow Ukraine to fulfill its international and legal obligations and make the system for refugee status and asylum provision working ineffectively. Law of Ukraine “On Refugees” provides for protection only to so-called “conventional refugees”, i.e. persons which are defined by Geneva Convention “On Status of Refugees” of 1951 as those for whom there exist quite reasonable fears of prosecution by race, religion, nationality, social group or political opinions. The rest of persons who cannot be protected by their states and cannot be returned back to their countries are deemed as foreigners or people holding no citizenship who illegally stay in Ukraine according to laws of Ukraine, so they are to be moved back.

After having acceded to such international documents as, for instance, UN Convention against Tortures of 1984 or European Human Rights Convention of 1950, Ukraine has taken over the obligation not to move a person back to the country where he/she may be put to torture, including death penalty. However, Ukraine cannot fulfill that obligation as its legislation does not provide for mechanisms for protection of such persons.

No institutions of additional forms of protection – no possibility to accept and provide protection to foreigners who do not meet the requirements of Convention for Refugees of 1951 but their deportation is impossible for different reasons such as impossibility of identification and fears that foreigners in the countries of citizenship or residence would be subject to inhuman treatment or torture. The status of conventional refugees may be the reason for settlement of legal status of a very limited group of persons.

Law of Ukraine “On Refugees” has provisions that deprive recognized refugees of their status without judicial procedures, which is considered by United Nations High Commissioner for Refugees as a serious defect. The Law also does not have a definition of the principle of *non-refoulement* – non-deportation of persons qualified as “war refugees” or cannot be returned back due to a serious risk of torments or inhuman or humiliation treatment and punishment (Article 3 of European Convention for Human Rights and Fundamental Freedoms, Article 3 of UN Torments Prevention Convention).

Moreover, the Law provides for a very complicated system of documentation of asylum-seekers who are under the procedure for issue of refugee status. This causes their detention in the course of exchange of documents which may last up to one month during which an asylum-seeker practically does not have any documents. In general, the Law needs to be reviewed to simplify procedures for documentation of asylum-seekers and protection of persons who are under procedure of consideration.

The Department for Refugees and Asylum stresses the problem of different understanding of laws on refugees, especially in respect of the reasons for which the refugee status is not issued, i. e. Clause of Article 10 of the Law which says that the refugee status is not given to a person who committed a grave crime of non-political nature before coming to Ukraine. The General Prosecutor Office of Ukraine thinks it is prohibited to give the refugee status to persons who are detected for commitment of general crimes. At the same time, citizens of Belarus, for instance, who apply for the refugee status in Ukraine, all have open criminal cases. The General Prosecutor's Office thinks they all have to be returned back. This contradiction between the Department for Refugees and Asylum and the General Prosecutor's Office are settled judicially in favor of the first but, unfortunately, cases when refugees are extradited to authorities of countries of their origin cannot be avoided.

Cases of asylum seekers' rights violation in Ukraine

Ukraine has already had repeated cases when asylum-seekers were forcibly returned back to the countries despite of threats to their life and health. In March 2008, 11 asylum-seekers, ethnical Tamils from Sri Lanka were moved back to their country of origin despite they were under the procedure for obtaining the refugee status in Ukraine. In February 2006, 10 citizens of Uzbekistan, who were witnesses of the slaughterous suppression of people's protest actions in Andijon and sought for international protection in Ukraine were returned back by law enforcement to Uzbekistan. They were extradited without any right of appeal and right to apply for asylum. Amnesty International got a message that some of the deported were put to severe tortures after they came back to Uzbekistan. In their home country all they were sentenced to long terms of imprisonment - from 3 to 13 years.

In August 2006, the Chechen Beslan Gadaev was extradited to Russian law enforcement bodies. In the same way, in 2006, the General Prosecutor's Office the Chechen Sultanbek Aidemirov to Russia in despite of the court ruling. Employees of the General Prosecutor's Office of Ukraine then promised that even Russia had refused from accusations in respect of Aidemirov," he would have been taken away and thrown to the dogs".

The story of the Russian oppositionist Mikhail Gangan made a real stir. After he organized the Dissenters March in Samara, he had to leave Russia, escaping from being arrested for fictitious accusations in violation of rules for completion of conditional sentence. On December 10, 2007 submitted an application for refugee status to United Nations High Commissioner for Refugees, and he was recognized as a person who needs an international protection. However, on December 31, 2007 Gangan was detained by Ukrainian militia "at the request of Russian secret services", and on January 2, 2008 the court adopted the ruling on his extradition to Russia, which was in contradiction with international law: while a person is under the procedure for issue of refugee status, he/she is not subject to extradition. Thanks to the efforts of human rights defenders and public, Gangan was released from the arrest by the Vinnitsa Oblast Court of Appeal on January 11.

On July 28, 2008, the General Prosecutor approved a decision on extradition of the businessman Oleg Kuznetsov from St. Petersburg who had already had the status of refugee in Ukraine. On the very next day the Russian was passed to authorities of Russian Federation. Human rights defenders states that the extradition was effected in contradiction of national law and international treaties ratified by Ukraine.

Another problem in Ukrainian laws is that there are some opportunities to misuse the procedure for issue of refugee status in Ukraine. More than 90% of applicants are economic refugees who consider their status as an opportunity to be legalized in Ukraine with further transfer to EU countries. For example, more than one thousand of application is submitted every year by migrants in Zakarpattia, while the percentage of admittance to the procedure is no more than 0.1%.

After the legalization of their stay in Ukraine, migrants further try to legally or illegally get to countries of Western Europe and obtain an appropriate status in EU countries. It is not often caused by tactical speculations of migrants to use the application for refugee status to be free in their travels to the West, but it is associated with the fact that asylum-seekers do not have any material basis for stay in Ukraine and the level of refugee status in Ukraine is low. An almost unrestricted freedom of movement makes their attempts to move out of Ukraine successful. As Ukraine does not have a common database for persons who were given the refugee status in Ukraine and other European country at the same time.

Ukrainian law enforcement bodies raise a question to restriction of the freedom of travel for persons who are under the procedure of refugee status identification, as there are some cases when the procedure is misused. However, international recommendations indicate that the detention as a preventive measure in such cases is not desirable, and the guidelines of United Nations High Commissioner for Refugees say that the detention of asylum-seekers is inadmissible. The procedure for adoption of decision on refugee status provision may last over two years, and the detention of asylum-seekers for such period will constitute a serious violation of international universal and regional laws.

In order to immediately solve this problem, a verbal arrangement was made between the SBGS and UNHCR that a migrant who has applied for refugees status but is caught when he/she repeatedly crossed the border on illegal basis is nor regarded as an asylum-seeker. In addition, a joint pilot project has been launched by SBGS, Migration Service and United Nations High Commissioner for Refugees at the Pavshyno Detention Center to prevent the misuse of the procedure for issue of refugee status, in order to get some practical results until the legislation is amended. Another option to solve the current problem is to transfer detained persons who have applied for refugee status to centers of open type (as prescribed by recommendations and best practices of the majority of developed countries), which already exist or are planned for future and located in regions at a distance from the Western border of Ukraine.

The Ministry of Justice of Ukraine, in cooperation with the Department for Refugees and Asylum and United Nations High Commissioner for Refugees, have developed a new wording of law on refugees and additional forms of protection, which eliminates legislative gaps and shortages. In addition, a draft concept for state migration service has been developed. However, as the process of agreement among various authorities turns out to be tedious, that draft law was not submitted to the Parliament for consideration. Law of Ukraine "On Free Legal Aid" which would support rights of asylum-seekers in Ukraine is under development. Today pilot projects for creation of model centers of free legal aid are implemented in Ukraine.

Besides, it was decided at the political level that until the new wording of law on refugees is approved, Law "On Concept of Migration Policy of Ukraine" (its draft is developed by the Ministry of Justice) should be approved, but this approval requires agreement of different arms of power as to the place of migration service in the executive power system of Ukraine. Meanwhile, the migration service is a hostage of continuous pseudo-reforms.

Law of Ukraine "On Refugees" provides for the functioning of a specially authorized central government body for refugees, the main powers of which will include the adoption of decisions on issue, loss and deprivation of refugees status; coordination of interaction of government bodies in respect of issues relating to refugees and supervision of implementation of Law of Ukraine "On Refugees". A review of institutional structure of bodies engaged in migration and asylum is mentioned as the most urgent task and the precondition for solution of many, more technical issues in the first interim report of EU Evaluation Commission in 2006 (European Commission, 2006, p.29).

The problems of creation of a unified migration service in Ukraine was already described above, however it is worthwhile to say that it is the body responsible for asylum which suffered to the biggest extent from numerous “reforming” attempts, so did the asylum-seekers in Ukraine. After last such transformation (which is the tenth since the date of independence), when State Committee for Nationalities and Migration was reformed into the State Committee for Nationalities and Religions in 2007, the Department for Migration and Asylum was not able to adopt any decision during 8 months, as the State Committee provisions did not contain a clause saying that it was a specially authorized body for migration, which was required by migration legislation. In 2008, that situation reappeared: in May the Government adopted the resolution which transferred the powers of the specially authorized body to the Ministry of Internal Affairs, so the procedure for issue of refugee status stopped. Moreover, the Ministry of Internal Affairs took over places for location of refugees and branches. In June, the President suspended that resolution his decree and simultaneously submitted the issues discussed above to the Constitutional Court of Ukraine.

The problem of refugee rights protection in Ukraine is of low importance which is evidenced by the quality of budget funding of that policy. Every year, the State Budget projects funds for assistance to refugees under the respective budget program 5321020. Since 2004, except for the budget program “Assistance to Refugees” the State Budget of Ukraine provided for one more program – “Creation and Maintenance of Places of Location for Illegal Migrants and IT System for Record-Keeping and Analysis of Migration Processes”.

Despite the budget money for the migration assistance program is permanently growing, it is not sufficient for policy needs. The funds even are very small to support a proper number of employees in migration offices, say nothing of support to refugees and provision of assistance to them, building of a new infrastructure, funding of adaptation measures. The Plan for Facilitation of Adaptation of People Given Refugee Status in Ukraine to Ukrainian Society approved by the Government in 2004 is not implemented due to the lack of funding.

Because the State is not able to provide legal, material and social assistance to refugees and seekers for asylum in Ukraine, this work is actually done by non-government organizations supported by United Nations High Commissioner for Refugees European Commission and other international donor organizations. Therefore, along with its main task to advise, assist and monitor the implementation of its obligations for protection of refugees by the State, United Nations High Commissioner for Refugees in Ukraine, in partnership with non-government organizations, takes measures to directly protect seekers of asylum and provides them with legal, material and social assistance in the course of the procedure. Besides, United Nations High Commissioner for Refugees and non-government organizations help the Government of Ukraine to develop a modern asylum system.

United Nations High Commissioner for Refugees has partnership relations with 12 non-government organizations in 27 regions of Ukraine. They differ by size, sources of funding, types and geographical zones of activity. Frequently, non-government organizations are more capable in tracking violations of human rights and notifying thereof. Mostly, non-government organizations provide asylum-seekers with legal advice act as their representatives in migration service and at courts, visit them in places where they are kept under arrest and help moved refugees.

3.2.4. Immigration policy

European Union will continue to be an attractive market for Ukrainian migrants. Given the intensification of depopulation, people ageing and growing shortage of labor resources, more and more European countries take additional efforts to attract primarily skilled migrants. Because of historical, culture and political factors, a migrant from Ukraine is considered as a desired migrant in many EU countries (Melnyk, 2008-a). There already exist special labor migration, including those designed for Ukraine, in Poland and Czech Republic. Such countries as Spain, Italy and Portugal, using the policy of legalization, also attract a considerable number of Ukrainians. European Commission suggested to EU members to unify the migration policy to simplify the attraction of labor resources into EU markets. Russian Federation approved the State Program for Facilitation of Voluntary Immigration of Compatriots Residing Abroad, which is aimed at attracting people of reproductive age. However, the demand for workforce on EU markets is the most powerful factor for the migration from third countries, comparing to the easier access to the market.

Since 1993 the population of Ukraine has been shrinking rapidly. The natural reduction of population at the rate of 0.6%-0.8% per year and the reduction in the second half of the ninetieth, as well as the outflow of Ukrainian people abroad³⁷ have lead to the reduction of population from 52.2 million people as of January 1, 1993 to 46.6 million people as of January 1, 2007, i.e. by more than 10% (ICPS, 2007).

Over the last years, due to the economic growth and the social policy the Government was able raise the birth rates up to 9.8 per 1,000 people, in comparison with 7.7 in 2001, however this indicator is still lower that the birth rate in the ninetieth (12 per 1,000 people). The level of migration of Ukrainian people abroad has also stabilized: in 2006 the growth of population of Ukraine due to legal migration was fixed (14.2 thousand people), comparing to 2001 when the registered outflow was 152.2 thousand people. Also experts say that the level unregulated migration of Ukrainians abroad has stabilized (ICPS, 2007).

The severe reduction of able-bodied population is expected after 2010 when the generation of the ninetieth turned into the reproductive age. By projections of economists International Center for Policy Studies, from 2010 to 2025 that category will reduce by five million people. At the same time, the reduction of people of retirement age will be much less.

Against the negative demographic indicators, the Government of Ukraine called the steady tendency for growth of external migration “real threat for national security of Ukraine”. “They have mostly an irreversible nature and adverse impact on exacerbation of demographic crisis and make existing depressed territories wider and contribute to creation of new depressed territories, and lead to outflow of the most skilled part of labor resource and intellectual potential abroad”³⁸. In its resolution in June 2007, the National Security and Defense Council of Ukraine stated that “the majority of Western oblasts turned into a donor of workforce overseas which

37 Net outflow of Ukrainian people from the country in 1994 through 2004 was 150,000 people annually.

38 Decree of the President of Ukraine No. 657/2007 dated June 15, 2007 on Resolution of Council of National Security and Defense of Ukraine dated June 15, 2007 “Guidelines of State Migration Policy and Urgent Measures for Improvement of Its Effectiveness”.

certainly constitutes a threat to the economic safety of those regions and to the State as a whole, due to the loss of critical number of economically active part of people”³⁹.

To redress the situation, NSDC, foremost, wants to conceptually define a state migration policy and to improve management of migration processes. In its resolution, NSDC stated to develop a Concept of State Migration Policy and submit it to Verkhovna Rada of VI Convocation for consideration, and based on the approved Concept to submit to the Parliament draft laws on basic principles of a state migration policy of Ukraine, and in 2007 – 2008 consider an issue of creation of a central government body for migration to be directed and coordinated by the Cabinet of Ministers of Ukraine through the Ministry of Internal Affairs of Ukraine. However, because of the conflict between the Government and the President those tasks were blocked.

Second, a dominant opinion in the Government of Ukraine is that the negative migration situation in Ukraine may be redressed by bringing labor migrants and ethnical Ukrainian back to Ukraine. NSDC laid the Government under obligation “to work out, within two months, its proposals for measures to be aimed at counteracting possible negative consequences for Ukraine from implementation by Russian Federation of measures to facilitate immigration of compatriots who live abroad to Russia, and to consider an issue of preparation of a relevant state program for return of compatriots back to Ukraine”.

The reduction of illegal labor migration and repatriation of ethnical Ukrainian are suggested as a tool for elimination of negative demographic trends, and the attraction of labor of migrants from third countries is not seen as a bailout by the Government in the Government Demographic Development Strategy until 2015 approved in 2006:

“A stable surplus balance is ensured by reducing a number of persons who exit for permanent residence, encouraging returns of external labor travels and determining a required level of entry of able-bodied people into Ukraine. However, the recovery of population at the level of 52 million people or its stabilization at the current level (about 47 million people) will require to involve a significant number of migrants (500 thousands and 300 thousands every year respectively), predominantly from countries of third world (considering migration potential of eastern diaspora and representatives of peoples deported in the past. The arrival of the large number of migrants will lead to disturbance of mental integrity of Ukrainian people and internal unbalance in society, difficulties in mutual adaptation of indigenous people and migrants. Therewith, it is stated that the number of people in Ukraine will decrease to a critical level and, as a result, the deformation of gender and age structure of population will intensify”⁴⁰.

Since 2006 the Government provided immigration quotas for attraction of labor of highly skilled specialists and employees, the need for whom is very sensible for the economy of Ukraine, but those quotas are not used. In common, in 2008, the Cabinet of Ministers has raised immigration quotas allowing 9,194 foreigners and people holding no citizenship (7,323 in 2007), who are artists, scientists, highly skilled employees, persons who invested USD 100,000, relatives and heirs of Ukrainian citizens, ex-citizens of Ukraine and foreigners who have been residing in Ukraine within three years, to enter into Ukraine or stay for permanent residence. The Government is setting up those quotas on the basis of proposals of central and local governments and an analysis of immigration in the previous year. During 7 months a permit for immigration into Ukraine has been received by 4.3 thousand immigrants of quota category.

The lack of perception of migration policy of Ukraine, given the reduction of able-bodies population and the growing demand for workforce, is caused by the fact that the Government does not do any analysis of processes of labor migration into and out of Ukraine, and there is no vision of future economy of Ukraine and labor market development. Because of the shortage of information, politicians rely on theoretic data and play them around depending upon the audience. For instance, the Ombudsperson Nina Karpachova, in her report, estimated the Ukrainian labor migration at 5-7 million people, relying on “estimates of non-government organizations”.

The current Minister of Internal Affairs, the governance of which the Government is planning to create a migration service, makes contradictory statements as to the attraction of migrants’ labor. In July 2008, the statement of the Minister against attraction of labor of foreigners made at the meeting of the Main Headquarters of MIF in Kyiv triggered a big vibration in the mass media. The Minister grew hot over the Head of Department for Citizenship, Immigration and Registration of Individuals has issued to foreigners seventy permits for residence: “Don’t we have enough workforce? If you want to go to China – buy a ticket and go there often for vacations. You may call me a rasist but I will not allow to turn Kyiv into another Kharkiv or Odessa. The directive is as follows: we issue a permit only if the foreigner marries our female. Because of such rates of development, I will invite Vietnamese and Chinese to militia instead of you!”⁴¹. In September 2008, at the Ministers’ Conference of Council of Europe, the Minister spoke for legalization of illegal migrants who do not have criminal record⁴².

It is impossible to set up a balanced migration policy without regular collection and analysis of data. Therefore today all measures and statements of politicians on intentions contained in government documents are a merely wishful thinking. Ukrainian labor migrants may return back to the Motherland only if an attractive labor market, a better business climate and social infrastructure will be created in Ukraine. Special surveys show that labor migrants will not move back to Ukraine until their wage reaches at least a half of their income in the countries where they migrated (Melnyk, 2008-b).

3.2.5. Policy towards Ukrainian labor migrants abroad

A large number of Ukrainian citizens working abroad as well as frequent cases of brutal attitude of law enforcement bodies to Ukrainian citizens in countries where they are employed, and a fierce criticism by civic and human rights organizations over the last years compelled the Government of Ukraine to respond to that problem. However, for the time being, the state policy for protection of rights and legitimate interests of Ukrainian citizens who work abroad has a very limited field for application and results.

39 Decree of the President of Ukraine No. 657/2007 dated June 15, 2007 on Resolution of Council of National Security and Defense of Ukraine dated June 15, 2007 “Guidelines of State Migration Policy and Urgent Measures for Improvement of Its Effectiveness”.

40 Resolution of the Cabinet of Ministers of Ukraine No. 879 dated June 24, 2006 “On Approval of Strategy of Demographic Development until 2015”.

41 Quoted from *Lutsenko changed his mind – amnesty to all illegal migrants*, Kyiv: UNIAN, retrieved September 7, 2008 from <http://unian.net/ukr/news/news-270977.html> (in Ukrainian).

42 From official website of Ministry of Interior, *Creation of migration service within the MIF is not required by politicians but life*, retrieved 20 August 2008 from <http://www.mvs.gov.ua/mvs/control/main/uk/publish/article/141196>

Cases of Ukrainian migrants' rights violation abroad

Ten Ukrainian women and men who gathered berries in the Spanish city of Huelva got a five year prohibition to enter into Schengen Zone after their documents were checked on the German-Polish border. Now they applied to a court in the German city of Pirna with a claim for repayment of the fines they paid in the amount EUR 1,500 and for cancellation of the deportation. The conflict on the border happened when the labor migrants were on the way home, as their passports have Spanish national visas which, as it turned out, did not permit for transit travel through other countries of Schengen, of which the Ukrainian were not aware. The applicants insist that the German police went beyond its authority and treated our citizens with disrespect (according to the evidences provided by the women, they suffered from indignity, there were prowled and undressed and then they were sent to the place for keeping illegal migrants for the night). The similar case happened on the German-Polish border with Ukrainian sportsmen who were also treated brutally and even their sports shoes were cut.

A deputy of Lviv Oblast Council, one of the regions which are donors to labor migration, states the State is guilty for all that: «The State must take care of its citizens even if happen to be outside it for any reasons. Adoption of Law on labor migration became actual very long ago»⁴³.

In 2003, the Verkhovna Rada Commissioner for Human Rights released a special report on the rights of Ukrainian citizens working abroad upon which a regulation was issued ordering the harmonization of Ukrainian legislation with international standards to ensure protection of the rights of Ukrainian nationals working abroad. To date, Ukraine has not ratified the United Nations Convention on the Rights of All Migrant Workers and their Families, which entered into force in 2003, and the Conventions developed by the International Labour Organisation specifically pertaining to labour migration, which have become per se legal-binding standards to be reflected in the national legal framework.

According to the Ministry of Foreign Affairs of Ukraine, the most reliable legal mechanism in the area of foreign employment and social security of Ukrainian citizens is to enter into appropriate agreements that define employment procedures and parties' responsibilities for social protection of citizens (MFA, 2008). Now Ukraine has valid agreements in the area of employment entered into with Azerbaijan, Republic of Belarus, Armenia, Vietnam, Latvia, Libya, Lithuania, Moldova, Poland, Portugal, Russia, Slovakia and Czech Republic. In the area on social protection of citizens – with Bulgaria, Estonia, Spain, Latvia, Lithuania, Slovakia and Czech Republic, and in the area of legal succession – with Mongolia, Romania and Hungary.

The Ministry of Foreign Affairs continues to expand the international legislative and treaty basis in the area of employment and social protection of people with countries a significant number of our compatriots stay with the purpose of employment, in particular, with Argentina, Greece, Georgia, Estonia, Spain, Italy, Portugal, Russia, Romania, Turkey and Germany. The foreign policy office also participates in the process of entering changes and amendments into effective international treaties with Spain, Libya, Poland, Portugal, Slovak Republic and Czech Republic. At the same time, the MFA of Ukraine participates also in working out relevant interdepartmental agreements with Austria, Greece, Italy, Latvia, Lithuania and Turkey. The implementation of effective treaties in the area of employment and social protection is complicated by deficient mechanisms of attraction of Ukrainian people into work abroad, in particular, this relates to Libya, Portugal and, to some extent, Poland” (MFA, 2008).

The treaty for creation and free trade zone between Ukraine and EU will also include provisions that will regulate movements of employees. The task of Ukraine is to expand rights of its citizens who work in EU countries on a legal basis, in particular, expansion of their access to social security systems and expansion of access of their family members who legally reside in EU to labor markets.

According to the IOM and ILO assessments, the main gaps in the field of labour migration policy in Ukraine caused by absence of a conceptual legal framework on national migration policy and management: “the existing policy documents regulating labour migration in Ukraine were developed having a declarative character focusing on the need for their creation rather than on clearly cut outlined mechanisms and feasible tools for implementation” (IOM, 2006, p. 9). Other reason named is absence of a socioeconomic framework on labour migration policy and management as current state policy does not cover “any social and economic aspects of labour migration that are crucial factors in this social phenomenon” (IOM, 2006, p.9).

Labour migration policy is also affected by a general absence of integrated approach to migration management and lack of coordination between agencies involved in data collection on labour migration” (IOM, 2006, p.9). No analysis on labour migration processes has been done.

While the Ministry for Foreign Affairs of Ukraine emphasizes the importance of concluding bilateral agreements with countries-receipients of migrants, no adequate mechanisms of legal protection for Ukrainian migrant workers have been integrated into legislation. Legal protection of Ukrainians abroad is still defined narrowly in the sense that it is as provided by diplomatic representations abroad and through dissemination of information. Similarly, protection upon return seems to be limited to victims of human trafficking and to repatriated citizens” (IOM, 2006, p.9).

3.3. Conclusions

The basic problem with drafting and enacting migration policy in Ukraine is that this policy area has never been a priority for Ukraine's Governments for many years. The main efforts in enacting migration policy in recent years have been focused on countering the illegal transit of migrants through Ukraine.

Moreover, this was not done as a result of any understanding on the part of political players of the dangers of transit migration, but under the external pressure by Ukraine's European partners, for whom the path for illegal migrants through Ukraine has been taking on threatening proportions. It is because of pressure from the European Union and technical and financial assistance that the Ukrai-

43 Quoted from “Humiliation of Ukrainian Migrants on German-Polish Border will be discussed in EU”, Lviv: ZIK, retrieved August 6, 2008 from <http://zik.com.ua/ua/news/2008/07/31/145495> (in Ukrainian).

nian Government has been able to achieve institutional and infrastructural improvements in the management of its state boundaries and to improve the infrastructure for detaining illegal migrants.

Still, the problem of providing asylum and humanitarian protection to foreigners who need it due to circumstances that are not covered by the law on refugees remains unsolved. The drafting of precisely this kind of legislation is being hampered by the political crisis in the country and by differences among the bodies that are responsible for enforcing legislation on refugees and asylum-seekers. Although international and public organizations involved in refugee protection have put considerable and systematic effort into changing legislation, they do not have enough influence at the level of state agencies.

According to the National Security and Defence Council, the migration of Ukrainian citizens that undertaken by individuals looking for better economic and political living conditions has reached critical proportions and is a major threat to the national security of Ukraine. Yet the country remains without a strategy that might establish mechanisms for possible repatriation of Ukraine's emigrant workers. Calls from various politicians to increase wages in Ukraine as the only way to persuade Ukrainians to return back, in our opinion, will not have a positive impact unless the business climate itself is improved in this country. In addition, Ukrainian migrants have higher expectations of the state in terms of its regulatory policy, local government, and judicial system.

Unless the above areas are reformed, there will be little hope that most Ukrainian migrants might return home. Most Ukrainian citizens are working abroad illegally, which means their labor and social rights are not protected by their own country. Those of Ukrainian foreign policies intended to protect the rights of migrant workers apply only to that category of individuals who are working legally.

One of the reasons why Ukraine's Government has failed in migration policy is the lack of a state agency that is empowered to develop and carry out actions covering most issues related to migration policy. The question of forming such a migration service has been on the government agenda for at least the last six years. But the establishment of such an agency has been hampered by differences among the various agencies regarding its powers and place in the chain-of-command and – more to the point – , by their lack of interest in losing their influence and their resources – organizational, financial and human – , once powers in this area are redistributed. At this particular time, the main obstacle is the political confrontation between the President and Premier of Ukraine, as well as their divergent views of the place of this agency in the system of executive bodies.

4. KEY FINDING AND RECOMMENDATIONS

Country reports on migration trends and policies clearly show that Moldova, Romania and Ukraine experience different migration trends and are in different situations in terms policy and legal framework. Nevertheless, they confront series of common problems where most of them can be solved through trilateral cooperation or via a wider regional framework.

Three neighbours are countries of origin of labour migration. While Romania strives for a full and free access of its citizens to the EU labour markets, Ukraine and Moldova attempt to ensure better conditions for legal travel, employment and social rights both in the EU and Russia as main places of migrants' destination. Labour migration represents an essential challenge for Moldova due to the high quota of active labour force involved into migration process, as well as the importance of money transfers for national economy as Moldova is situated on the first position in the world regarding a share of money transfers in respect of GDP.

Romania and Ukraine are gradually turning into countries of destination. Due to its new status of EU member, Romania has become attractive for citizens from many neighbouring countries. Romania has become attractive not only to neighboring countries' citizens but also to citizens from other countries in the East. In fact, the highest number of asylum seekers in the last years came from Chinese. Being fourth on the list of in the world as a country which receive third country nationals and serve mainly as a transit territory for them coming to the EU, Ukraine more often is chosen as a destination point for those who failed to continue further journey or decided to stay due to family or economic reasons. Both Romania and Ukraine are attractive for migrants from Moldova as a place of destination and transit.

Over the last years Romanian migration policies have been developed more within the logic and pressure of the EU accession process, and in addition to its international legislation and practices. The EU has served both as a model to comply with and as a source of political, technical and financial support for change in migration policy. Currently, being a member of the EU, Romania benefits from free movement of its citizens within the EU territory and, to some extent, from openness of EU labour markets and is preparing itself to accession to the Schengen Zone.

Ukraine and Moldova are in the different policy context. Both countries experience a number of transformation challenges suffering from government instability (a case of Ukraine), economic restructuring (a case for both countries, even though the problems are different) and security problems (primarily, a case of Moldova). With such overloaded policy agenda, development of comprehensive and balanced migration policies which will meet not only countries' security agendas, but also needs of economic development and protection of human rights, is far from being a government priority. Even though both countries experience challenges in the area of migration (Moldova as a country of labour emigration, Ukraine as a country of labour emigration and as a part of transit route), and the process of institutional and legal changes in the area of migration is rather being late or postponed.

Furthermore, the EU does not play the same transformation role in case of Moldova and Ukraine in the field of migration as it has been with Romania. This is mainly due to the fact that unlike Romania, Ukraine and Moldova have not got a clear perspective of EU accession serving as a potent "carrot-stick" in the process of Europeanization reforms outside of the EU. Both Moldova and Ukraine cooperate with the EU within the framework of the European Neighbourhood Policy and the Partnership and Cooperation Agreements signed between the European Union and CIS countries back in 1990s. Although both countries aspire for EU membership and therefore are eager to cooperate with the EU in justice and home affairs matters, including migration and border management cooperation, there is a lack of finality of such cooperation and a strict schedule for its implementation in contrast with adjacent countries. Moreover, EU policies towards these countries in the area of migration are rather focused on tackling security threats than assisting in institutional change or promoting legally-based approach towards migration.

From transformation point of view, dissemination of Romania's pre- and post-accession experience in managing migration, particularly in such areas as institution-building and approximation of legislation can be a core point of trilateral and regional cooperation agenda. Nevertheless, a critical view on Romania's migration policies adaptation to new trends suggests us that a sharing experience and disseminating of knowledge shall not go only in one direction. Being aware of the progress Romania has made in managing migration mainly due to the EU accession process, we conclude that Romania has a lot to be done and to be learned yet along with its eastern neighbours. Thus, in the course of the project we have identified a number of issues where bilateral, trilateral or broader regional cooperation and exchange of experience that involves governmental and non-governmental actors can contribute to a better migration management in each of target countries.

Exchange of information

- ◇ To create a transparent framework regarding the exchange of information between three countries concerning migration volumes and trends, it is necessary, particularly, to amplify the efforts with regard to monitoring illegal migration. The idea of a computerized data base on illegal migration with a joint access which has been discussed within different contexts would be an essential step in this sense. Access to public information in this area should be not only formally granted but really provided. Public institutions in migration management area seem not to get used yet to transparent practices of operating.

- ◇ To create mechanisms for dissemination of Romanian experience in adopting EU standards of migration policy and institutional reform implementation. To explore opportunities for using EU funds and programmes for Moldova and Ukraine for this purpose, e.g. Twinning.

Illegal migration and human trafficking

- ◇ To strengthen efforts in a joint combat with illegal migration and human trafficking via exchange of experience, common interventions and effective exchange of information is very important. The human trafficking represents a challenge for the region as organization of illegal migration involves citizens from all three target countries, although vast proportions of illegal migration phenomenon are specific only in cases of Moldova and Ukraine.
- ◇ Ukraine is an actor with biggest possibilities able to monitor the border with Transnistria and to offer reliable information on movements of people from this region. The consolidation of bilateral cooperation will be favourable for Republic of Moldova in regard to its demographic policies, but also for Ukraine in terms of its security and image on international arena.

Circular and return migration

- ◇ To further promote circular and seasonal migration is important as being advantageous as for destination countries, so as for origin ones. There is a potential for mutual support in concluding bilateral agreements regarding labour migration. The leading role belongs to Romania which promotes this idea and renders EU countries.
- ◇ As all three governments declare their interest in return migration policies, there is a need in combining efforts for realising common projects on exchange of experience and best practices of implementation policies for return migration and cooperation with third countries.
- ◇ To encourage cross-border migration in order to avoid establishing of a new curtain in Europe. In this context concluding agreements between Romania and Ukraine and Romania and Moldova on small border traffic is extremely important to secure legal migration as well as a vivid cross-border regional development.
- ◇ To prevent brain drain via establishing adjustment grant programmes for students graduating from the universities abroad, implementation of common research projects with the host countries etc.

Policies towards labour migrants abroad

- ◇ To promote a joint governmental cooperation on intensification of efforts in conclusion of bilateral agreements on recognition of diplomas and professional qualifications in countries of destination.
- ◇ To consolidate a legal framework that would ensure access to health services and social protection of migrants as in destination countries, so as at their return to origin countries.
- ◇ To promote a raise of trust of migrations from three target countries in diplomatic representations of their respective countries abroad. This will allow establishing more frequent contacts between migrants and their governments in order to provide better services to citizens abroad as well as raised efficiency of migration management. More efforts should be put on explaining to migrants and potential migrants any consequences of not being legally registered within their countries' authorities (e.g. in case of disasters).
- ◇ To promote links with diasporas and use effectively their potential of public diplomacy. All three countries should put more efforts in order to fully benefit from intellectual and cultural potential of their diasporas in creating a positive image of their countries in host countries.
- ◇ An efficient use of migrants' money transfers is an important issue in case of all three countries and in particular, in case of Republic of Moldova. There must be more efforts put into exploring potential of money transfers for home country economies. Currently migrant remittances are mostly directed to consumption. To promote positive impact of money transfers on sustainable economic development in the regions of destination, there is a pressing need to create a favourable and stable business environment that will contribute not only to efficient use of money transfers, but also will facilitate implementation of return policies by Ukraine and Moldova. To provide migrants with information on possibilities of money transfers from abroad, to advocate benefits of legal money transfers, bank accounts abroad and in origin countries is very important.

Immigration

- ◇ Romania and Ukraine are consolidating as destination countries, and this must also be reflected in governmental policies and strategies. An increasing demand for a labour force must be correlated with a policy of issuance of residence and work permits; otherwise there is a risk of increase of illegal migration and employment.
- ◇ The efforts should be oriented on legal recruitment of labour force by Ukraine and Romania as destination countries.

Refugee and asylum

- ◇ The area of asylum provision has displayed a significant progress in the region during the last years. At the same time, asylum seekers and refugees have to be guaranteed with full respect of their rights and adequate life standards along with full support into integration in host societies. Adequate, accessible minimum support (starting with translation and basic needs) should be offered.
- ◇ There is a burning need to enforce the development of social programs for refugees and asylum seekers that would aim at a real access to social and health assistance, education, working places etc. The exchange of experience in this domain and cooperation between three countries would be mutually beneficial. This is a topic that NGOs should involve more in, working as practically oriented as possible. It seems that it is more a matter of concern for various international organisations' branches than a real effort of local NGOs (potentially because of insufficient resources).

Cooperating within a wider regional framework

- ◇ We need to consolidate cooperation and formation of common strategies for regional approach on managing migration within the favourable framework offered by EU via the trans-frontier cooperation – “Black Sea Synergy – A New Initiative of Regional Cooperation”. The European Union contributes with funds to the consolidation of trans-frontier cooperation which would be accessed. Romania, Republic of Moldova and Ukraine will be provided, during the period 2007–2013, with an amount of 126 million Euros for consolidation of this trans-frontier cooperation.
- ◇ It is necessary to explore possibilities for a joint trilateral cooperation on enforcement and future participation in a Cooperation Platform on Migration in the Black Sea region, which establishment was endorsed in the Conclusions on the Global Approach to Migration adopted by the European Council in June 2007.
- ◇ Possibilities for increasing Moldova-Romania cooperation and Moldova-Ukraine cooperation in regard to implementation of the Moldova–EU Mobility Partnership signed on June 2008 should be explored. This agreement allows a stronger collaboration between Moldova and Romania as a neighbouring country and EU member, while Moldovan experience could be useful for consolidation of Ukraine–EU cooperation in the area of migration and mobility.

Government-NGO cooperation

- ◇ There is an urgent need to establish mechanisms of sustainable communication and consultation between non-governmental organizations and governments in all three countries in the area of migration.
- ◇ NGOs’ involvement in monitoring and informing the governmental institutions regarding implementation of migration policies, particularly implementation of intergovernmental agreements and programmes between three countries, should be increased. There is an experience of implementation of programmes and provision of services to migrants realised and promoted by NGOs that have been gradually taken over by the governmental institutions. Being identified by the NGOs, areas of actions can be further used as a launch point for interstate cooperation.

NGO-NGO cooperation

- ◇ Cooperation between third sectors in three countries in such areas as public informing on illegal migration risks, human trafficking and other problems combined with migration; participation in the EU-driven programmes and access to the EU funds for realisation cross-border migration projects, should be enhanced.
- ◇ The exchange of experience and best practices between NGOs dealing with migration issues in three countries; to take over and adapt successful projects implemented in one of the countries; to develop common projects aimed at diaspora communities in one of three countries should be implemented. The governmental bodies should be involved in some stages of such cross-border projects as studies, research, and debate.
- ◇ To channel opportunities for civil society cooperation in the wider Black Sea region is needed. In this context, the Forum of Non-governmental Organizations from Black Sea region which took place on 31st October 2008 can serve as a platform for cooperation between NGOs dealing with migration issues in the region.

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ANNEX 1.

ROMANIA'S NATIONAL STRATEGY ON IMMIGRATION FOR 2007–2010

Decision no. 1.122 from 18th of September 2007
approving the National Strategy on Immigration for 2007-2010
(unofficial translation)

Issuing entity: Government

Published in: Official Gazette no. 674 from the 3rd of October 2007

Pursuant to art. 108 from the Constitution of Romania, republished, the Government of Romania hereby adopts this decision.

ART. 1

The National Strategy on Immigration for 2007–2010, provided for in annex no. 1, is hereby approved.

ART. 2

The Action Plan for 2007 regarding the implementation of the National Strategy on Immigration for 2007-2010, provided for in annex no. 2, is hereby approved.

ART. 3

The funds required to fulfill the objectives from the Action Plan for 2007 regarding the implementation of the National Strategy on Immigration for 2007-2010 shall be planned by each institution in charge with meeting the objectives, from their own budgets, according to priorities, available resources and staging, between 2007 and 2010.

ART. 4

Annexes no. 1 and 2 are an integral part of this decision.

ART. 5

On the date when this decision enters into force, the Government Decision no. 616/2004 on approving the National Strategy on Immigration, published in the Official Gazette of Romania, Part I, no. 406 from the 6th of May 2004, shall be revoked.

Prime-Minister Călin Popescu-Tăriceanu

Countersignatures:

for the Minister of Interior and Administrative Reform,
Paul Victor Dobre, State Secretary

for the Minister of Labor, Family and Equal Opportunities,
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Minister of Education, Research and Youth,
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The National Strategy on immigration for 2007–2010

(unofficial translation)

Migration is a process that must be managed, and not a problem to be solved

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 - 2.2. preventing and combating illegal immigration
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1. Background

The process of negotiating Romania's accession to the European Union required a sustained and continuous effort from the governmental institutions in order to reach a legislative and institutional compatibility with the member states. Given this background, the Government of Romania paid a special attention to the immigration issue, as an important part in the chapter of justice and internal affairs, even more so as on the accession date, our country became a member state at the outer Eastern border of the European Union.

The legislative reform regarding the status of aliens and the asylum in our country required the adoption of normative acts to provide for the compliance with the community legislation and other international legal instruments to which the Romanian state adhered. Applying a modern legislative framework called for a reform of the relevant institutions in the field, thus providing the instruments needed for the implementation of an efficient management of the immigration phenomenon on Romania's territory.

The progress is obvious and recognized by the European institutions which supported the Romanian authorities throughout the whole process with projects that provided a high expertise from similar institutions of the member states, supplemented by strong financial support for investments in this field. Projects like the Visa Online System, the Information System for Management of Aliens, the EU-RODAC System, securing of frontiers, building or rehabilitating accommodation centers for illegally staying aliens or refugees would have been more difficult to implement without the significant support from the European Union.

In order to establish a unitary outline of the immigration management nationwide, the National Strategy on Migration and an inter-institutional mechanism for its implementation were adopted in 2004, which brought to the same table, for the first time, the discussions between all institutions dealing with migration. The strategy was implemented based on annual action plans that ensured the fulfillment of certain objectives by a coordinated effort of the institutions active in the field of controlled migration, prevention and combating of illegal migration, asylum, social integration and the voluntary return/repatriation of illegally staying aliens.

However, immigration is a complex and dynamic phenomenon, influenced by many push, as well as pull factors. Therefore, the relevant national policy must be constantly updated to include the new developments at regional and international level.

The statute gained by Romania upon accession to the European Union and the economic development predicted for our country in the post-accession period will certainly influence the existing migration flows, gradually transforming Romania into a destination of choice for the immigrants. This should not be perceived as a negative aspect. Migration can contribute significantly to the cultural exchange, the economic development and progress of the Romanian society, while also bringing benefits to the counties of origin and the families of the immigrants. Therefore, migration must be seen as a process to be managed and not as a problem to be solved.

In this respect, the main objective of the Romanian authorities for the period immediately following the accession shall be to maximize the positive effects and mitigate the negative effects of migration for our country and, implicitly, for the Romanian citizens.

The responsibility of the Romanian state is thus to clearly decide on the categories of immigrants that can be accepted and can settle on our national territory, in line with the national interests, but also in close correlation with the program policies and documents⁴⁴ adopted in the European Union, as well as the observance of the immigrants' rights. The Romanian state must equally take measures to prevent and combat illegal immigration and send away from the national territory the immigrants who no longer meet the legal conditions for staying.

The Government of Romania is not the only one that needs to prepare for the new situation, but the whole Romanian society as well. The awareness of the immigration phenomenon – namely its risks and benefits – must be achieved through a continuous coverage in the media and education for the population. The Romanian citizens, as tax payers, must be first informed, thus observing the transparency of the decision-making process. This strategy allows the Government to identify the opportunity and the population segment to be targeted.

According to the most recent demographic forecasts and like most European Union member states, Romania shall face the population ageing and decreasing process, so the estimations for 2050 indicate that the population of Romania shall reach 16 million inhabitants. Immigration as such is not a solution to limit this phenomenon, but it can be part of a set of measures that can improve the situation.

44 52005XG0303(01) The Hague Program. Strengthening the freedom, security and justice in the European Union – Official Journal C 053, 03/03/2005 p. 0001-0014; 52005XG0812(01) The Action Plan of the European Union Council and the European Commission to implement the Hague Program for strengthening the freedom, security and justice in the European Union – Official Journal C 198, 12/08/2005 p. 0001-0022;

52005DC0669 Communication from the Commission – Action Plan on Legal Migration [SEC(2005)1680];

52005IP0235 Resolution of the European Parliament on the connections between legal/illegal migration and integration of immigrants [2004/2137(INI)] OJ C 124E, 15.5.2006, p. 535-542;

52005DC0621 Communication of the Commission and the European Council and Parliament – Priority Actions to meet the challenges posed by migration – COM/2005/0621 final;

COM (2005) 123 – Solidarity and Management of Migration Flows General Program for 2007-2013.

This is why a special attention must be given to the quality of immigrants admitted and to the measures for their cultural and social integration.

The recent developments indicate a shortage of domestic labor force in certain areas of the country and in certain fields, therefore solutions for hiring immigrant workers from third countries have been already considered. This is only an example of the fact that Romania's position, as a country of destination, begins to shape up, and this can be amplified by the need of a labor market that supports Romania's economic development in the future.

In terms of the applicable legal regime, a complete change shall take place for the citizens of the European Union and their family members who, after Romania's accession to the European Union, enjoy the right to free movement and residence, set by the Treaty establishing the European Community, as one of the 4 fundamental rights related to the European citizenship in a space of freedom, security and justice on the territory of the member states. The Romanian authorities should provide the proper framework for using this right on the national territory.

In order to control the immigration in its entirety and to maximize the advantages it can offer, the field of social work shall require a significant development. In this respect, this strategy has the role of incentive and coordinator for the process of integration in the Romanian society both of aliens who come to Romania willingly and of individuals who enjoy the protection of the Romanian state, being forced to take refuge because of various regional and international conflicts.

Not least, in order to get maximum benefits from managing the immigration phenomenon, the Romanian authorities shall pay a special attention to correlating it with the migration of Romanian citizens, so as immigration fills in the potential gaps on the labor market from Romania, especially the shortage of highly skilled personnel.

This strategy focuses on a 4-year period (2007-2010) and represents the next step Romania is taking in its efforts to upgrade the process of managing immigration on the national territory and the plan is to set the objectives at national level in a simple and direct manner for a better approach of this phenomenon, to serve the interests of the Romanian society. During this time horizon, the Romanian authorities shall set and coordinate concrete actions and measures in the field of immigration, in accordance with the guidelines set by this strategy.

This strategy shall represent both a communication environment whereby institutions become aware of the new measures and provisions adopted by the other group members, and an interaction environment, each member participating with observations and suggestions to identifying the best solutions. The level of interaction is given by the input to implementing the measures from the plan, which are the responsibility of several member institutions, without being limited to them.

In order to meet the objectives from this strategy, Romania is considering the approximation of the national legislation to the European Union's policies in this field, including the provisions of "Solidarity and Management of Migration Flows General Program for 2007-2013", constantly seeking to observe the fundamental rights of each individual, as well as to prevent and combat illegal immigration in the community space that our country is part of, starting with the 1st of January 2007.

2. Government of Romania's objectives in the field of immigration for 2007-2010

Romania's strategy on immigration establishes the action lines for the Government for the period immediately following the accession of our country to the European Union with regard to controlled immigration, prevention and combating illegal immigration, asylum, social integration of aliens and correlating all these aspects with the migration of Romanian citizens. The areas covered in this strategy provide a general framework for setting the actions taken by the Romanian authorities in managing immigration, in order to gain benefits and mitigate its negative effects.

2.1. Controlled immigration

The Government of Romania promotes the freedom of movement for individuals and the legal immigration in the purposes provided for by the national legislation on the aliens status. Between 2007-2010 a special attention shall be given to the optimization of the legal and procedural framework with a view to exercising the right to freedom of movement and residence of the European Union citizens and their family members on the national territory, as well as to facilitating the admission of citizens from third countries with the purpose of working, in accordance with the relevant policy, to conduct trading activities or to study, including by ensuring their right to reunite their family.

The measures taken by the Romanian authorities in order to manage the flows of legal immigrants shall be fully coordinated with the Hague Program "Strengthening the freedom, security and justice", aimed at a balanced approach on the management of migration by drafting a joint policy on the legal migration within the European Union with regard to the admission procedures and criteria, providing a safe legal framework and a set of guaranteed rights for the immigrants to support their integration in the society. A special focus shall be placed on applying the future community measures at national level, based on the Action Plan on Legal Migration, drafted by the European Commission.

2.1.1.1. Providing the administrative framework required to exercise the right to free movement and residence for the citizens of the European Union member states

A major objective of the Romanian authorities is to guarantee the fundamental right of the European Union citizens to free movement and residence on the national territory in similar conditions as own citizens freely moving and changing their residence on the territory of Romania, in accordance with the principles of the community law. Thus, legislative and institutional measures shall be implemented in order to adapt the existing framework and thus create the appropriate conditions so that the member states nationals can exercise this right, according to the changes that might occur at European level.

2.1.1.2. Fostering the admission of third country nationals for the purpose of working, according to the needs identified on the domestic labor market

The Government of Romania, based on the annual assessments, shall set the number of third country national to be admitted for work purposes. The quotas of admission for work purposes shall be set based on a review conducted for various fields of activity in order to identify a potential shortage of domestic labor force. The competent authorities shall support the employers through information

campaigns on how to hire legal immigrants and by setting selection procedures for temporary immigrants on the labor market. The competent authorities shall also prepare programs intended to prevent and combat illegal immigration and shall take measures to monitor the aliens that have access on the labor market in accordance with the legislation in the field. The negotiations with the representatives of third country governments aimed at concluding bilateral agreements on labor force immigration and on social security shall also be considered.

2.1.3. Fostering the admission of certain categories of aliens to conduct trading activities

Considering the impact it might have on the national economy, immigration for the purpose of conducting trading activities shall represent an important point on the working agenda of the Romanian authorities in the post-accession period. Thus, based on the analysis conducted and on the proposals submitted by the competent authorities, the categories of aliens with a major potential in making investments and creating jobs on the territory of Romania shall be granted facilities for admission. In this respect, Romania's diplomatic missions shall run information campaigns for the immigrants in their countries of origin.

2.1.4. Fostering an efficient selection system for the admission in Romania for studies

With regard to the admission for studies, a special focus shall be placed on setting objective criteria for admission of third country nationals for this purpose, so as their level of education recommends them for a potential extension of their stay after completing the studies, for the benefit of the Romanian society. Therefore, the evaluation criteria to be set shall also be used by Romania's diplomatic missions in selecting the aliens who request admission for studies.

2.1.5. Designing, developing and managing efficient information systems to manage the immigration on the national territory

For an efficient management of the flows of legal immigrants and in order to create the instruments needed for a good evaluation and forecasting of this phenomenon, the Government of Romania shall support the development and administration of efficient information systems, as well as their inter-connection nationwide, having the National System for visas, migration and asylum as core element.

2.2. Preventing and combating illegal immigration

Given Romania's gradual transformation into a country of destination for immigrants, the Government intends to lower the share of the illegal factor in the migration phenomenon by preventing the migration of the categories of persons who do not meet the conditions required by the law, as well as by combating the illegal stay, working on the black labor market and the trafficking of immigrants. In order to achieve the planned objectives, Romania shall adhere to the relevant European Union policies and demonstrate solidarity and a fair division of responsibilities with the member states, including with regard to the financial implications resulting from the implementation of joint actions.

2.2.1. Efficient information of potential immigrants on the legal methods of admission and on the measures taken by the Romanian state for combating illegal immigration

A fundamental role in limiting illegal immigration, as a negative effect of immigration on the national territory, shall be played by the prevention actions conducted by the Romanian authorities through the most efficient information means for the immigrants from their countries of origin. These actions shall be aimed at an accurate and complete information of potential immigrants on the national law regarding the conditions of admission and stay in Romania, as well as on the risks to be taken in case of violating these provisions: various forms of exploiting the immigrants, detection, public custody, return to their country of origin, setting an interdiction to enter Romania and, implicitly, the territory of other member states.

2.2.2. Deepening the cooperation of the Romanian authorities for combating illegal immigration and work on the black labor market

In order to enhance the efficiency in combating illegal immigration and stay, the competent authorities shall strengthen the cooperation nationwide, especially by enhancing it in the territorial structures of the institutions that get into direct contact with the target-groups. These actions shall be backed by sustained information campaigns for the immigrants on the national territory with regard to the procedures applied by the authorities in the case of persons in illegal situations, as well as interinstitutional information and specialization for the personnel trained in this field.

2.2.3. Intensifying the measures to send away the aliens who entered the Romanian territory illegally or who entered legally, but their stay became illegal

The Romanian authorities shall conduct actions that are strictly compliant with the European Union standards in the field of returns, based on best practices with regard to the voluntary or forced return of individuals in illegal situations, while observing the fundamental human rights and human dignity. Thus, the actions shall consider the particularities of vulnerable persons, such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parent with minor/minors and individuals subject to torture, kidnapping or other serious forms of physical, psychological or sexual abuse.

A special focus shall be placed on cooperation with the European Union member states regarding the return, especially by Romania's participation in operating joint flights.

Also, in collaboration with international organizations active in this field, as well as with relevant non-governmental organizations, joint programs on identifying concrete ways of supporting illegally staying aliens for their return in the countries of origin, including the financial resources required in this respect, shall be drafted and implemented.

2.2.4. Preparation for Romania's accession to the Schengen Space

The Romanian authorities shall conduct all necessary actions in the field of policies on visas, migration, asylum, frontier control and police cooperation in order to prepare Romania for the accession to the Schengen space, especially the actions aimed at creating the appropriate institutional and legislative framework, as well as the technical facilities for interconnecting to the Schengen Information System.

2.2.5. Strengthening the cooperation of Romanian authorities with similar institutions from the European Union member states, as well as from the countries of origin or transit

The institutions of the Romanian state shall conduct all actions necessary for the cooperation with the European Union member states in terms of combating illegal immigration, with a special accent on the exchange of information with similar authorities from their territory. This activity shall be supplemented by the cooperation with the existing agencies and institutions at national and European level, in the field of immigration.

The Government of Romania shall make the efforts to intensify the cooperation with the authorities from the countries of origin or transit in order to prevent and combat illegal immigration, especially with those countries that have a high potential of migration to Romania. In this context, the opportunity of appointing liaison officers specialized in migration and of attachés on employment and social security issues in Romania's diplomatic missions from these countries shall be considered.

2.3. Asylum

2.3.1. Providing free access to the asylum procedure and the observance of the non-return principle, in accordance with the international standards undertaken by Romania through the treaties and conventions to which it is a signatory party

A special attention shall be given in the near future to the conditions of accessing the asylum procedure, taking into account the changing of the migration flows which have recently gained a clear mixed character. Thus, the focus shall be on minimizing as much as possible the number of cases of individuals who, although illegally staying on the Romanian territory, are in real need of international protection and their status must be urgently regulated. The immediate regulation of the status of these persons is very important, bringing an essential contribution to maintaining a low crime rate, while having a double protective effect – protection of the person and of the host society.

Thus, a careful interviewing of asylum seekers by specialized personnel, with a long experience and access to detailed information about the conditions in the countries of origin of the asylum seekers, as well as a settlement of the asylum request in the legal stage by fully qualified judges are vital.

2.3.2. Developing the asylum system based on criteria of efficiency and quality of procedures and adapting the relevant policies and practices to prevent, deter and sanction abuses to the asylum procedure

Maintaining a balance between full observance of the asylum seekers' right and preserving the quality of decisions to provide for a settlement of the asylum requests within reasonable deadlines shall be a priority in the near future. On short and medium term, a special attention shall be given to ensuring the institutional capacity and the necessary logistics as a European Union member state, especially by participating in the Dublin II and EURODAC mechanisms, in developing the mechanisms for voluntary or forced return to the countries of origin, as well as other forms of cooperation within the European Union.

The accession of Romania and of the Republic of Bulgaria to the European Union added to the community space another two states that represent the outer Eastern border of the European Union. The next objective of the two states is the accession to the Schengen Agreement, for which efforts have already been made. This shall lead, on the one hand, to a more efficient securing of the outer borders of the European Union and fighting illegal immigration together, but will also make this region more attractive for people in need of international protection. The participation to the Dublin II mechanism upon the accession to the European Union shall immediately result in a higher number of requests for assistance, with repercussions on the return capacity as well. In its efforts for the accession to the European Union, the Government of Romania undertook the obligation to prepare Romania for the implementation of the Dublin mechanisms and its technical instrument EURODAC in the negotiation chapter 24 called "Justice and Internal Affairs", starting with the accession date. In this respect, the governmental efforts focus on the harmonization of the national legislation on the asylum issue, aliens and border control with the community provisions of the two European mechanisms, as well as on supporting institutional development to create the institutions needed to support these activities and to train the personnel, so as the accession date represents the starting point for these activities.

2.3.3. Securing and maintaining Romania's capacity to undertake the responsibilities and obligations as a European Union member state in the field of asylum

The Romanian authorities shall be actively involved in the mechanisms of task sharing among countries receiving asylum seekers and refugees, joining the international community's efforts to identify sustainable solutions for the situation of the refugees, including by the Agenda for Protection of the United Nations High Commissioner for Refugees. On short and medium term, a special attention shall be given to ensuring the institutional capacity and the logistics required as a European Union member state, especially by participating to the Dublin II and EURODAC mechanisms, as well as in other forms of cooperation within the European Union.

2.3.4. Undertaking an active role in the regional and international cooperation in the field of asylum and helping develop functional asylum systems in Eastern and South-Eastern Europe

Romania brings an active contribution to the development of the legislative and institutional framework and to the building of functional asylum systems in Eastern and South-Eastern Europe. The development of programs at regional level shall be envisaged, in the field of competency, in cooperation with the relevant authorities from the European Union member states and/or international bodies (the United National High Commissioner for Refugees and the International Organization for Migration), with regard to the states that shall next start the accession negotiations with the European Union (for instance, the Republic of Moldova, the former Yugoslavian countries).

2.3.5. Improving the reception conditions for asylum seekers and the investigation regarding the information from their countries of origin by identifying appropriate funding solutions from the European Fund for Refugees

Romania is a European Union member state beginning with January 1st 2007 and this membership allows it to apply for the European funds without any reservations. In this respect, the financial evaluation of the needs shall represent a constant duty, so that the designated authorities can provide the same conditions as in the other member states and unitary standards with regard to the reception of asylum seekers. The Romanian authorities have been informed about the multiannual planning guidelines set by the European Commission for the implementation of the European Fund for Refugees and the European Fund for Integration, and in this respect it shall conduct the necessary actions to submit the projects.

2.4. Social integration of aliens

2.4.1. Supporting the active involvement of aliens residing on the territory of the Romanian state or having their legal residence here, in the economic, social and cultural life, while respecting their cultural identity

All measures in the field aim at supporting the active involvement of aliens residing or having their residence on the territory of Romania in the country's social, economic and cultural life, thus contributing to the development of a relation between them and the Romanian society based on mutual trust and responsibility. The responsibility for coordinating the integration programs for refugees and other persons that were granted a form of protection stays with the Romanian Office for Immigration, as specialized structure, in charge with implementing the asylum policies of the Government of Romania, while the practical implementation of the integration program is conducted by this structure, in collaboration with the central authorities, local authorities and non-governmental organizations.

2.4.2. Making sure that the relevant categories of aliens make the necessary efforts to sufficiently integrate in the Romanian society, including by their participation in the programs organized by the Romanian state in this respect

A special attention is given to persons belonging to vulnerable persons groups (victims of persecution based on gender/sex, unaccompanied minors, victims of torture, disabled people, elderly etc). Admitting the fact that obtaining the Romanian citizenship may facilitate the aliens' integration process, the Romanian state ensures the access to the procedure of obtaining the Romanian citizenship to all aliens residing or having their residence on the territory of Romania.

2.4.3. Raising the awareness of all people involved in this field, civil servants at all levels, citizens, including foreigners, with regard to the importance of supporting the integration process and identifying the appropriate funding solutions for projects through the European Fund for Refugees and the European Fund for Integration, in order to improve the services provided to all categories of aliens

The civil servants, contractual personnel, as well as persons with management positions in healthcare, education, employment, control and social work, shall be appropriately trained to respect the linguistic, cultural, religious, physical and psychological differences of the persons undergoing an integration process by finding solutions to facilitate the education and training programs for these persons. In this respect, the aspects to be considered in the near future shall concern the improvement of services provided to aliens by the Romanian authorities, of counseling and information services regarding the statute of aliens in Romania, as well as the services of assistance in getting a job. Training programs and programs for identifying viable solutions for securing the rights of aliens shall be organized in this respect.

3. Implementing the National Strategy on Migration for 2007–2010

3.1. Institutional framework

The National Strategy on Immigration for 2007–2010 shall be implemented nationwide using the interinstitutional cooperation mechanism provided for in annex no. 1 at Government Decision no. 1.708/2004 approving the components and the structure of the Interinstitutional Cooperation Mechanism, as well as the Action Plan for 12 months regarding the implementation of the National Strategy on Immigration.

In order to perform specific tasks set in the annual action plans and in order to debate on issues that require public debates, the interministerial group for coordinating the implementation of the strategy, through the Technical Secretariat, may invite to its meetings representatives from other authorities, as well as representatives of the civil society or international immigration and asylum organizations. Also, if the items proposed on the agenda require it, representatives of the European Union institutions, as well as experts from the member states can be invited to the Group's meetings.

3.2 Action Plans

The concrete measures for implementing the objectives of this strategy are included in the action plans, prepared based on proposals from the institutions that are members in the interministerial group for coordinating the implementation of the strategy and approved by the government. The action plans set the concrete actions and the responsibilities of all ministries and institutions active in the field of immigration in order to achieve the objectives set by the National Strategy on Immigration for 2007-2010.

In order to perform the activities from the action plan, each institution with competencies in the area shall draft their own plans of measures, with details about the actions for which they are in charge in terms of implementation.

3.3. Financial resources

The financial resources required for the implementation of the National Strategy on Immigration come mainly from:

- ◇ funds from the state budget, earmarked to each ministry and each institution with competencies in implementing the National Strategy on Immigration for 2007-2010;
- ◇ funds established in the European Union for managing immigration at European level;
- ◇ external loans guaranteed by the Government of Romania;
- ◇ external loans that do not require governmental guarantees;
- ◇ donations and sponsorships offered/accepted in accordance with the law;
- ◇ other sources.

The annual action plans for implementing the National Strategy on Immigration for 2007–2010, prepared based on the sectoral plans, shall specify the funding sources required to meet each objective.

ANNEX 2.

ACTION PLAN FOR 2007 REGARDING THE IMPLEMENTATION OF THE NATIONAL STRATEGY ON IMMIGRATION FOR 2007–2010

(unofficial translation)

Objectives	Actions	Deadline	Responsible institutions	Funding sources
1. Enhance the interinstitutional coordination for an efficient management of legal migration	1.1. Amending the Emergency Government Ordinance no. 194/2002 on the status of aliens in Romania, approved with amendments and additions by Law no. 357/2003, republished, with subsequent amendments and additions, in order to approximate the national legislation on the status of aliens (transposing Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research) and Law no. 203/1999 on work permits, republished, with subsequent amendments and additions	Directive 2005/71/EC was transposed in the national legislation by amendment of Emergency Government Ordinance no. 194/2002 by the provisions of the Emergency Government Ordinance no. 55/2007 on setting up the Romanian Office for Immigration by reorganization of the Authority for Aliens and the National Office for Refugees, as well as the amendments and additions to certain normative acts. At the same time, Emergency Government Ordinance no. 56/2007 on employment and secondment of aliens on the territory of Romania was adopted	MIRA - ROI MMFES	
	1.2. Organizing an information campaign for potential immigrants from the main third countries producing migrants for Romania, with regard to opportunities on the Romanian labor market, the admission and stay conditions, as well as the risks they run in case of violating the legal framework	September 2007	MAE MIRA - ROI MMFES	MAE budget
	1.3. Establishing concretely, based on a protocol, the situations where granting a short stay visa for third-country nationals requires the endorsement of the Romanian Office for Immigration	30 days from the date of publication in the Official Gazette of Romania, Part I, of the draft amendment for Emergency Government Ordinance no. 194/2002	MAE - CNV MIRA - ROI	
	1.4. Organizing two consular reunions on geographic areas of interest in terms of admission	October 2007	MAE	MAE budget
	1.5. Organizing two seminars with the topic "Identifying difficulties in hiring foreign labor force and in exercising the aliens' right to stay and work on the territory of Romania", to be attended by representatives of the employers' associations and trade unions as well	September 2007 November 2007	MIRA - ROI MMFES MAE	MIRA budget
	1.6. Conducting a study on areas of activity from Romania with a personnel shortage and requiring foreign labor force, in order to correlate the admission policy	November 2007	MMFES - DPFM, ANOFM	

Objectives	Actions	Deadline	Responsible institutions	Funding sources
	1.7. Conducting an assessment on third countries that can be considered as sources for attracting labor force (the economic, political, cultural etc. aspects to be considered here)	October 2007	MAE, MMFES	
	1.8. Creating an inter-institutional working group to review the management of admission and stay for the purposes of work. Conducting bi-annual reviews and drafting proposals to improve the activity	September 2007	MIRA - ROI MAE MMFES - Labor Inspection	
	1.9. Setting up an interinstitutional working group to review the management of admission and stay for purposes of conducting trading activities. Conducting bi-annual reviews and drafting proposals to improve the activity	September 2007	MIRA - ROI MAE ARIS MMFES - IM ONRC ANAF	
	1.10. Setting up an interinstitutional working group to assess the management of admission and stay for the purposes of study. Conducting bi-annual reviews and drafting proposals to improve the activity	November 2007	MIRA - ROI MAE MECT	
	1.11. Quantifying the perception of aliens with regard to the services provided by the Romanian Office of Immigration by conducting an opinion poll nationwide, run by an independent institution for public opinion polls. The results of the poll shall be used to streamline the institution's activity in its relations with aliens.	October 2007	MIRA - ROI	MIRA budget
	1.12. Creating a virtual library to include samples of civil status documents used by aliens on the territory of Romania	November 2007	MIRA - ROI, INEP MAE - DGRC	MIRA budget
	1.13. Drafting proposals for the participation in the implementation of projects funded by the European Union with other states, where Romania can act as junior partner, in order to provide the expertise	November 2007	MIRA - ROI MMFES	
2. Strengthening the activities of preventing and combating illegal stay and black market labor	2.1. Organizing a seminar on "Improving the interinstitutional cooperation for preventing and combating illegal immigration" with the involvement of the competent authorities and international and non-governmental organizations active in this field	September 2007	MIRA - ROI	MIRA budget
	2.2. Organizing a seminar on assisted voluntary repatriation, with the participation of international and non-governmental organizations active in this field	September 2007	MIRA - ROI	MIRA budget
	2.3. Conducting a campaign to promote the legal provisions on the statute of aliens, their employment, the social security system, as well as the risks run by immigrants who do not comply with the legal provisions	October 2007	MIRA - ROI, MMFES	MIRA budget MMFES budget
	2.4. Identifying the solutions for providing translation into and from Romanian, in court, for illegally staying aliens and providing the funding sources to apply the identified solutions	November 2007	MIRA - ROI	MIRA budget
	2.5. Organizing a working group to debate on the issue of tolerating aliens on the territory of Romania (with the participation of international organizations and non-governmental organizations active in the field of migration)	September 2007	MIRA - ROI	MIRA budget
	2.6. Identifying, within a working group, a common solution to force the third-countries nationals to pay the fines applied on the territory of Romania. Drafting a joint report with proposals to implement the identified solutions	November 2007	MIRA - ROI IGPR, IGPF	
	2.7. Creating a working group to set the technical details required to access and use the funding available since 2008 through the European Fund for Return	September 2007	MIRA - ROI	

Objectives	Actions	Deadline	Responsible institutions	Funding sources
3. Maintaining the standards of the policy on asylum and implementing the provisions from the European acquis	3.1. Accessing the available funding through the European Fund for Refugees and the European Fund for Integration	November 2007	MIRA - ROI	
	3.2. Participating in projects funded by the European Commission with other states, as junior partner, to provide expertise	November 2007	MIRA - ROI	
	3.3. Continuing the process of approximating the national legislation by adopting the European Directive 2005/85/EC on the minimum standards on procedures in member states for granting and withdrawing refugee status	October 2007	MIRA - ROI	
	3.4. Creating the legal framework for the single standard of the residence permits for persons enjoying some form of protection	November 2007	MIRA - ROI	
	3.5. Concluding a bilateral administrative agreement with the Republic of Hungary to speed up the measures to apply according to the Dublin II mechanism	November 2007	MIRA - ROI	
	3.6. Concluding a bilateral administrative agreement with the Republic of Bulgaria to speed up the measures to apply according to the Dublin II mechanism	November 2007	MIRA - ROI	
	3.7. Drafting and editing at ROI a code of professional conduct in the relation with asylum seekers	November 2007	MIRA - ROI	
	3.8. Changing the principle format of the travel documents for all categories of asylum seekers, according to the standards for biometric identification	November 2007	MIRA - ROI	
4. Enhancing the level of coordination between institutions in charge with the social integration of aliens	4.1. Organizing bi-annual coordination meetings with the other institutions involved in the process of integrating the refugees conducted by the Ministry of Education, Research and Youth, Ministry of Labor, Family and Equal Opportunities, Ministry of Public Health, the National Authority for the Protection of Child's Rights etc.	November 2007	MIRA - ROI	
	4.2. Organizing training sessions for the personnel in the territorial centers for a smooth implementation of the legal provisions on facilitating the integration of aliens with a right to stay in Romania	November 2007	MIRA - ROI	
	4.3. Drafting a special methodology to recognize the pre-university studies for aliens under protection in Romania, who do not have supporting documents or do not comply with the current legal provisions in the field of recognizing and attesting the studies for aliens in Romania, for objective reasons	September 2007	MIRA - ROI MECT	
5. Developing the institutional, logistic and human resources capacity of the institutions in charge with managing the migration and asylum phenomenon	5.1. Setting up the National Office for Immigration, as a structure subordinated to MIRA, through a merger of the Authority for Aliens with the National Office for Refugees	Emergency Government Ordinance no. 55/2007 on setting up the Romanian Office for Immigration by reorganizing the Authority for Aliens and the National Office for Refugees, as well as by amendments and additions to certain normative acts	MIRA	MIRA budget

Objectives	Actions	Deadline	Responsible institutions	Funding sources
	5.2. Implementing the Government Decision no. 487/2005 on transferring a building owned by the state, from the administration of the Authority for State Assets Recovery under the administration of the Ministry of Administration and Interior, with subsequent amendments, to provide optimal conditions of operation for the National Visa Center from the Ministry of Foreign Affairs, together with the structure resulting from the merger of the Authority of Aliens with the National Office for Refugees	September 2007	AVAS MIRA - DML	MIRA budget
	5.3. Buying and integrating in the National System for Tracking Aliens an IT application for gathering and processing information obtained as a result of conducting informative activities, according to the internal norms in force	November 2007	MIRA - ROI	MIRA budget
	5.4. Buying IT equipment to replace the obsolete one operating in the Information System for the Management of Aliens	September 2007	MIRA - ROI	MIRA budget
	5.5. Buying IT equipment to replace the worn out one from the Division of regulating the admission and stay for the purposes of work	September 2007	MIRA - ROI	MIRA budget
	5.6. Increasing the capacity of human resources in charge with issuing certificates/ permits of stay for work. Participation in training courses and advanced training courses on migration of the labor force	November 2007	MIRA - ROI	MIRA budget
	5.7. On-line connection of ARIS and MECT to the Information System for the Management of Aliens	September 2007	MIRA - ROI	MIRA budget ARIS budget MECT budget

Abbreviations

MIRA	Ministry of Interior and Administrative Reform
ROI	Romanian Office for Immigration
MMFES	Ministry of Labor, Family and Equal Opportunities
MAE	Ministry of Foreign Affairs
DGRC	General Directorate of Consular Relations
MECT	Ministry of Education, Research and Youth
ARIS	Romanian Agency for Foreign Investments
IGPR	General Inspectorate of Romanian Police
IGPF	General Inspectorate of Frontier Police
CNV	National Visa Center
ANOFM	National Employment Agency
ONRC	National Office of Trade Registry
DPFM	Directorate for Labor Force Policies
ANPDC	National Authority for the Protection of Child's Rights
IM	Labor Inspectorate
ANAF	National Agency for Tax Administration