

Summer School Reader

“Building Training and Analytical Capacities on Migration in Moldova and Georgia (GOVAC)” project

Summer School, June 24 - 29, 2012

GOVAC Project Summer School Reader

A collection of research papers and/or summaries of research papers drafted by the participants of the GOVAC Project, Summer School in Georgia, June 24 – 29, 2012

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Foreword

As part of the innovative “Building Training and Analytical Capacities on Migration in Moldova and Georgia (GOVAC)” project, a Summer School was



organized in Georgia from 24 - 29 June 2012.

More than thirty students of law, economics, journalism, political sciences, social sciences and demographic studies from both Georgia and Moldova participated in this one-week programme, thereby looking at migration issues from a multi-disciplinary angle. GOVAC project experts from the USA, the Netherlands, Georgia and Moldova guided the academic event. International Centre for Migration Policy Development (ICMPD) experts played a pivotal role.

The Summer School provided research-oriented, interdisciplinary and pro-active academic lectures, presentations and discussions related to migration and asylum in general and the migration situation in Georgia and Moldova in particular.

In addition to receiving lectures from prominent academic experts on state of the art research in different migration areas, the participants also presented papers based on their own research. It

stimulated lively, in-depth debates, which were appreciated by all participants.

It was agreed that the interesting papers might be published in a GOVAC project Summer School Reader, as one of the project outcomes. Some of the students, as a result of the Summer School, will receive an unpaid internship of up to three months with a state institution that is involved in migration management in Georgia or Moldova. By helping to build bridges between government and academia for strategy, policy and implementation purposes, the GOVAC project has seen its purposes brought to life.

The internships, lectures, presentations and discussions will be a source for future use (teaching, research) at the respective universities. The excellent

interaction between students, professors and support, provided by ICMPD and the Danish Refugee Council (DRC), set the foundation for the success of the Summer School. The students hailed this Summer School as an event they thoroughly enjoyed and which should be repeated in the future.

This reader contains research papers submitted by students.

These published papers represent the views and conclusions made by their authors. It showcases the students' high level of interest in the field of migration.

Governments often draw on academia for policy choices in migration and strategy: How are demographics involved? What are the economic and social advantages and disadvantages of migratory flows? Is approximation the right path for migration management? Are the European directives written in stone and are meant to be copied word-by-word, idea-by-idea, concept-by-concept? How should the country's specific background be reflected in the EU's examples of best practices? Both, Georgia and Moldova - more than most other countries - know the impact of migratory movements out of very first-hand. What has been their experience and how can it offer an example for the EU?

This reader follows the structure of the Summer School, where each day was devoted to one or another aspect of migration: socio-political, economical,

legal and the role of media, civil society and other actors in migration processes. In this way, students were shown the importance of using a multi-disciplinary approach for migration management.

The “**Socio-Political Part**” of this Reader includes papers from Moldovan and Georgian teams on the impact of ‘being left behind’. Both papers deal with similar issues: i) the social price of emigration: children and elderly left behind (Moldova; Cristina Avram, Liudmila Muscinscaia, and Adriana Zbigli) and ii) migration from Georgia: families left behind (Tinatin Gvenetadze and Mariam Samkharadze). The authors pose the questions: Are the benefits of emigration higher than the social costs? Are social costs quantifiable? These are extremely important questions that need to be answered on both macro and micro level, as migration is about human beings and it has an impact on both migrants themselves and those who stay behind.

One more paper which is included in the Reader and which was presented and discussed during the day of Social and Political Sciences of the Summer School, looks at trafficking of human beings as a social phenomenon (Georgia, Lia Jalagania and Shalva Kenkebashvili). Migration involves many benefits but also risks. As always, advantages are mirrored in disadvantages. The risks entailed with cross border movements (i.e. trafficking in arms, narcotics or human beings) were already known a long time ago (mid 1800s) when first efforts were made to ban the trade in slaves and slavery as a whole. Yet modern migratory movements brought slavery back: trafficking could well be looked upon as a modern form of slavery. The authors of the paper examine this horrific practice in details and look at ways and means in putting an end to this.

The next chapter of the reader reflects on some topics, which were looked at during the “**Day of Economics**” of the Summer School. The spectre of topics covered during this day varied from demographic aspects to labour migration, from trade in services to the impact of remittances.

Migration management may well be linked to the question on how to handle the many challenges

stemming from the General Agreement on Trade in Services (GATS). Nino Parsadanishvili (Georgia) describes in her paper the way free trade regimes are linked to the movement of people. In particular, this is the case of the GATS, as it includes temporary migration for the sake of providing services and it differs as such from labour migration. However, not all four types of services enshrined within GATS result in migratory movements (cross border trade; consumption abroad; commercial presence; presence of natural persons). This concerns specific forms of trade and movements, which deserve special attention - also from the point of view of migration management.



It is often suggested that out-migration may have a negative impact on the economic development of a country, particularly if the highly-skilled emigrate. At the same time, in-migration is seen as offsetting these negative effects (although in-migration might involve the low-skilled rather than the high-skilled). Indeed, more efforts need to go into making a country attractive to foreign direct investment (FDI). This can be best attained by promoting and investing in education, by streamlining investment and administrative procedures, by agreeing on a strong monetary system and a strong, independent national bank, as well as by reviewing the social welfare system with payable pensions, an affordable retirement age and so on. Nevertheless, before agreeing on a migration policy and strategy (as well as a social welfare and pension strategy), governments need to obtain reliable information on demographic trends in order to embark on next steps. The paper on demographic challenges of Moldova for the next two decades (Moldova; Ana Formusatii and Anna Petrachi) deals with exactly this topic.

The impact of remittances, in particular on the education of children, is discussed in the paper prepared by the Moldovan team (Dorina Cirlig and Alina Zotea). The authors raise the following questions: Are remittances a blessing or a curse? How does it affect the relationship between public and private education? Will the state be tempted to transfer education to the private sector and what would the consequences be?

The “**Legal Part**” of this reader includes the paper prepared by Alexei Cresnirov on the issue of the state’s involvement in migration processes (Moldova). The work is dedicated not only to legal, but also to historical and socio-cultural issues. Additionally, the paper discusses the impact of migration on specific situation in the Republic of Moldova. This work is followed by the analysis of the reflection on the 1951 Refugee Convention in Moldovan legislation carried out by Mircea Gladchi representing the faculty of Law of the Moldova State University.

Another paper presented in the Legal Part of the Summer School deals with the evolution of the concept of citizenship in Moldova over the last two decades



(Moldova; Vlad Popa). The author examines the historical background of the country, current laws and other legal acts related to citizenship and also analyses legal gaps in this field.

Further, Tea Gvasalia’s paper (Georgia) touches upon the importance and relevance of migration management. Once a government of the country has decided to convince its population not to leave for “greener pastures”, it needs to present alternatives and

action plans to gain the local population’s trust so that their departure is cancelled or delayed. Similarly, once a decision is made to invite migrants from abroad, managerial aspects come to the fore. Migration management as well as effective procedures play a major role in matters relating to spontaneous arrival of migrants and/or asylum seekers: which institutions should be involved? Who decides on admission of forced or voluntary migrants? What are the relations between countries of destination, origin and transit? The above-mentioned paper gives some necessary insights into these issues.

The paper prepared by Constanta Vomirescu-Babin (Moldova) continues on the topic of migration management and analyses what duties and rights should be granted to foreigners admitted by a country. The author examines the legal acts of the Republic of Moldova and makes some proposals for possible changes.

The last paper in the legal chapter focuses on the principle of non-refoulement - a principle laid down in the 1951 Refugee Convention and other international instruments, and which is duly reflected in the various EU directives. Meanwhile, it has obtained the status of customary law. Maia Gabuldani and Nino Karchava (Georgia) describe the way in which the EU deals with this obligation. They pose the question in how far FRONTEX is equipped to abide to these obligations. One of the most important issues raised by the authors is the decreasing number of refugees in the EU in contrast to the actual increase in the number of refugees worldwide.

Finally, the “**Day of Media**” is represented in this Reader by the paper on media tools to raise awareness on relevance of migration for local development (Moldova; Victoria Puiu). The paper is of utmost relevance since the media shape global perceptions on migration and play a major role in providing necessary information that is free from political correctness, free from sentiments, straight forward and informative. The media are crucial in providing policy makers, the administration and academics alike with comprehensive and balanced

information that enable actors to take the right decision. And as so often: decision-making is central.

Another team of participants (Moldova, Mircea Mitrofan and Svetlana Tataru) prepared and even published a Migration Glossary containing over a hundred

migration-related definitions. A short overview of this publication is presented in this reader.

The list of participants, the agenda of the Summer School and some testimonials of participants are presented in the annexes.

The editors, August 2012

Chapter 1. Social and Political Sciences

1.1. Social Price of Emigration: Children and Elderly Left Behind,

Cristina Avram, Liudmila Muscinscaia, Adriana Zbigli

Faculty: International Relations, Political and Administrative Sciences

Moldova State University

Scientific coordinator: Valeriu Mosneaga

“Children are the FUTURE. Elderly people are the PAST.

***In order to live in the PRESENT we should protect our future and we have to respect
and cherish our past.”***

Introduction

Is migration good or not? This is the main question we asked ourselves at the beginning of this research. And also, what is the impact of migration on society? To answer these questions we propose to analyse the actual situation of migration and its causes. It will help us to examine the effects of migration and to give some recommendations.

The main **hypothesis** of this research is: *migration has a negative impact on children and elderly, who are left behind. It affects their state of mind and destroys the traditional model of a family.*

Methodological background: This scientific research applied different research methods used to examine the situation of migration in the Republic of Moldova and its impact on the children left behind as a consequence. We used the following methods:

1. Survey method: used for gathering descriptive information and quantitative data.
2. Contact methods: used to collect information by telephone and personal interviews.
3. Experimental method/ cause and effect method: a data-based research, through which conclusions can be verified with observations or experiments.
4. Comparative method, to see the difference between children left with one parent or without any parents.
5. Behavioral method: used to evaluate a problem with the help of behaviors of people that are involved in the investigation.
6. Observation: used for observing real people, to see how they act, to get to know them and their feelings.
7. Deduction, which helped to draw conclusions after all the information was gathered.

Main definitions used in the research paper:

Migration – the movement of a person or a group of persons from one region, country, or place for the purpose of settling somewhere else, especially in a foreign country.

Remittances – monies earned or acquired by non-nationals that are transferred back to their country of origin¹.

Family – a fundamental social group in society typically consisting of one or two parents and their children².

Children left behind – children who do not move themselves, but are left behind by one or both parents who have migrated.

Labour migration – movement of persons from one state to another, or within their own country of residence for the purpose of employment.

1. Causes of migration

Why do people migrate? It was difficult to answer this question because of the complexity of the migration process and its controversial aspects. In 1991, after the declaration of independence, the Republic of Moldova began to build a democratic society. The liberalization of border-crossings contributed to the inclusion of the country into global migration processes. The reasons for migration are very different: traditionally, people fled their countries to find a better living, but now migration is often associated with studies or labour.

First of all, it is necessary to mention the **economic reasons**. This reason for migration makes a difference in expected lifetime earnings which is a common motivation in economic models of migration. The Moldovan labour market is in a poor state and one can assume that

Irina, 35 years old: „I did not have the possibility to realize myself. I am a physician. When I graduated the University, my salary was 1,200 lei. It wasn't enough. So we decided to leave the country. My salary is higher now. I do not work in the specialty, but I can create good conditions of life for my 5 years old son.”

migration is a human capital investment, which allows migrants to use their skills and education more effectively.

According to various studies, the key reasons for emigration are low income, insufficient job offers and the deplorable situation in rural settlements. Most people want to go abroad to look for better career opportunities, to have a better living at lower costs, to earn money, build a house and to work. One of the specialists in migration problems states that the collapse of Moldova's economy after the

breakup of the Soviet Union is the root cause for its mass migration: "Immediately after gaining independence, Moldova found itself totally incapable of dealing with tens of thousands of workers made redundant as a result of the massive closing down of so-called 'all-union' factories, and that eventually led to a total disaster on Moldova's workforce. One also has to take into account Moldova's absolute agricultural profile³ ." The collapse of the Soviet Union negatively influenced the development of the new independent state. The first economic and social reforms were ineffective: an economic crisis began. The financial crisis of 1998 was very difficult: high inflation, unemployment increased, social services decreased, salaries were low - all this had a great impact on the growth of migration.

Sorin, 42 years old: „My wife was forced to leave because we had no way out of hardship. Now we live off what my wife sends. She's been abroad for almost three years. She came home last fall. Soon she'll come again for a short vacation and then leave again.”

¹ IOM Glossary on migration, http://publications.iom.int/bookstore/free/IML_1_EN.pdf

² Free Dictionary, <http://www.thefreedictionary.com/family>

³ Jana Costachi, Coordinator of the International Labour Organisation International Programme for Moldova, 2004, <http://www.rferl.org/content/article/1055583.html>

Emigrants are mainly “pushed” abroad by poverty, lack of employment opportunities, low wages and an unstable economy. All this has been further accentuated by globalization and the liberalization of procedures for exit and entry.

The second reason is **political instability**. The political problems in the 1990s were coupled with sustained economic crisis. The break-up of the USSR resulted in the loss of export

Maxim, 52 years old: “After armed conflict in Transnistria we immigrated in Canada with my wife and children. We were refugees.”

markets for intermediary goods that are used only as parts for the manufacturing of other goods, i.e., components of other items. Agricultural goods, both processed and unprocessed (especially wine), were exported. Salaries collapsed and jobs disappeared. The political crisis in 1998-2000 led to

immigration. Moreover, the armed conflict in Transnistria in 1992 also contributed to immigration.

Another reason for migration is **ethnicity**. Ethnic return migration, i.e. migration of people to their newly found titular nation, is different from migration for economic reasons because it motivates migration in different, even opposing directions by different ethnic groups. Ethnic migration takes place if individuals are willing to move in order to live in a society in which their ethnic group is represented in higher numbers. There are a number of reasons why people may have a preference for being surrounded by co-ethnics. Ethnic groups may have common norms, customs and a common language, which facilitates social life to a considerable degree. Ethnic migration is not as widespread in Moldova when compared to migration due to economic reasons. But it is important to mention that Gagauz, Romanian, Russian, Ukrainian and Bulgarian minorities live in Moldova. Also ethnic migration includes repatriation to the historical homeland.

Alexandr, 40 years old: “After the collapse of the Soviet Union, I moved back to Moscow, from where my family came.”

Not to miss are **psychological reasons** for migration. Psychologists say that a certain percentage of migration will always exist, because people are looking for better living conditions. Some of them think that another place is better. They will be happier and luckier there. Some of them cannot stay at one place. Psychologists call it the instinct of the tribe. Since the dawn of human evolution, humans have migrated across the continent for search of food, shelter, safety, and a hospitable climate.

2. General situation

Ana, teacher, 42 years old: “I left five years ago. I don't want to come back to school because the salary is miserable and the conditions are also miserable. You have no text books, no materials, nothing to work with. The children are like orphans here in our village, because both their parents have left. They live with cousins, with uncles, with grandparents, with neighbors, and a neighbor will not pay the necessary attention to the child.”

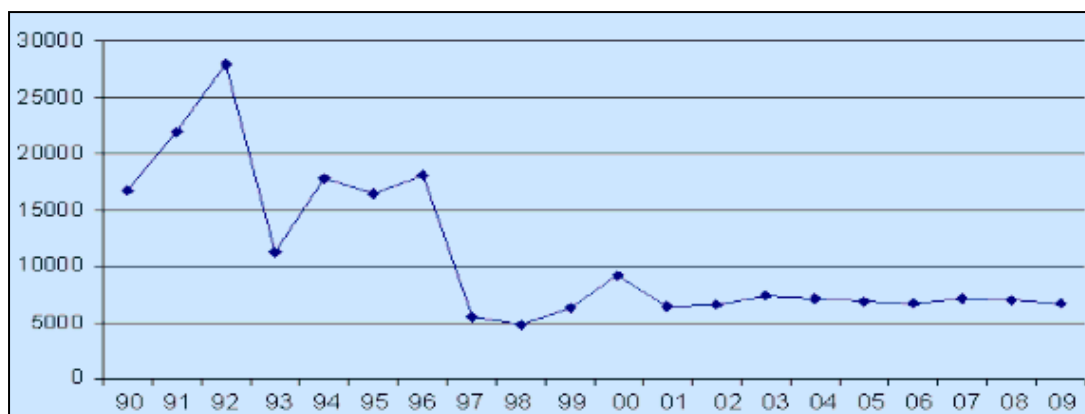
Moldova's transition to a market economy has created an economic situation in which unemployment and poverty fueled migration. The emigration of family members in search of work has become a normalcy for many Moldovans. In recent years this has increased greatly. It is being organized by whole industries that issue documents to go abroad to work and to transport persons and goods across borders. Migration is responsible for many negative economic and social consequences. Labour markets in Moldova have begun to take note of the lack of qualified staff. Families are disintegrating due to the absence of a spouse for a longer period of time.

The mass emigration of Moldovan citizens affects almost every segment of the population, including young and mature citizens, men and women, qualified professionals to beginning specialists, doctors, teachers and housewives. Their common goal for going abroad is to earn money

and search for a better life. Yet many end up sad and broken, unable to repay their debts and to find a better life.

Independence created a new context for migration based on constitutional rights that did not exist before in the Soviet Union. As mentioned, migration began in the Eighties for various reasons. Israel, Germany, Ukraine, USA, Russia, among other, were the main countries Moldovans migrated to as they were looking for better living conditions and to earn more money to help with the reintegration of families.

Figure 1. Level of emigration from Moldova, 1990 - 2009⁴



The level of emigration peaked in 1991-1992 because of the tensions in the country. Then, in 1993, emigration decreased. The 21st century saw some stability in migration flows. There were no “sharp jumps.” After 2000, it changed and 5,000 people per year started leaving the country. This chart confirms the causal link mentioned before: the bad economic situation, political crises and war, etc. The peak of emigration occurred when the country was struggling most with difficult situations. We see that emigration decreased during the years. It happened because the character of migration changed. At the beginning of independence, people were moving to other countries to live there permanently, now migration has become more labour-related. Migration in Moldova demonstrates some very distinct characteristics: rejuvenation and the feminization of migration flows, and a great number of migrants have higher and secondary education.

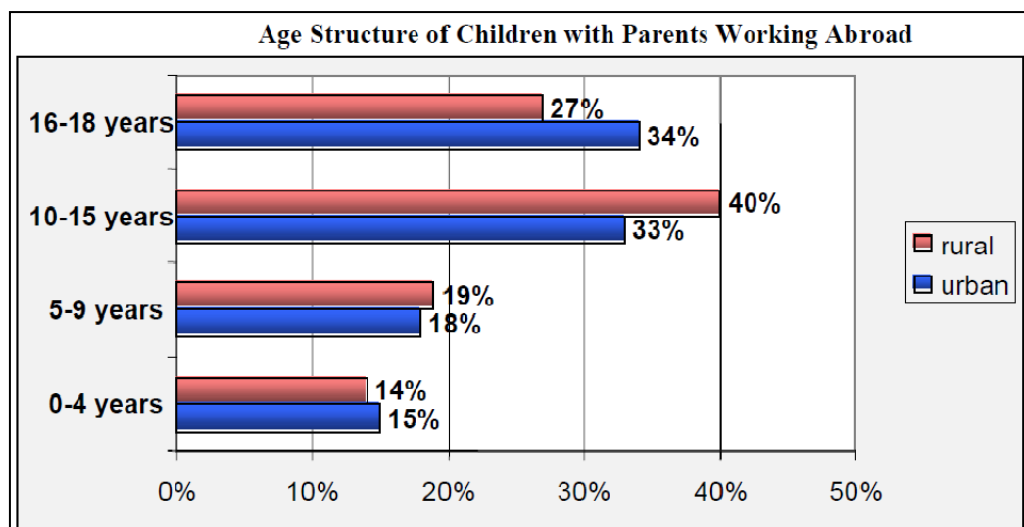
3. Migration and children left behind

Social and political developments at the beginning of the 1990s had an impact on the living standards of the population of Moldova. Unemployment, low salaries and delays in paying salaries resulted in people leaving the country to work abroad in order to improve their livelihoods. As a result, 273,000 people had migrated by 2004. According to the International Organization for Migration, there were 252,000 people working abroad and more than 1.5 million Moldovans living in households that were receiving remittances by 2006⁵. Remittances from abroad increased steadily from 1997 to 2005, and according to some estimates, they currently represent 30 percent of the gross domestic product (GDP) of the country. According to this study, the number of potential migrants in 2006 was 551,000, of whom 340,000 had worked abroad in the past two years and 211,000 intended to go abroad in the next 12 months. In all, 177,195 children had at least one parent working abroad, and 21,860 of them had both parents abroad. The majority of these children (80 percent) came from rural areas. According to the IOM study, the average age of those who work abroad is 35 years.

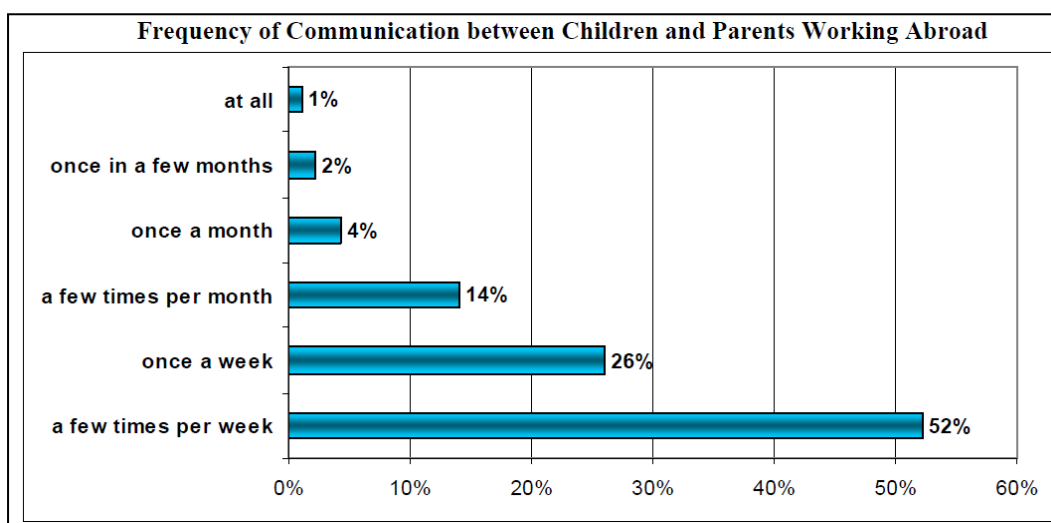
⁴ Moraru V., Mosneaga V., Rusnac G. Pendulum Migration. – Chisinau, the Institute of European Integration and Political Science of Academy of Science, 2012, p.9.

⁵ IOM, Remittances and Migration in the Republic of Moldova, 2006

The chart below illustrates the age structure of children with parents working abroad.⁶ It shows that there are a high number of children not only from rural but also from urban areas who have parents working abroad.



Parents leave their children as they grow-up. Parents justify it by explaining that their children already have the possibility to take care of themselves or that “they need more, but we cannot provide for our children”. Some of them do not understand that children feel abandoned and unwanted. Lack of attention, communication and care in adolescence can lead to psychological problems, insecurity, anger etc. The following chart shows that the majority of parents try to communicate with children a few times per week in order to support them, to know what they do and to save the link between parent and child.⁷

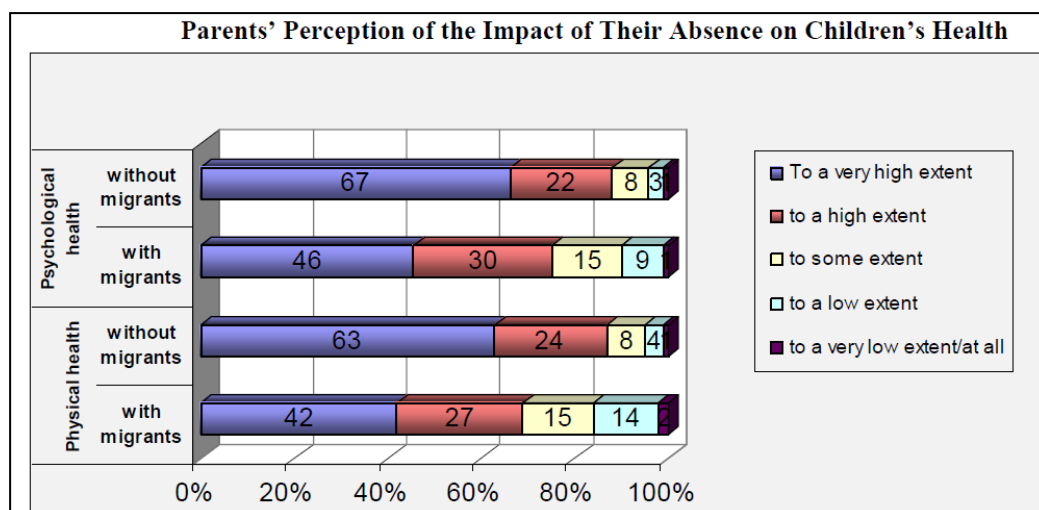


As mentioned, separation between parents and children impact their psychological and physical health. Children left behind feel that they differ from their classmates, which can result in disturbances in their development (see the following chart⁸; more details in section “4. Migration effects”).

⁶ UNICEF, The Impact Of Migration And Remittances On Communities, Families And Children In Moldova, 2008, p.4

⁷ Ibid

⁸ Ibid



As mentioned before, the economic instability in the aftermath of Moldova's independence led to an increase of poverty and unemployment that resulted in higher labour migration. The estimated number of Moldovan migrants varies from about 200,000-350,000 people, according to the official statistics, to about 500,000-600,000 people, according to some sociological surveys conducted by international organizations.

Labour migration from Moldova remained dynamic and intense in the last two decades, despite the fact that it peaked in 2007 and 2008. According to official statistics, about 314,000 people, nearly 10% of the population, or 25% of the economically active population, have migrated.

About 177,000 Moldovan children are affected by their parents' migration. In recent years, the number of children growing up without both parents has doubled and now represents about 30% of all children. It is useful and important to take into consideration children's views on their parents' migration. Some of them explain it by thinking that "she had to leave because we needed money", or it was necessary "to be able to save money so that I can get educated", "to have clothes, school supplies... to be able to pay the heating..." We think that all these are not the children's explanations but that they represent the ones from their parents, grandparents and teachers in order to give them some reassurance. Children accept these explanations and patiently wait for their parents to come back. In any case, all this seriously impacts children - but not just them. The elderly have similar feelings of abandonment but they can understand the situation better than children. Most of the elderly show support and understanding of their children's migration.

4. Migration effects

After answering the question why people migrate, we now need to ask ourselves the question what the impact may be on the children who were left behind?

The negative effects of migration on families who have remained in the country, especially on the most vulnerable members of the families, are extremely important issues to consider for a country like the Republic of Moldova. Massive labour migration has deprived a number of children and the elderly of proper care and attention.

"It was so hard for my mother to provide for us after my father's death. Then she left us in our grandparent's care and went abroad."

Migration has left psychological, social and economic scars on children and elderly deprived of their family members' care and carries with it consequences on the family, community and on society in general.

Children say that they do not feel like they have their moms beside them. Migration directly affects the development of children's personalities, the psychological and physical condition

of all family members and - not least - the family as a social institution. A parent's absence in the family deprives the child of attachments, affection, help, advice and leads to gaps in the formation of the child's self-identity, which is important for developing social contacts and social competences, etc. i.e. for the child's social integration. Lack of family attachment will further affect families as these children are deprived of parents' love and warmth. This will influence their own perceptions about family life as they will later take into account the way their parents fulfilled their duties.

Focusing on **psychological impact**, we propose a child's quote about his feelings:

"... you go home, but there's only loneliness there, you want to talk to somebody – but there is no one to talk to... You have to cook for yourself, if you have any domestic animals, you have to take care of them too and it is very difficult."

Migration has a strong impact on the attachment between children and their parents as well as on primary emotional processes that rule a family's life and the development of a child's personality. The psychological perspective of the emotional deprivation demonstrates that the lack of communication with the mother and the lack of emotional contacts have a direct impact not only on their physical development but that it may also cause certain disorders in physical and, first and foremost, in a child's emotional development. This is a leading cause for the development of negative behaviours in a person (fear, mental conditions and communication barriers). A range of specific needs for children are not met such as security, affection, and safety which explains the negative emotions experienced by children left alone as a result of migration. The absence of one parent or of both weakens the emotional link as the contact between them and their parents is rare or temporarily disrupted. The effects stemming from a lack of affection grows even more serious and irreversible with separations of long duration.

"It is so hard without my mother; when she's near things are different. It is good that I found out that there are people who can take care of us. There are good and bad people... My life, if compared to other children's life is determined by the presence of my mother and children's attitude depends on the presence of their parents. When children have their mom near, she can give them so much love."

Labour migration also impacts children who are left without parental care. They feel lonely and frustrated and perceive their parents' absence as a problem forcing them to grow up prematurely.

Unfortunately, at a given time, growing up prematurely can also turn into deviant behaviour.

Labour migration of parents creates an unfavourable situation for children as they are deprived of their relationship with adults through which they would be able to learn the art of affectivity. Emotional deprivation has a negative impact on children of parents who are labour migrants. This deprivation exposes itself through anxiety, guilt, mistrust around adults and the incapacity to establish constructive social relations, etc. Children with one or both of their parents absent live in discomfort caused by the incapacity to meet their security and emotional needs. In such cases a child cannot build on any emotional experiences to develop its personality harmoniously.

Some children feel happy at first because they are free from their parents' control but in the end, they understand the seriousness of the separation from their migrant parents. The fact that children are happy (because they got the opportunity to feel free) reveals their tendency to compensate for their frustration and internal conflicts caused by the separation. Living in a family environment constitutes the lion's share of the child's moral and spiritual development. These peculiarities are more obvious when speaking of institutionalized children. Unfavourable contacts with adults lead to the feeling of discomfort, danger and instability.

The self-image of children without parental care as a consequence of migration is linked to the social perception by other people. Children compare themselves to other people, establish a value system and adapt their social behaviour and character around it. Some

children perceive themselves as being in a more advantageous situation in comparison to other children whose parents are not abroad.

Children are frustrated not only because of the lack of affection from others but also because they are not able to give it back. This makes the situation worse because children become closed, angry, aggressive and inhibited.

“I would not wish for anybody else to have a life like mine. I am going crazy. I don't want to live, nobody cares about me, and I'm all alone.”

Another risk to consider for the psychological development of the child is the risk of sexual abuse because they are left without protection or supervision.

Economic effect is another contradictory side of this problem. Remittances may have a direct impact on decisions concerning the economic activity of children left behind. Remittances may replace the income otherwise obtained through child work, thereby reducing the need for economic activity of children regardless of the returns on education.

Migration and remittances may have different impacts depending on whether the child undertakes her or his activities outside or inside of the household. When a child is employed within the household, migration of an adult member may produce two distinct direct effects on the household demands for child work: first, it increases the marginal productivity of the child, who is required to substitute for the foregone adult labour; and secondly, remittances – besides having a beneficial effect on income – can influence the productivity of child work if the remittances are used to finance productive investments, such as the purchase of land or of productive equipment. Conversely, when children are employed outside of the household, migration of an adult member and the transfer of remittances do not directly influence their productivity. Therefore, expected and predominant effects on income through remittances can potentially contribute to the reduction of child labour.

On the other hand, a child grows into a consumer. She/he cannot see the way her/his parents made their money, so it leads to careless attitudes towards money, and to disrespect for the work of people.

When children remain unattended, their perspective in life changes, for example, their attitude **to education**. Here there are also two aspects: a positive and negative one. Some children who have been left behind even do not have access to education because nobody takes care nor controls them. As a result, there are 13-year-old children who cannot read and who can only write their name. The absence of parents has a negative impact on the moral and academic education of children. When analyzing the effects of their parents' departure, we can notice two types of changes in the children's school performances. The decline in their performance is linked with the lack of parental support and encouragement.

“It's difficult to stay home and study when you're alone and friends invite you, 'Come out!' And nobody is there to stop you from going. Why not?”

“My father used to make me read; now there is nobody to help me.”

On the other hand, improvement in performance at school is due to children's will to reward their parents' efforts or to meet their requirements.

Most children who were consulted mentioned that, after their parents' departure, their school performance decreased. They consider that children left without supervision are not able to manage their freedom, do not resist temptations such as entertainment and peer pressure and spend little time on homework.

„My parents went abroad to offer me a better future so I should be hardworking”.

Most adults think that children do not perform that well in school anymore after the parents have moved abroad. Children are less motivated to get good results and are convinced that education does not ensure a prosperous future.

It means that a child needs at least one parent so that the negative impact of migration will not be so high.

“Children's school efficiency diminishes in cases where both parents go abroad, but if the child stays with one parent his school success does not suffer any changes.”

In order to create a general image of this problem and to find a way to regulate this process we elaborated conclusions and some recommendations.

Conclusion

One Moldovan out of four is a migrant. One Moldovan child out of 4 is alone, with both parents working abroad. It is up for you to decide if migration is good or bad. Our research explains the causes (economic, political, psychological, and ethnic) and psychological, social and economic impact of migration on children with migrant family members. It does so by presenting its consequences on the family, community and society. Also, we provided an overview of the actual situation of migration in Republic of Moldova.

Children give following reasons to explain the migration of their family members: the intention to escape poverty, to improve the living conditions, the lack of employment opportunities, the impossibility to provide them with further education, etc. They do not really understand what



Lori, 6 years old⁹

migration is – they only feel the fact that their parents are not near them, and they will just have to accept their parents' decision. Migration leads to a decrease of interaction between children and their migrant parents. The migration process affects the integrity of migrant families, thus causing changes within the family (changes in status and role, lack of care, redefining family relationships etc.) and between generations. Money earned by migrants abroad contributes, in most cases, to the improvement of the family's financial situation but money cannot replace parents' affection and love.

As we mentioned, migration has a psychological cause, meaning that this process will always exist and that it is inevitable. Based on this fact, we offer following **recommendations**:

A large number of Moldovan labour migrants abroad encourage government authorities to take legal measures to reduce the negative effects of migration on children. A provision has been introduced stipulating that migrants should inform local authorities about their children who are left in the country and who are under guardianship. Still, some migrants are not acquainted with these legal provisions because most of the citizens of the Republic of Moldova go to work abroad illegally or without any employment contracts.

The adoption of The National Action Plan on the Protection of Children left without parental care for 2010-2011 includes actions to be taken by public authorities to reduce the negative consequences of migration. Still, at the local level, there was no change in the support for these children.

⁹ The researchers asked some children left behind in Moldova, who were identified during the research, to draw their family. Here and below are some pictures these children made.

In order to decrease the negative impact on children left behind we make some recommendations:

- To sign bilateral agreements on labour migration with key countries of destination in order to regulate the migration process and to allow migrants' free movement across borders. This will facilitate their communication with family members at home since they can visit them regularly without the risk of losing their job.
- To sign bilateral agreements on social security with key countries of destination for labour migration to guarantee social protection of migrants working abroad and to give them more opportunities to get a job legally.
- To encourage volunteering or extracurricular activities in schools (workshops, trainings, different interest clubs etc.) involving children who were left behind, in order to strengthen civic solidarity and to also facilitate social integration between them.
- To create job opportunities or to give social assistance to migrants who return home in order to reintegrate them in society.
- To offer grants or some facilities for migrants who return home and who want to invest money in business.
- To improve the legal framework on the obligatory appointment of a legal guardian for children who were left behind.
- To amend the legal framework with regard to the accountability of migrant parents from the perspective of fulfilling parental duties.
- The Ministry of Labour, Social Protection and Family should develop mechanisms for identification and evaluation of the situation of children without parental care, as the lack of concrete information about the number of these children represents a barrier in developing and implementing social policies.
- To open a hotline with national coverage to which children can call anonymously in order to receive advice and counseling on different issues, etc.
- To conduct awareness-raising campaigns on their rights in partnership with mass media organizations and representatives of civil society on issues related to children left behind, on existing social services and on the responsibilities of parents, communities and social institutions.
- To work out an action plan for the educational institutions to be able to keep record, supervise and conduct activities with children who were left behind as a consequence of migration.
- To keep a record of children and pupils without parental care as a result of migration within educational institutions and to supervise their situation at national and district level.
- To introduce the position of psychologist in all educational institutions to provide counseling & therapy and to assign them with clear responsibilities related to monitoring pupils' emotional condition.
- To ensure within educational institutions, opportunities for communication between parents and their children who were left behind as well as with teachers, so that they can stay informed about their children's' school performance. This will increase the degree of accountability of both children and parents and the level of supervision of children.



Nicoleta, 5 years old

- To ensure free education and free nutrition for children without parental care, and who have no financial aid from their parents.
- The Ministry of Health should develop mechanisms that will give family doctors the possibility to identify and supervise young children living without parental care or who are cared for by elder children.
- To conduct activities that will provide information on health, hygiene, nutrition and children's behaviour with health risk. Since many of these children are deprived of adults' permanent supervision, it is necessary to hold lectures and trainings in schools about the circumstances that pose a risk to their life and health, including first aid in case of emergency.



Irina, 4 years old

- The Local Public Administration should keep a record and evaluate the needs of children who were left behind, the living conditions of care-givers and their capacity to provide adequate and secure conditions necessary for a child's development.
 - To improve the activity of guardianship authorities in identifying, referring and assisting children left behind as a consequence of migration and to establish partnerships at the local level.
 - To expand the network of social assistance and psychological services in communities (professional parental care, family-type homes for children, etc.).
- To inform migrant parents and family members of their duties, and when parents intend to migrate abroad, to inform them on the necessity to place the child in temporary guardianship.
 - The social community assistants should establish an effective partnership with educational institutions, medical institutions and other community actors in order to prevent children left behind from experiencing difficulties.

Consequently, the most significant evidence of a policy gap is the lack of understanding about the importance of migration issue and the impact that it can have on the country's development. Policymakers should pay more attention and grant higher priority to children living without their parents and without any care. Children are particularly vulnerable to becoming poor and to being socially deprived as they are at risk of abuse, neglect and exploitation.

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1.2. Migration from Georgia: Families left behind (SUMMARY),

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This research looks at the well being of children who were left behind by migrant parents. For this research, we conducted in depth interviews to gather some statistical and analytical data. After looking through similar literature, we defined two main working hypotheses:

- Children who were left behind do not have realistic information about the working place and conditions of a migrant.
- A missing parent negatively affects the academic performance of children.

The first hypothesis was not confirmed. Research showed that most children of migrants were well aware of the exact type of job and conditions of their working parent when parents chose to inform their offspring correctly. The second hypothesis was partly confirmed because, according to the findings, children who were left behind at the age of 6 and older had lower academic performances than those children who were left behind at the age of 5 and younger. This result can be explained by the stress factor. Children, who realized that they had lost their mother, were depressed and even had some psychological problems, which in a way affected their academic performance. Conversely, children who were under the age of 5 when their parents left abroad did not really realize what had happened and went on by living with caretakers without a problem. They did not have any psychological pressure and, as a result, performed better in academia.

Beside the results from the working hypothesis, there are still a couple of things worth mentioning. The first one relates to communication issues. In some other countries communication gaps are a big issue, but this issue is very well addressed in Georgia. According to the respondents, emigrants talk to their families on a daily basis, even 2-3 times a day. To be noted is that the topic of the conversation is not only about good things, but also about problems, such as financial problems, family issues, difficulties working, etc. That way, they stay involved in each other's lives.

Another issue is consumerism and, unlike the communication issue it is very problematic in Georgia. Emigrated parents usually try to provide their children with expensive presents to compensate for their absence. After some time these presents begin to represent parent's love - such practices generate consumerism among the children.

The issue of education is also very important and should be mentioned. The importance of education is highlighted especially among children who were left behind. All parents explain to them that their education is one of the main reasons why they had to emigrate and to work abroad often facing hardship. Every respondent stated that their parents actively participated in their study process, some of them even through the help of Skype or other means of communication. They also keep in touch with school teachers on a regular basis and ask about their children's performance. Other than school education, parents usually pay for tutoring and extracurricular classes such as: dancing, singing, sports, playing musical instruments, studying foreign languages and so on. All this shows that there is a high level of investment in their children's education.

Gender is not problematic in Georgia as it is in some other countries. Some articles mentioned that young girls lose their childhood because they sometimes have to take over family and household chores. That is not an issue in Georgia. The main factor is that in Georgia there is always someone who takes over these responsibilities for children. As it turns out, most caretakers are grandparents who will usually ensure that the children get to enjoy their childhood to the fullest.

Probably the most crucial problem in Georgia is the issue of consumerism as indicated above. First of all, most of the money, other than education investments, is spent carelessly. Most families spend the money for everyday purposes and the bad thing is that they buy not only the things they need but also the things they want, such as a new iPhone, expensive brand clothes, etc. Second of all, research showed that not many were planning to return to Georgia anytime soon, but they will eventually return one day. The problem is that they usually do not think about what they are going to do after coming back. Most of them do not invest money in small businesses or start their own. Basically if it continues like that they will have to stay in their host country forever to support their families.

Emigrated parents usually try to provide their children with expensive presents to compensate for their absence. After some time these presents begin to represent parent's love - such practices generate consumerism among the children.

1.3. Trafficking in Human Beings as a Social Phenomenon, *Lia Jalagania, Shalva Kenkebashvili*

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“Trafficking is modern day slavery and it constitutes a serious problem in the contemporary world”.

Abstract

Migration and trafficking are important issues from both legal and social perspective. Trafficking is modern day slavery and constitutes a serious problem in the contemporary world. Trafficking in persons is one of the most heinous global problems concerning all countries in the world. It is inherently a very complex issue and therefore requires a holistic approach.

In our research, first of all, we will discuss the crime of trafficking: its nature, general content, objective and subjective sides of the crime and its social character. We will also examine the forms of trafficking and its origin. A separate chapter will address the issue of trafficking in Georgia: the situation in this field, the system of fighting against it, etc.

Another big topic of our research is the interaction and nexus between trafficking and migration. In this part, we will evaluate what kind of interaction exists between these two issues, what influences migration has on trafficking and *vice versa*, the migration incentive for trafficking etc. We will discuss the interaction between trafficking and different forms of migration, such as regular and irregular migration and the issue of irregular migrant workers. Particular attention will be paid to the nexus between trafficking and smuggling in migrants.

From the perspective of migration, it is also important to examine the relationship between Integrated Border Management (IBM) and trafficking, analysing IBM is a preventive factor for trafficking. The last topic of our research will evaluate this interaction and how integrated border management can reduce the risk of trafficking.

1. Trafficking in human beings as a social phenomenon

1.1. Introduction

Trafficking is a modern form of slavery widely regarded as a very serious challenge for the international community. Millions of men, women and children are victims of human trafficking for sexual, forced labour and other forms of exploitation worldwide. It has an

enormous impact on its victims, causing psychological and physical harm and trauma and increasing their chances of contracting grave diseases such as HIV/AIDS.

Human trafficking, after drug trafficking, is the second largest illicit business in the world generating as much as US\$40 million annually in proceeds of crime that are laundered through the legitimate financial system¹⁰. Even worse, it is a crime against humans as well as state security. As such, actions taken to prevent trafficking, prosecute traffickers and the protection of victims must be centred on individual human as opposed to solely state security¹¹. That is why effective measures are needed to eradicate the cause of this kind of crime and it should be aimed at discouraging potential offenders and in penalizing criminals. It must be recognized and punished by legislative means.

The number of people globally trafficked across international borders is between 600,000 and 800,000 per year¹². Trafficking in human beings is an extremely grave offence against any individual. The exploitation of the victim by taking away their liberties, freedom of movement and earning capacity as well as the way in which such powers are upheld result in serious violations of the victims' physical and mental integrity. Trafficking in persons is dynamic, adaptable, opportunistic, and like many other forms of criminal activity, it takes advantage of conflicts, humanitarian disasters and the vulnerability of people in situations of crisis. It is multidisciplinary and involves a wide range of actors.

Human trafficking, after drug trafficking, is the second largest illicit business in the world generating as much as US\$40 million annually in proceeds of crime that are laundered through the legitimate financial system.

Trafficking in persons is driven by gender inequality¹³, the absence of equal opportunity, corruption and vulnerability due to failing judicial and law enforcement systems, civil instability and the failure of states to protect and provide for their citizens. Poverty, unemployment, socio-cultural practices degrading women, increase in prostitution, lack of information, gender imbalances, and a high level of demand for cheap labour as well as sex workers put certain demographic groups at higher risks of being trafficked.

Trafficking in persons is a global problem that transcends national boundaries¹⁴. It is thus often a transnational crime, similar in nature to international drug and arms trafficking. It therefore requires transnational policies that engage for international cooperation through information exchange and mutual assistance.

1.2. Definition

Human trafficking is a process of recruiting people in the community and country of origin and to transport them to the destination where they are being exploited for purposes of forced labour, prostitution, domestic servitude, and other forms of exploitation. The definition of the crime of trafficking is provided in Article 3(a) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children¹⁵:

¹⁰ Available at: <http://www.duhaime.org/LegalDictionary/H/HumanTrafficking.aspx>

¹¹ UNODC, Combating Trafficking in Persons. A Handbook for Parliamentarians, Introduction, http://www.unodc.org/documents/human-trafficking/UN_Handbook_engl_core_low.pdf

¹² US Department of State, Trafficking report 2005, Introduction, <http://www.state.gov/j/tip/rls/tiprpt/2005/46606.htm>

¹³ UNODC, Combating Trafficking in Persons. A Handbook for Parliamentarians, Introduction, http://www.unodc.org/documents/human-trafficking/UN_Handbook_engl_core_low.pdf

¹⁴ Statement of the President of the General Assembly of the United Nations President of the 65th Session, <http://www.un.org/en/ga/president/65/statements/trafficking41010.shtml>

¹⁵ In 2000 The United Nations adopted *the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (Trafficking Protocol)* supplementing the United Nations

(a) 'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of the victim of trafficking in persons to the intended exploitation set forth in the subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harboring, or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth; and

(d) Child means any person under the age of 18.

The definition has been repeated in the same wording in the Council of Europe Convention on Action Against Trafficking in Human Beings and has been affirmed by many documents of the OSCE¹⁶. This internationally agreed upon definition reflects the complex nature of trafficking in human beings and can be broken down into three elements: act, means and purpose. Only a combination of these elements constitutes the crime of trafficking in human beings. All signatories are required to criminalize trafficking in human beings either through a single criminal offence or by combining several offences. Whichever legislative option is chosen, the definition serves as a minimum benchmark, rather than representing a maximum. Hence, the definition¹⁷ classifies the culpability as well as delineates a particular group of victims of crime, who are eligible to access comprehensive assistance and protection.

On the basis of the definition given in the Trafficking in Persons Protocol, it is evident that trafficking in persons has three constituent elements¹⁸:

The Act (What is done) - Recruitment, transportation, transfer, harbouring or receipt of persons.

The Means (How it is done) - Threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim.

The Purpose (Why it is done) - For the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.

For several years the focus has been on sexual exploitation rather than on forced labour and other forms of exploitation. Inadequate knowledge of this crime is often a consequence of failure to identify victims as such. Among those who are identified, adult women are most

Convention against Organized Crime (UNTOC). The Protocol entered into force on the 25th of December 2003. At the same time the *Protocol against the Smuggling of Migrants by Land, Air and Sea (Smuggling Protocol)*, supplementing the United Nations Convention against Trans-national Organized Crime was adopted. The two protocols are also known as the **Palermo Protocols**, after the city in which they were adopted. The Convention and the Protocols were negotiated at a series of eleven meetings of a special intergovernmental Ad-hoc Committee under the auspices of the UN Crime Commission, which were held in Vienna from January 1999 until October 2000 and more than 100 countries took part.

¹⁶ Organization for Security and Cooperation in Europe.

¹⁷ Available at: <http://legislationline.org/topics/subtopic/46/topic/14>

¹⁸ Available at: <http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

frequently reported to be trafficked, followed by children. The factors that make people vulnerable to trafficking and exploitation are complex and determined, in part, by the stage of trafficking. Often there are vulnerabilities related to the conditions in the country of origin. Also the transport itself makes people vulnerable, as they may not have proper documents or financial means and, therefore, depend on traffickers. The exploitation phase produces additional vulnerabilities, for example, when victims have irregular status in the country or are physically isolated. Far less information on offenders is available than on their victims. Traffickers can be involved in various functions – such as, recruiters, transporters or exploiters – and various activities during different stages of the trafficking process, including forging documents, corruption and the withholding of their victims' documents. Organized criminal groups can be heavily involved in human trafficking at different operational levels¹⁹.

The Palermo Protocols are framed around a central dichotomy between coerced and consensual irregular migrants. People who are trafficked are assumed not to have given their consent and are considered to be “victims or “survivors,” whereas people who are smuggled are considered to have willingly engaged in a criminal enterprise. There is also a gender dimension to these distinctions: those who are smuggled are mostly assumed to be men, whereas victims of trafficking are associated with the traditional targets of protective concern – women and children, which should affect protection schemes.

The protocols share several key features. Both require state parties to criminalize the relevant conduct of traffickers or smugglers, to establish and implement domestic law enforcement mechanisms, and to cooperate with other states to strengthen international prevention and punishment of these activities. Both stipulate that the migrants themselves should not be subject to criminal prosecution because of their irregular entry. Trafficking and smuggling are widely regarded as an issue of criminal justice. They affect territorial integrity because they involve the facilitation of crossing of borders and residing in a State in violation of national criminal and immigration laws. Trafficking and smuggling also undermine the rule of law and political foundation of States because traffickers and smugglers, such as organized criminal groups, resort to violence and corruption as a means to advance their business. The usual response at the national level has been crime and immigration control in order to prosecute and punish traffickers, smugglers and to reduce the flow of trafficked/smuggled people. But trafficking in human beings poses problems outside the scope of criminal law, and in fact, the Trafficking Protocol is based on what is occasionally referred to as the 4 Ps: Prevention, Protection, Prosecution, and Policy, which gives a very basic overview over the contents of provisions that the Protocol include. Protection of victims and prevention of trafficking are not only questions of criminal law and responsibilities but overlaps with many human rights concerns²⁰.

The legal reform on its own will not suffice to combat trafficking – policy reforms regarding poverty, migration, gender issues and involving civil society are all necessary in order to create a framework in which to combat trafficking²¹.

1.3. Trafficking and Georgia

In Georgia, awareness in society about trafficking used to be very low. There was little interest in knowing more about this crime and there was no fear that he or she can become a potential victim. That is why lack of information is one of the most problematic issues in the

¹⁹ UNODC, UN.GIFT, Human Trafficking: An Overview, Summary, <http://www.ungift.org/docs/ungift/pdf/knowledge/ebook.pdf>

²⁰ UNESCO, Kristina Touzenis, Trafficking in Human Beings: Human Rights and Trans-national criminal law, development in law and practices, p. 8-9, <http://unesdoc.unesco.org/images/0018/001883/188397e.pdf>

²¹ Ibid, p.14

fight against trafficking. According to the 2009-2010 National Plan²² on combating trafficking, the priority issue is raising public awareness by launching an information campaign, including the creation of video clips and TV and radio programs on that topic. In order to implement effective measures against trafficking, the issue must be regulated at the national level also, as at the global level. In the case of Georgia, the regulation and the definition of trafficking is given in Article 143¹ of Criminal Code of the republic of Georgia:

“The buying or selling or the making of other illicit transactions relating to a human being as well as recruitment, transfer, harbouring or receipt by means of coercion, blackmail or deception, for the purpose of exploitation.”

The Criminal code underlines that exploitation shall mean use of a human being for the purpose of engaging him or her into forced labour, criminal or anti-social activity or prostitution, sexual exploitation or other services, placing him or her under conditions of contemporary slavery as well as for transplanting or otherwise using his or her organ, part of organ or tissue. Placing a person under the conditions of contemporary slavery shall mean the deprivation of identification through documents, restriction of freedom of movement, restriction of communication with his/her family, including correspondence and telephone conversations, cultural isolation as well as forced labour in a situation where human dignity is not respected and/or without providing remuneration or adequate remuneration.²³

Of course only regulation of the national norm is not sufficient, the prevention of trafficking remains a very important task for the world community. Almost every country implements certain measures to eliminate this crime. Consequently, it is rather difficult to set national norms for the prevention of trafficking for every country. Countries are divided into three anti-trafficking activity baskets.²⁴ For six consecutive years the *Trafficking in Persons (TIP) Report*²⁵ has placed Georgia in the first basket, meaning that it has the highest ranking. It does not mean that the country does not have any problems with human trafficking, but rather, it indicates that its government addresses this problem and meets the minimum standards for the elimination of trafficking.

While over the past decade Georgia has mainly been described as “a source and transit country” of human trafficking in the annual TIP reports, last year’s report, which covered developments in 2010, stated that Georgia was “to a lesser extent” a destination country too. The new report describes Georgia as “a source, transit, and destination country.”²⁶ “Women and girls from Georgia are subject to sex trafficking within the country and also in Turkey and the United Arab Emirates,” the TIP Report 2012 states. “Women from Uzbekistan and possibly other countries are found to be working in forced prostitution in the commercial sex industry in Georgia.”

According to the report there were cases of men and women being subjected to forced labour within Georgia, and Georgians being subjected to forced labour in Russia, Turkey and some other countries. The report also says that, in recent years, there have been cases of foreign nationals being exploited in agriculture, construction and domestic service within

²² Approved by the President of Georgia under Decree No. 46 of 20 January 2009. It was built on three dimensions: a) trafficking prevention; b) protection of the victims of trafficking; c) criminal prosecution of persons committing the trafficking offence.

²³ Criminal Code of the Republic of Georgia (adopted on 22 July 1999, as amended 2003)

²⁴ The first basket consists of states where the governments fully comply with the Act on protection of the victims of trafficking, the second basket consists of the states where the governments do not comprehensively fulfil the standards but make significant steps towards it; countries of the third basket do not fulfil the standards, nor are willing to implement anti-trafficking measures.

²⁵ U.S. Department of State’s annual reports on Trafficking in Human Beings,

<http://www.state.gov/j/tip/rls/tiprpt/index.htm>

²⁶ U.S. Department of State’s annual report released on June 19, 2012. Available at:

<http://www.state.gov/j/tip/rls/tiprpt/2012/index.htm>

Georgia and that Turkish men have been subjected to forced labour in the occupied territory of Abkhazia.

According to the report Georgian authorities demonstrated “improvements in enforcing anti-trafficking law” through an increase in the number of investigated trafficking cases. 16 trafficking investigations involving 18 individuals were initiated in 2011, compared with 11 investigations of 18 individuals a year earlier. The report also says that five sex trafficking offenders were prosecuted and convicted in 2011, an increase from one offender convicted in 2010. The TIP Report 2012, however, also notes a decline in the identification of victims of

For six consecutive years the Trafficking in Persons (TIP) Report has placed Georgia in the first basket, meaning that it has the highest ranking. It does not mean that the country does not have any problems with human trafficking, but rather, it indicates that its government addresses this problem and meets the minimum standards for the elimination of trafficking.

trafficking as government’s efforts in this respect “were not effective” during the first half of 2011. 18 victims were identified, most of them in late 2011, compared to 19 a year earlier and 48 in 2009”. Country experts reported concerns with the low level of victim identification and overall lack of success in locating trafficking victims, including children in exploitative situations on the street, children in the sex trade, foreign women in the commercial sex sector, and Georgian and foreign workers in vulnerable labour sectors,” as stated in the report.

In fact, more men than women are trafficked from Georgia into Russia, primarily to work as migrant labourers. Turkey and Greece are also frequent

trafficking destinations for Georgian men. Greece is especially popular as a destination for Georgians seeking employment abroad because a relatively large population already lives there.

Essentially, human traffickers are simply obeying to the basic law of supply and demand. A demand in Turkey or Western Europe exists for prostitutes or cheap manual labour, which enterprising traffickers attempt to fill by luring victims with promises of legitimate employment.²⁷ These victims often use the services of a company that promises to obtain a visa for them to work in a foreign country from where visas would otherwise be difficult or impossible to obtain legally. Sometimes illegal business only involves procuring fraudulent visas, and the clients are on their own to actually find work once they arrive in the foreign country. For example, a person might pay a company to get them a visa to Greece. The person then gets into a bus towards Turkey or Russia and hopes that they arrive safely. More often, the businesses arrange for both visas and employment abroad. However, instead of being employed as an au pair or waitress - as promised - women are frequently forced into prostitution or slave labour in factories. Men are often paid much less than promised, and forced to toil long hours in poor working conditions. Both men and women frequently have their passports taken by their captors immediately upon arrival in the foreign country, making it difficult for them to escape.

Currently, the largest organization working to combat the problem of human trafficking in Georgia is the International Organisation for Migration (IOM).²⁸ The IOM in Georgia maintains and updates information as it becomes available regarding specific organizations offering customers visas and employment abroad. By interviewing people who have returned to Georgia about their experiences abroad, and by comparing their actual experiences with

²⁷ Social Development Notes. Conflict Crime and Violence. No. 122 / December 2009, p. 2. Available at:

http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1239390842422/6012763-1239905793229/Human_Trafficking.pdf

²⁸ International Organization for Migration-Georgia. See: www.iom.ge

what the employment organizations had promised, legitimate organizations can be distinguished from traffickers. However, organizations that are fronts for trafficking often change their names and addresses, making it more difficult to warn potential clients about such services. The IOM operates a hotline, which offers a variety of services to interested callers, including information about specific employment organizations, when available.²⁹

However, trafficking in persons, as a social phenomenon and crime, remains a reality that requires a substantial and continuous effort by international public bodies, but also by the entire society³⁰. Anti-trafficking measures should be undertaken more regularly. Information on the punishment of offenders should be disseminated in order to eliminate the syndrome of impunity in society. Victims of trafficking should become more confident and should know that if they cooperate with the relevant state agencies, they will be better protected and new measures will be implemented against offenders.

2. Interaction between trafficking and migration

2.1. General interaction

Migration and trafficking are separate but interrelated issues. Migration is a broad general concept and trafficking may be regarded as a sub-set or category of migration. Migration is a social issue with legal aspects; meanwhile trafficking has a social and even stronger legal character. Migration is a process of movement of people from one place to another (in case of international migration from one country to another) in order to take up employment, to establish residence or to change their place of residence for various reasons. It applies to various types of movements guided by diverse causes.

On the other hand, trafficking in persons - as a subset of migration - is a movement (either internally or internationally) of a person subjected to willful deceit, force, threat, debt bondage or other form of coercion involving exploitation and violation of human rights. Trafficking in persons therefore mostly results in abusive exploitation and human rights violations. By being in the hands of traffickers a person loses control of his/her fate and freedom and ends up in a "harmful" situation³¹.

2.2. Regular migration and trafficking

To determine the nexus between trafficking and migration it is important to find the similarities and to make a distinction between them. At first it is expedient to determine the interaction between regular migration and trafficking.

Regular migration is understood as migration that occurs through regular and legal channels. Regular migration and trafficking are two distinct but interrelated phenomena. The following differences between trafficking and migration are indicated in the related literature:

- **Exploitation, profit and illegality** are all central to the idea of trafficking in persons; however these issues are not the case for regular migration.
- Trafficked persons are **deceived or forced** (actual or by threat) **to move**, whereas regular migrants usually leave their place of residence on their own initiative and will.
- Trafficking is a phenomenon that **slows down development**, whereas regular migration is generally a process enhancing development.
- However, trafficking and migration occur in the same "**migratory space**" as both involve movement including border crossing. Simultaneously, it is important that **trafficked**

²⁹ Available at: <http://www.humanrights.ge/index.php?a=main&pid=5880&lang=eng>

³⁰ National Agency Against Trafficking in Persons, Romania, <http://anitp.mai.gov.ro/en/>

³¹ Md. Shahidul Haque, "Ambiguities and Confusions in the Migration-Trafficking Nexus: A Development Challenge", Page 4, see: <http://www.iom.org.bd/publications/2.pdf>

persons being exposed to “harmful” situations which ends up in exploitation or slave-like situations.

- Whereas regular migration normally may have a **positive impact for both the country of origin** (remittances, skills and know-how returnees bring back) **and the country of destination**. Trafficking is generally viewed in the context of **anti-social and morally degrading behavior**, which is considered a **crime** in almost all countries in the world.³²

Aforementioned distinctions between these two concepts prove that there is no direct nexus between regular migration and trafficking.

From our standpoint, regular migration is not a directly causative factor of trafficking; increased numbers of regular migrants does not by itself increase the cases of trafficking. This fact partly derives from the legal nature of regular migration. Regular migrants do not refer to illegal means of crossing state border, such as smuggling, fraudulent documents, etc. Accordingly, the risk is lower than it is for irregular migration. The threat of becoming trafficked in case of regular migration is similar to the threat that exists in everyday life; therefore if regular or legal migrants become trafficked, it always has its own logical explanation, which is not the factor of movement.

2.3. Irregular migration and trafficking

Irregular migration may be defined as a movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, irregular migration means entering, staying or working in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is seen, for example, in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfill the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term "irregular migration" to cases of smuggling of migrants and trafficking in persons³³.

Irregular migration is arrival to a country in violation of the immigration laws and rules of that country. However, persons who arrived to a country legally may find themselves in illegal situation after losing permission to reside or work in the country.

The majority of irregular migrants in the host country are law-abiding. They have left their home country because the living conditions are inferior there and they are simply seeking a better life. Recently, irregular immigration raises many political, economic and social challenges in countries of destination.

According to information provided by the EU Member States, Europol³⁴ estimates that around 500,000 persons enter the European Union irregularly every year - half of which are believed of having been assisted in some way by organized criminal groups. The involvement of organized criminal networks continues to rise with the level of organizations exhibited by these groups. These organizations are increasingly involved in facilitating illegal immigration, as it is a highly profitable business with earnings of up to twelve billion euro worldwide every

³² Md. Shahidul Haque, “Ambiguities and Confusions in the Migration-Trafficking Nexus: A Development Challenge”, Page 4-6. See: <http://www.iom.org.bd/publications/2.pdf>

³³ IOM: Key migration terms, see: <http://www.iom.int/jahia/Jahia/about-migration/key-migration-terms/lang/en#Labour-migration>.

³⁴ Europol (short for European Police Office) is the European Union's criminal intelligence agency. It became fully operational on 1 July 1999.

year with a still very low risk of detection or conviction. Also of concern is the increasing level of violence and other risks associated with organized illegal immigration.³⁵

The nexus between irregular migration and trafficking is more visible, which is not the case for regular migration as indicated above. Irregular migrants are vulnerable to traffickers. This is partly caused by the fact that irregular migrants are pushed into getting involved in illegal activities and that by itself increases the risk of getting trafficked.

Aside from the abovementioned reason, two other factors can explain this:

- The first factor is linked to the demand side of human trafficking as mass emigration can lower recruitment costs of traffickers.
- The second factor relates to the supply side of trafficking as those departing from regions with high emigration may share characteristics that make them more prone to be trafficked.³⁶

On the first factor, large-scale illegal migration may create free-riding opportunities for traffickers. In the context of trafficking, markets will be larger and more attractive in areas of mass emigration, which offer high economies of scale. Most importantly, these regions feature a continuous supply of potential victims, which can ease recruitment considerably. Additionally, traffickers can benefit from the existence of a local shadow migrant industry, in which private agents offer all kinds of services, such as work procurement or travel services, to emigrants.

As for the supply side, it is mostly negative self-selection that could explain higher risks in emigration. Localities witnessing large-scale out-migration may be particularly disadvantaged in the first place, often suffering from poor economic development and weak institutions. In deprived areas, migration may be the only strategy available to increase economic opportunities and to start a better life. This will have implications for the preference set of those departing, as they may be more prone to take risks in the migration process, such as by crossing borders illegally or by accepting jobs in the informal sector abroad. In extreme cases, migrants from particularly disadvantaged regions may even consent to exploitative working conditions that increase risks of becoming trafficked³⁷.

Both factors prove that the rate of trafficking is higher in case of irregular migration.

Trafficking is a very complex crime and many factors influence it. Therefore abovementioned nexus is not true in all circumstances. A growth in irregular migration does not always cause a growth in trafficking. If a certain country has a strong and effective law enforcement system, low level of organized crime, effective labour policy, etc. then a high number of irregular migrants may not increase the number of trafficked persons in this country. In contrast, a state, which has a low level of irregular migration but lacks internal preventative mechanisms, may have more trafficking. Therefore, when looking at it separately, irregular migration may be regarded as the factor that increases the risk of trafficking but it does not directly cause it. Only when it is in conjunction with other factors, then it becomes a directly causal factor for trafficking.

³⁵ W. Bruggeman, "Illegal immigration and trafficking in human beings seen as a security problem for EUROPE", page1.

see:<http://www.belgium.iom.int/STOPConference/Conference%20Papers/20%20Bruggeman%20Brussels%20IOM.19.09.02.pdf> .

³⁶ Christophe Trebesch, Toman Omar Mahmud "The Economics of Human Trafficking and Labor Migration: Micro-Evidence from Eastern Europe" *June 2010 p 8-9*.

see:http://www.iza.org/conference_files/Lelli2010/trebesch_c4269.pdf

³⁷ Toman Omar Mahmoud, Kiel Institute for the World Economy, German Institute of Global and Area Studies; Christoph Trebesch, Free University of Berlin, Hertie School of Governance: The Economics of Human Trafficking and Labour Migration: Micro-Evidence from Eastern Europe, p.8, http://www.giga-hamburg.de/dl/download.php?d=/content/fsp3/pdf/trafficking_final.pdf

Particular attention should be paid to irregular migrant workers. For this category of irregular migrants the risk of becoming trafficked is higher than for ordinary illegal migrant. We think that this may be explained by several factors.

First of all they are in an illegal situation. The fact that migrants are in an illegal situation contributes to making him or her involved in other illegal activities, such as falsification of documents, employment without contract, etc. This could mean that migrants may establish business relations with other criminal individuals or organized criminal groups. Then they get pulled into trafficking due to the fact that traffickers are criminals.

Another factor is that these people are job seekers. This factor, in conjunction with their irregular situation, makes irregular migrant workers accept low income or hard jobs. They may be keen to access the so-called “3D” jobs (**d**ifficult, **d**irty, and **d**angerous) because they would do nearly everything just to escape their expulsion to their country of origin³⁸.

2.4. Trafficking and smuggling of migrants

In order to better understand the migration-trafficking nexus, we need to look at the concept of “smuggling in migrants” and to identify the links between the concepts of trafficking and smuggling. Smuggling in migrants is a phenomenon in which a person acts to facilitate his/her border crossing in an irregular manner with the help of an entity and by making a financial or other material payment to another person or entity³⁹. Both of them may be regarded as forms of illegal migration.

First of all, let's return back to the definitions of these two crimes. As it was already indicated, the trafficking in human beings means “*the recruitment, transportation, transfer, harbouring or receipt of persons, either by the threat or use of abduction, force, fraud, deception or coercion, or by the giving or receiving of unlawful payments or benefits to achieve the consent of a person having control over another person, with the aim of submitting them to any form of exploitation.*”⁴⁰. On the other hand, according to the *Protocol against the Smuggling of Migrants by Land, Air and Sea* (other part of Palermo protocol) smuggling of migrants means “*the procurement of the illegal entry into or illegal residence of a person in (a) (any) State Party of which the person is not a national or a permanent resident in order to obtain, directly or indirectly, a financial or other material benefit.*”⁴¹

Although there are certain similarities between smuggling and trafficking, as both of them have the element of crossing state borders, there are differences between trafficking in persons and smuggling in migrants, both in their process of movement and in their outcome.

The critical factor separating trafficking from smuggling is the presence of force or coercion in the process of trafficking, and where the force or coercion is being used for exploitation. Another crucial factor to distinguish between the two phenomena is the consent of the individual involved in the movement. In the case a person was misled about the dangers of the journey, irrespective of the treatment he/she receives at the hands of smugglers, and provided there is consent to the original transport, yet where the exploitative relationship

³⁸ Ibid

³⁹ Md. Shahidul Haque, “Ambiguities and Confusions in the Migration-Trafficking Nexus: A Development Challenge”, Page 6. See: <http://www.iom.org.bd/publications/2.pdf>

⁴⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, article 3, see: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

⁴¹ Protocol against the Smuggling of Migrants by Land, Air and Sea, article 3, see:

http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_smug_eng.pdf

does not develop or was not envisaged between the two parties, it would be considered as smuggling in migrants⁴². In other words, the initiative in smuggling lies with the migrant.

The differences described above, are clear in a theory, however, it often happens that a migrant leaves the country as a smuggled migrant (e.g. by his own initiative), but can soon become a victim of trafficking being a part of exploitative situation. Therefore it is important to keep in mind two important aspects: although smuggled migrants have an initiative in the process and they also to some extent understand that they commit unlawful activity and it is related to some risks, they never give consent to the elements of trafficking, e.g. abuse or exploitation. In this case, it is clear that smuggling is a violation of a state border regime, and trafficking is first of all a crime against a person. Secondly, smuggling is committed when there was an attempt to cross a state border illegally or the border was crossed illegally, while crime of trafficking does not require the illegal border crossing – it can happen within one country and also the transportation to another country where the exploitation takes place can be perfectly legal.

According to UNODC⁴³, there are three basic differences between smuggling of migrants and trafficking in persons, as summarized below:

- "*Source of profit*". The primary source of profit and thus also the primary purpose of trafficking in persons is exploitation. In contrast, smugglers generate their profit by facilitating illegal entry or stay. After a migrant has been enabled to illegally enter or stay in a country, the relationship between migrant and smuggler usually ends.
- "*Transnationality*". Smuggling of migrants always has a transnational dimension involving at least two countries. The objective of smuggling of migrants is always to facilitate the illegal entry or stay of a person from country A in(to) country B. Trafficking in persons may also involve the illegal entry or stay of a person, but it does not always. The transportation and stay of a victim of trafficking in persons can also occur in a legal way. That is, victims of trafficking are not limited to the group of people who do not have legal opportunities to migrate. Moreover, trafficking in persons may occur within the home country of the victim without involving any border crossings.
- "*Victimization*". Smuggling of migrants does not necessarily involve the victimization of the migrant. Smuggled migrants generally consent to be smuggled. However, other crimes are often committed against smuggled migrants during the smuggling process, involving violence or endangerment. It is also possible that smuggled migrants might retract their consent during a smuggling operation. In contrast to smuggling of migrants, trafficking in persons is always a crime against a person. Victims of trafficking have either never consented—e.g. if they have been abducted or sold—or, if they have given initial consent, their consent became meaningless because of the means the traffickers used to gain control over them, such as through deception or violence.⁴⁴

Abovementioned evaluation of these two crimes proves that they are partly similar, but different phenomena with regard to source of profit, the way of victimization and transnationality.

⁴² Md. Shahidul Haque, "Ambiguities and Confusions in the Migration-Trafficking Nexus: A Development Challenge", Page 6. See: <http://www.iom.org.bd/publications/2.pdf>

⁴³ The United Nations Office on Drugs and Crime (UNODC) is a United Nations office that was established in 1997, UNODC is mandated to assist Member States in their struggle against illicit drugs, crime and terrorism.

⁴⁴ "Smuggling of Migrants, A Global Review and Annotated Bibliography of Recent Publications" UNITED NATIONS OFFICE ON DRUGS AND CRIME Vienna, page 6. see: http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Smuggling_of_Migrants_A_Global_Review.pdf .

From our standpoint, there is a significant nexus between these two crimes, where smuggling of migrant is a cause of crime of trafficking. Smuggled migrants are a very vulnerable category of irregular migrants for traffickers.

First of all smugglers, as a rule, act in organized groups. This fact alone already contains threats due to the nature of organized criminal groups. Considering the character of smuggling, a migrant in fact entrust him/herself to smugglers. Therefore, during the entire process of smuggling they are in the hands of criminals. There is not any guarantee that they later will not abuse this situation, because the migrant is in fact left without any protection, and may therefore easily become trafficked.

Aside from the abovementioned, smuggling may develop into trafficking in different ways. It is very common, that smugglers, as an organized criminal group from the source country, are connected to traffickers in countries of destination, thereby informing them about potential victims before to make the process of trafficking easier. Furthermore, smugglers may refer smuggled migrants to a “potential employer”, who in fact is a trafficker. Regardless of the method used, smuggling of migrants is a crime that has direct implications on trafficking; therefore prevention and punishment are some of the most effective methods to reduce the number of trafficked persons.

3. Integrated border management (IBM) and trafficking

It is interesting to look at the interaction between trafficking and IBM for preventing the crime of trafficking. IBM may be seen as one of the preventive mechanisms of trafficking if it has transnational character.

Integrated Border Management (IBM) is the organization and supervision of border agency activities to meet the common challenge of facilitating the movement of legitimate people and goods while maintaining secure borders and meeting national legal requirements.

Integrated Border Management requires that all competent authorities work together in an effective and efficient manner. Cooperation should not be established exclusively within each country, but also across its borders with relevant agencies of neighboring States.⁴⁵

IBM can be divided into two categories:

- domestic integration between government agencies within one country or customs union and
- international integration between neighbouring countries.

Both types require interagency cooperation, parallel processing, and coordination at ports, harbours, and land border points of entry (collectively referred to as ports of entry) for an optimal collective efficiency of these border institutions. For the second category, neighbouring or contracting national authorities must also cooperate with one another to align border-crossing facilities and procedures.⁴⁶

Domestic interagency coordination refers to the horizontal interagency cooperation within an individual country. In these cases, the mission requirements of all border regulatory agencies are identified, and agreements are reached on systems, data elements, and processes to be implemented. In its most current, efficient form, domestic integration may lead to “single window” processing (depicted on opposite page) but effective IBM can also begin solely on the basis of improved procedures.

⁴⁵ The International Organization for Migration and Integrated Border Management, page 1. See: <http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/ibm/05-IOM-IBM-FACT-SHEET-Integrated-Border-Management.pdf>

⁴⁶ see: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/08/28/000334955_20080828040434/Rendered/PDF/451530BRI0Box3111GPF0brief01PUBLIC1.pdf

Most domestic integration first occurs within an agency when it turns its individual mission requirements into a single set of procedures, processes, and data elements that are applied uniformly. In turn, agencies work with one another to compare their mission requirements, locate redundancies, and identify components that contribute little added value in terms of security. Depending on the political mandate, two possible solutions may follow. Agencies can either be reorganized into one single border agency, or they can reach agreements, often called Memoranda of Understanding (MOUs) or Agreement (MOAs), that reduce overlapping and redundant regulations by delegating particular responsibilities to a smaller sub-group.

International IBM refers to the cooperation between multiple countries to align and integrate common border formalities. The important management function is coordination of policies between adjoining countries, which can be facilitated through the adoption of international agreements.

While the integration is more likely to occur within contiguous neighboring countries, integration of common border formalities can occur with more distant bilateral trading countries. For this to take place, certain critical elements must be implemented from within the participating countries (domestic integration). Some of these elements include the adoption of common standards, testing methods, hours of operation, data element requirements, and operating procedures.⁴⁷

To implement an international IBM program, it is best to negotiate regional and national strategies based on specific border management problems and goals. Action plans to implement those strategies are usually developed by individual countries, but they must be coherent with neighboring countries' plans. Elements of international IBM may include establishment of common standards and requirements; exchange of information between state agencies, etc. There are no strictly established elements of international IBM and it becomes a matter to tackle individually, depending on the particularities of each region and border.

As we have already discussed in previous chapters, there is a significant nexus between irregular migration, smuggling of migrants and trafficking. In this field, IBM may be regarded as preventive mechanism of trafficking due to the fact that proper implementation of domestic and especially international IBM programs always reduces the number of illegal migrants and smuggling of migrants, and that by itself decreases the risk of trafficking. From this point, IBM decreases the risk of trafficking but does not exclude it, therefore it may be regarded as a mechanism, which implementation facilitates fighting against trafficking.

IBM programs were successfully implemented in Balkan states, where it had significant positive results. Similar programs are being implemented in the South Caucasus region (Georgia, Armenia, and Azerbaijan). After its enforcement, this region will become more protected from trafficking.

Conclusion

Our research examined the social nature of the crime of trafficking. It discussed the definition of this crime in basic international documents, and also its constituent elements. Particular attention was paid to causes of trafficking. Research identified the complex nature of this crime and its reasons, but in general, basic causes are: unemployment, the harsh social environment, poor labour policies, illegal migration, lack of preventive mechanism, etc.

⁴⁷ http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/08/28/000334955_20080828040434/Rendered/PDF/451530BRI0Box3111GPF0brief01PUBLIC1.pdf, page 3-4.

By examining the situation in Georgia, we could see that Georgian legislation in the field of trafficking (definition, elements) is in line with international standards. The country has enacted legislation in this field and has made serious progress, but there still remain some problems that need to be addressed.

As for the issue of interaction and the nexus between trafficking and migration, research identified the following:

- Basic distinctions between the nature of trafficking and regular migration have been identified by demonstrating that there is no direct nexus between regular migration and trafficking. Regular migration by itself does not entail risks of trafficking.
- As for irregular migration, the nexus between them may be more distinct. There is significant correlation between certain types of irregular migration (in particular irregular migrant workers and smuggling of migrants) and trafficking. Irregular migration increases the risk of trafficking and, in conjunction with certain factors, it may become a direct cause of trafficking.

Research addressed similarities and distinctions between smuggling and trafficking, and identified factual similarities between these crimes and their basic distinctions from a more subjective point of view.

In the last chapter, we examined the issue of interaction between IBM and trafficking. Discussions on the nature of IBM programs proved that it has a positive impact for the prevention of crime of trafficking due to the fact that it decreases the level of illegal migration and smuggling, two factors inciting trafficking.

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Chapter 2. Economics

2.1. The General Agreement on Trade in Services (GATS) and Migration Management, *Nino Parsadanishvili*

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“In our modern, interrelated society the role of services and service providers is increasing day-by-day, therefore economic and social needs as well as appropriate legal aspects need to be considered”.

Introduction

“Opening new trade opportunities in services makes sense for growth and it makes sense for job creation”.⁴⁸ Migration is at the top of the agenda not only for EU policy-making but also for such global international organizations as the World Trade Organization (hereinafter WTO). When thinking about trade and migration the first issue that comes to one’s mind is how to interlink the two notions with each other, or to ask the question whether equality between migrants irrespective of their country of origin is guaranteed. Is the temporary movement of service providers permitted under the General Agreement of Trade in Services (GATS)? How does GATS *Mode Four* operate? This paper will tackle this and related questions in the introduction, in the four chapters and in the conclusion. The first chapter (1) provides the list of services covered under the GATS, while the second chapter (2) looks at the purposes of establishing the General System of Trade in Services. Our third chapter (3) elaborates key characteristics of the treaty and its linkage with migration management. The fourth chapter (4) concentrates on the non-discriminatory nature of rulings enshrined under the GATS, and finally, in the conclusion, we will see how trade and migration is linked to day-to-day contacts among states.

1. Services covered by the GATS

When talking about WTO and its role in migration management, the first international treaty that comes to mind is the General Agreement on Trade in Services. The GATS is among those treaties that cover temporary migration for providing services, but it has nothing on labour migration. There are four types of services enshrined within the GATS. According to article 1:2 following are considered services:

⁴⁸ WTO News: Speeches — DG Pascal Lamy, ‘Services will play a key role in economic recovery’, 22 September 2010, available at: <http://www.wto.org/english/news_e/sppl_e/sppl171_e.htm>, (accessed 15/07/2012).

- Cross border trade – this is the case when services are provided from the territory of one member state to another;
- Consumption abroad – this is the case when services themselves are not crossing borders but consumers are entering the service provider's state;
- Commercial presence – when services are provided by a firm registered in the same member states as where it is providing its services;
- Presence of natural persons – services are provided by natural persons of a member state on the territory of any other member state. This is the case when service providers temporarily cross borders for the purpose of providing services.⁴⁹

This paper focuses on fourth type of services with special emphasis on temporary movement of natural persons for the purpose of providing service as this last falls under the regulation of migration. Before going into details about the key characteristics and issues falling under the rulings of the GATS, the paper will focus primarily on the goals as set out in the GATS and its relations between states.

2. The GATS Goals

As stated in its preamble, the GATS is intended to contribute to trade expansion “under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries.” Trade expansion is thus not seen as an end in itself, as some critical voices allege, but as an instrument to promote growth and development. The link with development is further reinforced by explicit references in the preamble to the objective of increasing participation of developing countries in services trade, to the special economic situation and to the development, trade and financial needs of the least-developed countries.⁵⁰

The contribution of the GATS to the global trade in services can be defined in two main pillars: (a) ensuring increased transparency and predictability of relevant rules and regulations, and (b) promoting progressive liberalization through successive rounds of negotiations. Within the framework of the agreement, the latter concept is tantamount to improving market access and extending national treatment to foreign services and service suppliers across an increasing range of sectors. It does not, however, entail deregulation. Rather, the agreement explicitly recognizes governments' right to regulate, and introduce new regulations, to meet national policy objectives and the particular need of developing countries to exercise this right.⁵¹

Both the GATS and the General Agreement on Tariffs and Trade (GATT) were incorporated into the World Trade Organization in January 1995. Liberalizing trade in services to promote economic growth is one of the main goals of the current Doha Development Round of WTO negotiations to make the international trading system generate more benefits to developing countries. The GATS does not include all services: it excludes most air transport services as well as “services supplied in the exercise of governmental authority.”⁵²

Apart from focusing on trade in services and the development of world politics in this direction, the GATS has its own characteristics as well which need to be invoked and evaluated for a closer look on its impact upon migration.

⁴⁹ General Agreement on Trade in Services, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, Legal Instruments—Results of the Uruguay Round, 33 I.L.M. 1125 (1994), art. 1:2.

⁵⁰ GATS chapter 1, Basic Purpose and Concepts, available at: http://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s2p1_e.htm, (accessed 01/05/2012).

⁵¹ *ibid.*

⁵² P. L. Martin “GATS, Migration and Labor Standards”, International Institute for Labor Studies Geneva, Discussion Paper Series No. 165, p. 2.

3. The GATS Characteristics

Present chapter deals with key features of the GATS Mode 4. Mode 4 commitments allow people to travel to another WTO member and to provide services for a short period of time. However, Mode 4 is not about access to local labour markets and should therefore be clearly distinguished from economic immigration.⁵³ In fact, the GATS Annex on Movement of Natural Persons stipulates that the GATS “shall not apply to measures affecting natural persons seeking access to the employment market of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.”⁵⁴ Furthermore, the scope of coverage of Mode 4 is limited to the category of “service supplier.”⁵⁵

Since there is no categorization in Mode 4, the only informal requirements are: i) that the service is temporary, and ii) that the service provider does not seek permanent entry in the labour market of the WTO member state where the service takes place. The question remains: which type of service providers will not seek permanent entry in the labour market? Mode 4 creates a division between developed and developing countries of the WTO in the sense that developed countries do not want Mode 4 to become a substitute for immigration – the argument being that there is already immigration in developed countries – whereas developing countries want the full practice of Mode 4 for temporary migration.⁵⁶

In principle, outside the scope of the GATS, immigration policy, labour market regulations, levies and charges for social security would also impact the sector significantly. For example, labour market regulations such as those extending minimum wages and regulations on work hours to foreign workers employed on a temporary basis on construction sites, as well as requirements on foreign workers to participate in social security systems, would tend to reduce the cost advantages of the foreign workforce.⁵⁷ The analysis of the MFN (most-favoured nation principle) and the NT (principle on national treatment) gives a clearer picture on how the system regulates relations between foreign and national service providers. The GATS operates on the basis of transparency and non-discrimination by applying two key principles: the most-favoured-nation principle and the principle on national treatment. The next chapter focuses specifically on the two principles.

4. MFN and NT

The most-favored-nation (MFN) principle is a cornerstone of the multilateral trading system conceived after World War II. It seeks to replace the frictions and distortions of power-based (bilateral) policies with the guarantees of a rules-based framework where trading rights do not depend on the individual participants’ economic or political clout. Rather, the best access conditions that have been conceded to one country must automatically be extended to all other participants in the system. This allows everybody to benefit, without any additional negotiations, from concessions that may have been agreed between large trading partners with more negotiating leverage.⁵⁸

⁵³ R. Chanda, “Movement of Natural Persons and Trade in Services: Liberalizing the Temporary Movement of Labour Under the GATS”, *India Council for International Economic Research, (Working Paper 51, 1999)*, available at: <www.icrier.org/pdf/RupaCh.pdf>, (accessed 19 November 2008)

⁵⁴ GATS, Annex on Movement of Natural Persons Supplying Services Under the Agreement, para. 2.

⁵⁵ GATS, Article I.2.(d).

⁵⁶ Interview with Mr. Plaza, Spanish trade diplomat dealing with international services trade, on 15 March 2006, cit. in M. Kolsky Lewis and S. Frankel, “International Economic Law and National Autonomy”, Cambridge University Press 2010, p. 200.

⁵⁷ M. Kolsky Lewis and S. Frankel, “International Economic Law and National Autonomy”, Cambridge University Press 2010, p. 201.

⁵⁸ GATS Chapter 1, Basic Purpose and Concepts, Available at: <http://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s6p1_e.htm>, (accessed 15/07/2012).

In the context of the GATS, the MFN obligation (Article II) is applicable to any measure that affects trade in services in any sector falling under the Agreement, whether specific commitments have been made or not. Exemptions could have been sought at the time of the acceptance of the Agreement (for acceding countries: date of accession). They are contained in country-specific lists, and their duration must not exceed ten years in principle.⁵⁹

The GATS is a very flexible agreement that allows each Member to adjust the conditions of market entry and participation to its sector-specific objectives and constraints. Two sets of legal obligations governing market access and national treatment are relevant in this context. As already noted, Members are free to designate the sectors, and list them in their schedules of commitments, in which they assume such obligations with regard to the four modes of supply. Moreover, limitations may be attached to commitments in order to reserve the right to introduce measures inconsistent with full market access and/or national treatment.⁶⁰

The **market access** provisions of the GATS, laid down in Article XVI, cover six types of measures that must not necessarily be upheld even in the absence of limitations. The restrictions relate to:⁶¹

- a. the number of service suppliers;
- b. the value of service transactions or assets;
- c. the number of operations or quantity of output;
- d. the number of natural persons supplying a service;
- e. the type of legal entity or joint venture;
- f. the participation of foreign capital.

These measures - except for (e) and (f) - are not necessarily discriminatory, i.e. since they may affect national as well as foreign services or service suppliers.

National treatment (Article XVII) implies the absence of all discriminatory measures that may modify the conditions of competition to the detriment of foreign services or service suppliers. Again, limitations may be listed to cover inconsistent measures, such as discriminatory subsidies and tax measures, residency requirements, etc. It is for the individual Member to ensure that all potentially relevant measures are listed; Article XVII does not contain a typology comparable to Article XVI. The national treatment obligation applies regardless of whether or not foreign services and suppliers are treated in a formally identical way to their national counterpart. What matters is that they are granted equal opportunities to compete.⁶²

The purpose of commitments, comparable to tariff concessions under GATT, is to ensure stability and predictability of trading conditions. However, commitments are not a straitjacket. They may be renegotiated against compensation of affected trading partners (Article XXI); and there are special provisions that allow for flexible responses, despite existing commitments, in specified circumstances. Under Article XIV, for example, Members may take measures necessary for certain overriding policy concerns, including the protection of public morals or the protection of human, animal or plant life or health. However, such measures must not lead to arbitrary or unjustifiable discrimination or constitute a disguised restriction to trade. If essential security interests are at stake, Article XIV applies. Article XII allows for the introduction of temporary restrictions to safeguard the balance-of-payments;

⁵⁹ *ibid.*

⁶⁰ Conditional Granting of Market Access and National Treatment available at: http://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s6p1_e.htm, (accessed 10/07/2012).

⁶¹ *ibid.*

⁶² GATS Chapter 1, Basic Purpose and Concepts, available at: http://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s7p1_e.htm, (accessed 10/07/2012).

and a so-called prudential carve-out in financial services permits Members to take measures in order, inter alia, to ensure the integrity and stability of their financial system.⁶³

Commitments must not necessarily be complied with from the date of entry into force of a schedule. Rather, Members may specify in relevant part(s) of their schedule a timeframe for implementation. Such “pre-commitments” are as legally valid as any other commitment.⁶⁴

Conclusion

This paper examined Mode Four representing one of the most important operating pillars of the GATS. Indeed in a modern interrelated society the role of services and service providers is increasing day-by-day. This calls for an analysis of its economic, social and legal aspects. The issue of helping developing countries to become more developed is tackled within the context of the GATS but, at the same time, there is room for criticism and scepticism about whether the equality of service providers irrespective of countries of origin is guaranteed or whether it fits the interests of developed countries. Developed countries open their doors to foreign service providers and thus facilitate an exchange in already established economic or social systems. The GATS puts emphasis on domestic legislation to make legal norms more transparent and non-discriminatory, however as evidenced from relevant state practice and policy making process in the WTO, the GATS defines which MFN and NT principles should be enforced and executed by states in compliance with their international obligations.

The key operational element of the GATS is liberalization, which is also promoted through WTO member states. Market liberalization helps developing countries to increase the GDP per capita, facilitates the service providers' movement across borders and the entry into an environment with higher wages.

Apart from the criticism towards the GATS, it should also be noted that the key operational element of the agreement is liberalization, which is also promoted through WTO member states. Market liberalization helps developing countries to

increase the GDP per capita and facilitates the service providers' movement across borders and the entry into an environment with higher wages. This process causes a variety of problems for receiving countries but the GATS is still seen as the best way of regulating and governing the migration of service providers. A better system for that has not been invented yet.

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2.2. Demographic Challenges of Moldova for the Next Two Decades, *Ana Formusatii, Anna Petrachi*

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“There is no reason for people to return to their countries unless there would be improved conditions for a better life and much higher wages”.

Introduction

Human resources development and demographic trends are some of the most pressing issues of the century and decisive factors for growth and sustainable development.

After a century of population growth on the European continent, the level of population is now starting to decline. It is assumed that in the first half of the XXI century, Europe will experience a significant decrease in the population size. Most European countries, both in Western Europe and Eastern Europe, will soon have to face its aging and decreasing population. The increase of elderly people is due to reduced mortality among the elderly population and fewer births. It is expected that this trend of fewer births and an aging population, which is projected to continue for the next decades as the baby boomers grow older (the years following the Second World War will cause many adverse social, economic, cultural and political effects).

Many European countries already now face demographic declines, which requires creating economic and social opportunities for a new profile tailored to the ageing population structure. The time of economic and political transitions in Eastern European countries, including Moldova, has left its mark on the demographic evolution. Two phenomena demonstrate it: low birth rates and massive migration. This has led to negative population growth and demographic aging. One of the consequences of the changing age structure of the population is the decrease of working age population and an aging workforce, which will impact the relationship between active and inactive people, income distribution, public spending on social insurance, investments and, generally, the welfare system.

The population of the Republic of Moldova is about 3.5 million, excluding the region of Transnistria. Moldova has the highest population density of any of the former Soviet

Republics; on average, there are about 117 people per square kilometer, and about 1,375 people per square kilometer in Chisinau⁶⁵. Compared with the level of population taken from the 1989 census, Moldova's population has decreased by approximately 774,930 people. The rate of the decline is determined both by a greater number of deaths than live births, as well as a surplus of emigrants over immigrants, which results in a negative population growth estimated to be about -0.5 percent. An aging population is a consequence of a declining population: since 1989, there has been a decrease in the proportion of young people under age 15 and a simultaneous increase in the proportion of working-age and elderly people age 60 and older. The average age registered in the 2010 census was 36.3 years, compared with 32 years in the 1989 census data. The average life expectancy at birth in 2010 was 65 years for males and 73.4 years for females. The life expectancy is also higher in urban areas than in rural areas—both men and women in urban areas live approximately 4.7 years longer than those in rural areas.

The death rate in the Republic of Moldova, which is roughly the average number of deaths each year per 1,000 people, was 12.2 in 2010. This rate is closer to the average rate in the euro zone than that of any other country in the reference sub-group. It has increased 21% since 1980, but this increase is practically the same as the euro zone's average increase of 21%.

The mortality rate among older people, particularly among women, is higher than the average rate in the euro zone. This age-specific mortality pattern and the relatively high fertility rate in previous decades explain why the population structure of the Republic of Moldova remains relatively young: the percentage of the population aged 0–14 years is higher than that of the euro zone's average, while for people 65 years of age and older it is lower than the average (9.8% for the Republic of Moldova versus 12.3% for the euro zone).

Overall, there is a natural population decrease due to the death rate exceeding the birth rate. Unlike most other countries of Central and Eastern Europe (CEE) and the Commonwealth of Independent States (CIS), the birth rates remained higher than the death rates – and that well into the 1990s. But the natural population growth turned negative in 1998.

The Republic of Moldova also has uninterrupted negative net migration since 1982. On average, the population has been shrinking, solely due to migration, at a rate of -0.32% per year. The rate has not changed much since the break-up of the Soviet Union⁶⁶.

Today we can see that the socio-economic and political situation in recent years has had a profound impact on demographic trends in Moldova with significant changes in the characteristics of demographic phenomena (births, fertility, mortality, aging, migration). This causes great concerns. If these developments continue, motivation and effectiveness measures will be problematic.

Our country is beginning to solve the many phenomena related to demographic changes. Knowledge of these changes could serve as a benchmark for sustainable development for the Republic of Moldova.

Effects of technological, economic, cultural and social policies implemented over recent decades have generated positive results in many areas: increased levels and quality of life,

⁶⁵ National Bureau of Statistics of the Republic of Moldova, Population of Moldova, http://www.statistica.md/public/files/publicatii_electronice/Moldova_in_cifre/2011/Moldova_in_cifre_2011_rom_rus.pdf; http://www.statistica.md/public/files/publicatii_electronice/populatia/Populatia_Republicii_Moldova_2010.pdf

⁶⁶ National Bureau of Statistics of the Republic of Moldova, Population of Moldova, Statistical Yearbooks, <http://www.statistica.md/pageview.php?l=en&idc=263&id=2193>; Georgi Paladi, Marianna Buchuchanu-Brabie, Moldova in the process of depopulation, <http://demoscope.ru/weekly/2011/0455/analit01.php>

opportunities for individual development and self-affirmation, particularly improved social status of women, increased access to family planning services, improved health and, consequently, increased life expectancy. Modernization has brought important changes in the different spheres of social life, but it failed to contribute adequately to the socio-demographic problems. Thus, equal opportunities for women and men has not been realized since no favorable conditions for combining work and parental roles has been set up. There is no guarantee for a job offer on the long term, failed support to elderly's health care. Moreover, in the current socioeconomic climate, there is additional pressure and a high level of competition in all areas of life, which helps to maintain the extremely low birth rate and does not ensure the continuity of the long-term intergenerational aspects.

International migration is an indispensable part of modern society and generally has a positive influence on the development of both the country of origin as well as on the host country. The magnitude of the effect depends primarily on the size of migration flows, their structure and migration policies.

Trends show that future European countries largely depend on how population issues will be resolved as well as on the effectiveness of strategies and policies that will be implemented to redress the current situation and to reduce the adverse consequences of population aging.

The main purpose of the present Summer School is to strengthen social partnership between different entities: governmental and nongovernmental international organizations, academia, media etc. in order to tackle demographic problems.

It should be stressed that, in a knowledge-based society, all relevant actors have an important role in identifying problems for the interpretation and conceptualization of solutions related to the population. Scientists play a crucial role in policy development by providing a demographic analysis of multilateral issues; identify specific mechanisms of demographic processes and to provide options to overcome the negative social consequences of demographic imbalances.

1. Present demographic situation⁶⁷

The last decade of the 20th century has experienced essential changes in Moldova's demographic developments, which can be traced with population numbers. Table 1.1. provides gender-disaggregated data on population numbers. The figures show that in 1970-1990 the population was increasing steadily from 3.5 to 4.3 million persons, an increase of more than 22 % over 20 years. After 1990, the population of the Republic of Moldova started to decline and, in 2011, the number was 3.5 million, an average annual loss of around 36 thousand persons in that period (see Table 1.1).

Table 1.1: Population, by sex

Year	Numbers, '000 pers.			% of the total		Number of women per 100 men
	Total	Men	Women	Men	Women	
1970	3,569.846	1,669.166	1,900.68	46.8	53.2	88
1979	3,949.756	1,864.747	2,085.009	52.2	58.4	89
1989	4,335.36	2,063.192	2,272.168	57.8	63.6	91
2000	3,644.07	1,744.458	1,899.612	48.9	53.2	92
2001	3,635.112	1,740.612	1,894.5	48.8	53.1	92
2002	3,627.812	1,737.551	1,890.261	48.7	53.0	92

⁶⁷ According to the official statistical data elaborated by the National Bureau of Statistics of the Republic of Moldova, <http://www.statistica.md/index.php?l=en>; Statistical Yearbook and Social-economic situation of Moldova

2003	3,618.312	1,733.308	1,885.004	48.6	52.8	92
2004	3,607.435	1,728.414	1,879.021	48.4	52.6	92
2005	3,600.436	1,724.841	1,875.595	48.3	52.5	92
2006	3,589.936	1,719.368	1,870.568	48.2	52.4	92
2007	3,581.11	1,721.03	1,860.08	48.2	52.1	93
2008	3,572.703	1,717.459	1,855.244	48.1	52.0	93
2009	3,567.512	1,714.931	1,852.581	48.0	51.9	93
2010	3,563.695	1,713.487	1,850.208	48.0	51.8	93
2011	3,560.43	1,712.106	1,848.324	48.0	51.8	93

Source: Elaborated by the authors on base of statistical data

In the context of sex, age, or residence (urban/rural area) the above population changes happened at different paces. Most obvious one is the change in the proportion of the urban/rural population. Over the period 1970-1990 the urban population increased by almost 80 %, and in the following 20 years it declined by 27 %. In 2011 it made up 41 % of the total population if the population of Transnistria and Bendery Municipality is excluded.

Table 1.2: Number of persons of a specified age per 100 persons of population

Age	1980	1989	1990	1998	2004	2005	2006	2007	2008	2009	2010	2011
60 +	11	14	14	12	12	12	12	13	13	12	13	13
0-15	29	32	32	25	20	19	18	18	17	17	16	16

Source: Elaborated by the authors on the basis of statistical data

Since 1970 the male/female population ratio has been the most stable if compared to all the other indices (see Table 1.1). Only before 1990, one can note an insignificant variation of this ratio. Then the men's share in the population rose by 1 percentage point, while staying at the constant level of 48 % in the following years. It is indicative of the high demographic waves in the 20th century as a consequence of the upheavals and wars in the Republic and also in other countries of the former Soviet Union. This holds true for the Republic as a whole and for the urban and rural populations in particular. Differences can be found at the level of relatively older age groups, where the structure for the women has a 'heavier' top, irrespective of residence. Then, with regards to the urban/rural population pyramid, its urban portion has a more massive 'middle' for ages between 35 and 55 years. The first difference is a direct result of women's higher life expectancy as compared with men's, while the latter one is likely to be attributed to the above-mentioned fast growth of the urban population during the period of 1970-1990. Subject to such demographic trends the women's population of Moldova reached 1,848,324 persons in 2011. Women constitute the majority of the country's population or 51.8 %. But women are not prevailing within all age groups. Among children and young people under 30, there are more male persons than female. In older age groups women do not merely predominate in numbers but there is also a clear correlation between women and age since their representative share is bigger for the older age group than for men. For example, if there are 1,019 women per 1,000 men in the 30-35 age group, the corresponding ratio for the 85+ age group will be 2,684 to 1,000. In 2010, women were on average 3.2 years older than men, for the women's average age was 37.8 years while the men's was 34.6.

These kinds of problems persist in most CIS countries. The difference between mortality indices of women and men has increased in the CIS, primarily because of the rise of deaths from unnatural causes (accidents, homicides, suicides, and other external impacts) which, in turn, has affected men and women's life expectancies. If the present-day mortality level stays stable, newborn boys in Byelorussia, Kazakhstan, Russia, and Ukraine will live 11-12 years less than girls. In other CIS countries this gap is 5-8 years. On average for CIS the life expectancy index is 62 years for men and 72 for women. So if analyzed against the CIS's data, the mortality and life expectancy indices in Moldova may look relatively good, but in

comparison with Western Europe, the demographic setting of this country is less optimistic. According to the Bureau for Migration and Asylum of the Ministry of Internal Affairs data⁶⁸ the main emigration flows are toward Russia, Ukraine, Germany, and USA. It needs to be noted that with globalization, labour force migration will likely rise thus generating many problems for Moldova, including those in providing pensions for its citizens. For this reason migration trends in this country should be thoroughly studied in order to forecast and to pay due consideration when analysing the country's pension system.

2. Present macroeconomic situation and forecasts⁶⁹

The development of a long-term macroeconomic forecast is a rather complex problem in Moldova. Forecasts show long-term trends on the basis of previous analysis, and which rests under the assumption that these trends would stay unchanged or only change slightly in the future. However, in countries with transitional economies, as in the case of Moldova, such an approach does not usually work due to the instability of the basic macroeconomic indicators.

In 2011 the Moldovan economy was booming, which was largely driven by increased exports and revived investment activities. The increased growth rates can be seen in following sectors: external and internal trade, industry and transport. There was a moderate increase in prices and a slight change in the exchange rate of the national currency. The gross domestic product (GDP) in 2011 amounted to 82.2 billion lei, - an increase by 6.4% in 2010 (in comparable prices). A significant increase was recorded at gross value by 10.7% in wholesale and retail trade, by 7.1% for the industry, by 5.5% for agriculture and by 4.7% in construction. This increase in GDP happened thanks to the rise of external demand for goods manufactured in Moldova and the expense of domestic final consumption.

In December 2011, consumer prices rose by 7.8% compared to December 2010 and compared with 8.1% for the same period in 2010. The exchange rate of national currency in January – December 2011 appreciated by 3.6% in nominal terms against the U.S. dollar and 6.4% against the Euro.

The banking sector shows signs of relative stability. M3 money supply in late December 2011 was about 41 billion lei, an increase of 10.6% compared with late December last year. Deposits and loans have been increasing; exports have been growing faster than imports. In 2011 exports increased by 44.1% and imports by 34.7%. The negative balance of trade was USD 2970.5 million, compared to USD 2313.8 million in 2010.

Industrial output increased by 7.4% (in comparable prices) in 2011 compared to 2010. The increase was due to higher outputs in manufacturing (by 8.9%) and the mining industry (by 17.1%). Agricultural production was 22.1 billion lei, in 2011, an increase by 4.6% compared to 2010. Increased agricultural production was determined by plant and animal growth: 6.7% and 0.4% respectively in January-December 2011. The volume of investments in long-term tangible assets was about 15.2 billion lei, an increase of 9.3% (in comparable prices) over the same period in 2010.

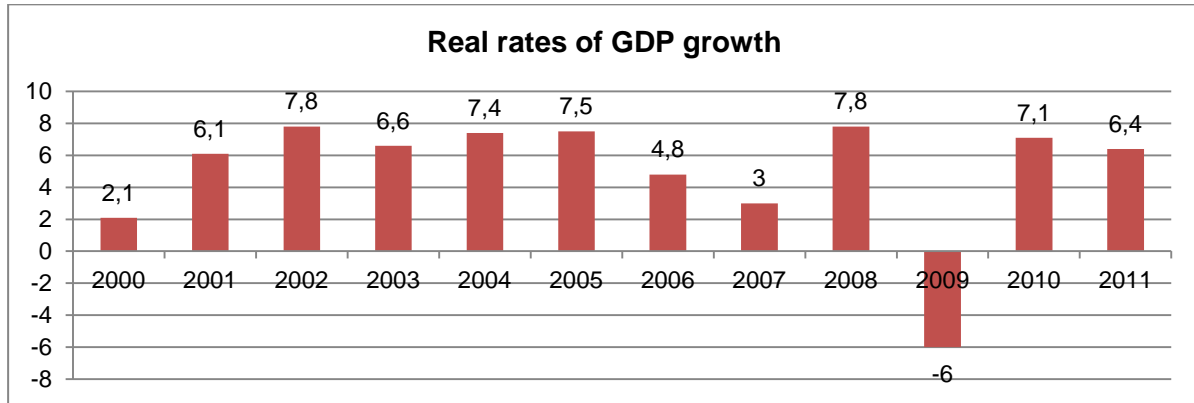
Enterprises of railway, road, river and air transported about 9.8 million tons of cargo in 2011, 16.8% more than in 2010. In the 12 months of 2011 the national public budget accumulated revenues of 30.2 billion lei, an increase by 9.5% over the same period in 2010. Charges amounted to 32.1 billion lei, an increase by 9.5% compared to 2010. Thus, the budget deficit at the end of December 2011 amounted to about 2 billion lei (2.4% of GDP) - 172.3 million lower than that recorded on the same date in 2010. The debt level was relatively stable.

⁶⁸ Bureau for Migration and Asylum, Statistical data, <http://www.bma.gov.md/content/6472>

⁶⁹ According to the official statistical data elaborated by the National Bureau of Statistics of the Republic of Moldova, <http://www.statistica.md/index.php?l=en>; Statistical Yearbook and Social-economic situation of Moldova

Total public debt (internal and external), administered by the Government at the end of 2011, was 19.2 billion lei, an increasing by 1.8% from the end of 2010.⁷⁰

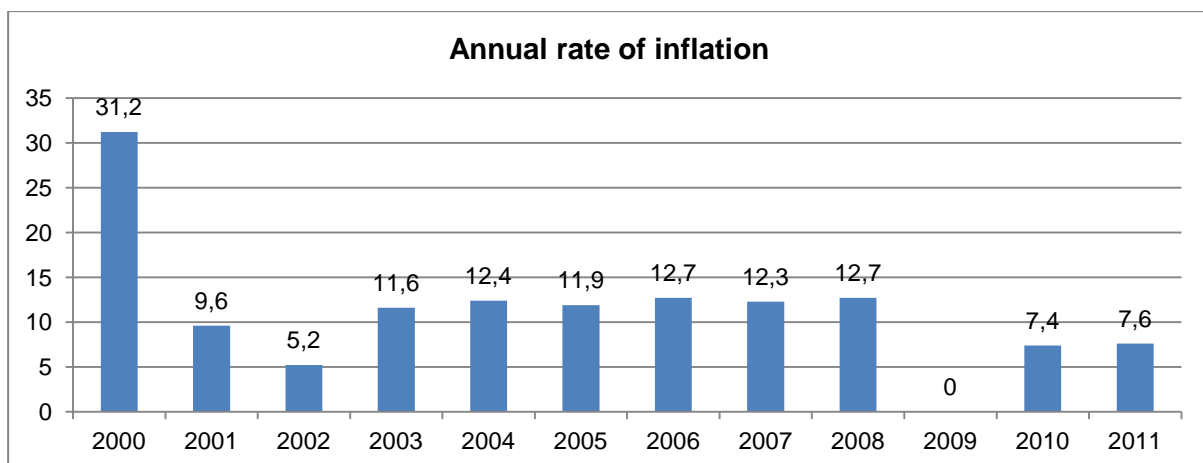
Figure 2.1: Real rates of GDP growth, %



Source: Elaborated by the authors on the basis of statistical data

Figure 2.1 shows a diagram that represents the evolution of real GDP growth. This is one of the most relevant indicators for the macroeconomic situation of a country. It measures economic growth. The diagram shows that the highest GDP levels were recorded in 2002 and 2008 when taking into account the last 12 years for the Republic of Moldova (7.8%). The lowest growth rate was in 2000 with 2.1%. The economy of the Republic of Moldova also suffered a decrease of GDP with 6% in comparison with the previous year. This decrease is explained by the global economic crisis.

Figure 2.2: Annual rate of inflation, %



Source: Elaborated by the authors on the basis of statistical data

Figure 2.2 represents the evolution of the annual rate of inflation in the Republic of Moldova for the past 12 years. The highest rate of inflation was registered in 2000 at 31.2%. It is important to mention that the national currency was introduced in 1993 and, in the first months of its circulation, hyperinflation reached 2700 %. It gradually decreased to 23.8% in 1995. The rate deviated in 1999 against the background of the regional crisis in Russia and South-Eastern Asia. Then the rate of inflation was 43.8%. Noteworthy is that the main objective of the Central Bank of Republic of Moldova is to maintain price stability, which in other words means to control inflation. The rate of inflation was projected to be 8.4% in 2011

⁷⁰ Development of the analytical model of the Republic of Moldova's pension system, Baskakov V.N., Gryzlova A.V., Krylova E.K., Yanenko E.A., Pomazkin D.V.

but the actual data demonstrate that it was 7.6%. In March 2012 the rate of inflation was 5.4%. The best result achieved in terms of price stability was in 2009 with an inflation rate of 0.4%. This is because in 2009 there were parliamentary elections and the government has managed to keep a low level of inflation through artificial means.

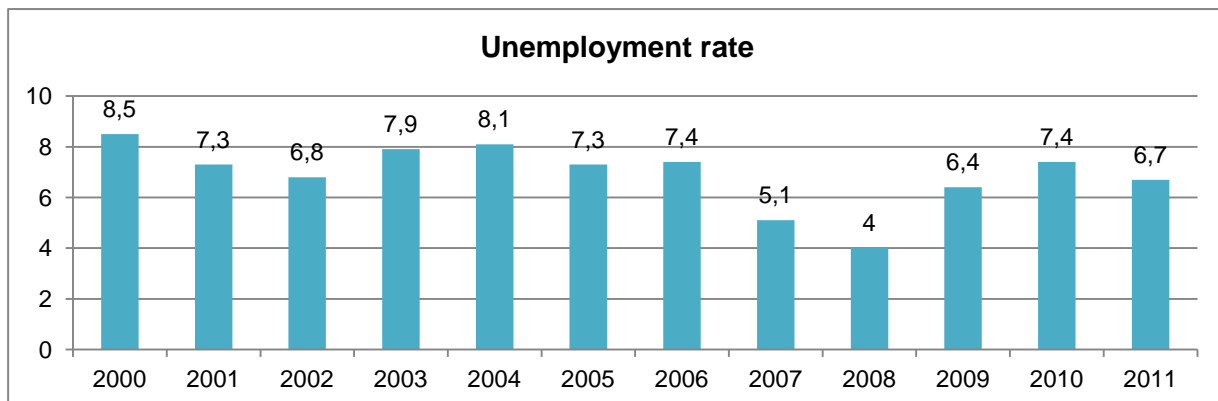
Figure 2.3: Average monthly wage, USD



Source: *Elaborated by the authors on the basis of statistical data*

The average monthly wage experienced a constant growth in the last 12 years. In 2011 it was 273 \$ or 13.8% of the nominal GDP per capita, while the minimum salary established by the government is 94 \$ and the minimum consumption basket 128 \$. It seems to be totally absurd to establish a minimum wage at a lower level than the minimum consumption basket. A reasonable measure would be to raise the minimum wage to 128 \$ at the bare minimum, in especially in the present economic situation. This low minimum salary contributes to the development of a shadow economy, where companies and employees hide their real wages in order to not pay taxes to the government. That is why it is difficult for statistics to provide true information about the real average wage.

Figure 2.4: Unemployment rate



Source: *Elaborated by the authors on the basis of statistical data*

The highest unemployment rate was registered in 2000 with 8.5% and the lowest one in 2008 with 4%. In the Republic of Moldova the unemployment rate could be higher if migration would not exist. The work force is migrating to Western Europe and Russia in big waves. About 43% of unemployed people from Moldova are planning to migrate to other countries in order to find a job, of which 31% are oriented towards Russia.

3. Demographic forecasts⁷¹

As it was mentioned in previous sections, the demographic situation in Moldova has not been so favorable in the last decade. Currently Moldova is facing the depopulation and population aging process caused mainly by:

- Decline in the birth rate;
- Low life expectancy and high mortality among men of working age;
- High level of out-migration population.

Moldova lacks a formal long-term demographic forecast (until 2050), so a retirement system for the modeling of two scenarios was developed. These scenarios were developed based on official statistical data and estimates based on changes in demographic indicators.

Table 3.1: Demographic forecasts up to 2050

Indicators	2005		2025		2050	
	Scenario 1	Scenario 2	Scenario 1	Scenario 2	Scenario 1	Scenario 2
Total number of population, (thousands persons)	3589.9	3589.9	3354.7	3456.7	2593.6	3004.0
Population structure (%):						
Younger the able-bodied age	19.4	19.4	16.4	16.7	13.5	14.1
Able-bodied age	64.3	64.3	60.4	59.7	50.0	47.9
Elder the able-bodied age	16.3	16.3	23.1	23.6	36.5	38.0
Summary birth rate coefficient	1.23	1.23	1.3	1.4	1.4	1.6
Life expectancy at birth (years)						
Men	64.6	64.6	67.0	69.0	69.0	74.0
Women	72.5	72.5	74.0	76.0	76.0	80.0
Migration (growth per year, thousands persons)	-3.6	-3.6	-6.0	-2.0	-6.0	0.0

Source: Report on Development of the analytical model of the Republic of Moldova

Scenario 1 - moderately pessimistic. It requires a higher birth rate and economic growth. The insignificant increase in life expectancy (while still lagging behind other European countries) and decrease in migration shows a certain increase in the number of emigrants to European countries.

It requires that the current reproductive behaviour model needs to be maintained. The birth rate will increase slightly from the current level of 1.23 to up to 1.3 by 2025 and up to 1.4 by 2050. Also, it will continue the trend of increasing the average age of mothers and a deviation to higher ages from the ages of 25-29 to 30-34 years. Mortality rates will be reduced slowly, leading to a slightly higher expected life expectancy to 69 years for men and 76 for women by 2050.

Migration is expected to increase from 3,600 people annually to up to 6,000 in 2025 and thereafter will remain at the same level until 2050. Age structure of migrants will remain unchanged.

Scenario 2 - moderately optimistic. It involves improving the socio-economic conditions, a rise in the living standards, a demographic policy aimed at supporting families with children, a reduced mortality and a migration policy oriented to decrease of emigration. The birth rate will increase from the current level of 1.23 to up to 1.4 by 2025 and 1.6 by 2050.

Mortality will decrease (primarily at the expense of reducing mortality due to cardiovascular disease and external factors), because by 2025 the projected length of life will increase from

⁷¹ According to the project "Retirement system in the Republic of Moldova"; Demographic Forecast, <http://www.pension.md/publications/ps/46.html>

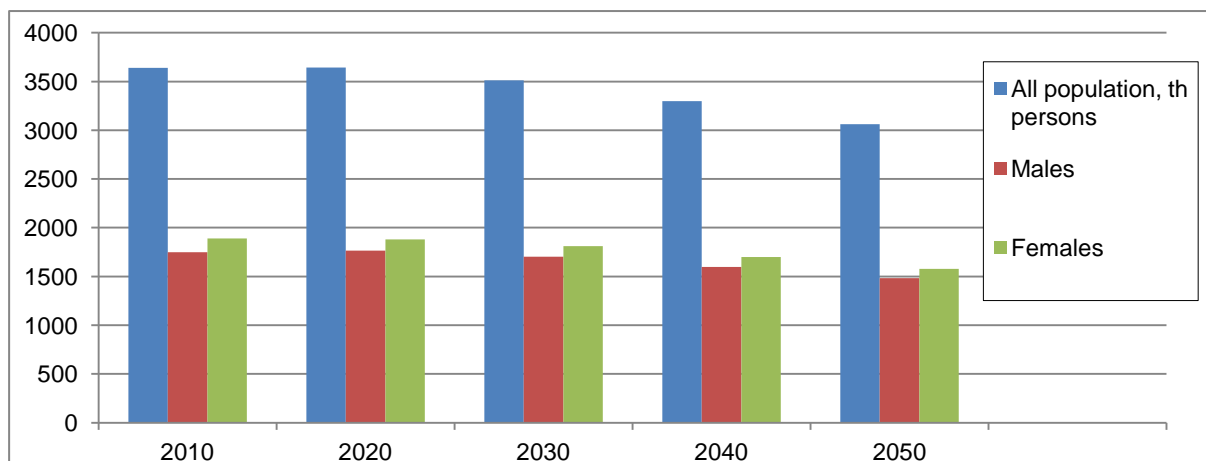
64.6 up to 69 years for men and from 72.5 to up to 76 years for women and by 2050 up to 74 years for men and 80 for women.

Unlike Scenario 1, it is assumed that the fall in migration will decrease gradually from 3,600 people annually up to 3,000 people by 2050.

Both scenarios for Moldova, one moderately pessimistic (scenario 1) and the other moderately optimistic (Scenario 2), will tend to showcase a continuously decreasing and aging population. Thus, in scenario 1 the population will be reduced to 996,300 people by 2050, and in the case of scenario 2 there will be 585,800 people. The share of the working age population will decrease in the first case up to 50% and in the second case up to 47.9%. It should be noted that even with fewer people, the stability of the country's pension system is not given. From this point of view the most important indicator that characterizes the ratio of pensioners and the population of working age is the so-called demographic burden. This indicator, based on known compliance (because it correlates with the number of persons of working age and not with the number of employed persons), shows a working person's contribution to the pension of a retired employee. It should be noted that, for the forecast period (2006), this indicator is very favorable towards the pension system: 1000 people of working age versus 253 pensioners. But with the gradually aging population and in accordance with the demographic scenarios developed in 2010, 1,000 people of working age will cover for 267 retirees. Since 2011 the value of the demographic burden will incite the examination of different scenarios. By 2025, in scenario 1, it will be 382 people, and under scenario 2, it will be 395 persons. By the end of the forecasting period (2050), the ratio is 1,000/ 730, and under scenario 2, it is 1000/ 793 people, the rate of demographic burden will increase 2.7 and 2.9 times respectively. This proves the fact that the pension insurance problems will worsen. As far as we can see, the surge in the demographic burden will be analyzed under both demographic scenarios. Since the increase in life expectancy and the decline in birth rates is a common trend, the Republic of Moldova will not be an exception.

So it can be concluded that in both scenarios demographic problems will occur if the practice of the pension system remains the same. If we would have forecasted the pension system in one of the scenarios, then we would have seen a decrease in the population with higher life expectancy at the end of the forecasting period (2050).

Figure 3.1: Trend of total population and by gender up to 2050, thousand people

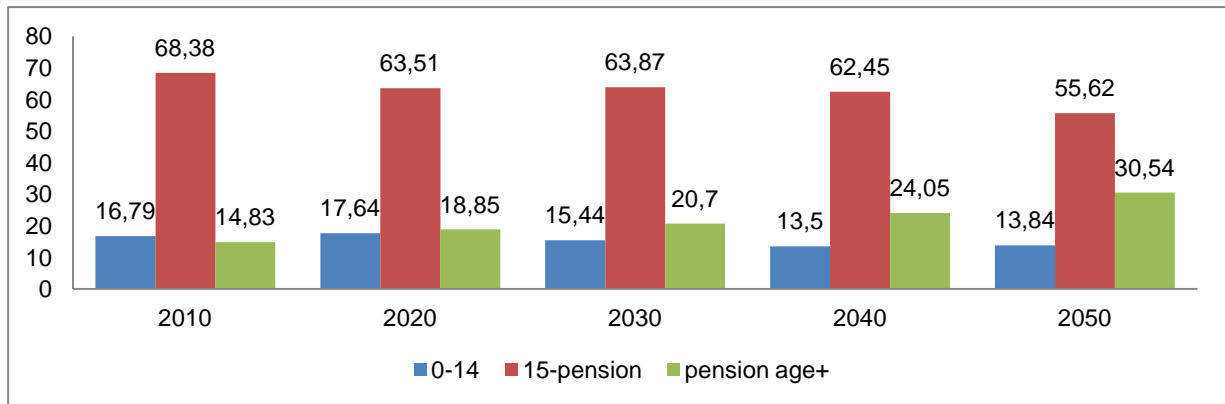


Source: *Elaborated by the authors on the basis of statistical data*

The chart above, figure 3.1, presents the total population up to 2050 according to gender. The total population is going to decrease, but it will keep approximately the same gender structure as now. This means that the total number of women will exceed the total number of men. We should notice that any decrease in population does not seriously affect the pension system. The main trouble is not a decreasing population but rather a change in its age and sex structure. According to calculations, the phenomenon in Moldova will persist with an

ageing population and a decrease in fertility. It is therefore expected that the burden of elderly persons in the Moldovan society will be rising while the number of children will be declining.

Figure 3.2: Structure of population by age groups, %



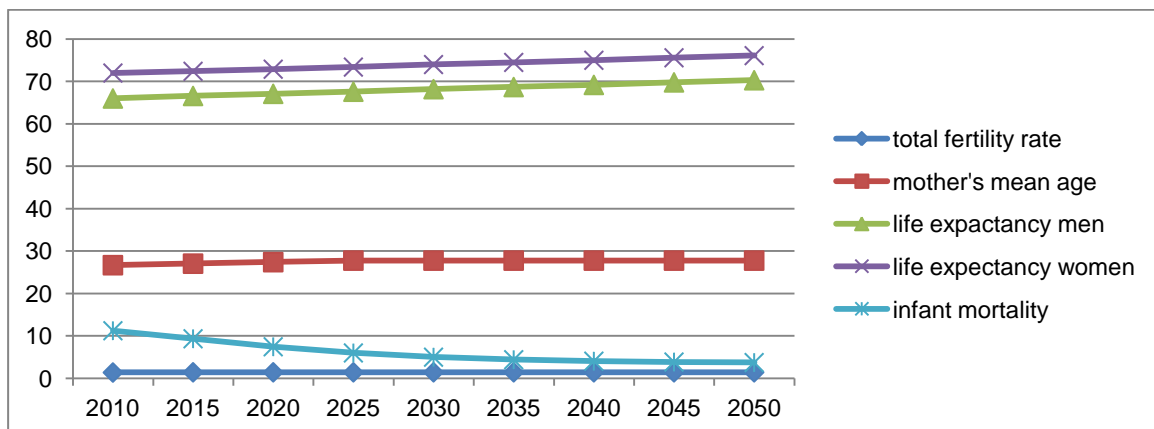
Source: *Elaborated by the authors on the basis of statistical data*

The age group from 15 years to pension is going to decrease as a share in the total population. This results from the intense migration of young people capable of working, which leads to the ageing of population. Hence, in 2050 the level of pensioners will be about 30%, in comparison to 17% in 2010. This means on average a growth of 90%.

Moldova does not have an official long-term demographic forecast for 2050 and, for that reason; a first demographic forecast for the purpose of modeling the pension system has been undertaken by applying the demographic block of the analytical model of the Republic of Moldova’s pension system. The two types of data used to set the scenario’s parameters were as follows:

- (1) Actual data of the national statistics system on the basis of age and sex structure for Moldova’s population between 1970 and 2011 (see Fig. 1.1.), birth-rates and mortality rate differentiated by sex and age.
- (2) Projections of prospective changes in demographic mortality and fertility indicators in descending order, as follows: women’s life expectancy, men’s life expectancy, mother’s mean age, infant mortality rate, total fertility rate.

Figure. 3.3: Scenario parameters of the demographic forecast



Source: *Elaborated by the authors on the basis of statistical data*

Table 3.2: Scenario parameters for the demographic forecast

Year	Total fertility rate	Mother's mean age, years old	Life expectancy, years		Infant mortality rate
			Men	Women	
2010	1.40	26.70	66.0	72.0	11.25
2015	1.45	27.06	66.6	72.4	9.36
2020	1.45	27.42	67.1	72.9	7.47
2025	1.45	27.78	67.6	73.4	6.1
2030	1.45	27.78	68.2	74.0	5.1
2035	1.45	27.78	68.7	74.5	4.42
2040	1.45	27.78	69.2	75.0	4.7
2045	1.45	27.78	69.8	75.6	3.87
2050	1.45	27.78	70.3	76.1	3.75

Source: Report on the development of the analytical model of the Republic of Moldova

The base demographic forecast has been calculated without taking into account migration. However the model is capable of taking it into consideration by entering the actual numbers of persons who have arrived in or have departed from the country during the year. Calculations are made in accordance to age and sex profiles of those arrived in or who have departed from the country and which are built on the basis of relevant Russian data.

Conclusion

Conclusions for the studied topic could be made after analyzing the most important factors that impact demography and lead to changes. Of course, in order to forecast future demographic changes, it is important to study past events, to identify the factors that have contributed to those changes and its consequences. By studying the evolution of the demographic indicators in the last years we noticed that there has been a constant decrease of population year-by-year. The main reason of this decrease is due to migration factors. People are searching for better living conditions and better-paid jobs. During demographic difficulties, social-economic factors play a huge role in determining whether people will migrate. The most common one is that those people who are capable of working and who are supposed to pay national taxes are the ones who leave the country. Actually, the Republic of Moldova has an aging population, which puts pressure on the pension system. The population continues to migrate but not children and old people. They remain in Moldova as they are not capable of working. The biggest part of remittances is used for consumption and not for investment, which does not help the economy to grow. By analyzing the low rate of real wage growth and the high rate of unemployment among young people, the forecasts are quite pessimistic. People do not find any reasons to return to their countries if there are no improved social conditions for a better life and much higher wages. In light of this, there are some recommendations that the government should take into consideration in order to elaborate and implement some measures for migrants to return:

- To simplify business start-ups in order to help migrants return home;
- To facilitate the flow of credit (for business development and mortgages) for migrants who are returning home;
- To offer facilities and financial help for the education of migrant's children;
- To open special work bureaus for migrants in order to help them find a good job;
- To increase financial aid for every born child;
- To offer financial aid and provide homes to families with 3 and more children.

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4. Report on official macroeconomic forecasts 2010-2015, Ministry of Finance of Moldova
5. Official data provided by the National Statistical Bureau www.statistica.md
6. Development of the analytical model of the Republic of Moldova's pension system, Baskakov V.N., Gryzlova A.V., Krylova E.K., Yanenko E.A., Pomazkin D.V.

2.3. Impact of Remittances on the Education of Children of Moldovan Emigrants, *Dorina Cirlig, Alina Zotea*

Faculty: Economic Sciences

Moldova State University

Scientific Coordinator: Diana Criclivaia

Introduction

Labour migration from Moldova has increased rapidly over the past two decades. The Republic of Moldova was formerly under the rule of the Soviet Union, when “outside migration” was prohibited. As a result, migration flows from the Republic of Moldova were limited to the Soviet territory. However, with the first signals of liberalization of the Soviet Union at the end of the 1980s, migration restrictions were eased and many countries witnessed the return of citizens to their historic homeland for the purpose of reunifying with their families (mainly Jewish and Germans towards Israel, Germany and the USA). This phenomenon intensified following the disintegration of the USSR.

The collapse of the USSR led to the subsequent assertion of Moldova as a newly independent state. The period was also characterized by worsening ethnic tensions, which were manifested through ethnic and/or military conflict (i.e. the Transnistrian conflict of 1992). These circumstances provoked migration on ethnic grounds in the first half of the 1990s, predominantly towards Russia and Ukraine. However, the role of this conflict for migration movements should not be overestimated.

Since the second half of the 1990s, the outflow of Moldovan migrants has become a large-scale phenomenon. It has been primarily economically motivated. To date, three waves of mass migration can be identified. The first mass migration was economically motivated and had a commercial character (purchase of goods from abroad and sales on the Moldovan market).⁷² However, the introduction of a visa regime, along with more complicated custom controls and equalization of prices in the post-communist states made this type of commercial migration less profitable for an individual migrant. As a consequence, commercial migration was gradually replaced by labour migration.⁷³

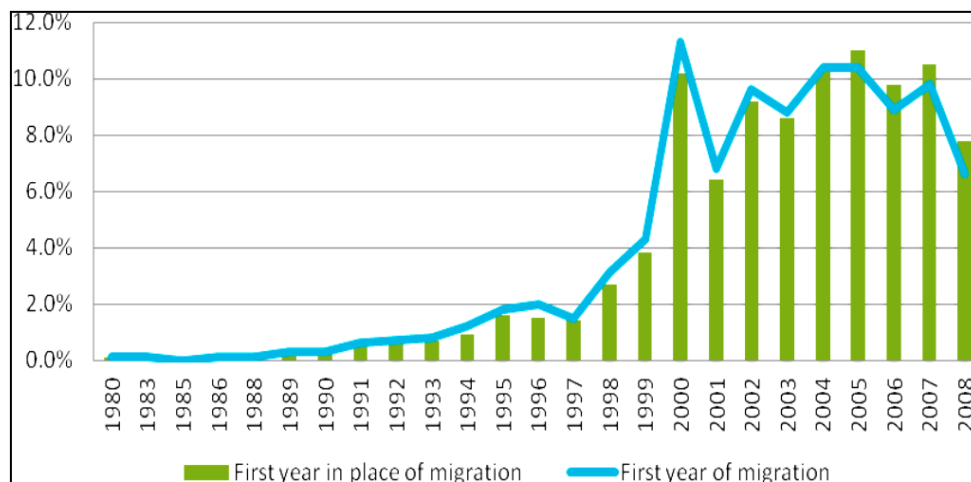
The financial and economic crisis experienced by the Russian Federation in 1998 triggered the second wave of mass migration from Moldova, which continued at high intensity until at least 2007. This wave of mass migration occurred as a response to acute poverty.

Today, Moldovan emigration is mainly a response to opportunities on the foreign labour market, and should be viewed as an investment strategy for the future response to acute poverty.⁷⁴

⁷²Mosneaga V. with reference to Евдокимова Л. “Коммерческая миграция населения Республики Молдова: основные этапы и их характеристика” [Commercial Migration of the population of the Republic of Moldova: main stages and their characteristics]. // “Население Молдовы и трудовая миграция: состояние и современные формы” [Moldovan population and labor migration: status and current forms]. – Chisinau, CAPTES, 2000, p.65 - 83.

⁷³Mosneaga V. (2009) .Moldovan Population in the Context of Current Migration Processes. Moldova – Transnistria: Working Together for a Prosperous Future, 156-172. Chisinau: Publishing House.

⁷⁴Elina Eskola. (2007). Investing in a Brighter Future Abroad? The Need for a Domestic Alternative in Moldova, SIDA

Figure 1. Dynamics of migration, (%)

Source: IASCI/CIVIS 2010

Natural and human resources will contribute to efficient development of national economy only if our economy will be provided with financial resources.

1. Moldovan Migration: Background

1.1. Migration Profile

In general, long-term Moldovan migrants come from all walks of life and originate from both urban (25%) and rural areas (75%). Moldovan migration is primarily directed towards two **regions**, the *European Union* (mainly Italy and Portugal) and the *Commonwealth of Independent States* (mainly to Moscow and St. Petersburg in the Russian Federation, and some to Ukraine). A specific feature of Moldovan migration is the high level of clustering of people in the host countries. The overwhelming majority of the migrant stocks are found within a few destinations, with ten cities hosting about 3/4 of all migrants from Moldova.⁷⁵

The **profile of Moldovan migrants**⁷⁶ shows that they are predominantly:

- *young*– Moldovan migration is composed of the economically active part of the population, the largest part of migrants (79%) aged between 18 and 44 years;
- *married* – dependent on the civil status of Moldovan migrants, a large contingent is married (71%), although family reunification rates in the places of migration remains relatively low (21%);
- *more educated* – one distinctive feature of migration from Moldova is that a significant proportion of those leaving are relatively well educated; 28% of all migrants have completed university-level education and 63% completed high school or professional/vocational education;
- *male-led and female-led at the same time* – male labour-migrants, amounting to 63% of the labour force, tend to migrate towards CIS locations and are engaged primarily in construction and repair sectors, transportation, industry and agriculture. Females tend to migrate to EU countries to work in the service sector, such as housekeeping, trade, care of the aged and children.

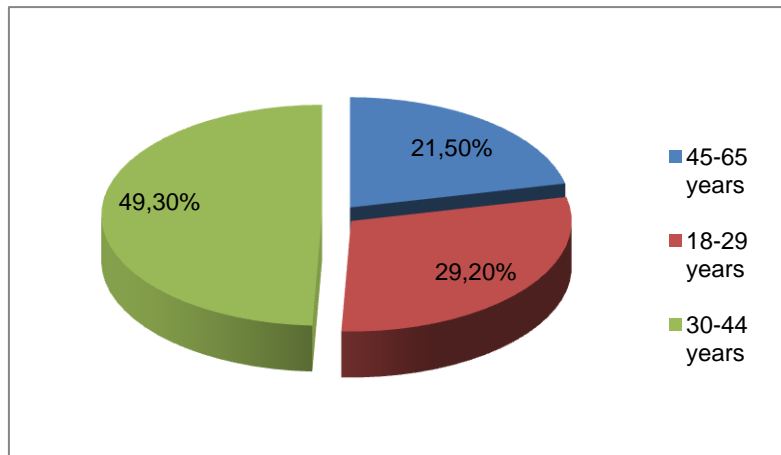
Moldovan migration is composed of the economically active part of the population. A characteristic of Moldovan migrants is their relative youth, with an average age at the time of departure of 29.7 years, which has climbed to an average age of 36.1. The largest

⁷⁵Lücke Matthias, Toman Omar Mahmoud, and PiaPinger, Patterns and Trends of Migration and Remittances in Moldova, The CBS AXA Survey 2006, Chisinau: IOM, 2007, p.17.

⁷⁶ IASCI/CIVIS DEVINPRO Moldova Market Analysis, 2010

percentage of migrants (79%) is aged between 18-44 years. Males can be found predominately in the age group 18-29 years, while women are more likely to be in the 45-65 year group.

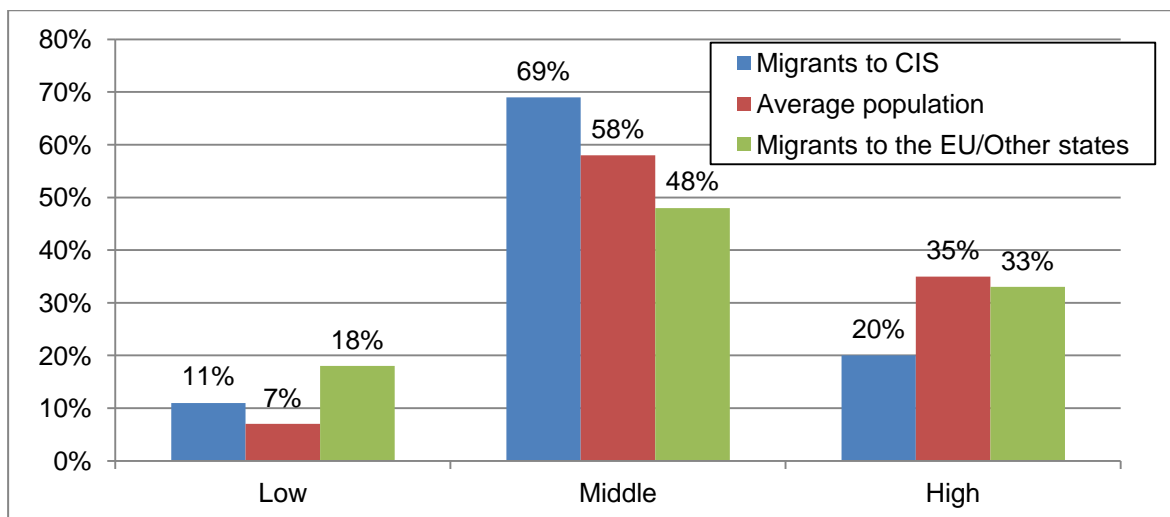
Figure 2. Age demographics of Moldovan migrants



Source: IASCI/CIVIS 2010

Another characteristic of Moldovan migration is the exodus of specialists in a variety of sectors of the national economy, which causes a **brain-drain** for the country. Amongst those who leave, intellectuals represent 18%; they worked in Moldova as engineers, doctors, teachers, lawyers, and economists prior to migration.⁷⁷ Economic and political instability or crises, poverty and low standards of living, unemployment and/or very low salaries, inadequate social protection and limited life opportunities caused this population outflow. The brain-drain phenomenon began with the liberalization of the Soviet system, which greatly affected the branch of scientific research and development. A continuous reduction in the number of scientists began in Moldova in 1991, and has intensified over subsequent years.⁷⁸

Figure 3. Education levels of migrants prior to migration, %



Source: IASCI/CIVIS 2010

⁷⁷ Ibid.

⁷⁸ Kramarenko, V. What is the fate of S&T in the Republic of Moldova? In W. Meske et al. (Eds.) IOS Press, 1998. Transforming science and technology systems - the endless transition?

A significant proportion of highly skilled Moldovans undergo occupational “de-qualification” when they migrate, as they often get employed as unskilled or low skilled workers. The brain-drain from Moldova does not necessarily become a brain-gain for the receiving countries, but rather a brain-waste for the migrants. However, highly skilled Moldovan migrants earn much more in low-status jobs abroad than if they would be pursuing careers in their home country.

Although the outflow of intellectual capital from Moldova is estimated to be substantial, no systematic and detailed studies of brain-drain exist to date.

1.2. Driving factors of Migration

Several “push and pull” factors can be identified when explaining the drivers of migration. Many studies emphasize Moldovan migration as being driven largely by *economic motivations* (more than 72% of migration push factors).⁷⁹ A 2008 European Training Foundation (ETF) study showed that Moldovans are generally considered as being *pushed* to go abroad due to poverty, the lack of adequate employment opportunities, low salaries and an unstable economic environment⁸⁰.

At the end of the 1990s, the level of GDP in Moldova was 34% of that a decade earlier. According to data from the National Bureau of Statistics, the unemployment rate was 8.5% in 2000, 7.3% in 2001 and 2002, while large groups of the employed were on extended leave.⁸¹ Nominal salaries were very low, while real ones dropped because of high inflation rates. As a result, poverty was widespread: a World Bank study evaluated that in 1999, approximately 80% of the Moldovan population was below the official poverty line,⁸² with 20% of the population living in extreme poverty.⁸³ Thus, mass migration was basically economically driven - a coping mechanism to try to alleviate poverty.

The *pull factors* motivating Moldovans to leave the country are primarily: higher income levels in the host countries, better living standards, better opportunities for personal development and having ‘successful’ migrants and their social networks already established abroad (relatives, acquaintances and close friends).⁸⁴ Another pull factor distinctive to CIS destination countries is the low travel costs given the geographic proximity and possibility for visa-free travel.⁸⁵

Social capital and mutual help between migrants, as well as between migrants and home communities, plays an important role in every phase of the Moldovan migration experience/cycle. This holds true from pre-departure planning to eventual return and reintegration. In the pre-departure phase, 70% of individuals chose their destinations because they already had social contacts or even a guaranteed job.^{86,87} These social networks play crucial roles in assisting Moldovan migrants to manage migration-related risks, lower associated financial costs, and to maximize their gains. The IASCI-CIVIS 2010 findings

⁷⁹European Training Foundation. The contribution of Human Resource Development to Migration Policy in Moldova, 2008

⁸⁰ETF, “The contribution of human resources development to migration policy in Moldova, [http://www.etf.europa.eu/webatt.nsf/0/C12578310056925BC12573DB004D3B74/\\$file/NOTE84CGJU.pdf](http://www.etf.europa.eu/webatt.nsf/0/C12578310056925BC12573DB004D3B74/$file/NOTE84CGJU.pdf)

⁸¹Pyshkina T. V., Economic Consequences of the Migration of Labour from the Republic of Moldova/ UN World Institute for Development and Economic Research, Helsinki, 2002

⁸²UNDP, Good Governance and Human Development Moldova Human Development Report 2003

⁸³Republic of Moldova, Interim Poverty Reduction Strategy Paper, November 15, 2000

⁸⁴Walewski, M., Sandu, M., Mincu, G., Hristev, E., & Matysiewicz, B. (2008). The impact of migration and remittances on the rural areas of Moldova and Case Study on migration management in Poland Centre for Social and Economic Investigations (CASE), p.21

⁸⁵Luecke, M., Mahmoud, T. O., & Pinger, P. (2007). Patterns and Trends of Migration and Remittances in Moldova. The CBSAXA Survey 2006. IOM & Sida., p. 25-26.

⁸⁶IASCI/CIVIS DEVINPRO Moldova Market Analysis, 2010

⁸⁷IOM. (2008). Migration in Moldova: A Country Profile. Siar, S. (Ed.). Geneva., p.26

show that Moldovan migrants maintain strong levels of contact in their place of migration, as well as links to their home communities. This is an important factor for the exchange of information and support regarding economic and social conditions, both in the place of migration and in Moldova.

1.3. Migration and remittances

Remittances are one of the most researched aspects of migration in Moldova. The flow of money transfers from abroad has shown a steady growth since 1999. According to the National Bank of Moldova, migration-related remittances from abroad amounted to 89.62 million U.S. dollars (USD) in 1999, reaching 1,660.09 million USD in 2008. The official calculations of remittance inflow are probably underestimated, because of a considerable share of informal inflows, which are misreported and are difficult to measure. However, Moldova is currently one of the top remittance-dependent countries, ranking 2nd in the world according to the World Bank classification of 2008 (see details about dates in Table 1). Remittances represent 36% of the total GDP.

Table 1. Total volume of transfers (including remittances), FDI, and trade deficit in Moldova, millions USD

Year	1999	2000	2001	2002	2003	2004
Transfers	89.6	153	212	254	317.3	422.2
FDI	65.77	129.49	100.31	90.09	77.33	130.1
Trade deficit	122,935.6	304,950.4	326,733.5	394208,6	612,413.5	783,360.3
Year	2005	2006	2007	2008	2009	
Transfers	683.3	854.5	1218	1,660	1,182	
FDI	176.25	233.58	591.24	717.99	38.5	
Trade deficit	1,201,037	1,641,563	2,347,789	3,307,577	1,990,800	

Source: IASCI/CIVIS 2010

Remittances have increased not only in absolute terms at the national level, but also in the amount received by individual households (HHs)⁸⁸. According to an IOM study, average remittances per migrant increased in nominal terms from USD 1,296 in 2006 to USD 1,848 in 2008.⁸⁹ However, beginning in 2008 in the wake of the global economic crisis, remittances began to decrease. A BBC report⁹⁰ highlights that Moldova is among the countries that suffered the steepest declines in remittances in 2008-2009. This trend is further confirmed by data obtained by the IOM in its latest study⁹¹, as well as by IASCI-CIVIS 2010.⁹²

According to IASCI-CIVIS (2010) overall 84% HHs in migration transferred money to Moldova in 2009, accounting for EUR 422 million in remittances. The average 'remitting HH' transferred on average EUR 4,403. The main purpose of remittances is to support dependent family members (usually spouse, children and parents). Most of this money is used for the consumption needs of HHs and contributes to poverty alleviation.

2. Migration and development – theoretical discussion

According to official estimates, more than one quarter of the Moldovan labour force is currently living and working abroad. On one hand, this is a major source of income for the

⁸⁸European Training Foundation (ETF), (2009), Moldova Country Report: Black Sea Labour Market Reviews.,p.80

⁸⁹Luecke, M., Mahmoud, T.O., & Steinmayr, A. (2009).Labour Migration and Remittances in Moldova: Is the Boom Over?; IOM, CBSAXA Survey 2006-2008., p.3

⁹⁰Fix, M., Demetrios G. Papademetriou, Batalova, J., Terrazas, A., Yi-Ying Lin, S., &Mittelstadt, M. (2009). Migration and the Global Recession. Migration Policy Institute, BBC World Service.

⁹¹IOM. (2009). The Socio-Economic Impact of the Economic Crisis on Migration and Remittances in the Republic of Moldova: Early Findings. CBSAXA. p.18-19;

⁹²IASCI/CIVIS DEVINPRO Moldova Market Analysis, 2010

national economy, accounting for 25% of Moldova's GDP in 2011. On the other hand, if not properly managed, the migration situation may generate major problems for the country, including, but not limited to: loss of highly skilled labour forces; reduced growth and productivity because of a lower stock of highly skilled workers; loss of fiscal revenues from taxes; and inflationary potential in some areas (for example an excess demand for land and houses lead to artificial inflation of their prices).

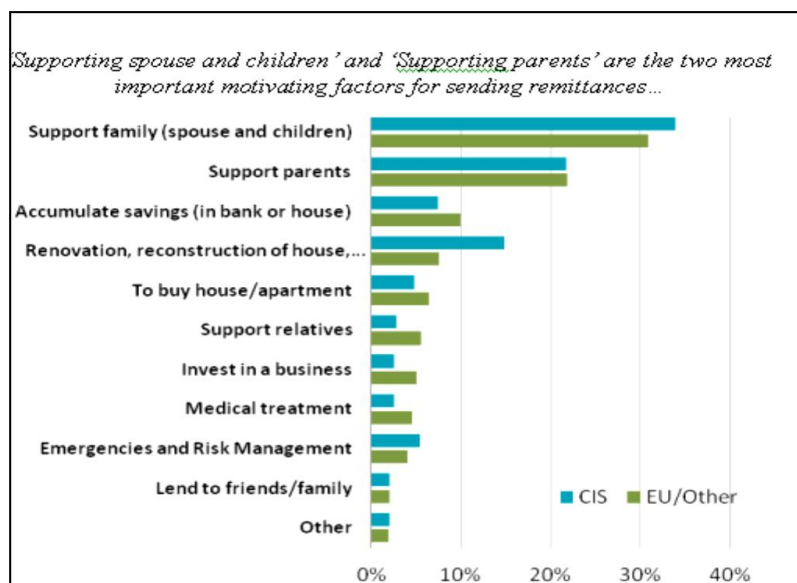
2.1. Impact of current remittances

a. Positive impacts

As shown by the HH survey results,⁹³ there is a positive correlation between the receipt of migration-related financial flows and the perception of being able to cover basic needs. The income of families with migrants who send money home is approximately twice as high as families with migrants who do not receive remittances. Compared to families with no financial flows from abroad, these families allocate more money from their budget to purchasing consumer goods (such as food and clothing), to repay debts, and to repair or build houses.

Additionally, remittances have had a large and positive impact on the macro-economic stability of Moldova. They help finance the large and increasing trade deficit of the country, aid in fiscal consolidation, and have supported the value of the currency. The income remitted by Moldovan migrants working abroad reached its peak in 2007 at 36% of GDP. Remittances represent the most substantial and stable currency inputs compared to foreign direct investments, exports, loans and foreign assistance. They have contributed to the increase of the budget through VAT and import duties, the development of the banking system and financial intermediation services, and the increase of official reserve assets.⁹⁴ World Bank studies maintain that remittances are an important source of foreign exchange and have helped to finance the trade deficit in Moldova since the late 1990s. Both official and private financial inflows on the capital accounts have played a relatively small role, although there has been some increase in direct investments in Moldova since the late 1990s.⁹⁵

Figure 4. Intended purposes of remittances



Source: IASCI/CIVIS 2010

⁹³ IASCI/CIVIS DEVINPRO Moldova Market Analysis, 2010

⁹⁴ Nick Maddock and Lovita Ramguttee "Responding to falling remittances and returning migrants" in Development and Transition, July 13th,

⁹⁵ Mansoor, A., Quillin, B., "Migration and remittances: Eastern Europe and the former Soviet Union", World Bank, 2006

b. Negative impact

Remittances may also have a negative impact, although they often lead to higher HH incomes for the recipients. A higher HH income is often accompanied by a tendency towards higher HH expenditures, primarily on consumer goods. However, most consumer goods in Moldova, such as electronics, are not produced domestically but are imported from abroad. This increased demand for imports often leads to an increase in domestic prices, higher inflation and import dependency.

Literature suggests that remittances also generate a culture of dependence on 'easy money' that reduces or even eliminates the wishes of people, particularly youth, to participate in economic activities. Remittances may contribute to increasing income inequality between families that benefit from external support and HHs that have no family members abroad.

c. Brain-drain/gain phenomenon

As previously mentioned, no systematic or detailed studies of Moldovan brain-drain/gain exist to date. However, statistical data on migration show that Moldova's brain-drain has deprived the national economy of many of its youngest, most skilled, and most entrepreneurial workers. According to some sources, an alarming trend can be observed in the education and health care systems. Over the past two decades, more than 40% of trained health professionals have left the medical sector with a significant number emigrating abroad. The ratios of doctors and nurses per 1,000 inhabitants are below the EU average. Moldova also suffers from a severe shortage of health care workers in rural areas.⁹⁶

The migration situation in Moldova, if not properly managed, may generate major problems for the country, including, but not limited to: loss of highly skilled labour forces; reduced growth and productivity because of a lower stock of highly skilled workers; loss of fiscal revenues from taxes; and inflationary potential in some areas

The Moldovan educational system has for many years faced a deficit of teachers, mainly at primary and secondary levels. Many young teachers prefer to migrate abroad for work, as they are faced with insufficient remuneration at home and can earn much higher salaries in other countries. The number of students abroad is also growing; in 2006, there were about 9,000 Moldovans studying outside the country.⁹⁷ Furthermore, of those who choose to study in Moldova, an increasing number of university graduates fail to find jobs and decide to leave the country after they have graduated.

Migrants often find jobs below their qualifications or in sectors outside their specialization, creating 'brain-waste'. One in four migrants (24%) receive education during migration (usually on-the-job training (10%) and formal language training (10%), as well as vocational training courses, academic studies, business training, etc.⁹⁸). Moreover, policies designed to support returned migrants lack in Moldova. Returning migrants are met with insufficient financing in the science, education and health sectors, in addition to the bad economic situation and legislation, which decreases the incentives for entrepreneurship and does not stimulate knowledge, skills or know-how transfer of the human capital acquired by returning migrants.

⁹⁶ IASCI/CIVIC, Strengthening the link between Migration and Development in Moldova, 2010, p.19, <http://siteresources.worldbank.org/INTECA/Resources/WBMoldovaReport.pdf>

⁹⁷ Migration and skills : the experience of migrant workers from Albania, Egypt, Moldova and Tunisia, World Bank

⁹⁸ IASCI/CIVIS DEVINPRO Moldova Market Analysis, 2010

In this context, the IOM Mission to the Republic of Moldova, in cooperation with the Academy of Science of Moldova, has launched the program “*Addressing brain-drain and strengthening Moldova as a research and development hub through temporary return of expatriated Moldova scientists.*” The aim of this program is to facilitate and enhance the ability of scientists born in Moldova and who at present reside abroad to contribute to the development of the scientific and economic sectors of the Republic of Moldova.⁹⁹

2.2. Impact of current remittances on education of children

To be able to assess to what extent remittances are contributing to the development of the Republic of Moldova, two areas need to be examined: the effects at the HH level and the overall impact on the economy and society as a whole. The first is positive because financial inflows from abroad have provided secure livelihoods for families with migrant(s). Many people enjoy a higher standard of living that would not be possible without remittances. However, the second impact depends largely on whether remittance flows have been transformed into productive investments. On one hand, there is potential willingness of the migrants to invest. On the other hand, the business environment is unattractive and frequently even hostile, which leads to the failure of migrants’ efforts. Sometimes failures are repeated and migrants begin to lose trust and hope in the success of their businesses. Thus, they are forced by circumstances and the lack of other alternatives to return to migration.

a. Investing in human capital

One of the remitting objectives and saving priorities of migrants is education; they send money to finance their children’s education, the education of their brothers/sisters, or to save for their own education.¹⁰⁰ The cost of tuition for university education is growing each year, reaching amounts that many families cannot afford without financial support from outside the country.

Some parents finance the migration of their children in order to study and gain experience abroad. Children, particularly from urban environments, have access to extracurricular study and activities. An interview with a primary school teacher from a Moldovan village showed that migrants’ children, at least those from the respective community, have greater opportunities to purchase a computer and to have internet connection at home than the rest of the children.

On the other hand, local experts, as well as migrants, spoke about the negative impact of migration and remittances on children’s education and training. In fact, the general opinion shows a concern with the negative effects of migration and remittances, rather than revealing the positive side of migration. Data submitted by Commissions for Protecting Children’s Rights as of the beginning of April 2010 shows that 84,207 children in Moldova had at least one parent in migration (of them, 66% were children with one parent abroad and one parent in Moldova, and 34% were children left with no parent at home). According to interviews with migrants and individuals working in the education system, lack of children’s supervision by parents as a result of migration has a negative impact on school performance.

b. The direct impact of remittances on children education¹⁰¹

In the opinion of most participants, the absence of parents has a negative impact on the moral and academic education of children, although again, this opinion was truer of families without migrants. In all, 89 percent of these thought migration had a negative impact on moral education compared with 74 percent of families with migrants. Very few respondents

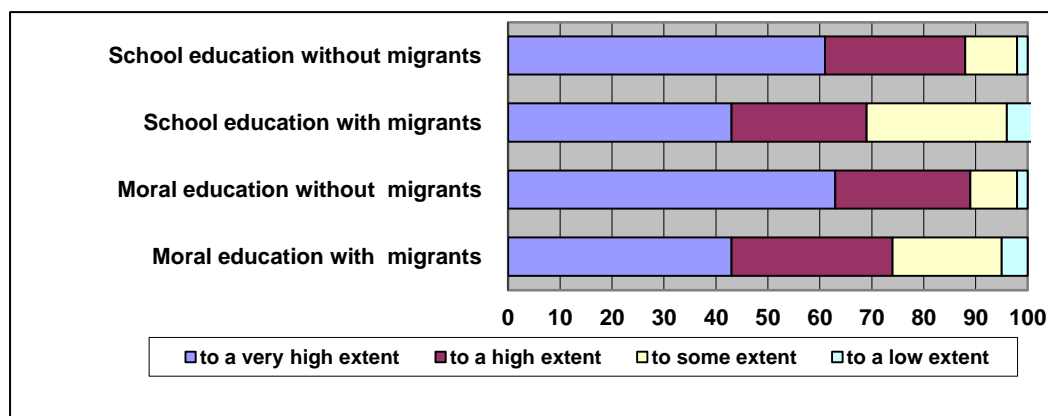
⁹⁹ www.iom.md

¹⁰⁰ Students that benefited from Work and Travel program went to USA to earn money in order to pay the annual contract at the university where they studied.

¹⁰¹ The Impact of Migration and Remittances on Communities, Families and Children in Moldova, October 2008, United Nations Children’s Fund (UNICEF)

(1 percent) believed that parents' departure did not influence children's education (Figure 3), especially if the migrant was the mother, as mothers usually help their children with their homework (Figure 5).

Figure 5: Influence of Parents' Absence on Education



Source: IASCI/CIVIS 2010

Cardona and Medina (2006) find that households receiving remittances induce increases in education expenditures¹⁰². Since the increased investments in education and health contribute to human capital formation, it is likely that remittances may benefit developing countries for long-term growth prospects¹⁰³. For Moldova one would expect remittances to have significant positive effects on the educational attainment of members from households with migrant members.

Expenditures on education account for 5% of all remittances¹⁰⁴. In terms of the year 2008 it is almost 83 millions USD. This figure can easily be compared with national budget expenditures on education. Remittances contribute to an increase in the general level of education. However, our government acts in order to decrease the number of students. In 2006, the Government of the Republic of Moldova issued Resolution No.434, which stipulates the reduction in number of citizens with university degree.

As a result, the number of persons with university degrees has been declining since then. The number of students enrolled in Moldavian universities is detailed in Table 2.

Table 2. Students matriculated to Moldavian Universities

2008	2009	2010
122,939	109,623	98,919

Source: National Bureau of Statistics.

Again, some potential benefits are not explored. Lack of education reforms and weird education regulations will hinder an increase in human capital. Most important is the reduction of brain gain. Government directly interferes in the process of human capital formation, thus reducing the long-term effects on growth.

¹⁰²Lina Cardona Sosa, Carlos Medina, "Migration as a Safety Net and Effects of Remittances on Household Consumption: The Case of Colombia", Banco de la Republica, Columbia, p. 38, available at <http://www.banrep.gov.co/docum/ftp/borra414.pdf>.

¹⁰³ Migration Policy Institute, Dovelyn Agunias, Remittance Trends in Central America, <http://www.migrationinformation.org/USfocus/display.cfm?ID=393>

¹⁰⁴Moldova National Public Opinion Survey on Remittances 2007.

Another problem is the reduction of financing to higher educational institutions. The number of students paying for university studies is increasing. The decrease in financing worsens the quality of educational services (low financing lead to corruption and lower wages for professors, and some of them leave universities in search of jobs with higher salaries), which decreases the educational level in society.

c. Potential role of retained savings

The current research confirms the earlier findings of IASCI-CIVIS 2010 concerning the high propensity to save amongst migrants from Moldova. Some of migrants' savings are accumulated in cash and/or banking systems in the place of migration. These retained savings averaged 601 million euro in 2009. Assuming appropriate incentives, safeguards and regulatory frameworks, these resources could be channeled into savings and investments in migrants' home countries, ultimately impacting development.

The interviews with migrants confirmed that they have very clear savings objectives. For most, the objective of buying a house was already achieved at the time the research was conducted. Thus, the main savings objectives were to support and care for family members, the education of children and to finance special family occasions such as weddings, anniversaries, funerals and christenings. From this it can be concluded that savings objectives tend to be oriented towards the alleviation of poverty and the enhancement of the standards of living. The interviewed migrants also expressed a very strong wish to invest their money in the realization of their business ideas and plans. They believe this could have a positive effect not only on a personal level, but on the country's development as well.

The amount of money needed to meet their saving objectives is estimated at tens of thousands of Euro, and usually only a small part of the money needed is actually saved. The respondents were relatively pessimistic about their ability to save these amounts while in migration, especially because of the economic crisis.

Conclusion

Migration has become a life strategy for Moldovans. Even after two decades of migration, people are still leaving for other countries legally and illegally. The high priority destinations have stayed the same – the CIS (mainly Russia) and the EU (mainly Italy). However, a reorientation of migration patterns from CIS towards the EU states has occurred. Migration to Russia now often serves as a source of funding for migration towards the West. There has also been a shift from short-term and seasonal migration towards long-term migration. The reorientation of the migration patterns from lower income countries to higher income countries creates increased opportunities/potential for development impacts from migration; particularly in increased remittance flows or more stabilized/resistant remittance flows.

Migration has both positive and negative effects on the home country. The most important benefit of migration for Moldova is still remittances. These monetary sums are used mainly for consumption, enabling remitters' HHs to improve their standard of living. At the same time, migration enables migrants and their families to invest at home. Usually, migrants resort to "non-productive" investments, in particular, in housing. The results of the research show that these can generate employment and income for many non-migrants or ex-migrants. An important investment for Moldovans is education. Remittances increase educational expenditure in origin HHs, and in many cases, it is the only source of gaining access to university education. On the other hand, there is some evidence that migration may also create negative incentives for education, the greatest being the deterioration of educational quality as qualified teachers and researchers move abroad, as well as the lack of parental supervision of children. Regarding the impact of migration on

Migration has become a life strategy for Moldovans. Even after two decades of migration, people are still leaving for other countries legally and illegally.

health, it is difficult to say whether the state of health has deteriorated or improved in the migration context. Specialized studies in this area are needed. However, a shortage of healthcare staff is widely felt. This shortage could be compensated for by new generations of professionals, although many qualified and young professions are not inclined to stay in Moldova. Faced with low salaries and limited career potential, shortly after graduation, many educated youth decide to migrate abroad.

Remittances are very important for HHs with migrants; however, the main purpose of migration is ultimately to save. Some of migrants' savings are accumulated in cash and/or banking systems in the place of migration. It is estimated that these retained savings average to hundreds of million Euros per year. Assuming appropriate incentives, safeguards and regulatory frameworks, these resources could be channeled into savings and investments in migrants' home countries, ultimately contributing to development.

After meeting basic needs, migrants tend to invest their capital in small-scale productive activities. Moldovans prefer to have family businesses built on their own resources, which are in most cases limited. The businesses are usually launched in migrants' home communities. In rural areas, financial capital is mainly invested in agricultural activities, while in urban areas investments are mostly made in retail, trade and construction. Moldovans' investment strategies are also limited. Frequently, migrants from the same community invest in the same types of businesses, such as mills, vegetable greenhouses, etc., which ultimately contributes to competition in the market and low profitability of the businesses. In addition, migrants contribute to the development of their communities mainly by attaining a level of individual prosperity, for example, through the repair and modernization of their houses. Collective actions for achieving joint benefits are more the exception than the rule.

For return migrants, the decision to start a business is frequently hindered by a failure to re-integrate into the Moldovan labour market. Willingness, energy and ownership of some capital available for investment help to motivate the start-up of new businesses. Regretfully, Moldovans lack of trust in the financial and banking systems in the Republic of Moldova, and the high dissatisfaction with bank operations and services, all hinder their attempt to become self-sufficient. As a result, Moldovans who have high savings capacity resort to informal banking methods. The enormous financial resources originating from migration are largely kept at home. In other words, banks have no access to these financial flows, limiting their capacities to contribute to the development of the country through the provision of credit.

In cases of return migration, migrants often encounter difficulties when re-integrating into Moldovan society, often lacking the infrastructure, opportunities and support available to them previously in the countries of migration. This study revealed situations in which the financial, human and social capital acquired by Moldovans abroad is instead channeled towards, for example, Romanian border communities. Even if few such cases exist at the moment, there is a potential for these numbers to increase in the future, especially since obtaining Romanian citizenship by Moldovans has become easier.

Brain-drain from Moldova does not necessarily turn into brain-gain upon return. Irrespective of the level of qualification and education attained, Moldovan migrants abroad are often hired for low-skilled work or work for which they are over-qualified. Only rarely do these migrants benefit from training courses. Still, migrants often acquire a certain amount of human capital abroad, and attempts are often made to apply these new skills at home. The acquisition of new knowledge and skills and development of new values and lifestyles was registered mainly in the areas of construction and agriculture, but also in retail trade. These changes are shown through the purchase of equipment or machinery, the application of management skills and implementation of new business ideas in the home country.

The high migration rate in the Republic of Moldova (including a high volume of female migration) has resulted, along with other factors, in increased divorce rates. According to both experts and migrants, the process of family re-unification abroad has started. Many women have been legalizing their status and bringing their children along. Legalization

provides migrants with the right to receive social contributions. Moldovans are also increasingly marrying abroad and remaining there, where the standard of living and social security systems are clearly higher. Moldova is affected by chronic political, social and economic instability, and a lack of opportunities for current migrants and their children. As a result, what began as temporary labour migration sometimes eventually turns into progressive depopulation.

Although there is a high degree of social cohesion between Moldovans abroad on an individual level, there is limited social cohesion among the community of Moldovans abroad (Moldovan Diaspora) as a whole. These formal groups have the potential of becoming involved in the development of their home country, although their actual level of engagement in such activities remains limited.

A number of state institutions are responsible for keeping records of people's external migration and for managing migration problems. While the functions of these institutions are different, there is little or no coordination between these bodies. The authorities do not have control over migration. Coordinated guidance of responsibilities pertaining to the respective structures would allow for a more effective management of the migration phenomenon from the perspective of migrants and of the Republic of Moldova.

The international community shows openness to the Republic of Moldova by providing its assistance both to the Government and to migrants. In the first case it provides services and advice in order to ensure efficient migration management, it helps to find practical solutions to migration problems, and contributes to promoting international cooperation on migration issues. The international community also provides assistance to Moldovan migrants during all the stages of migration, including returning home (which is very important from the development perspective). The openness of the international community is a resource, which should be used to develop a more efficient approach towards migration issues.

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Chapter 3. Law

3.1. The Role of the State in Regulation of the Migration Processes, *Alexei Cresnirov*

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“Strong and balanced state’s involvement into migration processes regulation can strengthen a country’s position both internally and externally, and could as such be seen as the proper use by the state of its sovereign powers”.

Introduction

Migration processes have become a part of our globalised world and quite recently, after the collapse of the Soviet Union, Moldova experienced this phenomenon. The system, which was in place in the Soviet Union and which strictly controlled both internal and external migration flows collapsed as well. Therefore, the newly independent states that appeared in the post-soviet era faced a new problem: securing their independency and sovereignty and *inter alia* controlling their migration processes.

From the early 1990s onwards, the Republic of Moldova has been facing serious challenges: a substantial part of the population has emigrated to become guest workers in many countries of the world, and in particular in Russia and the European Union. Some of them left due to political, family and other reasons. How was the young Moldovan state involved in the regulation and management of this issue? Has it been involved in general? What is the role of the state in migration processes?

The rights of migrants as a part of international human rights law are protected by the relevant international instruments. On the other hand, a defined territory is one of the essential elements¹⁰⁵ of the state and one could assume that protection of the state borders from both in- and out- migration is a sovereign right of the state.

The above mentioned issues are analysed in this paper.

¹⁰⁵ Along with a permanent population, government and capacity to enter into relations with the other states; 1933 Montevideo Convention on Rights and Duties of States, article 1, recognised as a norm of international customary law.

1. The idea of state sovereignty and migration processes

The idea of state sovereignty, as contradictory in the modern world as it is, is an inherent part of the development of the notion of the state as well as of the development of international law itself. The states are the primary subjects of the international law. The sovereign states can, as a consequence of their sovereignty, create international law norms: treaties, customary law and general law principles¹⁰⁶. Many scholars have researched for the definition of the state sovereignty for the past centuries, not only in its legal sense, but also from historical, philosophical and political perspectives.

For this paper, state sovereignty is understood as an inalienable juridical quality of independent states. It symbolises political and legal independence, the highest accountability and value as primary subject of international law¹⁰⁷.

Firstly, sovereignty is closely connected to supreme authority and territory under which the decision can be accepted. Territoriality is now taken for granted. It is a feature of authority all across the globe. Even supranational and international institutions like the European Union and the United Nations are composed of states whose membership is in turn defined territorially¹⁰⁸.

Secondly, the issue of absoluteness of sovereignty is often discussed. Absoluteness in the case of sovereignty could refer not just to the extent or character of sovereignty, which must always be supreme, but rather to the scope of matters over which a holder of authority is sovereign¹⁰⁹. It is also recognised no state can be completely and absolutely sovereign, as its sovereignty is limited by the sovereignty of the other states.

The abovementioned means that state sovereignty as a concept is always evolving, in particular in our globalised world. One of the reasons is expansion of the notion of the subjects of the international law. Historically, only states were recognised as international law subjects (they also remain the primary subjects now). Also international organisations enjoy the status of subject under international law. Of great relevance is that the list of international law subjects now also includes individuals most of all with regard to the protection of the fundamental human rights.

The Special Rapporteur of the UN Commission on Human Rights noted in her 2004 report:

“In exercising their sovereign right to regulate the entry, stay and movement of migrants and their policy on immigration, asylum and refuge, States should bear in mind the international obligations they have assumed in the area of human rights. In other words, States party to the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child must guarantee to anyone who is in their territory and subject to their jurisdiction the rights recognized in those legal instruments”¹¹⁰.

Does the quotation above mean that the states limit their sovereignty when they sign the international legal instruments on human rights? Taking into account the definition of the sovereignty, the answer is no. The states create the international law themselves. The right

¹⁰⁶ Statute of the International Court of Justice, article 38.

¹⁰⁷ Моисеев А. А. Суверенитет государства в современном мире. Международно-правовые аспекты. — М., «Научная книга», 2006, p.246.

¹⁰⁸ Sovereignty, Stanford Encyclopaedia of Philosophy, <http://plato.stanford.edu/entries/sovereignty/>

¹⁰⁹ Ibid

¹¹⁰ Khalid Koser K., “Irregular migration, state security and human security”, University College London, 2005, p. 12,

http://iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/qcim/tp/TP5.pdf

to accede to an international treaty is an essential element of the state, therefore, execution of the sovereign right to accede to one or another treaty, including human rights conventions, does not limit sovereignty of this state, but creates a guarantee necessary to respect certain rights, e.g. fundamental rights of individuals.

2. Migration management and control

One of the main possibilities to control and manage migration is through state institutions, various international organisations and NGOs.

Among other migration typologies, two of them are most likely more important while speaking about migration management. One of these migration types represent a threat to the state, the other one is connected to the situation where migrants are victims.

“*Threat migration*” is usually related to the irregular migration and crimes or unlawful activities which are associated with irregular migration: trafficking in human beings, smuggling of migrants, illegal employment of migrants, etc. Speaking about threat migration, the regulatory and control activities should address the persons who are responsible for these unlawful activities: traffickers, smugglers, employers, etc.

Another issue is “*victim migration*”. Here the persons who suffer from unlawful activities are in the focus, in particular victims of trafficking, but also forced migrants and some other categories of migrants. The figure of the trafficked migrant is almost always presented as the ‘weaker sex’ (a woman) or a dependent (a child). And the most common portrayal is of women forced to work in the sex industry. They are presented as victims, and ‘[v]ictims are, by definition, passive objects...not active agents. They are defined by the mark that has been made on them rather than the mark they have made on the wider world’¹¹¹.

The Republic of Moldova has both types of migration: „*threat*” migration and „*victim*” migration. The first type is closely connected to different crimes, such as smuggling, e.g. smugglers through the Transnistrian region. There were some cases with illegal and unsafe transportation of uranium and mercury with the aim to transport it to the Western European countries¹¹². Such cases can seriously harm both our image at the international level and of course bring along some internal security problems.

The other type of migration, victim migration, is widespread in the Republic of Moldova. “Moldova is a source, and to a lesser extent, a transit and destination country for women and girls trafficked for the purpose of commercial sexual exploitation and men trafficked for forced labour”. Moldova’s national Bureau of Statistics estimated that there were likely over 25,000 Moldovan victims of trafficking used for forced labour in 2008. Moldovan women are trafficked primarily to Turkey, Russia, Cyprus, the UAE, and also to other Middle Eastern and Western European countries. Men are trafficked to work in construction, agriculture, and the service sectors of Russia and other countries. There have also been some cases of children trafficked for begging to neighbouring countries. Girls and young women are trafficked within the country from rural areas to Chisinau, and there is evidence that men from neighbouring countries are trafficked to Moldova for forced labour. The small breakaway region of Transnistria in eastern Moldova is outside the central government’s control and remains a source for trafficking in persons”¹¹³.

Moldova has several governmental institutions assigned to combat, prevent human trafficking and control migration flows: the Ministry of Internal Affairs, the General

¹¹¹ Gilligan C. Migration, sovereignty and agency in an anxious age: trafficking as a case study, p.3

¹¹² В Молдове контрабандисты продают радиоактивный уран-235 <http://social.moldova.org/news/v-moldove-kontrabandisti-prodayut-radioaktivnii-uran235-video-222452-rus.html> [accessed February 20, 2012]

¹¹³ Human Trafficking & Modern-day Slavery, Moldova, <http://gvnet.com/humantrafficking/Moldova.htm>, accessed September 26, 2012

Prosecutor's Office, Information and Security Service, the Ministry of Foreign Affairs and European Integration, etc. Each of these ministries have focal points whose task is to gather information about human trafficking, to analyse it and then to come up with the solutions to resolve it. For instance, the Ministry of Internal Affairs has recently issued a national plan for preventing and combating trafficking of human beings (2010-2011). Due to the measures taken, the phenomenon of human trafficking has decreased. "According to MIA's informative note approved by the Government's decision no. 1170 from 12.21.2010, in 2007 there were 251 crimes, in 2008 – 215 crimes, in 2009 – 185 crimes, and in 2010 – 140 crimes registered"¹¹⁴.

Moreover, there are a few NGOs that protect Moldovans from being trafficked: La Strada Moldova, The Centre for Prevention of Trafficking in Women, the Moldova Anti-Trafficking and Gender Network ATNET, Médecins du Monde.

"Another structure that is extremely important to the chain of Moldovan institutions and agencies working to combat human trafficking is the National Referral System which was launched by the Ministry of Labour, Social Protection and Family in partnership with the International Organization for Migration (IOM) in 2006"¹¹⁵. It is a system of co-operation between Government agencies, international institutions and civil society. It assists and protects victims of trafficking based on international standards. The NRS launched the so-called Multidisciplinary Teams, which are teams formed of specialists like social assistants, psychologists, etc, who work at the district level. These specialists identify vulnerable families in the region and those exposed to the risk of trafficking.

Another issue that should be discussed is the topic related to the state's strategy on regulation of migration processes. We should bear in mind, that the Republic of Moldova can be called a *migrant-exporting country*¹¹⁶. Therefore, the main focus should be on Moldovan strategies for controlling migratory flows.

The goals of such policies are various: to provide employment opportunities not available domestically, to satisfy career aspirations that cannot be served at home, to reduce unsustainably high demographic increase or density, to secure remittances that are provided through foreign exchange and capital needed to finance trade deficits, to gain diplomatic leverage via overseas citizens' political or economic influence in the destination country, and so on¹¹⁷. The Republic of Moldova has to provide employment opportunities not available domestically. The Moldovan government is speculating on the idea of EU integration and the liberalisation of border crossings. These promises provide the Moldovan government with electorate support and gives hope for better jobs that can be found in the EU. And here is the Moldovan paradox: Moldovans want to find a good job overseas and the Moldovan government wants to help them by adhering to EU oriented policy, so we are "getting rid" of a part of the Moldovan population.

In addition to that, it is important to mention that migration processes also support Moldovan state in the economic domain. The Republic of Moldova is dependent on money transfers from abroad, particularly from Russia and EU.

For instance, in 2011, the volume of money transferred from the Russian Federation to the Republic of Moldova was \$1,076 billion. According to the National Bank of Moldova, remittances as a whole from abroad to individuals through banks in 2011 amounted to

¹¹⁴Raportul cu privire la realizarea Planului specific, <http://ms.gov.md/files/8269-1.pdf>

¹¹⁵ 2011 Progress Report - United Nations in Moldova, http://www.undp.md/publications/doc/RC_Reports/2011%20Progress%20Report%20-%20Moldova%20UNDAF.pdf

¹¹⁶ Teitelbaum M., The Role of the State in International Migration, The Brown Journal of World Affairs Winter 2002 – Volume VIII, Issue 2, p.158 - 159

¹¹⁷ Ibid

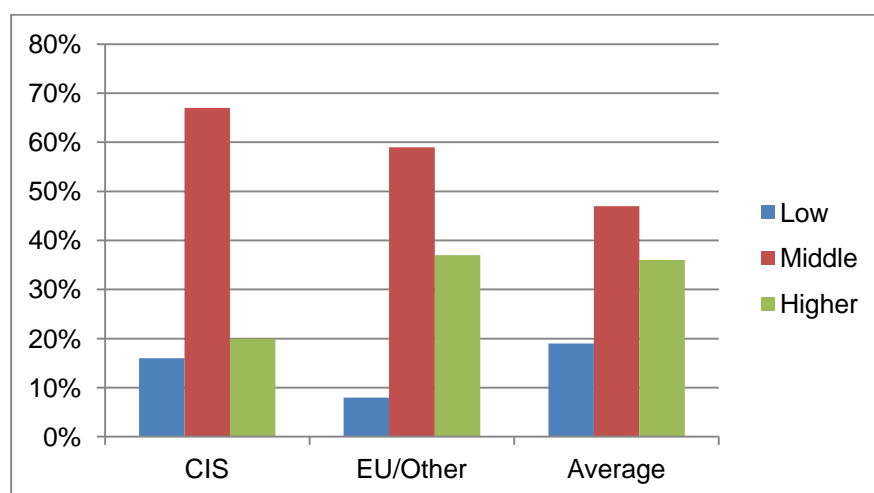
\$ 1,453.79 billion. This is a huge sum of money. According to the World Bank, remittances from Moldovan guest workers make up 20% to 30% of Moldovan GDP¹¹⁸. Moldova is dependent from those immigrants who are working in the EU and Russia.

Also, from an economic perspective, irregular migration is actually quite functional for many destination countries. As a result of deregulation, liberalisation and flexibilisation, there is a demand for various forms of unskilled and semi-skilled labour employed under precarious conditions. Irregular migrants provide a cheap source of labour since they are often willing to work in sectors in which regular migrants and nationals are not willing to work. Unless its economic rationale is properly understood, efforts to manage irregular migration are unlikely to succeed¹¹⁹.

Globalisation processes influence states policies and their relations towards migration processes: one state protects their territory from immigrants, while others in a way support it. Moldova became an exporter of migrants because of its bad economic conditions.

There is also another side of the coin: although Moldova gets money from immigrants, the state gets deprived of middle-aged educated population. Or, in other words, Moldova suffers from the so-called “brain drain”.

Table 1. Educational Level of Moldovan migrants



Source <http://demoscope.ru>

The table above illustrates that the majority of Moldovan emigrants (more than 85%) are persons with middle or higher education. Many of Moldova’s immigrants are highly qualified, however they often accept low qualified jobs in the host countries. The brain drain out of Moldova is more likely wasting national intellect and human capital, as it does not come to use neither in receiving countries nor in sending countries. On the other hand, highly qualified Moldovans get more money for low qualified jobs in host countries than they would in their own country¹²⁰.

“Brain drain” is a huge problem and it inhibits Moldova’s economic development. Therefore, . However, it is important to mention that, in our globalised world, migration flows cannot be completely controlled but they can be successfully managed through different political steps.

¹¹⁸ <http://enews.md>

¹¹⁹ Khalid Koser, “Irregular migration, state security and human security”, University College London, 2005, p. 3, http://iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/qcim/tp/TP5.pdf

¹²⁰ Migration in Moldova – short Information, <http://demoscope.ru/weekly/2011/0457/analit03.php>

3. Migration processes and the state's involvement in Moldova

Migration processes directly involve states; moreover they can also influence execution of the state's sovereign powers. In this part of the paper, I will make some analysis of trends worldwide and its impacts in Moldova.

The state should regulate migration flows in Moldova in order to minimise the shortages and maximise the benefits of migration.

The first issue is connected to cultural and political challenges. Many countries, such as Russia, USA or the EU MS have suffered from this problem. For instance, EU's policy of tolerance and human rights, called "multiculturalism", has failed, according to some politicians.

The German politician, Ms. Angela Merkel, even said that the idea of people from different cultural backgrounds living happily "side by side" has not worked. She related that to the immigrants who have not done enough to integrate into German society. "This [multicultural] approach has failed, utterly failed," Merkel said at the meeting in Potsdam¹²¹.

"Our system of integration is working worse and worse because we have too many foreigners on our territory, and we can no longer manage to find them accommodation, a job, a school," French President Mr. Sarkozy said in an interview on French television¹²².

Of course, there are other points of view on migration processes within the EU. In relation to this, the Secretary General of the UN, Mr. Kofi Annan said: "There can be no doubt that European societies need immigrants. Europeans are living longer and having fewer children. Without immigration, the population of the soon-to-be twenty-five Member States of the EU will drop, from about 450 million now to under 400 million in 2050¹²³."

It can be seen that states are in need of immigrants because of many reasons. For instance, "poor countries can also benefit from migration. Migrants sent at least \$88 billion to developing countries in remittances during 2002 – 54% more than the \$57 billion those countries received in development aid¹²⁴." Both types of countries, the EU MS and "poor countries", such as the Republic of Moldova, are interested in migration and they are willing to forget some of the principles of sovereign power.

The problem is clear: immigration can invoke different cultural and social challenges for the receiving country. However, in the Republic of Moldova we cannot observe the same cultural problems that can otherwise be seen in the EU. This is because we do not have such a developed economy in order to attract immigrants.

But it is important to mention that there are some immigrants in the Republic of Moldova. The increasing globalisation of migration processes in recruiting new workers gives new impetus to the development of the great Euro-Asian transit migration ("Silk Road"). In this context, both banks of the Dniester River suffer from the consequences of illegal transit migration.

¹²¹ News World news Germany Angela Merkel: German multiculturalism has 'utterly failed' // <http://www.guardian.co.uk/world/2010/oct/17/angela-merkel-german-multiculturalism-failed> [accessed February 10, 2012]

¹²² Too many immigrants in France, Sarkozy says March 07, 2012|By Alex Felton, CNN http://articles.cnn.com/2012-03-07/world/world_europe_france-politics_1_marine-le-pen-president-nicolas-sarkozy-francois-hollande?s=PM:EUROPE [accessed February 10, 2012]

¹²³ An immigration strategy would make Europe fairer, richer and stronger, <http://www.europeanvoice.com/article/imported/an-immigration-strategy-would-make-europe-fairer-richer-and-stronger/49104.aspx>

¹²⁴ Ibid

Recently, the largest number of immigrants arrived from the Ukraine, Romania, Russia and Arab countries. In general, immigrants in Moldova are citizens from over 90 countries. There is an increasing proportion of immigrants from Turkey, the Middle East and other countries.

A new phenomenon in Moldova is the emergence of irregular immigration from the CIS countries as well as from "far" away, mostly from Southeast Asia, and Africa. Yet the main share of migrants stems from CIS countries as they take advantage of the visa-free regime to come and to stay in Moldova. First of all, it concerns the Azerbaijanis, Russians, and Ukrainians. Parts of these people used to live in Moldova but are unwilling or unable to return home (including students). These are irregular transit migrants, who have benefitted from the relative "transparency" of the CIS borders and are trying to go to Western European countries.

The number of irregular transit migrants is negligible. Most are from Central and South-East Asia, such as Afghans, Pakistanis, Iraqis and citizens of Senegal, Mali and other African countries, who have arrived from Russia and Ukraine ("the great Eurasian transit migration") and are trying to find new routes of penetrating into European Union countries¹²⁵.

The Republic of Moldova has some challenges related to irregular migration but this problem cannot be compared to that of the EU. Irregular migration flows are not harming our cultural or social background, although it definitely requires state's involvement.

Secondly, it should be noticed that income from guest workers from abroad are not only supporting Moldavian economics but are also creating possibilities to influence our domestic or foreign policy. Fortunately, there have not been any cases where Russia has openly debated about migration from Moldova, which has facilitated friendly relations between the two countries.

However, there are some examples of political pressure using regulation of migration; one could even see the attempts to limit sovereign powers of one country in some cases. For example, according to some authors, Russia has used migration as a tool to influence a decision of a Tajik national court. In this case two pilots (citizens of Russia and Estonia) were detained in Tajikistan for illegal border crossing. The Ministry of Foreign Affairs of the Russian Federation issued a communiqué in which the case was called "politically arranged" and the Ministry called for immediate release of pilots. Sometime later, the Russian side also announced that 300 Tajik labour migrants will be deported from Russia; furthermore, some steps will be taken to limit migration from Tajikistan¹²⁶. It illustrates that political influence of some states based on "migration dependence" of another state could have an impact on national decision making process.

The situation above also shows that state must actively be involved in regulation of migration flows and processes to mitigate or eliminate state's dependency as from remittances coming abroad as from possible political pressure of "stronger" countries to use migration as a political tool.

With regard to Moldova, there is another issue related to execution of sovereign power of the country: the situation in Transnistria region; in particular, taking into account the statement of the US Country Reports on Terrorism (2009) indicate that the Transnistria region of Moldova remains a potential area of concern. Moldovan law enforcement worked hard to track the whereabouts and activities of individuals moving in and out of Transnistria, an area where the Moldovan central government police and security services were not able to operate. Some of the individuals moving in and out of Transnistria were foreign students who remained in Moldova illegally, as the government lacked the resources to deport them when

¹²⁵ В. Мошняга Молдавия в системе международных миграций <http://demoscope.ru/weekly/2008/0355/tema03.php> [accessed May 10, 2012]

¹²⁶ Таджики освободили лётчиков. Российско-таджикские отношения ещё не выяснены Е. Супер 2011 http://www.odnako.org/blogs/show_14242/ [accessed June 15 2012]

their visas expired. Corruption was endemic in the region, and it was easy to obtain false travel documents in both Transnistria and Moldova¹²⁷.

Conclusion

This paper tackles migration flows and its impact on state involvement in regulation of these flows by analysing historical and socio-cultural issues. The issues related to the need of the state's (as of sovereign international law subject) involvement into migration processes were particularly discussed.

The Republic of Moldova gained its sovereignty with its independence and both of them are recognised by the international society. This allows the state to adopt decisions within territory. But it is important to keep in mind that absolute sovereignty hardly exists: it is, first of all, limited by the sovereignty of the other states and, secondly, execution of sovereign powers is influenced by multiple and various international factors, such as migration processes.

The following conclusions can be made:

1. Migration represents a challenge to a country's cultural and social situation; therefore the state's migration policy must be based on a comprehensive analysis of all relevant data and factors, including lessons learned. According to some politicians, the EU system of integration has not worked and it is becoming worse because there are too many foreigners on their territory, and the governments can no longer manage to find accommodation, a job and schools for immigrants. So far Moldova has no such concern, but the Moldovan state shall take into account the EU experience and lessons learned in this regard for the future, including also positive developments related to migration.
2. Moldova is deprived of middle-aged, educated personnel, or in other words Moldova suffers from the so-called "brain drain". In view of these challenges Moldova might need immigrants. And a balanced and comprehensive regulation of labour emigration from Moldova should include repatriation programmes, in particular where it concerns the return of the well qualified.
3. Challenges related to migration can make some states vulnerable at the international level, in particular, when they become dependent from migration (benefits of remittances, etc.). There are some examples when state relations were strained due to migration issues, for example by threatening the expulsion of illegal immigrants. Strong and balanced state's involvement into migration processes regulation can also strengthen a country's position both internally and externally, and could as such be seen as the proper use by the state of its sovereign powers.

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¹²⁷ Country Reports: Europe and Eurasia Overview // <http://www.state.gov/j/ct/rls/crt/2009/140885.htm> [accessed March 13, 2012]

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3.2. Reflection on the 1951 Refugee Convention in Moldovan Legislation, *Mircea Gladchi*

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INTRODUCTION

The most important international instrument on refugees' protection is the Convention Relating to the Status of Refugees signed in Geneva on July 28, 1951 (further – Refugee Convention)¹²⁸. This treaty establishes some specific criteria for defining a person as a refugee and the scope of protection status that a state should accord to a refugee.

Moldovan national legislation has several laws that regulate migration flows. The adoption of the Law on Refugee Status on July 25, 2002 was caused by the ratification of the above-mentioned Convention. Moldova acceded to the Convention on January 31, 2002. Moldova has demonstrated its strong wish to harmonize national legislation with the international refugee protection standards; however, the first law had some serious gaps. Therefore, a new draft - a more complex one that included more detailed and specific regulations in this field – was prepared. The new Law on Asylum in the Republic of Moldova was approved on December 18, 2008¹²⁹. Even from the title of the Law it is obvious that this legal act contains not only the status of the refugee in the country, but also different forms of asylum and protection to a variety of other foreign citizens and stateless persons.

The analysis of the national legal framework in correlation with the Refugee Convention

In the beginning of the Law on Asylum, several notions define the scope of its application. I will analyze Article 3 of the Law that aims to provide some definitions to help in further understanding the Law. One of the key notions is the definition given for refugee status. Moldovan lawmakers, from my perspective, came up with an adequate definition for this, defining it as a protection status that is given in accordance with the Convention Relating to the Status of Refugees, signed in Geneva on July 28, 1951, and the Protocol Relating to the

¹²⁸UNHCR, text of the Geneva Convention and New York Protocol,

<http://www.unhcr.org/3b66c2aa10.html>

¹²⁹<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=330978>

Status of Refugees from January 31, 1967¹³⁰. While analyzing the Refugee Convention, we can state that a refugee definition consists of certain criteria and elements that should be proved in order to define a person as a refugee. Para A. of Article 1 of the convention determines those two main situations in which the term “refugee” shall apply:

- If a person has been already considered as a refugee in accordance with the international legal instruments before adoption of the Refugee Convention¹³¹;
- If a person who is defined as a refugee according to the definition provided in this article as a result of events occurring before January 1, 1951¹³².

The following paragraph B gives some explanations to different situations that could occur in order to determine the refugee status: the Contracting Parties could specify the meaning of “events occurring before January 1, 1951” as “events occurring in Europe” or “events occurring in Europe or elsewhere”. That means that originally the Refugee Convention was adopted in order to deal with the consequences of Second World War. Therefore, later, the international community faced some challenges that interfered with this delimitation of the refugee status. The New York Protocol from 1967 supplemented the Refugee Convention by withdrawing the geographical limits and types of situations that were related to cases of the Second World War determined in Article 1 B of the Refugee Convention. For the purpose of this paper, I will not further examine the doctrinal discussions about the coherence of the notion given for the status of a refugee, but rather will continue to study the harmonization of Moldovan legislation with the Refugee Convention.

As it has been already mentioned, the Moldovan legislative body has defined and explained different notions on protection status applicable to certain categories of foreign citizens or stateless persons. Consequently, the status of protection is also recognized in some categories of foreigners in need of such protection, even though they do not fall under the scope of the refugee definition established in the Refugee Convention. Article 17 of the Law on Asylum states that refugee status is recognized for “a foreigner who, having a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence, as a result of such events, is unable or, owing to such fear, unwilling to return to it”. Moreover, Article 19 of the Law will be applied when aliens do not fall under the provisions of the Refugee Convention and the additional protocol, however “with regard to whom there are reasons to believe that, upon return to his/her country of origin, he/she will be subjected to a serious risk, owing to which he is unable or unwilling to avail himself of the protection of that country”. The idea that lies behind it is the possibility of including a larger number of aliens under the protection status. My opinion regarding this notion is that it is a positive development. The new law relating to

According to the UNHCR, Moldovan Asylum Law “is considered a progressive step in the development of the national asylum system” in Moldova.

¹³⁰ UNHCR, text of the Geneva Convention and New York Protocol, <http://www.unhcr.org/3b66c2aa10.html>

¹³¹ “(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization”

¹³² “(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is out-side the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

asylum in the Republic of Moldova from 2008 aims to specify the cases in which a subsidiary protection status – humanitarian protection - will be applied for an alien in need of such protection, that was not mentioned in the old law to relating the status of refugee from 2002.

The next issue I should mention regarding the Law on Asylum is related to the principles on the treatment of asylum seekers and refugees. These principles are also in line with the principles established by the 1951 Refugee Convention. First of all, I will discuss the *non-discrimination principle*. In the Convention, this principle is established under Article 3 “Non-Discrimination”. According to this article, “the Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin”.¹³³ Article 10 in the Moldovan Law on Asylum establishes that “the provisions of the national legislation shall apply to asylum seekers and beneficiaries of a form of protection without discrimination as to race, nationality, ethnic origin, language, religion, political membership, social category, convictions, sex, sexual orientation or age”. As we see, the Moldovan Law on Asylum names even more anti-discrimination grounds. Therefore, I believe that the anti-discrimination principle is well reflected in the Moldovan Law on Asylum.

The second principle that I will mention is the *freedom of movement*, established both in the Refugee Convention and in Moldovan asylum legislation. Article 26 of the Convention states that “each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances”. The Law on Asylum of the Republic of Moldova develops this principle in the national context. This principle is reflected in point c), paragraph (1) of Article 33 (“Rights of refugees and beneficiaries of humanitarian protection”). The article establishes that “Refugee status and humanitarian protection grant the beneficiary all the rights provided by the legislation on foreigners and stateless persons”. Moreover, among special rights, the mentioned persons have a right “to choose a place of residence and move freely subject to the conditions set out in the legislation concerning foreigners”. However, it should also be mentioned that freedom of movement under the 1951 Refugee Convention has also some specific character. In particular, contrary to Article 26, which speaks about refugees who are lawfully in the territory of the receiving state, Article 31 of the Convention establishes some provisions on refugees who are unlawfully in the country of refuge. According to this article, receiving countries “shall not impose penalties, on account of their illegal entry or presence on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence”. Moreover, this article also provides that states “shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country”. Reflection on this principle could be found in Article 9 of the Moldovan Law on Asylum that talks about the accessibility of the territory. This article consists of two paragraphs. The first paragraph states that “the competent authorities shall ensure access to the territory of the Republic of Moldova of any foreigner situated at the border, upon written or verbal expression of his/her will, from which it follows with certainty that the latter seeks protection of the Republic of Moldova”.¹³⁴ The second paragraph provides an exemption from sanctions in cases where a person in need of protection crosses the border unlawfully: “Asylum-seekers shall not be sanctioned for illegal entry or stay on the territory of the Republic of Moldova. Such persons shall be treated in accordance with international human rights standards and pursuant to the provisions of this Law”.

¹³³ Convention Relating to the Status of the Refugee, Geneva, 18 July 1951

¹³⁴ Legea privind azilul în Republica Moldova din 18.12.2008, Monitorul Oficial nr.53-54

Furthermore, I should mention Articles 27 and 28 of the 1951 Refugee Convention that deals with identity *papers and travel documents*. According to these articles, “the Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document”. Additionally, “the Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require” (...). “The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence”.¹³⁵ We see that the above-mentioned provisions are presented as obligations of the state, which in Moldova’s case are covered by Article 28, paragraph 1 that specifies the rights of asylum seekers, and Article 36, which establishes provisions related to the documents of refugees. In this way, Article 28 (1) j) provides asylum seekers the right “to be issued for free a temporary identity document the validity of which shall be extended by the Refugee Directorate, pursuant to the provisions of this Law”. This provision reflects obligations imposed by Article 27 of the Convention. Article 28 of the Convention is covered by the provisions of Article 36 of the Law on Asylum: „Refugees may receive, upon request, travel documents allowing them to travel outside the territory of the Republic of Moldova, save the cases when there is a threat to the national security or public order of the Republic of Moldova”.

The next important principle that should be mentioned and that is established by the Convention and our national law is *prohibition of expulsion or return (“refoulement”)*. This principle is established by Article 33 of the 1951 Refugee Convention and is reflected in Article 11 of the Moldovan Law on Asylum. It should be noted that Article 11 of the Law practically repeats the non-refoulement provisions of the Convention. What does expulsion or return mean in general? This is a process of returning an alien, voluntarily or a forcibly, to the country of origin or transit state in conformity with the readmission agreements, or to some other third state in which the alien will be accepted. However, according to the 1951 Refugee Convention “no Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”. It should also be noted that the principle of non-refoulement that is discussed here is not absolute according to the 1951 Refugee Convention, as paragraph 2 of Article 33 states that the above-mentioned principle may not be applied if “there are reasonable grounds for regarding” a refugee “as a danger to the security of the country in which he is” or if a refugee “having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country”¹³⁶ Also, we can relate the specific article of the Moldovan Law on Asylum to the mentioned provisions of the Convention: the Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order. Anyhow, the expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. The national law of Moldova, as it has been already mentioned, practically repeats the wording of the Convention in its Article 11 which deals with both asylum seekers and beneficiaries of protection:

“(1) No asylum-seeker shall be expelled or returned from the border or from the territory of the Republic of Moldova.

(2) No beneficiary of a form of protection shall be returned or expelled to the country or territory where his/her life or freedom might be threatened or where he may be subjected to torture, inhuman or degrading treatment.

¹³⁵ Convention relating to the status of the refugee, Geneva, 18 July 1951

¹³⁶ *ibidem*

(3) Without prejudice to the provisions of para. (2) and without affecting automatically the form of protection from which he/she benefits, a person who has been recognised as a refugee or who has been granted humanitarian protection may be expelled or returned from the territory of the Republic of Moldova, if:

a) there are well-founded reasons to consider that the person poses a threat to the state security of the Republic of Moldova;

b) having been convicted by a final court judgment of a grave, especially grave or exceptionally grave criminal offence, pursuant to the provisions of the Criminal Code of the Republic of Moldova, the person poses a threat to the public order in the Republic of Moldova. The provisions of the Article 11 related to the exemption from principle of non-refoulement are more detailed and have a specific character in a way that these provisions make a reference to the Criminal Code of the Republic of Moldova. Although this research paper does not deal directly with the refugee definition, I would just mentioned that the same situation is to be noticed in Article 18 of the Law where the reference to the specific international agreements to which Moldova participates or to Moldovan criminal legislation is made. Article 18 establishes so called “*exclusion clauses*” according to which an alien who fits under refugee definition shall be excluded from the protection (Article 1F of the 1951 Refugee Convention). So, for instance,

“(1) A foreigner is excluded from the recognition of refugee status with respect to whom there are serious reasons for considering that he/she:

a) has committed a crime against peace, a war crime or a crime against humanity, as defined by the provisions of the international treaties to which *the Republic of Moldova is a party*, as well as *criminal legislation of the Republic of Moldova*;

b) had committed a common law grave, especially grave or exceptionally grave criminal offence outside the Republic of Moldova prior to entering the territory of the Republic of Moldova;

c) has committed acts contrary to the purposes and principles of the United Nations, as specified in the Preamble and Articles 1 and 2 of the United Nations Charter;

d) has planned, facilitated or participated in the commission of terrorist acts, as defined in the *international treaties to which the Republic of Moldova is a party*¹³⁷.

The next principle that I will mention, from which many rights and obligations are further derived, is the *confidentiality principle*. Although the 1951 Refugee Convention does not mention this principle directly, it has been developed by additional documents of the United Nations High Commissioner for Refugees (UNHCR)¹³⁸ – the UN body that has a mandate to supervise the implementation of the Convention. Accordingly, the Moldovan legislative body also included this principle by providing that “all data and information concerning application for asylum are confidential. The obligation to observe the principle of confidentiality applies to all the authorities and organizations involved in the asylum procedure or also the third parties that can be involved in this process, or accidentally come into possession of such information”.

Article 15 of the Moldovan Law on Asylum establishes a *principle of social integration* of persons granted protection. This article states that central and local public authorities shall contribute to the implementation of social integration programs for persons with a specific form of protection. This article reflects the same principle established by a number of articles of the 1951 Refugee Convention. For instance, Article 25 “Administrative assistance” of the Convention states that, “when the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the

¹³⁷ Article 18 of the Law on Asylum

¹³⁸ www.unhcr.org

Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority". All of chapters III and IV of the Convention deal with such issues as employment, self-employment, housing, education, etc. We see that with these provisions states are obliged to provide assistance to refugees and that these provisions are also developed and implemented in the Moldovan Law on Asylum.

Based on the above-mentioned provisions, Moldovan lawmakers established a certain number of rights and obligations of foreigners granted protection in Moldova. This specific list of rights and obligation is presented in Article 33 of the Law. First of all, the article establishes that foreigners granted protection in Moldova have the same rights and obligations as all other foreign citizens and stateless persons. These rights and obligations can be found in the Law Relating to the Status of Foreign Citizens in Republic of Moldova from July 16, 2010¹³⁹, published in the Official Monitor nr. 179-181. Article 4 of this law states that "foreign citizens that stay legally in Republic of Moldova have the same rights and freedoms as the citizens of the Republic of Moldova, guaranteed by the Constitution and by other laws, as well as rights provided by the international treaties the Republic of Moldova is party to". On the other hand, foreigners must obey the legislation of the Republic of Moldova and be subject to control of the competent authorities according to the law. However, the Moldovan Law on Asylum provides foreigners granted protection in Moldova with some special rights that are not included in the general legislation on foreigners. These specific rights are the following:

- a) to be informed, as soon as possible following the grant of a form of protection, in writing in a language that he/she speaks or is reasonably presumed to speak about his/her rights and obligations;
- b) to remain on the territory of the Republic of Moldova and obtain respective documents for confirming his/her identity and border crossing;
- c) to choose a place of residence and move freely subject to the conditions set out in the legislation concerning foreigners;
- d) to be employed by legal or natural persons, exercise freely professions, carry out entrepreneurial activities, pursuant to the provisions of the legislation in force;
- e) to receive wages and benefit from the other material rights resulting from the activities performed, as well as the right to social insurance, pursuant to the provisions of the law;
- f) to be enrolled in compulsory general education in accordance with the provisions set out in the legislation for citizens of the Republic of Moldova, as well as other forms of education set out in the legislation for foreigners and stateless persons;
- g) in case of a family with children, as well as that of an unaccompanied minor, to benefit from all types of social assistance provided by the law to children citizens of the Republic of Moldova;
- h) to benefit from treatment identical to the one offered to citizens of the Republic of Moldova with regard to freedom of practicing their religion and the right to provide their children with religious education;

¹³⁹ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=336056>

- i) to enjoy the same rights regarding the system of compulsory medical insurance as citizens of the Republic of Moldova, in accordance with the conditions provided by the legislation in force;
- j) to benefit from the right of protection of personal data and any other details in connection with his/her case;
- k) to have unhindered access to courts and administrative assistance;
- l) not to be returned or expelled, save the cases provided by this Law;
- m) to be placed in an accommodation center for a certain period of time if determined to be socially vulnerable;
- n) upon request, to participate in programs of social integration.”

Conclusions

In conclusion, I can state that the present Moldovan legislation related to asylum and, in particular, to the Law on Asylum in the Republic of Moldova from December 18, 2008, is to a large extent in line with the international refugee legislation. It regulates and establishes a certain behavior of the state's authorities and other state bodies in correlation with this specific category of persons: persons in need of protection and refugees or persons granted humanitarian protection in Moldova. The ratification of the 1951 Refugee Convention Relating to the Status of Refugees by Moldova was a great step made by a young independent state towards harmonization of the international legal instruments in the field of human rights. It should be recalled again that the Republic of Moldova introduced a national refugee protection mechanism already in 2002, shortly after acceding to the 1951 Refugee Convention. This mechanism was further improved in 2008 when the new Law on Asylum was approved. This law was drafted with the participation of UNHCR and civil society stakeholders. Today, this law “is considered a progressive step in the development of the national asylum system” in Moldova¹⁴⁰.

References

1. Convention Relating to the Status of Refugees, Geneva, July 28, 1951;
2. LEGE Nr. 200 din 16.07.2010 privind regimul străinilor în Republica Moldova;
3. LEGE Nr. 270 din 18.12.2008 privind azilul în Republica Moldova;
4. LEGE Nr. 1286 din 25.07.2002 cu privire la statutul refugiaților;
5. LEGE Nr. 275 din 10.11.1994 cu privire la statutul juridic al cetățenilor străini și al apatrizilor în Republica Moldova;
6. LEGE Nr. 269 din 09.11.1994 cu privire la ieșirea și intrarea în Republica Moldova

¹⁴⁰ UNHCR, Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: Moldova, <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/MD/UNHCR-eng.pdf>

3.3. The Evolution of the Concept of Citizenship in Moldova during the Last Two Decades, *Vlad Popa*

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Introduction

In ancient times, in Rome, Sparta and Athens, citizens were only those people who participated in solving public affairs via the People's Assembly. The notion of citizenship is attested in cities of the ancient Roman Republic and its roots lay in the Latin word "civitas"¹⁴¹. *Jus civile* (law of the city) means that Roman law did not protect those individuals who did not originate from that city. Because of this, those who did not carry this title or who were foreigners, even if they were free, had a similar status to slaves. Hence they lacked legal personality and could be enslaved by anyone.¹⁴² The title of citizen was held by those living in the city. Those persons had all the civil and political rights.

In 212, Emperor Antonio Caracalla issued an edict giving the Roman citizenship to all residents of the Roman Empire.

In the Middle Ages, citizenship lost its legal content, in which most of the members of society were qualified as law subjects subservient to the state - a situation that involved many obligations and few rights. Subjects did not have political rights and did not participate in solving public affairs. Until 1789, the institution of citizenship was limited. In fact, its only function was to indicate whether individuals belonged to a particular state. In 1789, the French Declaration of the Human and Citizen Rights introduced the contemporary notion of citizenship, abolishing the subservience and linking the concept of citizenship to the person's active participation in the public life. The elimination of subservience was not just declaratory determined by substituting a concept by another; it involved a totality of legal consequences regarding the destruction of feudal rights and privileges, and especially those related to personal or feudal serfdom. On 19 June 1790, the French National Assembly adopted the decree on cancellation of the institution of hereditary nobility and all nobility titles, while the first Constitution of France issued on September 3, 1791, provided basic principles, including equality of citizens and the conditions for the acquisition of French citizenship.¹⁴³

¹⁴¹ N. Prisca. Constitutional Law. Bucharest 1977, p. 164

¹⁴² I. Benditer, I. Muraru. Constitutional Law. Bucharest 1982, p.80

¹⁴³ I. Filitti. About the old Organisation of the Romanian Kingdoms. Bucharest 1935, p.22

The evolution of the institution of citizenship depended on such factors as the rights and freedoms granted and guaranteed by the state, the socio-economic development of the state, democratic values, international treaties and conventions that different states have ratified.

1. Concept of citizenship in the framework of the legislation and law as a science

After the fall of the Soviet Union, the Republic of Moldova as well as other states gained their independence and begun to pursue their development by themselves. Following all the changes regarding the birth of a new state, the legislation had to be revised and updated to the new realities, concepts, ideas and aspirations. One of the most important subjects of review was the legislation on citizenship, especially defining what is a citizen in the framework of a democratic society, what are its rights and duties and how must the concept of citizenship change in comparison to before. The starting point for Moldova for improving the legal rules was the Universal Declaration of Human Rights, which provides that *every individual has the right to have a citizenship. No one can be randomly deprived of its citizenship or of the right to opt for another one*¹⁴⁴.

Many Moldovan nationals travel abroad hoping for a better life and most of them settle down elsewhere and sometimes look forward to gaining the citizenship of another state. What is their legal status? Does the Republic of Moldova protect its citizens abroad? What are the effects of gaining the citizenship of another state? These are issues of vital importance for us ever since many families get material aid from their relatives beyond the borders of Moldova.

The citizenship can be defined from quite a few points of views depending on what particular scientific background we rely on. In sociology, citizenship is defined as the person's status of a country's society member gained by birth or by other legal procedures, e.g. through migration. Political sciences define citizenship as a dynamic relationship between the person and its nation. According to this theory, the concept of citizenship comprises the entirety of social, economic, politic and juridical relations between the citizen and the state. The science of law considers a dual meaning for the notion of citizenship: legal institution and legal condition.¹⁴⁵ As a *legal institution*, citizenship is the totality of legal rules, both constitutional and material, which have the aim to ensure the respect of all constitutional rights and duties of the persons whose interests and feelings are tightly linked with our country. The citizenship as a *legal condition*, or the status of the person, creates a permanent legal and political link between the citizen and the state, no matter where we find ourselves: inside the state or beyond its legal borders and it is the source of a totality of legal rights and duties towards the respective state.

Universal Declaration of Human Rights:

Every individual has the right to have a citizenship. No one can be randomly deprived of its citizenship or of the right to opt for another one.

In the Republic of Moldova, citizenship was defined for the first time in the Law Concerning the Citizenship issued 05.06.1991, which provided that *the citizenship of the Republic of Moldova determines the permanent legal and political relations between a natural person and the state, which find expression in their mutual rights and obligations*. The first Law on Citizenship also listed the persons who were eligible to become citizens of the Republic of Moldova:

1. People who have lived until June 28, 1940 on the territory of Bessarabia, Northern Bukovina, Herța, and MASSR (Moldavian Autonomic Soviet Socialist Republic – now

¹⁴⁴ Universal Declaration of Human Rights, Paris 10.12.1948

¹⁴⁵ Cârnaț Teodor, Drept Constituțional, Chișinău, 2009, p.217

Transnistria) and their descendants, if at the moment of approval of this respective law they were residents of Moldova.

2. People who were born in the country or at least one of the parents, grandparents were born in the above mentioned and they are not citizens of another state.
3. Persons who until June 23, 1990 were married to Moldovan citizens or to their descendants and those who returned in the country at the call of the President or the Government of the Republic of Moldova.
4. Others who, before adoption of the declaration of Moldova's sovereignty, including the date of its adoption, June 23, 1990, had a permanent residence in the Republic of Moldova and a permanent place of employment or other legal source of existence. These people will decide upon their citizenship within one year.
5. Persons who have acquired the citizenship of the Republic according to this Law.¹⁴⁶

In the framework of this first step in redefining citizenship, the main improvements concerning the relation between the citizen and the state was the right of the person to give up or change its citizenship and the right to travel anywhere in the world with no time limit, while the absence from the country does not affect the validity of citizenship. Additionally, the Moldovan legislation permitted, in certain circumstances, multiple citizenships.

The second stage in implementing the democratic values towards the concept of citizenship was the adoption on 29.07.1994 of the Constitution of the Republic of Moldova. The supreme law was elaborated in accordance with the International and European treaties and conventions concerning the rule of law and the fundamental human rights, such as the Universal Declaration of Human Rights to which Moldova adhered to on 28.07.1990. Article Nr. 17 of the Constitution of the Republic of Moldova offers two main guarantees to the Moldovan citizens: No one may be deprived arbitrarily of his/her citizenship and no one can be deprived of the right to change it, whereas the citizenship of the Republic of Moldova can be lost, acquired, or regained only under the conditions provided for by the organic law¹⁴⁷. Until 2002, the Constitution also provided other guarantees for all the people living on its territory: no citizen of the Republic of Moldova can be extradited or expelled from his/her country, while the foreign or stateless citizens may be extradited only in compliance with an international agreement or under conditions of reciprocity in consequence of a decision of a court of law. Later, these guarantees were expressed in the law on citizenship (2000) and in the European Convention on Extradition, ratified by the Republic of Moldova on 02.10.1997.

Following the ratification by the Parliament of the Republic of Moldova of the European Convention on Nationality on 03.11.1998, as well as in consideration of the real necessities and circumstances, the legislative subsequently adopted a new law on citizenship on 02.06.2000. It is based on the principles provided by the European Convention, which are the main rules that establish the general legal background concerning the acquisition, exercising and loss of the status of a citizen:

1. Each person has the right to have a citizenship.

According to the *citizen's rights equality principle*, the citizen of the Republic of Moldova have equal rights and duties no matter their nationality, racial, gender, opinions, political affiliation, wealth, social origin or the way he/she gained the citizenship.

2. The non-discrimination principle applies no matter if the citizenship was gained by birth or obtained later. The non-discrimination principle is linked to the equality principle,

¹⁴⁶ Law on Citizenship, Chişinău 05.06.1991

¹⁴⁷ Constitution of RM, Chişinău 29.07.1994

which is deducted from the international conventions and according to which no discrimination is admitted in the process of applying the respective conventions.

3. The plenitude of citizen's rights and liberties. According to this principle, only the citizens of the Republic of Moldova can take advantage of all the fundamental rights and liberties:
 - The right to vote and to be elected in the representative state bodies (Art. Nr. 38 of the Constitution, Art. 6, paragraph (2) of the law on citizenship, Art. 11 of the Electoral Code).
 - Every citizen of the Republic of Moldova is guaranteed the right to choose his place of residence anywhere within the national territory, to travel in and out of the country, also to emigrate at will (Art. 27 of the Constitution).
 - The citizens of the Republic of Moldova have the right of participating in the administration of public affairs, either directly or through their representatives. (Art. 39 of the Constitution)
 - No citizen of the Republic of Moldova can be extradited or expelled from his/her country (Art. 18 of the Constitution)
 - The citizens of the Republic of Moldova have the right to be protected by their State both at home and abroad. (Art. 18 of the Constitution).

Besides having exclusive rights, the citizen of the Republic of Moldova also have exclusive duties:

- Devotion and faithfulness towards the country (Art. 56 of the Constitution).
 - The obligation to perform military service (Art. 57 of the Constitution).
 - The duty to protect the motherland (Art. 57 of the Constitution).
4. No one may be deprived arbitrarily of his/her citizenship or the right to change it. This principle is stated in the Art. 17, paragraph (3) of the Constitution and has the aim to exclude any abuse concerning the appurtenance of the person to the social community, giving as well the right to everyone to decide upon the appurtenance to another social community.
 5. The avoidance of statelessness. This principle is a consequence of the international treaties and is linked to the principle that every person has the right to have a citizenship. Moreover, every person should be protected by a state.¹⁴⁸

2. Obtaining the citizenship of the Republic of Moldova

Moldovan law governing citizenship evolved in a relatively short period of time. The first piece of legislation concerning Moldovan citizenship is the Law of Citizenship of the Republic of Moldova, adopted by the Moldovan Parliament in 1991. Paragraphs 1 and 2 of Article 2 of that law recognized both rules for acquiring citizenship by birth. Citizenship of the Republic of Moldova could be gained by:

1. Persons who until June 28, 1940 lived on the present territory of Moldova and their descendants who were residents of the Republic of Moldova at the time when the respective law was adopted.
2. Persons who at the time of entry into force of the law in Moldova were residents of the Republic of Moldova or at least one parent or ancestor was born on the respective territory and they were not citizens of another state.¹⁴⁹

However, at the moment when this law was adopted, a part of the people living in Moldova were foreign citizens. These people could acquire citizenship of the Republic of Moldova in

¹⁴⁸ Law on Citizenship, Chişinău 02.06.2000

¹⁴⁹ Law on Citizenship, Chişinău 05.06.1991

accordance with the rules set down by the law. In particular, Article 2 paragraph (3) established persons were recognised citizens of Moldova if they have had permanent residence in the Republic of Moldova and a permanent place of employment or other legal source of existence before the adoption of the Declaration of Sovereignty of the Republic of Moldova, including the date of entry into force, June 23, 1990. These people were given a right to decide voluntarily on the acquisition of the Moldovan citizenship. The above-mentioned law provides several grounds for acquiring the Moldovan citizenship: birth, adoption, repatriation grant upon request and reintegration into Moldova. This law was, however, repealed, and the institution of citizenship is governed by Law on Citizenship of the Republic of Moldova, adopted on June 2, 2000.

Under this law, the acquisition of citizenship of the Republic of Moldova is made pursuant to the following grounds: birth, recognition, adoption, recovery, and naturalization. Exceptionally, the law allows the acquisition of the Moldovan citizenship on the basis of international agreements to which Moldova is part of as well.¹⁵⁰

- a) *Acquisition of citizenship by birth*, called the origin of citizenship or nationality law. It is considered the most essential one because the family and place of birth determines, by rule, the persons habits and affections and the most favourable living environment, while making it the most direct and simple link between individual and community. Based on this theory, a citizen of Moldova is the child: 1) who's both parents or one of them, at the time of the child's birth is a Moldovan citizen, 2) born in Moldova of stateless parents, 3) born in Moldova from parents who have citizenship of another state or one of them is stateless and the other a foreign national if that respective State does not grant the child a citizenship, 4) the child found in Moldova is considered a citizen of it, unless the contrary is proved, up to the age of 18 years. This provision stems from the European Convention on Citizenship (Article 6), representing the obligation of state parties to legally provide the acquisition of its citizenship by newborns found on its territory, which would otherwise be stateless.¹⁵¹
- b) *Acquisition of citizenship by recognition*, by which the status of Moldovan citizens is held by the persons who have acquired and retained the citizenship under previous legislation and those who have acquired citizenship under this law on citizenship. People, who do not have the citizenship of another state and have expressed a desire to become citizens of the Republic of Moldova, are also recognized as Moldovan citizens. In specifically those: a) persons born in Moldova or persons who had one parent or grandparent born in the territory; b) persons who until June 28, 1940 lived in Bessarabia, Northern Bukovina, Herța, and the MASSR, their descendants, if they are lawfully and habitually residents of the Republic of Moldova c) persons or refugees deported from the Republic of Moldova as of 28 June 1940 and their descendants.¹⁵²
- c) *Acquisition of citizenship by adoption* assumes that a stateless child automatically acquires citizenship via adoption, where the adoptive parent or one of them is a citizen of Moldova. The stateless child, adopted by spouses, one of whom is a citizen of the Republic of Moldova and the other a foreigner, acquires the citizenship when the adoptive parent reaches a common agreement. If the adoptive parents fail to reach an agreement on the child's appurtenance to the Moldovan citizenship, the court shall decide, taking into account the child's interests. If the child reaches the age of 14, his/her consent is required, certified by a notary. A foreign child, adopted by spouses, both or one of them being a citizen of Moldova, and the other a foreign citizen, can become a citizen of the Republic of Moldova if he/she gives up the citizenship of the foreign state, except in those cases in which the Republic of Moldova is part of an international

¹⁵⁰ Art. 10 Law on Citizenship, Chișinău 02.06.2000

¹⁵¹ Art.11 Law on Citizenship, Chișinău 02.06.2000

¹⁵² Art.12 Law on Citizenship, Chișinău 02.06.2000

agreement. In case the adoption is declared void or annulled, the stateless child or foreign national is not granted Moldovan citizenship, if he/she is lawfully and habitually resident abroad or leaves the country to live abroad. The Moldovan citizenship may be acquired on the same legal ground as stateless children under guardianship of Moldovan citizens. The citizenship of a stateless child under the guardianship of spouses one of whom is a citizen of the Republic of Moldova and the other a foreigner shall be decided by mutual agreement of the guardians. If they fail to agree on the child's appurtenance to the Moldovan citizenship, the court will decide, taking into account its interests. However, if the child reaches the age of 14 years, like in the case of adopted children, his/her consent attested by a notary is required.¹⁵³

- d) *Regaining the citizenship* - the person who previously was a Moldovan citizen may recover it upon request, keeping, at will, his/her foreign citizenship, if not subject to the restrictions prescribed by the law. The person, whose Moldovan citizenship was revoked for having committed very serious crimes that have caused essential damages to the state, cannot recover his/her citizenship. In other cases the person may recover his/her citizenship only under the condition of naturalization and only after 5 years of lawful and habitual residence in Moldova since the withdrawal of citizenship.
- e) *Acquisition of citizenship upon request (naturalization)* - Moldovan citizenship may be offered upon request to the person who is at least 18 years of age and was not born in this land, but is a lawfully and habitually resident there for at least 10 years; or has been in a legal marriage with a citizen of the Republic of Moldova for at least three years; or is adopted or an adoptee and has been residing lawfully not less than three years, including adoptive parents and adopted Moldovan citizens; or lawfully and habitually resident in the Republic of Moldova for five years before reaching the age of 18. Also, the Republic of Moldova's citizenship is granted to stateless persons and recognized refugees residing lawfully on the territory of the Republic of Moldova not less than eight years. According to the legal provisions, a lawful and ordinary (habitually) living permit becomes permanent after a period of 3, 5, 8 or 10 years depending on each subject separately. According to the law, the foreign citizens must be registered at the territorial bodies of the Ministry of Informational Technologies and Communications. Another condition for the residence to be considered legal is that it has to be possessed on the basis of a legal rent contract, authorised by a notary and registered at the local public administration authorities.

In addition to the terms of residency in Moldova, the law also requires a person to meet the following criteria for granting citizenship: knowledge and the respect of the Constitution of the Republic of Moldova, knowledge of the state language at a sufficient level in order to be able to integrate into social life, legal source of existence and, if applicable, loss or rejection of citizenship of another state unless the loss or rejection is not possible or cannot reasonably be required:

- *Knowledge and respecting the Constitution of the Republic of Moldova* - the knowledge and respect for the Constitution is inspected by a committee established within the Ministry of Education, Youth and Sport who examines the applicant and issue a certificate about their knowledge level according to the Regulations approved by Government Decision nr.1279, 12.11.01.
- *Knowledge of the state language* at a sufficient level to be able to integrate into social life - the person is considered to know the language sufficiently if he/ she understands conversational language and official information, discusses and answers questions about everyday life, can read and sufficiently understand any social text, laws and other regulations; can write a statement on a social topic.

¹⁵³ Art. 13-15 Law on Citizenship, Chişinău 02.06.2000

- *Legal sources of existence* - to prove that he/she has a legal income, the applicant shall submit a certificate from the employer where he/she is a permanent employee. If the applicant does not have a job or a business in the area of his/her administrative unit, he/she must submit a proof of income to the local government. Students must present a certificate from the place of study.
- *Loss or renunciation of citizenship of another state* if such is held, unless the loss or the renunciation is not possible or cannot reasonably be required - to prove the renunciation or loss of a prior citizenship, the applicant must submit a certificate proving that he/she has giving up or lost their citizenship. If the applicant is recognized as a refugee, this certificate will be presented to show that the applicant has left his/her home country due to well-founded fear of being persecuted by the state.¹⁵⁴

3. Multiple citizenship

Multiple citizenships occur in cases when there is a lack of concordance between the laws of states, mainly in two ways: when acquiring the citizenship by birth and through naturalization. Thus, the child born from parents who are citizens of a state where the principle of *jus sanguinis*¹⁵⁵ applies, and of another state, whose legislation provides the principle *jus soli*¹⁵⁶, will have the right to acquire the citizenship of both countries. Historically, as a result of the conquest of Bessarabia by the USSR in 1940, the population of this territory who were citizens of Romania, were made to become citizens of the USSR and later of the MSSR¹⁵⁷. And now all descendants of those up to 1940 Romanian citizens have the right to acquire the Romanian citizenship. For these reasons, most of Moldova's population can obtain the Romanian citizenship. They only have to prove that their ancestors were citizens of Romania until 1940.

Dual citizenship is gained via naturalization if the person acquires a new citizenship on request, by marriage, adoption, etc. and does not lose his/her old citizenship. Usually, people belonging to the Moldovan state have a single citizenship. In fact, as stated in Article 18 of the Constitution, Article 17 of the European Convention on Nationality, and Art. 24 of the Law on Citizenship, Moldovan citizens can have a different nationality. Article 24, paragraph (1), letter (e) of the Law on Citizenship provides for cases when multiple citizenship is permitted:

- Children who have simultaneously acquired the citizenships of the Republic of Moldova and other state at birth;
- Moldovan citizens who hold the citizenship of another state if the citizenship is acquired by marriage;
- If the plurality stems from provisions of international agreements to which Moldova is a party.¹⁵⁸

The plurality of citizenships in Moldova is allowed as a consequence of signing the European Convention on Nationality in Strasbourg on November 3, 1998, which provides for dual citizenship in cases of mixed marriages, children born of mixed marriages and children adopted by foreign citizens. On 1 March 2000 the respective Convention entered into force in the European countries, which have ratified it. Therefore, in order to ensure the principles of equality and non-discrimination, the state must refer to those who have more citizenships as

¹⁵⁴ Cârnaț Teodor, Drept Constituțional, Chișinău, 2009, p.230-231

¹⁵⁵ (Latin: right of blood) is a social policy by which citizenship is not determined by place of birth but by having one or both parent who are citizens of the nation.

¹⁵⁶ Jus soli (Latin: right of the soil), is a right by which nationality or citizenship can be recognized to any individual born in the territory of the related state.

¹⁵⁷ Moldovan Soviet Socialist Republic

¹⁵⁸ Cârnaț Teodor, Drept constituțional, Chișinău 2009, p. 239

well. In the Republic of Moldova, until 2009, the freedom to exercise certain public functions was exclusively reserved for citizens of the Republic of Moldova. This results from the Law Nr. 273-XVI of December 7, 2007, which prohibits people with multiple citizenships to hold certain state official functions. This provision was discriminatory against persons holding multiple citizenships. This idea was supported by most representatives of civil society, academia, political parties, which were in opposition at the time when the respective law was adopted. According to a research, more than 100,000 citizens of the Republic of Moldova have Romanian citizenship, and about 30,000 hold the citizenship of the Russian Federation. It is odd that the prohibition referred only to people living on the right bank of the Dniester, because for the inhabitants of Transnistria, the incompatibilities established by law shall apply only to the extent that they will be stipulated by the law regulating the special status of Transnistria.¹⁵⁹

Consequently, the Law Nr. 273-XVI is discriminatory towards persons on the basis of territorial criteria, which is why the law should be repealed. This was also confirmed by the European Court of Human Rights' decision in the case "*Tănase and Chirtoacă versus Moldova*" issued on November 18, 2008. This case reflects the violation of fundamental rights such as the right to vote and the right to be elected.¹⁶⁰

In accordance with Article 17 of the European Convention on Nationality, ratified by the Republic of Moldova, Moldovan citizens who are citizens of another state as well shall have the same rights and obligations as other citizens of the Republic of Moldova. However, the Constitutional Court of the Republic of Moldova, via a decision issued on 26.05.2009, recognized the amendments of the Law No. 273 - XVI of December 7, 2007 as being constitutional.

Conclusion

Taking into consideration the historical background of our country, as well as the real circumstances and necessities of the Moldovan population, we think that in order to avoid further problems regarding human rights and lost cases at the ECHR, the state should adopt a law concerning the plurality of citizenships. Also, taking into consideration the international treaties on nationality and on human rights, Article 17 from the Constitution should provide that "the state recognizes multiple citizenships and the citizenship acquired by birth cannot be repealed."

Multiple citizenships might be linked with some difficulties in administration and the tax system but this should not obstruct the free exercise of fundamental human rights. Consequently, we consider it important to mention that an infringement on human rights already exists in such cases when a particular state refuses to offer its citizenship to a person who already has one. However, in such situations in which a person holding dual citizenship is obstructed or limited in exercising some civil or political rights, it can be considered discriminatory treatment, as the ECHR stated in the case of *Tănase & Chirtoacă vs. the Republic of Moldova*.

Any state is obliged to respect the constitutional rights and interests of their citizens as well as that of the foreigners and stateless people, as per the International Conventions to which the respective state is part of. The state also has the obligation to protect its citizens against any type of violence or infringements of rights both on its territory as well as abroad via the embassies and consulates.

In the Republic of Moldova, a foreign citizen or a stateless person can have the same rights and duties as a citizen except:

- The right to elect and be elected in the national governing and administrative bodies.

¹⁵⁹ Cârnaț Teodor, *Drept Constituțional*, Chișinău 2009, p. 240

¹⁶⁰ *Tănase & Chirtoacă vs RM*, www.echr.coe.int/ECHR

- The duty to protect the state via military service.

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3.4. Migration Management, *Tea Gvasalia*

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Introduction

Migration is not something new; it has been an on-going phenomenon over the past years. It is an inseparable social “event” in a human being’s life. Human species have migrated in search of food or to escape from disasters or conflicts as long as Homo sapiens have existed. Migration is a physical movement of human beings from one area to another for short- or long-term, within or outside state borders. International migration has always drawn attention but its interest has increased even more so recently. The reason is the growth of its volume. By 2010, about 215 million people lived outside their country of birth or citizenship. They account for about 3 per cent of the world’s population and are expanding by 3 million to 4 million annually¹⁶¹. And today, international migration due to development of trade and finance, climate and environmental changes has reached unprecedented global dimensions. Especially since the end of the cold war, migration has become a very influential factor for determining the relationship between governments, because of its direct and indirect impacts on economics, demographics and daily life in the countries of origin, transit and destination.

Movement is a natural right of a human being. According to the Universal Declaration of Human Rights “everyone has the right to leave any country, including his own, and to return to his country.”¹⁶² Since ancient times people have spent a significant part of their lives in mobility. Modern technology greatly accelerated the process of migration in time and space as it has become more convenient and comfortable. Civil servants, businessmen, specialists, etc. spend a significant proportion of their time travelling. Nowadays, mobility has become an inevitable trademark of everyday life. Freedom of movement plays a crucial role in the process of state development. It is impossible to create a democratic, legally and economically competitive state without introducing the standards for free movement of people within and outside of the country. As we have seen, there are no restrictions on emigration but what about immigration? Why do we need to manage migration flows? While the freedom of movement is a basic human right in any democratic society, some countries of Eastern Europe and North America were forced to significantly restrict immigration in light of challenges with irregular and uncontrolled movements. Contemporary migration policies are increasingly characterized by a restrictive spirit that makes international mobility problematic. My aim through this paper is to answer these above mentioned questions, discuss the case of Georgia and show the importance of introducing not only regional, but also a global framework for international migration.

There are various reasons for migration. Since the dawn of time, people have moved from one place to another in search of more opportunities and a better life. These migrations have continued up until the present era and have even increased. It is a result of the widening gap between low-income and high-income countries. Based on the level of ‘forced’ migration, it

¹⁶¹ UN Department of Economic and Social Affairs, Population Division, Trends in International Migrant Stock, <http://www.un.org/esa/population/>

¹⁶² Universal Declaration of Human Rights, Article 13 (2), <http://www.un.org/en/documents/udhr/index.shtml>

can be divided into two broad groups: voluntary and forced migration, and from the perspective of time, it can be either temporary or permanent. After a long analysis of reasons that make people migrate, sociologists introduced so-called “push-pull” models, which differentiate between push factors that usually happen in a sending country, that force people to leave their home, and pull factors that take place in a receiving country and attract people to new locations¹⁶³. Negative facts, such as economic disadvantages (unemployment, poverty), political or religious prosecution, and environmental effects of climate change, wars or natural calamity are included in push factors. Positive facts, such as a high level of social and economic life, freedom of political and religious thoughts and labour demand in capitalist markets are considered pull factors. Throughout the history of human life the content of migrants has been changing and developing, and today it includes refugees, asylum seekers, trafficked persons, undocumented migrants, migrant workers and international students.

The management of international migration is one of the greatest challenges of our time. It is one of the most complicated issues to deal with in modern times. Different understandings of this issue by scholars and politicians have led to different policy programs at national and international level. Security has become the centrepiece for policies on migration management but it cannot be denied that different cases of migration require different policy approaches. Migration as a policy issue has never been confined to a single ministry since it has implications on labour, economics, social affairs, foreign affairs and internal affairs. Effective migration management requires cooperation among countries of origin and destination and among migrants as well. This is currently best achieved by partnerships among communities and countries directly linked to each other by migration. Effective and genuine partnerships must be established both bilaterally between migrant-sending and migrant-receiving countries, and at the multilateral level. The basic elements of migration management systems are visa policies, integrated border management, the regulated stay of foreigners, mechanisms for the integration of migrants into society, the total protection of their nationals who are to work and stay abroad, as well as active employment policies.

The precondition for successful migration management is to ensure effective coordination between institutions, the central ones that are responsible for creating policies as well as the operating ones, which will implement them. The government of every nation should establish the right policy regulating mobility, which at the same time is one of the most important guarantees for state sovereignty. The mobility from continent to continent, as well as from country to country, should be regulated by legislation, and its violators should be held accountable. The legislation that regulates the freedom of movement should be democratic, even if there is a bad political and economic situation in a country; therefore, it is necessary to restrict mass movement. That is why the legislation concerning mobility issues is dynamic, it always needs to develop and the government should create solid guarantees for its smooth implementation. Georgia’s Constitution of 1921 has always been known for its democratic nature, not only in Georgian but also in foreign legal literature¹⁶⁴. The freedom of movement, which was reflected in that time’s fundamental law for the newly created state, was one of the most important expressions of democracy. The government was well aware that the unhindered movement would facilitate the development of an independent republic, while a “vacuum” would bring setbacks. Travelling, communicating with various people having different ideas and experiences, help to advance people’s worldviews, which is ultimately reflected in the rapid pace of development of the country and which thus helps to overcome the retardation in relation to other countries. Therefore, the legislator then, despite the difficult situation, recognized the freedom of movement in the constitution. According to the Constitution of Georgia “everyone legally within the territory of Georgia shall, within

¹⁶³ “Globalisation 101”, The Levin Institute, The State University of New York: “Migration and Globalisation”, p.8, <http://www.globalization101.org/uploads/File/Migration/migration2011.pdf>

¹⁶⁴ See European Public Law, “The 1921 Constitution of the Democratic Republic of Georgia: Looking Back after Ninety Years”, George Papuashvili, http://constcourt.ge/files/euro_18.pdf

throughout the territory of the country, have the right to liberty of movement and freedom to choose his/her residence.”¹⁶⁵ Thus, as one can see, there is no restriction on mobility laid down by law.

Migration management in Georgia

Georgia, which lies at the border between Europe and Asia, is a transit route for trans-Eurasian and intercontinental traffic, which makes it a country of origin, transit and destination. Throughout its history the country has faced various forms of migration, external and internal, forced and voluntary, legal and illegal, migration of highly qualified and unqualified workers, immigration and emigration which poses a number of different but clearly linked challenges to the modern management of migration.

Since the collapse of the Soviet Union Georgia has had to deal with many problems. Two conflicts broke out: on the one hand between the central Georgian government, and on the other hand, in the autonomous republics of Abkhazia and South Ossetia. It resulted in the loss of control over these areas by the Georgian government and in the control of movements in those regions. Due to conflicts and economic weakening in the region, economic productivity and the volume of trade has been reduced, unemployment has increased, and the standard of living has decreased. During the first three years of the nineties Georgia was confronted with a number of dramatic civil wars, which brought about huge flows of internal displacements and which inflicted social-economic hardships on practically the whole population of Georgia. The whole economy was paralyzed due to a lack of energy resources and a highly unstable political situation. Many Georgian citizens decided to leave their country to look for a better life elsewhere and thus emigrated in great numbers, especially between 1993 and 1997. A considerable part of these emigrants belonged to ethnic minorities, which preferred to settle in the countries of their ancestors: Russia, Greece, Azerbaijan, Israel and Armenia were their main destinations. Most of these migration flows were uncontrolled and had a negative impact on the development of the Georgian State. In particular, it worsened the demographic situation and caused a waste of intellectual potential and the drain of qualified personnel. Thus, after the restoration of independence, mass emigration continued. At the initial stage the non-Georgian population were those departing in higher proportion; then Georgian emigration gradually increased. A high intensity labour migration developed. In 2004, to address increasing problems of migration, the government of Georgia focused on developing effective migration policies.

These are the competent institutions dealing with migration policy in Georgia:

- The Georgian president is authorized to make decisions regarding the Georgian citizenship, asylum, visa and residence issues.
- The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia and its Department of Migration, Repatriation and Refugee Issues are first of all responsible for procedures related to status of IDPs and international protection status, as well as for drafting legal acts on internal and external migration¹⁶⁶.
- The Ministry of Justice deals with the ‘Adjustment of emigration and migration procedures’, which is confined to purely legislative activities¹⁶⁷.
- The Civil Registry Agency (Ministry of Justice) is responsible for issuance of all personal documents including passports of Georgian citizens and residence permits for foreigners, registering foreigners, recording changes in their residence status, etc. As it is stated among its functions, the Georgian Civil Registry Agency is responsible for the

¹⁶⁵ Constitution of the Democratic Republic of Georgia, 1921, Article 30, http://constcourt.ge/index.php?lang_id=ENG&sec_id=249

¹⁶⁶ <http://mra.gov.ge/main/ENG#index/1>

¹⁶⁷ http://www.justice.gov.ge/index.php?lang_id=GEO&sec_id=604&lang_id=ENG

“maintenance of citizenship registration, acts of civil status and the establishment of an informational migration data bank.” The CRA is also implementing the functions of the Migration Commission secretariat – a body comprising of representatives from different institutions dealing with migration (see below)¹⁶⁸.

- The Office of the State Minister of Georgia for Diaspora Issues was created in February 2008, with the aim to deepen “relations with compatriots, residing abroad.” The office’s main responsibility is to establish relationships with the Georgian diaspora abroad, to organize various types of events, to stimulate investments into Georgian economy and to facilitate cultural and language exchange between Georgia and diasporas¹⁶⁹.
- The Ministry of Foreign Affairs is in charge of international agreements related to migration, such as readmission agreements, as well as the protection of the rights and interests of Georgians abroad and visa issues¹⁷⁰.
- The Governmental Commission on Migration Issues was established in October 2010 to elaborate a comprehensive migration policy and to improve the migration management system. The Commission is actively involved in various migration-related projects. A working group formed within the Commission is elaborating legislative initiatives in the field of migration management issues to present to the government.

The existing legislation of Georgia governing migration issues consists of a number of laws, regulations and instructions stipulating the rights of nationals, foreign nationals and stateless persons and regulating the issues of entry, residence, return and irregular migration. There are following regulatory acts:

- The Constitution of Georgia;
- The Law of Georgia on the registration of Georgian citizens and foreigners residing in Georgia, rules on issuing passports and residence permits;
- The Law of Georgia on temporary leave of Georgia by the Georgian citizens and the rules of entering Georgia;
- The Law of Georgia on the Legal Status of Aliens;
- The Decree on Alien's Deportation from Georgia;
- The Law of Georgia on the State Tax;
- The Law of Georgia on the Consular Tax.

In the last decades, Georgia had made significant reforms in border management issues. In June 2008, the Council invited the Commission to open a dialogue with Georgia to launch a discussion on a Mobility Partnership. In November 2009, negotiations on visa facilitation and readmission agreements were concluded and the EU and Georgia signed a mobility partnership aiming at promoting a better framework for cooperation on all aspects of migration policy. In June 2010 the visa facilitation agreement with Georgia was signed. It aims to facilitate people to people contacts as an important condition for a steady development of economic, humanitarian, cultural, scientific and other ties. The agreement reduced the burden of the visa process for Georgian citizens in a number of ways. Fees and requirements were altered. The visa application fee was reduced to 35 Euros from 60 Euros and total exemption from the visa fee was provided for 12 categories of applicants, Georgian diplomats were also exempted from visa requirements for short stays. To avoid Georgians from waiting for weeks on the outcome of their visa application, most Georgians will now receive a decision on their visa application within 10 working days. Furthermore, member states’ consular services can issue multiple entry visas (that will be valid for 5 years). In sum,

¹⁶⁸ http://www.cra.gov.ge/index.php?lang_id=ENG

¹⁶⁹ http://www.diaspora.gov.ge/index.php?sec_id=72&lang_id=ENG

¹⁷⁰ http://www.mfa.gov.ge/?lang_id=ENG

tangible progress was made between Georgia and the European Union regarding the easing of the visa application process for the average Georgian citizen¹⁷¹.

On 22 November, 2010 the country signed a readmission agreement with the EU, which entered into force on March 1, 2011. The contracting parties of the treaty aim to strengthen their co-operation in order to combat illegal immigration more effectively; to establish, by means of this Agreement and on the basis of reciprocity, rapid and effective procedures for the identification, safe and orderly return of persons who do not, or no longer, fulfil the conditions for entry into, presence in, or residence on the territories of Georgia or of one of the Member States of the European Union, and to facilitate the transit of such persons in a spirit of co-operation¹⁷².

Despite the reforms undertaken, Georgia still faces challenges. In order to achieve visa-free movement to the EU, the country must strengthen efforts in fighting corruption; take efficient measures in order to establish the rule of law, to ensure judicial independence, to promote interagency cooperation in tackling irregular migration and border security, and to develop a functional personal data management system. The demarcation and delimitation of Georgian borders with its neighbours raises another layer of complexity. The absence of a clear demarcation of the Russian-Georgian border poses a more serious challenge for the Georgian government because Georgia and Russia do not have official diplomatic relations and, therefore, no negotiations on establishing the official borderline is likely to occur in the near future. Unfortunately, the existence of Russian occupied territories within Georgia continues to leave the Russian-Georgian border volatile and prone to future complications¹⁷³.

Thus, as we have seen, Georgia after gaining independence has experienced both emigration and immigration, most of which were uncontrolled. For migrants this process was costly and risky, many Georgians overstayed their visas because they wanted to work in the countries concerned and probably felt that they could not earn enough money in the short time span allowed by their visas. They were also engaged in illegal works, those caused trafficking in migrants. For the country it had negative impacts as well. It worsened the demographic situation and caused a waste of intellectual potential and draining of qualified personnel. In the last decades, some influential reforms were made in controlling mobility issues, but the country still needs more effective policies for migration management, because well-managed migration is thought to support development by empowering individuals, bridging cultures, creating wealth and balancing inequalities. To maximize the gains and minimize the losses from migration, coherent and co-operative management is required, where all of the stakeholders -, migrants, and countries of origin and destination - are involved.

¹⁷¹ Council of the European Union, Conclusion of two EU agreements with Georgia on visa facilitation and readmission,

http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/118885.pdf

¹⁷² Ibid

¹⁷³ Jefferson Institute, Regional Insights; Tamara Pataraiia: Prospects for Visa Liberalisation between the EU and Georgia: an assessment of Georgia's readiness, p. 3 – 4,

<http://www.jeffersoninst.org/sites/default/files/Georgia%20policy%20paper.pdf>

3.5. The Duties and Rights of Foreigners in Moldova, *Constanta Vomisescu-Babin*

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Introduction

Under current conditions of international cooperation, the states face a strong necessity to administer the migration phenomenon in the context of a continuously growing and globalized economic system. For assuring the stability of the society common efforts need to be directed towards the integration of migrants but also to provide a response to the increasing number of illegal migrants who are not actually interested in moving to the Republic of Moldova but, in the most of the cases, are trying to reach the European Union in the hope of a better life by transitioning through our state.

Starting from the Republic of Moldova's aspiration towards European integration, the state must provide tools for applying EU policies for migration through its internal legal regulations for compliance with European standards. The Supreme Law, the Constitution of the Republic of Moldova adopted in 1994, as well as other organic and ordinary laws have provisions regarding international standards for the rights of the migrants. For instance, the UN Convention on the Rights of the Child foresees that the state is responsible of the child's wellbeing, the Convention concerning the Elimination of Discrimination Against Women provides guarantees for women's rights, the Convention concerning the Fight against Racial Discrimination provides that public health and medical assistance is provided without discrimination. The Republic of Moldova has recognized the necessity of respecting fundamental rights and liberties of the person in compliance with generally recognized norms of international laws and in line with the provisions of the above-mentioned Conventions as well as with all the treaties to which our country is a part of. Our legislators have adopted several laws for assuring the compatibility of the national law with the EU law in the field of migration:

- Law on regime of foreigners in the Republic of Moldova, published on 24.09.10
- Law concerning the foreign integration in the Republic of Moldova, Nr. 274 from 27.12.2011,
- Law concerning asylum in the Republic of Moldova, Nr. 270 from 18.12.2008
- Law concerning migration Nr. 1518 from 06.12.2002

Goals and objectives of the research:

This work aims to analyze the rights and duties of foreigners in Moldova provided by national legislation through the framework of international regulations in order to determine the level of its compliance. For this purpose several issues shall be decided:

1. What rights and duties do foreigners have?
2. What are the concrete tools for guaranteeing the protection of foreigners' rights in the Republic of Moldova?
3. What does the integration process mean in the acceptance of migration regulations and what are the main problems faced during this process?

Methodology

The methods of scientific research refer to various ways for examining the amount of rights and obligations of migrants by analyzing the legal background and the tools for its realization. The most helpful methods for this research were the systematic acceptance of migration rights as a part of the globalization process and also the comparative analysis of the statistic data concerning the number of residencies and working permits that were issued for foreigners during the period between 2001 and 2007.

The hypothesis

The aim of this research is to establish wherever the legislation of the Republic of Moldova complies with the international one and is able to guarantee the protection of foreigners' rights through specific tools.

Research

An important step in this direction was the elaboration and recent adoption of the Law concerning foreigners' integration in the Republic of Moldova on 13.03.2012 (hereinafter – Integration Law). The aim of this law is to assure the partial implementation of the Councils Directive 83/2004/EC, April 29, 2004 on 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 granted¹⁷⁴, and in particular, its part related to access to education, social rights, medical assistance and integration programs.

The term of foreigner is exhaustively used in this paper as “a person who does not have the citizenship of the Republic of Moldova or a stateless person”¹⁷⁵.

The present Integration law regulates the process and the modalities of facilitating foreigners' integration in the economic, social and cultural life of the Republic of Moldova in order to prevent and combat their social marginalization and their adaptation into Moldovan society. The law introduces notions like “integration”, “individual integration program”, “integration plan”, “integration engagement”, “special assistance” and “cultural accommodation”.

The EU treats the integration issue as an integral bilateral process, that presumes the obligation of the host society to assure the foreigners' rights to a economic and social life and foreigners, on their turn, are obliged to respect the norms and the values of the host state and to participate actively to all the events concerning integration, without affecting their own identity and values. The integration concept is based on mutual recognition of the rights of the immigrant and on the principles of equal opportunities and the assurance of a decent life¹⁷⁶.

¹⁷⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

¹⁷⁵ Law on regime of foreigners in RM, published 24.09.10, entered into force 24.12.2010

¹⁷⁶ Communication from the Commission to the European Parliament, the Council, the European and Economic and Social Committee and the Committee of the Regions “European Agenda for the

In this context, it must be mentioned that the actual legislation does not establish concrete liabilities of the state authorities to intervene with politics and mechanisms of foreigners' integration covered by the public budget finances. All the actions in this direction are developed by UNCHR and national NGOs, where the Bureau for Migration and Asylum of the Ministry of Internal Affairs has the quality of an implementation partner. Taking into consideration that the national legislation foresees these measures, the competent authorities have to decide upon the elaboration of the juridical framework for integration and to establish concrete competences for each institution.

The non-discrimination, superior interest of the child and equal treatment are among the fundamental principles used as a guideline for the effective realization of the law. Also the lawmaker foresees the individual evaluation of each case separately. This specific process is described as a collaboration and continuous coordination between the central and local authorities with the involvement of the civil society of international structures, that must have an active role and which the state must accommodate. It is also important to mention that the law indicates that the structure responsible for coordinating the integration process of foreigners on the territory of the Republic of Moldova is the authority responsible for foreigners.

Among the factors and circumstances that justify the necessity for imperative legal regulation of integration we can mention the necessity for:

- The realization of foreigners' rights provided by law;
- The assumption of foreign integration;
- The creation and implementation of integration programs;
- Underlining the state authorities bodies' competences in the process and in the steps for integration;
- The active involvement of civil society;
- Cultural accommodation of the foreigner to Moldovan values, customs, political-administrative system;
- Access to the state language courses;
- Access to the national education system;
- Conditions modeling the penetration of the labour market;
- Access to the national medical care system;
- The protection of social security measures;
- The facilitation of economic integration.

From the political perspective national legislative provisions represent a necessity for the realization of foreigners' rights, including the right to naturalization.

The states obligations, by Integration law, for the integration of foreigners are the following:

- a) socio-cultural integration sessions (trainings on national values and customs);
- b) courses for the study of state languages;
- c) providing information and counseling regarding ways on how to access the labour market, to get medical services and social protection;
- d) orientation and professional services for their economic integration¹⁷⁷.

The courses of the state language study must be organized through the educational institutions and through the financial funds of the Ministry of Education and shall be

Integration of Third-Country Nationals", <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0455:EN:NOT>

¹⁷⁷ Law concerning the foreign integration in RM nr. 274 from 27.12.2011, entered into force on 13.03.2012

gratuitous for the beneficiaries. The level of language knowledge is evaluated by special commissions and is confirmed through a certificate.

Concerning the foreigners right to legal assistance, article 26 of the Constitution of Republic of Moldova provides that the right of defense is guaranteed.¹⁷⁸ Everybody has the right to respond independently with appropriate legitimate means upon an infringement of his/her rights and freedoms. Throughout the trial the parties have the right to be assisted by a lawyer, either chosen or appointed ex officio.

According to Article 1, the Law of the state guarantees legal aid¹⁷⁹ and establishes appropriate conditions and procedures so that the state can guarantee legal aid delivery for the purpose of protecting human rights and fundamental freedoms and other legitimate interests of persons. Article 6 paragraph 2 stipulates that foreign citizens and stateless persons benefit from its provisions within the legal framework in the proceedings and the cases that refer to the competence of the public administration authorities and of the courts of the Republic of Moldova.

Basically, the law distinguishes between primary and qualified legal aid. Primary legal aid shall mean the provision of specific information, whereas qualified legal aid comprises the delivery of legal services, such as counseling, representation and/or defense before criminal investigation bodies, courts of law in criminal cases, cases of administrative offences, civil cases or cases of administrative jurisdiction, as well as representation before public administration authorities.

Primary legal aid is delivered by paralegals and by non-governmental organizations specialized in delivering legal aid. Authorized for delivering qualified legal aid are public defenders and lawyers who deliver legal aid upon request. The right to qualified legal aid is ensured, among others, to foreign citizens and stateless persons who need emergency legal aid in case of detention in a criminal trial or in administrative proceedings, and foreign citizens and stateless persons who need legal aid in administrative cases and cases of administrative jurisdiction.

The law is meant to significantly increase access to legal aid by guaranteeing qualified legal aid for all poor defendants and to prompt access to counseling for all detained defendants; duty lawyers will provide legal aid promptly after arrest to all defendants or administrative offenders (so-called "emergency legal aid"). The administration of the system of delivering state guaranteed legal aid is carried out by the Ministry of Justice, the Bar Association and The National Council for State Guaranteed Legal Aid and its territorial offices. The law describes in detail the prerogatives of these entities, the selection of persons authorized to deliver legal aid, the procedures for applying and for the delivery of legal aid.

Although, our legislation provides concrete mechanisms for the realization of foreigners' rights, there is an acute lack of preconditions for the efficient integration of foreigners in the local communities. That is why, no matter the legal provisions, immigrants don't know the language of the country, the functioning and access to distinct public services. For example, they have to face restrictions to the labour market, the social assurance system, educational and health care systems. Due to the lack of knowledge about the Moldovan culture and its traditions, it may provoke tensions between the natives and foreigners. And the aim is to solve this by correctly and promptly transposing European directives into national provisions.

The statistics show that 88% of the foreigners live in Chisinau, from which 73% of them are labour immigrants. The persons who benefit from humanitarian protection or refugees are concentrated in the capital. The numbers reflect the fact that there is no territorial uniformity at national level, including the rural zone, which creates independent formations and obstacles for their integration.

¹⁷⁸ Constitution of RM, adopted 29.07.1994

¹⁷⁹ Law on the state guaranteed legal aid, July 2007.

Formally, the legislation of the Republic of Moldova does not have any restrictions concerning the rights and opportunities of foreigners who enter or stay legally on its territory. It offers them equal rights to other citizens, except political rights such as electoral rights. Article 5 of the Law Concerning the Status of Foreigners in the Republic of Moldova and the Law Concerning Asylum in the Republic of Moldova contains provisions on the integration of foreigners in the economic, social and cultural life of Moldovan society through distinct integration programs and with the active involvement of the state authorities.

As far as the access to the **medical system** is concerned, international and regional legislation on human rights establishes the following: the state is responsible for respecting the human rights of all persons within its territory, whether they are or are not citizens of that state. As it was established by Article 25 of the Universal Declaration of Human Rights, “everyone has the right to a standard of living adequate for health and welfare of himself or his family, including health care”.¹⁸⁰ The right to the highest standards of health is set out in Article 12 of the International Covenant on Social, Cultural and Economic rights.¹⁸¹ Refugees and beneficiaries of humanitarian protection have access to the same medical services under the system of mandatory health care as those established by law for citizens of Moldova.¹⁸² Also it must be mentioned that foreigners have the same access to public social insurance system as Moldovan citizens have. The same basic principles refer to this category as well: the contributive principle, solidarity, and more specifically to our case, universality. No one should be exposed to social risks and foreigners are not an exception. This is why the legal provisions for social insurance refer to “Republic of Moldova citizens, other states’ citizens, stateless or refugees”¹⁸³.

The state authorities, especially the Ministry of Labour, Social Protection and Family can take the necessary measures to adopt its services to the requirements of the beneficiaries of integration programs. Registered migrants are in the same position as natives and may take advantage of the same **labour rights**: unemployment benefits, the receipt of information regarding available working places, the establishment of a link between them and the potential employers, etc. However, “the number of labor immigrants (in Moldova) is very low. These are businessmen who conclude contracts and wish to start their own business here, and people, who arrived in Moldova for work on the basis of a contract”. But it only refers to legal labour immigrants, while the authorities estimate the number of foreigners and stateless, who live on the territory and have developed various types of activities, to be around 20,000.¹⁸⁴

The phenomenon of study migration to Moldova has taken on bigger dimensions in the last years. A lot of students from distinct countries, such as India, chose to study at Moldovan universities. This is due to the quality of higher education and its affordability. For study purposes students receive temporary residence and the possibility to prolong it for each year of their study. Refugees and asylum-seekers enjoy free access to **primary and secondary education**.

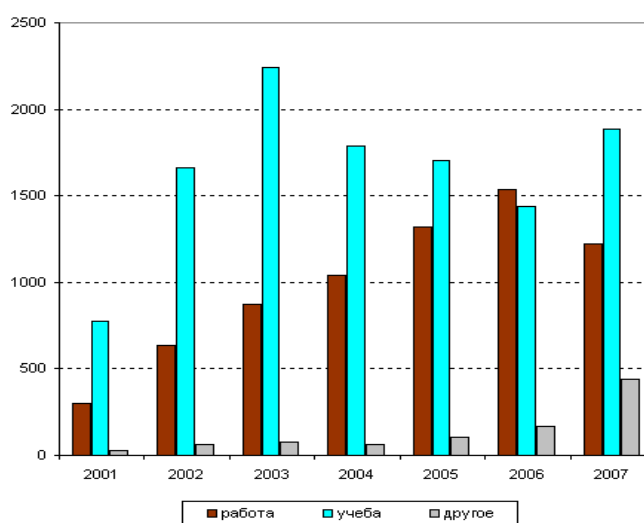
¹⁸⁰ Universal Declaration of Human Rights, December 10, 1948 the General Assembly of the United Nations

¹⁸¹ International Covenant on social, cultural and economic rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976.

¹⁸² Law concerning the foreign integration in RM nr. 274 from 27.12.2011, entered into force on 13.03.2012

¹⁸³ Law concerning the national system of social insurance nr. 485-XIV

¹⁸⁴ Valeriu Mosneaga, The Republic of Moldova: the protection of migrant workers in the context of the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Table 1: The number of issued temporary residence permits to foreign nationals¹⁸⁵

The table presents the number of working and residence permits issued by the Republic of Moldova to foreign citizens for the legalization of their statute on its territory. The table also distinguishes between the purposes of their stays: work (1st column), education (2nd column) or other purpose (3rd column).

By analyzing the content of the table we notice the prevalence of the number of persons who came to Moldova for study purpose, more specifically, for university studies. We may explain the increased number of migrants during the years 2003 and 2004 years because of the affordable fees for higher education and its good quality. The decrease in the following period is a result of the introduction of discriminatory, higher fees for international students. Later, due to international organizations' influence, several higher education institutions revised their study programmes in order make it more accessible and attractive to foreigners. For example, UNHCR reached an agreement with the Free University of Moldova to provide higher education to refugees at the tuition rate for locals, rather than at the much higher rate generally paid by foreigners.

The Law on the Regime of Foreigners in the Republic of Moldova¹⁸⁶ for the registration of foreigners stipulates two prerogatives: the permanent and temporary residence, as well as specific requirements for obtaining legal status, such as knowledge of the language, term of stay, invitation letter and others.

A temporary resident who submitted an application for the permanent residence permit must fulfill following conditions:

- a) have a legal and continuous right of temporary residence for a period of at least 3 years – in case she/he is married to a Moldovan citizen;
- b) have a legal and continuous right of temporary residence for a period of at least 5 years – for another category;
- c) proves that she/he possesses the necessary funds for self-maintenance, except for foreigners married to a Moldovan citizen;
- d) possesses a residential space;
- e) presents satisfactory knowledge of the official language;
- f) is not the subject to any restrictions for entering the territory of the Republic of Moldova;

¹⁸⁵ <http://demoscope.ru/weekly/2008/0355/tema03.php>

¹⁸⁶ Law on regime of foreigners in RM, published 24.09.10, entered into force 24.12.2010

g) has no criminal record during the last 3 years.¹⁸⁷

The foreign residents of the Republic of Moldova have the right to cross the borders of their state in accordance to their legal status. The law indicates that foreigners temporarily located abroad but with a residence permit in the Republic of Moldova have the possibility of getting support, such as the issuance of travel documents, from the consular offices and diplomatic missions of the Republic of Moldova. However, if they do not possess a valid document for state border crossing, it could also happen that they cannot obtain this document from the diplomatic missions of their country of origin. The Convention relating the Status of Refugees from 1951 foresees that the states cannot sanction refugees for their illegal entry or presence on the territory of the state when they report immediately to the authorities and present arguments for their illegal entry and presence. The lack of required documents of the applicant cannot constitute a justified reason for not admitting them in the territory of the state or from excluding them from asylum procedures.

The review of asylum applications are regulated by constitutional norms, international treaties to which the Republic of Moldova is part of, the Law Concerning Asylum and other relevant normative acts. Article 12 of the Law Concerning Asylum¹⁸⁸ determines that family members benefit from the same form of protection and statute as the applicant for asylum if they satisfy following requirements:

- a) they accompany the applicant;
- b) they are under his maintenance and live together with him;
- c) their status is not incompatible with refugee status.

The spouse benefits from the right of family unity if the marriage was concluded before their entry and before the application for asylum. This status of refugee once offered, is not dependent from the divorce, separation or death of the initial applicant. A special treatment is for children as they should not be separated from their families.

The applicants cannot be sanctioned for the illegal entry or illegal stay in the territory of the Republic of Moldova and their treatment in the host country need to comply to international human rights standards. There are certain situations when the status of refugee cannot be granted to a foreigner only if there are reasons to believe that:

- a) He has committed a crime against peace, a war crime or a crime against humanity;
- b) He has committed a very grave crime before entering the territory of the Republic of Moldova ;
- c) He has committed acts that are against the aims and principles of the UN Charter;
- d) He has planned, facilitated or participated in terrorist acts.

Migrants have the right to voluntarily return and no foreigner shall be expelled or returned to a state when there is a real danger to his life and liberty or when he could be exposed to torture or inhuman treatment because such actions go against international human rights standards. But, aside from all these guarantees, a person who was granted refugee status can be expelled or returned from the Republic of Moldova territory only if there is reason to believe that there is a real danger for the security of the state or if he is convicted for committing a crime according to the criminal code of the Republic of Moldova.

Foreign citizens and stateless persons who live on the territory of the Republic of Moldova are granted **freedom of conscience, opinion, expression and liberty** in accordance with the legislation. Foreign citizens and stateless persons have the right to enter into marriage

¹⁸⁷ Law on the Regime of Foreigners in the Republic of Moldova, published 24.09.10, entered into force 24.12.2010

¹⁸⁸ Law Concerning Asylum in Republic of Moldova, Nr. 270 from 18.12.2008

with Moldovan citizens or with other persons; they benefit from rights and have the same familial duties as citizens. Freedom of conscience must be a priority, as long as the person uses his religious beliefs as a general guideline for the exercise of all of his rights and obligations. In this regard, the Execution Code of the Republic of Moldova provides guarantees to the liberty of conscience and confessions. So, the person has the right to possess any religion, or none, to express freely their beliefs and to act accordingly to them¹⁸⁹. The foreign citizens' rights are guaranteed through the means of addressing the diplomatic mission of their state in Moldova.

Aside from the rights of foreigners, the law provides certain duties as well. Among the most important one of them is the imperative observance of national legislation subject to the competent authorities. This confirms one more time that the Republic of Moldova is a democratic state¹⁹⁰ and it does not promote any discriminatory measures towards foreigners.

Another element is the prohibition to carry out any labour activities without the special permission from the competent bodies. Foreigners are not allowed to deviate from the initial purpose of their entry and must respect the rights and obligations for their stay, in order to avoid legal sanctions or even deportation.

No matter their special status, the right of ownership, possession, use and disposal of real estate does not automatically grant the right for residence on the territory of the Republic of Moldova. This means that purchasing any kind of real estate is not a reason for registering foreigners. Moreover, persons who are not citizens face restrictions in buying land within the borders of the state.

Foreigners who benefit from integration programs need to fulfill the **following requirements**:

- a) take part in the activities established through individual integration plans;
- b) make efforts in passing all the integration program levels in accordance with the signed engagement;
- c) respect the disciplinary, behavioral norms as expected throughout the course, as well as the internal regulations of the accommodation centers;
- d) inform the responsible government authorities about any change likely to affect his presence in the integration activities;

In case a non-citizen, who is a beneficiary of integration assistance, does not respect at least one of above mentioned conditions, she/he can be revoked from this special status.

Conclusion

Since its independence, Moldovan legislation has adopted a human-rights friendly approach. The Republic of Moldova, as part of the international community, is continuously harmonizing its legislation with the legal framework of the European Union. A proof of this is the adoption of a set of laws in that direction, which has already taken effect for most part.

In order to assure the functionality of laws and the proper protection of foreign rights certain structures were created to facilitate migrants' integration, for instance, with the establishment of the Migrants Accommodation Center in Chisinau, Moldova and the Bureau for Migration and Asylum Bureau in the Ministry of Internal Affairs.

The main challenges for integration are the foreigner's poor language level, as well as a lack of adapting to the traditions and cultural peculiarities of the country. Lawmakers provide special mechanisms for resolving it, but its functionality cannot be analyzed as long as there is no information about their activity.

¹⁸⁹ The Execution Code of the Republic of Moldova Nr. 443 from 24.12.2004

¹⁹⁰ Constitution of the Republic of Moldova, 29.07.1994

Having mentioned the initial target, several more recent, important developments have occurred in relation to foreigners in our country. These developments can be assessed as positive as long as “the security environment for refugees and asylum-seekers in Moldova is favorable. Racism and xenophobia are not widespread in Moldova, although sporadic incidents of violence against foreigners have been reported.” It can also be noted that refugees, beneficiaries of humanitarian protection and asylum-seekers have unimpeded access to courts to defend their rights and to challenge the government’s decisions. In most cases, asylum-seekers can appeal to a decision at first instance and are provided with free legal representation by UNHCR’s implementing partner.¹⁹¹ The partner is the Ministry of Internal Affairs through its delegated bodies.

However, in many cases, implementation remains challenging due to limited capacities. This can be considered one of the main problems for migration regulation and the integration of foreigners. Although the state does not have much experience in migration law, it nonetheless makes some efforts and follows the recommendations from international organizations. The only remaining impediment is the lack of financial and administrative capacities to deal with this issue.

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12. Law Concerning the Refugee Status Nr. 1286 from 25.07.2002;
13. Law Concerning Migration Nr. 1518 from 06.12.2002;
14. The Execution Code of the Republic of Moldova Nr. 443 from 24.12.2004;
15. United Nations High Commissioner for Refugees, www.unhcr.org.

¹⁹¹ Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report - Universal Periodic Review on Moldova, March 2011

3.6. The Principle of Non-Refoulement and its Application for Border Management in the European Union, *Maia Gabuldani, Nino Karchava*

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Tbilisi State University

1. The principle of non-refoulement and the evolution of the asylum policy in the EU

The principle of non-refoulement is enshrined in Article 33 of the 1951 Convention, one of the two articles of the Convention to which contracting states are permitted to make no reservations since it is considered to be a fundamental component of the international refugee protection regime.¹⁹²

“No contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of the territories where his life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion.”

Although the Convention refers to the obligation to respect the principle of non-refoulement by the contracting states, the principle is already considered to be part of customary international law: that means that the principle of non-refoulement must be applied regardless of the fact whether a particular state is a contracting party of the 1951 Geneva Convention or not. All member states of the European Union are signatories of the above-mentioned Convention.

Evolution of the European Asylum System

As a *sui generis* in international relations, the European Union is currently in the process of elaborating common European asylum policy. One of the major developments in this area was the Dublin Convention of 1990 (later replaced by the Dublin II Regulation) which introduced new rules for applying as an asylum seeker and in ending the so-called ‘asylum shopping’ i.e. an ability of the asylum seeker to apply for an asylum simultaneously or subsequently in more than one of the member states. As such, the Dublin Convention aims to limit the possibility to misuse the asylum procedures and to set the criteria for establishment of the member state responsible for examination of the asylum application.

The intention of the Tampere Council held in 1999 was the establishment of the Common European Asylum System (CEAS). The Tampere conclusions focused on the importance of differentiating between a refugee and a migrant by establishing that “asylum seekers, presuming they are in genuine need of international protection are not voluntary migrants and therefore, must be subject to special procedure than ‘regular’ migrants.”¹⁹³ The distinction made was an essential one as asylum seekers, unlike migrants, do not leave the

¹⁹² United Nations High Commissioner for Refugees, Policy Development and Evaluation Service: A Review of the UNHCR’s Response to border closures in situations of mass refugee influx, June, 2010, p. 10

¹⁹³ Sandra Lavenex, “Safe Third Countries: Extending the EU Asylum and Immigration Policies to Central and Eastern Europe”. Central European University Press, Budapest, 1999, p. 29

country of nationality out of their own will, thus they are in need of a different kind of treatment.

Next steps in development of CEAS were adoption of three directives:

- “Reception directive”, adopted in 2003¹⁹⁴, established the minimum standards and conditions for reception of asylum seekers in the EU MS;
- “Qualification directive”, adopted in 2004¹⁹⁵, was a progress since member states agreed on a uniform concept for a refugee and subsidiary protection. However, the standards of living and protection offered still differ from one state to another and, like other directives in the field of asylum, it has a minimalistic character as the aim of member states was to avoid possible future overburdening when a more liberal approach is taken. But as a positive remark, the Qualification Directive for the first time established the notion of persecution including the persecution by non-state actors, and introduced standards for qualification of the subsidiary protection standards;
- “Procedural directive”, adopted in 2005¹⁹⁶, established rules for refugee status determination procedures in the EU MS.

The Lisbon Treaty emphasizes the principle of non-refoulement as part of the EU asylum policy as it “represents the central limit posed by human rights considerations upon states’ prerogative to decide on the entry and stay of persons in need of protection.”¹⁹⁷

Although the European Union itself is not party to the Geneva Convention but all of its member states are contracting states and bear responsibilities of respecting the principles of it. As showed above, EU member states have also developed their own legislation regarding certain aspects of asylum, however, in practice they demonstrate some discrepancies with EU law. For that reason, the EU is often criticized by international organizations such as United Nations High Commissioner for Refugees (UNHCR) or European Council on Refugees and Exiles (ECRE).

2. Non-refoulement in EU border management practice

This section shows the gap between the rhetoric and the practice of the EU when it comes to exercising its sovereignty rights. It does so to combat the illegal entry in order to protect the security of the Union and its member states while respecting internationally recognized obligations such as the access to asylum procedures and the principle of non-refoulement. There are several concerns regarding this issue.

After the enlargement of the European Union in 2004, ten countries from Central and Eastern Europe (CEECs) joined the EU, and therefore it increased the necessity to protect new EU external borders. However, information collected already in 2006 showed that the majority of irregular migrants arrive to the territory of the EU legally and find themselves in illegal situation later, e.g. due to overstaying their right to stay. Data collected at national level in the EU member states indicate that more than 75% of irregular immigrants who were

¹⁹⁴ Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF>

¹⁹⁵ Council Directive 2004/83/EC of 29 April 2004 on 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; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

¹⁹⁶ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawal refugee status; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF>

¹⁹⁷ Sandra Lavenex, op. cit., p. 12

apprehended on the territory of EU Member States in 2006 came from third countries where visas to visit the EU are required¹⁹⁸. Therefore, EU MS began to establish different forms of cooperation with third countries, especially with immediate neighbours to avoid irregular movements. Security concerns were one of the main reasons for introducing European Neighbourhood Policy (2004) and Eastern Partnership (EaP) programs (2009).

With the increase in the mobility of persons and goods, States needed to address the challenge of ensuring the right balance between open, but at the same time secured and controlled borders. In order to respond to this challenge, the European Union (EU) developed the concept of “Integrated Border Management” which is a key to the European border management strategy. The EU Integrated Border Management (IBM) strategy was adopted by the EU Council Conclusions of 4-5 December 2006. The key aspects of the IBM concept are cooperation and coordination for controlling borders and irregular movements of persons or goods, also relevant risk analysis and crime intelligence.¹⁹⁹

As the EU was concerned about securing its borders, immediate neighbours became the main subject of the policy. IBM was included into the Eastern Partnership covering six Eastern European countries: Moldova, Georgia, Belarus, Ukraine, Azerbaijan and Armenia. There is a special panel on integrated border management within the EaP that aims to facilitate the exchange of best practices on IBM and to promote the development of the EaP IBM Flagship Initiative.²⁰⁰ This Flagship Initiative includes training for customs officers and border guards and the provision of border surveillance equipment and infrastructure.

One of the most important principles of border management is the respect of the principle of non-refoulement, which might come under threat while securing EU borders. IBM includes cooperation on three levels: Intra-service cooperation, Inter-agency cooperation, and International cooperation, involving supranational, national and local actors. Those actors face themselves some legal insecurity; there are also cases of different interpretation and misunderstandings of the principle. EU member states have multiple agreements with third countries; the latter, in conjunction with EU operational agreements, have raised a great deal of legal issues in terms of the implementation of international human rights and conventions of the sea. However, the adoption of agreements with third countries may threaten the principle of non-refoulement if potential asylum seekers will be returned to the country where their fundamental rights may be at risk.

Recent trends in EU border management

In the first part about the evolution of the European asylum system, we mentioned the importance of the Tampere conclusions which underlined the distinction between the migrant and the refugee and the necessity for special treatment of the latter category. But in practice, because of the intensified border control measures to combat irregular migration flows and the absence of clear criteria for their identification, the problem of the so-called “mixed flows” arises i.e. flows of migrants which include asylum seekers, irregular migrants, economic migrants and other categories of migrants. For example, since 2002, 48% of asylum applicants in Malta, most of who arrived by sea in an irregular manner, were eventually

¹⁹⁸ Preparatory study to inform an Impact Assessment in relation to the creation of an automated entry/exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers (‘Registered Traveller Programme’), Directorate-General Justice, Freedom and Security, 30 October, 2007, p.4

¹⁹⁹ Council of the European Union, EU Schengen Catalogue, External borders control, Return and readmission Recommendations and best practices, Brussels, 2 December 2008.

²⁰⁰ Eastern Partnership-Integrated Border Management Flagship Initiative Training Project, available at: <http://www.eap-fit.eu/en/theproject-en>

recognized as in need of international protection.²⁰¹ Due to the restrictions on visa regimes and other barriers, the would-be refugees practically lack any other ways of entering the EU territory and then resort to irregular measures such as illicit smuggling services.

Another concern refers to the common phenomenon among southern countries of the EU, which are transitioning towards the 'bilateralization' of the asylum field, thus taking the issue from internationally agreed norms to bilateral agreements and "remodelling the EU-refugee regime through their 'frontline perspective', pressuring for their positions in European decision-making forums and formalizing informal practices established in the border regions"²⁰². One of the examples are agreements between Italy and Libya signed in 2003 and 2007.

According to the ECRE, the phenomenon of shifting border controls away from the EU's physical borders leaves an information gap between the rhetoric of applying additional measure to ensure the state security and the situation when asylum-seekers are forced back by the respective authorities of the 'would-be asylum country for the first time'. And no one in Europe ever knows about them. The ECRE re-affirms the fact that Member States' obligations under international and European refugee and human rights law do not stop at national borders: they can be engaged by actions states carry out outside their national and EU borders, directly or through agents'²⁰³

With externalized migration controls and exercising extraterritorial jurisdiction while undertaking joint rescue operations, the relevant state authorities have to respect the right of access to fair and unrestricted procedure of asylum, at minimum, and access to procedures to further determine the status of refugee. 'While the prohibition of refoulement found in the Refugee Convention is not applicable for persons who are still in the territorial sea of their state, prohibitions of refoulement stemming from the human rights treaties can be applied'²⁰⁴ for example 2 and 3 articles, also the other articles of the European Convention on Human Rights (ECHR) rights.

UNHCR calls for a more cautious approach towards border management. The necessity to control against intrusion is needed beyond any doubt but should take into account internationally accepted obligations concerning those individuals who are deprived of their genuine right to be protected by their country of origin and who have been in search of protection. The example most commonly noted is the event that occurred in June 2009, when 75 boat people headed off the Italian island of Lampedusa and were transferred to a Libyan naval patrol by Italian coastguards, operating as part of Operation Nautilus IV. This episode was analyzed in the Human Rights Watch report: "*The Italian Coast Guard reportedly handed the migrants over to a Libyan patrol boat, which took them to Tripoli where they were reported to have been handed over to a Libyan military unit.*"²⁰⁵ The continuation of this story is to be found in the case of the European Court of Human Rights *Hirsi Jamaa and*

²⁰¹ Jesuit Refugee Service, 2007 Nansen Award Winner addresses government representatives on refugee protection and mixed migration, 2 October 2007 Quoted in European Council on Refugees and Exiles, *Defending Refugees' Access to Protection in Europe*, December, 2007, p. 2

²⁰² S. Klepp. *Negotiating the Principle of Non-Refoulement in the Mediterranean Sea – Missions, Visions and Practices at the Southern Borders of the European Union*. Research Academy Leipzig, Working Papers Series 1, 11.2008. p. 19

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²⁰⁴ Ruth Weinzierl, Urzula Lisson. *Border Management and Human Rights A study of EU Law and the Law of the Sea*. German Institute for Human Rights, December, 2007. p. 60

²⁰⁵ Human Rights Watch (2009) *Pushed Back, Pushed Around Italy's Forced Return of Boat Migrants and Asylum Seekers, Libya's Mistreatment of Migrants and Asylum Seekers*, 98 p. [available online] ; Karl Stagno- Navarra, *Handover of Migrants to Italy Results in Forced Repatriation*, Malta Today (21 June 2009)

*Others v. Italy*²⁰⁶. The Grand Chamber Judgement was adopted in February 2012, by which the Court held that there had been two violations of Article 3 of the ECHR²⁰⁷ because the applicants had been exposed to the risk of *ill-treatment in Libya* and of *chain deportation to their countries of origin* (Somalia or Eritrea). Moreover, the Court found that there was a violation of Article 4 of Protocol No. 4 of the ECHR which prohibits collective expulsions and a violation of Article 13 which provides a right to an effective remedy as the expulsion decisions did not provide a suspensive effect.

The member state authorities justify the measures taken by border security as it helps to deal with the problems related to the mass influx. But even in this situation potential asylum-seekers should be granted their right to apply for asylum, at a bare minimum and temporary protection.

When it comes to specialized agencies undertaking border management operations, like the above-mentioned one, then FRONTEX must be mentioned as the entity in charge of EU's external borders.

FRONTEX – tasks and concerns

FRONTEX²⁰⁸ is an agency that arose from a compromise between the Commission's ambition to create a European Corps of Border guards and the reluctance of the Member States to devolve too much of their sovereign competences to the supranational level.²⁰⁹ It was as an attempt of the European Union to increase the cohesion between different border control standards of the Member States, to consolidate and codify the common rules, develop common "language" for various administrative and technical matters that relate to not just state borders but also the European external border.

In 2007 the number of refugees worldwide rose for the first time in many years while the number of asylum applications in the European Union reached a 20 year low. Is this a success story? The fair question might be at what price did the number of asylum-seekers drop: at the expense of irregular migrants or a potential refugee in need of international protection?

What is relevant in our case is that FRONTEX's founding regulation does not include any reference to the principle of non-refoulement but, at the same time, it has to be compliant with the resolution of the European Parliament adopted in December 2008. The latter called for "the mandate of FRONTEX to explicitly include an obligation to meet international human rights standards and a duty towards asylum seekers in rescue operations on the high seas" and called for a review of that mandate "so as to eliminate legal vacuums (...) setting out in particular the precise legal conditions for its sea rescue operations."²¹⁰ FRONTEX undertakes air, sea and land joint operations, and also deploys Rapid Border Intervention Teams

(RABITs). RABITs come into operation only in cases of urgency when already utilized assets and devices are not sufficient and adequate to counter the threats. Hence, all possible

²⁰⁶ Case *Hirsi Jamaa and other v. Italy*, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-109231#{"itemid":\["001-109231"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-109231#{)

²⁰⁷ The article 3 of the Convention prohibits inhuman and degrading treatment. This article also applies as principle of non-refoulement to the countries where a person may be at risk of such treatment.

²⁰⁸ <http://www.frontex.europa.eu/>

²⁰⁹ Sarah Wolff, *EU Integrated Border Management beyond Lisbon: Contrasting Policies and Practice*. Clingendael European Studies Program (CESP), p. 27

²¹⁰ European Parliament, *Resolution on the Evaluation and Future Development of the FRONTEX Agency and of the European Border Surveillance System (Eurosir) 2008/2157(INII)*, 18 December, 2008

means are needed in order to maintain what remains “European” from the “rest of the other world.”²¹¹

FRONTEX has certainly made some positive contributions to the security of external borders, however the critical comments made by international organizations and legal experts are well justified.

In a time of high level securitization of border control issues and intensified media coverage of the migration-related fields, particular operations undertaken in many cases seen above, it can be seen that universally recognized rights of the vulnerable group are being breached by depriving them to the right for surrogate protection. The proposition of the European Commission that “the Schengen area border is only as strong as its (the EU) weakest link”²¹² gains added value when it comes to strengthening the internal security at the expense of maximized control of external ones.

Conclusion

The principle of non-refoulement, as mentioned already, is one of the most important articles of the Refugee Convention, to which no state can make reservations. While looking at the evolution of the EU asylum system and its primary or secondary legislation, the compliance and respect to non-refoulement was considered an undeniable obligation for Member States. But as an overview of the practices of the EU agencies and its Member States shows, the use of legal loopholes and the grey zones of the international refugee protection law remains in practice of some Member States.

According to the reports of the European Commission on irregular migration control, the FRONTEX is considered to be an essential and effective instrument which has helped to decrease the number of illegal entries to the EU. But, at the same time, there has been a significant decrease in the number of persons seeking asylum in the countries of the European Union (EU). In 2007 the number of refugees worldwide rose for the first time in many years while the number of asylum applications in the European Union reached a 20 year low²¹³. Is this a success story? The fair question might be at what price did the number of asylum-seekers drop: at the expense of irregular migrants or a potential refugee in need of international protection?

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²¹² European Union, *Frontex: libertas, securitas, justitia. European Agency for the Management of Operational Cooperation at the External Borders*, Office for Official Publications of the European Communities, Luxembourg, 2009, p. 2.

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Chapter 4. Media

4.1. Media Tools to Raise Awareness on Relevance of Migration for Local Development, *Victoria Puiu*

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“It is too crude and simplistic to limit our understanding of public opinion to headline banners. A deeper investigation reveals important insights”²¹⁴

Introduction

Nowadays, international migration has become a global phenomenon. The total number of migrants in the world multiplied at least by five over the last 40 years, according to Reynald Blion, Media and Diversity Manager, from the Council of Europe. Furthermore, international mobility has become a major socioeconomic issue both for industrialized as well as for developing countries²¹⁵.

Still, in 2001, Olivier Blanchard, currently the chief economist at the International Monetary Fund, a post he has held since September 1, 2008, made a toy model of immigration as follows: “Think of all the capital as being in the West (Western Europe). Think of all the labour as being in the East (Eastern Europe). Now remove the barriers to factor mobility. Some capital is likely to move East, in order to work with the abundant labour there. Some labour is likely to move West, to work with the abundant capital here. Make the extreme assumption that, as long as the rate of return is higher in the East, capital moves East, and that, as long as the wage is higher in the West, labour moves West. How much capital will move East, how much labour will move West is not obvious from this description²¹⁶”.

It is a toy model which seems to be perfect for the most citizens in societies, but unfortunately, immigration has been perceived today, or better to say, in the last years, “as an unfair concurrence and a security and/or economic threat by certain fringes of the public

²¹⁴ Marieke Kleemans and Jeni Klugman: Understanding Attitudes towards Migrants: A Broader Perspective. United Nations Development Programme (UNDP), Human Development Reports, Research Paper 2009/53, p.19, http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_53.pdf

²¹⁵ Reynald Blion: Media and Migration – Ambiguous Relationship for Complex Debates, <http://www.radio1812.net/media-and-migration-ambiguous-relationship-complex-debates>

²¹⁶ Olivier Blanchard: “The EU Enlargement, and Immigration from Eastern Europe”, October 2001, <http://economics.mit.edu/files/661>

opinion in Europe”, says Reynald Blion²¹⁷. I would specify that in most of the cases this negative view toward migration is present also in the Republic of Moldova.

More than that, the Republic of Moldova is a country of migrants and is one of the countries mostly affected by emigration for labour purposes, on a short or long-term basis. According to official government estimates, more than half a million (around 600,000) of the Moldovan labour force is currently living and working abroad, as a report issued by International Organization for Migration from Republic of Moldova (IOM) mentions²¹⁸. Besides that, more than one third of Moldovan migrants are working and living illegally in their host countries. The unofficial dates, although, show that more than a million Moldovan migrants are abroad.

As a consequence, during the past decades, the phenomenon of immigration presented a lot of features of economic, political and social effects, both positive and mostly negative for the Republic of Moldova. And from here, a negative perception towards migration was “developed”.

Normally, this negative outlook of migration can only be counterbalanced by a professional and high quality press coverage that also takes into account migrants’ provisions and contributions to the economic, social, cultural and political dynamics of our contemporary societies and not only at the often negative representations of migration flows, its consequences and so on.

In this way, media professionals (journalists) have a primordial role to play towards forming public opinion: to stimulate and guarantee a pluralism of points of view and opinions, to ensure a real democratic debate over migration issues and their impacts, to present success stories about and for immigrants. However, the points mentioned above are not entirely respected so that is why I will try to present and to develop, in this paper, the media tools which can raise awareness on the relevance of migration for local development in the Republic of Moldova. I consider that even the background of migration does not have a positive impact in most of cases. We can also find some positive aspects, which must be shown to form the public opinion in Moldova, Europe and the wider international community. And, at the moment, this is a priority for our country and for other societies which face a similar phenomenon as immigration.

1. A brief review on the migration phenomenon in Moldova

Before presenting the positive impacts of migration, it must be mentioned that this phenomenon also brought unwanted consequences in our society.

Historically, Moldova has been a country of immigrants; today the impact of emigration has gained importance for Moldova and is highly debated from two main perspectives: one from the social, demographic perspective and another from the economic and financial perspective.²¹⁹ The first perspective takes into consideration the issues of labour force, family and the destiny of the immigrants’ children. The central subjects of discussion for the second perspective are the financial earnings of emigrants that are then being sent back to Moldova.

Likewise, as a result, migrants are a major source of income for the national economy with remittances from those abroad estimated at around 1.9 billion USD in 2008 and accounting for 31% of Moldova’s GDP (2nd globally after Tajikistan)²²⁰.

²¹⁷ Reynald Blion: Media and Migration – Ambiguous Relationship for Complex Debates, <http://www.radio1812.net/media-and-migration-ambiguous-relationship-complex-debates>

²¹⁸ IOM Report: “The Socio-Economic Impact of the Economic Crisis on Migration and Remittances in the Republic of Moldova”. Early Findings – Spring 2009, http://www.iom.md/attachments/110_2009_06_02_socio_economic_impact_eng.pdf

²¹⁹ Ibid

²²⁰ IOM, Migration and Development, <http://www.iom.md/index.php/en/programs/migration-development>

According to the World Bank, Moldova is at first rank in Europe in terms of the size of remittances in proportion to GDP²²¹. Remittances represent one third of the country's GDP. The IOM 2009 and 2008 Migration and Remittances Surveys shows that over 30% of the population lives in households that receive remittances. The majority of these flows are used to cover basic household consumption, consumer durables, purchase of housing and debt repayment²²².

Thereby, there were some attempts at increasing the efficiency of remittances in Moldova by promoting their productive investment. The Organization for Small and Medium Enterprises (OSME) implemented in the period 2010-2012 the program *PARE 1+1*, which will match every "1 leu" (national currency) invested by a Moldovan migrant or his/her 1st grade relative with another "1 leu" from the state for launching a new private enterprise or the development of an existing enterprise, especially in rural areas²²³. The main priorities of the pilot program was and still is the creation of new jobs, its export orientation and import substitution, the implementation of energy efficiency, the creation of business development areas and the application of modern technologies, transfer of know-how and innovations.

But, apart from that, one of the most serious and negative effects of migration on development is the so-called "brain-drain", defined as the emigration of trained and talented individuals from the country of origin (like scientists and young graduates) to a third country. Moldova is deprived of vital skills that hinder the ability of its institutions to deliver essential services mainly in health and education. As a result of this, the Republic of Moldova has been experiencing a depletion of human capital, as the IOM Mission to Moldova informs²²⁴.

It would be impossible not to mention the other negative consequences of emigration, such as: separated families, children growing up without one parent or, worse, without both parents, psychological problems of those who leave the country or when they return to Moldova, and of course, the consequences afflicting relatives of the emigrants. We know that the list of negative impacts and consequences of immigration in the Republic of Moldova can continue, but the main purpose of this paper is to develop media tools to raise awareness on the relevance of migration for local development.

2. Media and migration: general review

Considering all of the above, migration has indeed increasingly attracted media attention over the past decade, thus gaining salience in political debates. It is important to consider the critical role which the media play in both influencing and reflecting public opinion. Similarly, in terms of policy, the media have the ability to act as "both an agenda setter and driver on immigration issues and a mirror reflecting debates going on in public and policy circles"²²⁵. It is more than obvious that accurate and balanced reporting is a key role and responsibility of the media in partnership with relevant actors and, particularly, policymakers.

Still, in many cases, it is clear that immigrants, in general, as well as persons of certain nationalities and persons belonging to certain ethnic groups, are frequently stigmatized in destination countries. The worst part is when this stigmatization is not limited to migrants abroad, but also exists in countries of origin fuelled by the idea that migrants have

²²¹ World Bank, Migration and Remittances Factbook 2001, Second Edition, p. 14, <http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf>

²²² IOM Moldova, Migration and development, Remittances, <http://www.iom.md/index.php/en/programs/migrationa-development/remittances>

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²²⁴ Ibid

²²⁵ Bertelsmann Stiftung, Migration Policy Institute: Migration, Public Opinion and Politics; The Transatlantic Council on Migration; Demetrios G. Papademetriou, Annette Heuser – Council Statement, p. 23, <http://www.e-cademic.de/data/ebooks/extracts/9783867930406.pdf>

abandoned their country by trying to live a better life or by the unrealistic hopes and expectations of the migrant's families and communities of origin. At the same time, it is apparent that migration is often the catch-all issue that masks the public's fears and uncertainties relating to unemployment, housing or social cohesion (in countries of destination) or the loss/waste of human capital and economic dependency (in countries of origin)²²⁶.

Many of us support the idea that there cannot be direct causal links between media reporting and the influence on public opinion or policy, but still the media do shape attitudes in significant ways. The findings of the media content analysis show that the media are often the public's primary source of information (statistics, trends, analysis) about migrants and migration.

Furthermore, the media can frame the debate by highlighting certain aspects of migration and not others (such as illegality) through episodic coverage or by exaggerating the facts. Unbalanced coverage may also be a reflection of the evolving nature of the media, which have become increasingly commercialized over the last two decades.

Despite the growing body of evidence attesting the benefits and costs of migration, there is a disconnection between the producers (academics, political analysts) and users (politicians, media, the wider public) for the base of evidence. Also, there is a lack of knowledge among the media on how to accurately report and to inform about migration issues.

Finally, inaccurate representation of migrants and migration directly impacts migrants themselves. In host countries, mass media often serves as a reference point for incoming migrants to inform them about the society in which they live. Evidence shows that migrants are very much aware of stereotyping and negative portrayals, especially in the media, which can lead to a sense of marginalization if left unchecked or if migrants' views are not given equal coverage²²⁷.

Considering all the arguments mentioned above, my next question would be how we can improve the general public opinion and show that in some particular cases negativity towards migrants should not be so pronounced. There are also good aspects concerning the phenomenon of migration, which have to be promoted and shown to the public opinion. Also, we have to be aware that opinion can and does change over time, especially when we have an increased level of interaction with migrants and an increased understanding of what a migrant is and is not, as the IOM report "Communicating Effectively about Migration" is saying.

And my answer would be that we can improve the general public opinion as long we (here I am referring to journalists) write and care about the accurate representation of migrants and migration. Also, it has been demonstrated that opinions can and do change over time, if journalists do their job in a professional and accurate manner. And all these can be done through appropriate media tools, which I will develop in following pages.

3. Tools, methods and strategies for raising awareness of migration for local development

"Tools, methods and strategies" is a section devoted to showcasing and highlighting the ground-breaking strategies, tools, and methods which can help mass media and public

²²⁶ IOM, Let's Raise Migrants' Voices for an Open and Constructive Debate on Migration, Says IOM's 2011 World Migration Report, <http://www.iom.int/jahia/Jahia/media/news-releases/newsArticleEU/cache/offonce?entryId=30986>

²²⁷ IOM, World Migration Report 2011, "Communicating effectively about migration", http://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/wmr2011/Executive-Summary.pdf

opinion to be aware of the importance of migration for local development. It also describes the steps and tools needed in this respect.

The most direct and appropriate media tools for realizing our goal - raising awareness on the relevance of migration for local development - are:

- magazine articles
- TV talk shows
- TV and radio sketches
- radio broadcasts
- films
- advertisements
- internet (news sites, blogs, social networking)
- videos
- DVDs
- newspaper articles
- and - why not? - workshops for journalists.

Also, we know that the traditional means of disseminating information are now complemented by and made easier through the use of modern electronic technologies. And the use of electronic technology varies from interactive web-based guides to online video games.

To be more specific, and in reference to newspaper articles, here it is necessary to focus on successful stories about and for immigrants, e.g. the businesses they have developed once they have returned to their home-country, or to even cover their success story in the host countries. The press from the Republic of Moldova attempted to write about this subject, but in my personal opinion, it was not covered entirely. From my experience as a journalist, moderating a news site, I noticed that successful stories, especially about migrants, were one of the best articles read if compared to all the others.

Also, presently, there are some governmental programs (as was mentioned above – “PARE 1+1”), which are fully dedicated to migrants and their future once they have returned to their home country. The mass media should keep an eye on these programs in order to keep emigrants’ families better informed. Still, just informing is not enough. Journalists have to follow the subject to see if immigrants are applying to these programs, and to see what problems and solutions they may have. Because, going back to the example of PARE 1+1, some migrants who have invested in a business, actually had some difficulties in implementing their business idea because of bureaucracy, corruption etc.

Also, when we are talking about newspapers, we should not forget about the interviews with migrants since they would have the opportunity to talk about their experience, problems or successful events from their life.

I would like to mention that it is possible to realize a newspaper campaign, as a national newspaper from Moldova did - “Timpul de dimineata” (Morning Times) – for some months in relation to the “brain-drain” phenomenon. It was a campaign called “We are calling the young people back home” designed to bring young and talented people back to their home country and to present their achievements while they were living in a foreign country. The statistics showed that the campaign had a positive impact among readers, so that is why the mass media promoted this idea.

“The linkage between migration and poverty reduction or economic development is characterized through three factors: recruitment, remittances and return. If properly managed, migration can contribute to the development of the country, as well as benefit migrants themselves”.

For television or radio, such as TV and radio talk shows, or TV sketches, we would have to give it more attention, especially television, as it has a bigger audience than newspapers or radio channels. There will be TV shows concentrating on the phenomenon of migration and invite people to their studio who have returned to their homelands and who are ready to start a business, to find a good job or to invest with her/his knowledge and experience in a new project. And the most important element of television is the dissemination of the news and advertisements. First of all, news has to be reported accurately, impartially and not focused on only negative aspects of migrants. In this respect, journalists have to be aware that running after “commercial news” leads to misinformation and misperceptions. But, if they would take their time, they would be able to make news, which will also present positive impacts of migration and successful migrants with good businesses. And here I do not mean the migrants who have returned to their homeland, but also the immigrants who decided to live and work in the host country. In this way, the negative stereotypes towards migrants or the idea that migrants are responsible – directly or indirectly – for unemployment, security issues or a lack of social cohesion, among others, will slowly disappear, day-by-day.

Talking about advertisement, public authorities, government or NGOs should organize social campaigns through mass media to demonstrate the positive impacts of migration and how migration can participate in local development. This will exemplify how people can launch small and profitable businesses, how people have thought about new projects and have acted upon them or where they have developed specific areas in the industry or the economy. Working as journalist, I can say that examples of “successful migrants” who have actively participated at the local development are in the hundreds. And here the mission of the government and of journalists, of course, is to find these people, to talk to them and to present their participation to the local authorities through videos, posters or social campaigns.

Nowadays, in the age of electronics, the power of online media cannot be underestimated. Internet is proving to be an increasingly important media distribution channel, as well as a private communication tool. Besides that, online media is one of the most accessible and free of charge sources of information for everybody. We have to be aware also about the rise of blogging, social networking, and file-sharing platforms, which allows families and friends to keep in touch in myriad ways across borders.

Referring to ways how media should raise awareness of the relevance of migration for local development, I would like to mention here the same reports, articles and interviews about “successful immigrants”. This will help to maintain a positive image of migrants and their activities. Moreover, for blogs or social networking (as Twitter, Facebook, LinkedIn, ReportedOn etc.) , reporters, freelance journalists, writers, bloggers could write, comment or inform about positive actions of migration which are relevant to local development.

Except for the media tools proposed above, I would now like to specify the fact that workshops for journalists are not less important. There is a need that some organization/foundation concerned about immigrants and their integration into society (as International Organization for Migration) organize workshops for journalists in order to educate the media about the danger of stereotyping immigrants. Also, the representatives of media have to be aware that immigrants cannot be accused for high levels of unemployment in a country, but that they should just do their job in a professional and accurate manner without them being led to misinformation and misperceptions. These institutions have to make their documents available on their websites (not only in their native language but also in international languages). Likewise, these institutions should not exclude discussion forums, e-bulletins, extensive lists of resources and publications, newsletters, campaign information and everything else concerning the phenomenon of migration. These could include: brochures, pamphlets, checklists, booklets, reviews of literature, research papers, fact sheets, sheets with statistics and answers to frequently asked questions on such topics as new opportunities for immigrants who have come back to their country of origin or answers to legal problems, integration in society, etc.

Conclusion

In recent years, global migration flows and technological advancement in media have increased the role of media in creating and refining national, cultural, and social identities. Therefore, if mass media does not keep track on presenting the phenomenon of migration in all its aspects – good and negative – then public opinion will be misinformed and taken down a wrong “path” towards immigrants.

Besides that, I am very positive that mass media can help to raise awareness on the relevance of migration for local development. For that, I have exposed the media tools above and I will present another argument below, which was broadly discussed during the Summer School:

“The linkage between migration and poverty reduction or economic development is characterized through three factors: recruitment, remittances and return. If properly managed, migration can contribute to the development of the country, as well as benefit migrants themselves”.

4.2. Migration Glossary²²⁸, Svetlana Tataru, Mircea Mitrofan

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Introduction

Migration from Moldova increased sharply in recent years. Numerous studies focused on this phenomenon have demonstrated its significant impact on the economic and social situation in the country.

This publication on this research area is thus an important source for Moldovan citizens from abroad. This dictionary defines the terms used in this research to describe the phenomenon of migration. And it is adapted to our country. With over one hundred words, this edition expects to help emigrants and those who are interested in migration issues. In Moldova, there has not been anything like this - a practical and useful glossary for citizens - published yet. This is the first one.

We managed to make a Romanian and English version of it. Moldovan society is still vulnerable, and this guide aims to strengthen communities by encouraging social dialogue at community level for Moldovans living abroad, as well as to develop a sense of active involvement.

Such a publication can be used by journalists when reporting on migration issues, interpreters, policy makers, etc. The inter-disciplinary approach applied in our glossary reflects the fact that the definitions included in the glossary are not just of purely migration or legal nature, but also of economic, political, demographic and statistical. We hope that it will serve as a useful tool for us students, and also for society.

This glossary includes about 165 words. It has 80 pages in just 10 editions. The colour of the cover is light pink-violet, different from the political colours of Moldova, which are considered to be red, yellow, green, blue. One glossary costs about 4 \$ USD. It was distributed to participants of the Summer School – that means one copy on it travelled to the USA, Georgia, Austria, Slovenia, Holland, and, of course, Moldova. One copy is available at the Faculty of Journalism.

It was difficult to find sources in English, but they were plentiful in Romanian. We used key-words from our national laws, and then we tried to translate them. During our presentation at the Summer School we received some comments and remarks and we will take them into account in the future: we will add new definitions, make some corrections and bring out a new edition.

Examples of definitions included in the glossary

The Bureau for Migration and Asylum – This is a specialized central public authority, which aim is to further develop the concept of migration policy of the Republic of Moldova,

²²⁸ Migration Glossary was prepared and published by authors in preparation to the Summer School. Only an overview of this work is presented here.

as approved by government decision No. 1386-XV from 11.10.2002 and the government decision No. 529 from 17.05.2006 "Regarding the actions of reorganizing some specialized central authorities of the public administration". The Bureau is part of the Ministry of Internal Affairs and was tasked with the following functions in the field of migration: a) monitoring and coordination of the migration processes; b) analysis and enforcement of law in the area of migration and asylum; c) the elaboration of the projects of legislation in order to regulate the legal status of foreigners and stateless persons; d) issuing the invitations to the foreign citizens and stateless persons; e) prolonging the date of issue of the entry visas and giving visas for exit from the territory of the Republic of Moldova; f) giving the status of immigrant, refugee or repatriated; g) the elaboration of the Government Decision regarding the setting of the annual immigration quota; h) monitoring to complete the annual immigration quota; i) management of the migration flow in the Republic Moldova; j) ensuring the accumulation, storage, processing, dissemination and exchange of information regarding the migration processes on both internal and external points of view; k) in collaboration with other authorities of the local public administration keeping the data base updated regarding the evidence of foreign citizens and stateless persons, who are on the territory of the Republic of Moldova. Thereby, the Bureau for Migration and Asylum (with statute of general direction) was created, a subdivision that has important functions. They hold the competences for prosecution and are entitled with the right of developing operative investigation measures. This Bureau should ensure the continuity of functions executed previously by the Bureau for National Migration, as well as continue with the development of operation capacities of the government in the field of migration.

"Brain theft" – ("brain drain") – the emigration of a significant number of highly educated persons, usually to other countries, in pursuit of better economic and social opportunities (for example, doctors who leave a developing country in order to practice medicine in a developed country).

Asylum - (In the past) The philanthropic Institutions which previously took care of children, old and disabled persons and terminally ill persons. 2. Inviolable refuge; shelter, refuge.

Diaspora - is an ethnic group displaced outside their country of origin; for example, the Moldavian diaspora in Italy.

Emigrant - citizens of the Republic of Moldova who leave to other countries in order to settle permanently or temporarily on the territory of another state.

Family- is usually 2 or more persons that live together under the same roof and are related by birth, marriage or adoption. Families can be formed from brothers/sisters or other relatives, or from married couples and their children.

Globalization – is the term used in order to describe a multi-causal process which results in the events that take place in part of the globe and which have growing repercussions upon the societies and problems from other parts of the world. Globalization is the modern term used to describe changes in society and in the global economy, which result from heightened international trade and cultural exchanges. It describes the growth in trade and investments due to the fall of barriers and the increasing interdependence between states. In the economic context, the term is often used exclusively to describe trade effects and, in particular, referring to the liberalization of trade or to free trade.

Human Trafficking - is an illegal activity. It is a violation of numerous international laws and human rights, which are being committed by criminals who are frequently members of a very well organized, transnational criminal network. Traffickers often transport victims abroad. Victims lack basic rights, are sold and enslaved, forced to work as sex slaves or unqualified labourers. Victims are usually raped, brutalized or even tortured.

Immigrant - foreign citizen or a stateless person who has obtained the right to settle permanently or temporarily in the Republic of Moldova and who loses this status once she/he

leaves the country's territory or obtains the citizenship of the Republic of Moldova in accordance with the law.

Labour migration - voluntary departure of citizens of the Republic of Moldova abroad, as well as voluntary entrance of a foreign citizen or stateless person on the territory of the Republic of Moldova, with the goal to pursue work activities.

Migration – from the international point of view, it is the change of place of living of a person or group of persons, regardless of the reasons and cause for changing the place of living. The cause for migration out of the country can be determined by different factors: politics, bad ecological system, underdeveloped economy, unsatisfactory demography or better opportunities in the host country from an economic and social point of view, and the political protection of the population from the government of the host country. International migration is an integral part of contemporary economies.

Population - is the totality of inhabitants of a country, of a region, of a city, etc.

Repatriation – In the Republic of Moldova, the right to repatriation is given to the following categories of persons requiring permanent residence on the territory of a country:

- a) To the citizens of a country and/or persons who have been born in that country and to their descendants, no matter their place of residence;
- b) To the persons who have lived permanently on the territory of the country for at least 10 years and have been abroad in order to create permanent residence, to work, to study or for treatment;
- c) To the persons released from detention who have been out of the country; a person who, until having committed the crime, has lived permanently on the territory of the country.

Refugee - is the person who has sought asylum in another country in order to find support or protection under the threat of various types of dangers in their country of origin.

Schengen space - is an area of free movement in Europe in accordance with the Schengen Agreement. The member states of this space have eliminated or will eliminate border crossings between member states so that it becomes possible (will be possible) to travel without having to stop and to present one's identification.

The agreement on free movement has been signed on June 14, 1985, in Luxembourg, Schengen. The first states that implemented it were Belgium, France, Germany, Luxembourg, Portugal, Spain and the Netherlands, upon which they opened the borders between them on March 26, 1995. Up to now, 30 states have joined the Schengen Agreement; of them 27 states have already implemented it. In a historical moment, on December 21, 2007, 9 states, the majority of them from Central and Eastern Europe have opened their borders. For the first time free travel across the former Iron Curtain is possible. Switzerland, Liechtenstein, Norway and Island, which are not EU member states are also taking part. At the same time, the United Kingdom and Ireland, member states of the European Union, have chosen not to implement the Schengen agreement on their territory. The member states of the Agreement from Schengen, which also are members of the European Union are: Romania, Bulgaria and Cyprus. States that are members only to the agreement, but not to the European Union are: Switzerland and Liechtenstein, which have not yet applied the provisions of the agreement, but intend to do so in the future.

Transit visa- (type "B" indicated on the visa sticker) – it is issued to persons who transit the territory of one or more Schengen states before continuing their trip to a third state.

Visa – scrap, stamp etc. passed by an authority on a document, in order to give it validity, e.g. in order to acknowledge the receipt, etc.

"Working black" - providing services without any legal documents, without having a labour contract and no remuneration based on payroll.

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Annex A: List of Acronyms

CEAS	Common European Asylum System
CEE	Central and Eastern Europe
CEEC	Central and Eastern European Countries
CEPS	Centre for European Policy Studies
CIS	Commonwealth of Independent States
CIVIS	Centre of Sociological, Politological and Psychological Studies
DRC	Danish Refugee Council
EaP	Eastern Partnership
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
ENP	European Neighbourhood Policy
ETF	European Training Foundation
EU	European Union
EU MS	European Union Member States
FDI	Foreign Direct Investment
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GOVAC	Building Training and Analytical Capacities on Migration in Moldova and Georgia project funded by the European Commission, the EU Member States and Switzerland
HH	Household
HIV/AIDS	Human immunodeficiency virus infection / acquired immunodeficiency syndrome
IASCI	International Agency for Source County Information
IBM	Integrated Border Management
ICMPD	International Centre for Migration Policy Development
IOM	International Organisation for Migration
M3 money	Estimation of the entire supply of money within the economy of the respective state
MASSR	Moldavian Autonomic Soviet Socialist Republic
MFN	Most-Favoured-Nation
MoU	Memorandum of Understanding
MS	Member States
MSSR	Moldavian Soviet Socialist Republic
NGO	Non-Governmental Organisation
NT	National Treatment

OSCE	Organisation for Security and Cooperation in Europe
OSME	Organisation for Small and Medium Enterprises
RABIT	Rapid Border Intervention Team (FRONTEX operations)
RM	Republic of Moldova
SIDA	Swedish International Development Agency
TIP	US Department of State annual Trafficking in Persons Reports
UAE	United Arab Emirates
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	UN International Children's Emergency Fund
UNO	United Nations Organisation
UNODC	United Nations Office on Drugs and Crime
US	United States (of America)
USA	United States of America
USD	US Dollar
USSR	Union of the Soviet Socialist Republics
VAT	Value Added Tax
WTO	World Trade Organisation

Annex B: Summer School Agenda

June 25, Monday: Day of Social and Political Sciences		
9:30 – 10:15	Presentation of participants: ICMPD, DRC, the Hague University, US DAVIS University, Tbilisi State University, Moldovan state University	Ms. Alenka Prvinsek Persoglio, ICMPD Ketevan Gorgoshidze, DRC; Prof. Peter van Krieken; Prof. Philip Martin; Prof. Ketevan Khutsishvili; Prof. Valeriu Mosneaga
10:15–10:45	Presentation of agenda and warm-up	Ms. Violeta Wagner, ICMPD
10:45– 11:00	Coffee break	
11:00– 11:15	Moldovan team: Social price of emigration: children and elderly left behind Presenters: Ms. Adriana Zbigli, Ms. Liudmila Muscincscaja, Ms. Cristina Avram	
11:15– 12:25		Remarks and notes: prof. Valeriu Mosneaga
11:25– 11:40	Georgian Team: Migration from Georgia: families left behind Presenter: Ms. Mariam Samkharadze, Ms. Tine Gvenetadze	
11:40– 11:50		Remarks and notes: Prof. Ia Iashvili
11:50– 12:30	Joint discussion facilitated by Prof. Peter van Krieken Rapporteurs of discussion: Moldova : Ms. Dorina Cirlig, Ms. Alina Zotea	Georgia : Ms. Ms. Maia Gabuldani, Ms. Ana Janelidze
12:30– 13:45	Lunch	
13:45– 14:00	Warm-up	Ms. Violeta Wagner, ICMPD
14:00– 14:15	Moldovan team: Social inclusion and integration of foreigners in Moldova: access to social/health rights of temporary/permanent residents and economic rights (employment) of lawfully residing foreigners in Moldova Presenter: Ms. Iulia Curajos	
14:15– 14:25		Remarks and notes: Prof. Valeriu Mosneaga
14:25– 14:40	Georgian team: Trafficking in Human Beings as a Social Phenomenon (nexus between trafficking and migration, IBM and trafficking) Presenters: Mr. Shalva Kenkebashvili, Ms. Lia Jalagania	
14:40– 14:50		Remarks and notes: Prof. Ia Iashvili
14:50– 15:10	Coffee break	
15:10– 16:00	Joint discussion facilitated by Prof. Peter van Krieken Rapporteurs of discussion : Moldova : Ms. Constanta Vomisescu-Babin, Mr. Mircea Gladchi	Georgia : Ms. Tamta Tsotskhalashvili, Mr. Davit Jaiani
16:00– 16:30	Preparation of conclusions for the next day. Wrap up: Moldovan and Georgian presenters and rapporteurs facilitated by Ms. Violeta Wagner, ICMPD	

June 26, Tuesday: Day of Economics

9:00 – 9:15	Georgian and Moldovan Rapporteurs: wrap up of morning session	
9:15 – 9:30	Moldovan and Moldovan Rapporteurs: wrap up of afternoon session	
9:30 – 10:30	Introduction into day of Economics	Prof. Philip Martin
10:30 – 10:45 Coffee break		
10:45 – 11:00	Warm-up	Violeta Wagner, ICMPD
11:00 – 11:15	Georgian team: GATS and Migration Management Presenter: <i>Ms. Nino Parsadanishvili</i>	
11:00 – 11:25		Remarks and notes: <i>Prof. Philip Martin</i>
11:25 – 11:40	Georgian Team: EU Standards in Labour Migration Presenter: <i>Mr. Akaki Beridze</i>	
11:40 – 12:30	Joint discussion facilitated by <i>Prof. Philip Martin</i> Rapporteurs of discussion : Georgia : <i>Mr. Shalva Kenkebashvili, Ms. Salome Epremidze, Ms. Tea Gvasalia, Ms. Tine Gvenetadze</i>	
12:30 – 13:45 Lunch		
13:45 – 14:00	Warm-up	Ms. Violeta Wagner, ICMPD
14:00 – 14:15	Moldovan team: Demographic Challenges of Moldova for the next two decades Presenter: <i>Ms. Ana Formusatii, Ms. Anna Petrachi</i>	
14:15 – 14:25		Remarks and notes: <i>Prof. Diana Criclivaia</i>
14:25 – 14:40	Moldovan team: Impact of remittances on the education of children of Moldovan emigrants Presenters: <i>Ms. Dorina Cirlig, Ms. Alina Zotea</i>	
14:40 – 14:50		Remarks and notes: <i>Prof. Diana Criclivaia</i>
14:50 – 15:10 Coffee break		
15:10 – 16:00	Joint discussion facilitated by <i>Prof. Philip Martin</i> Rapporteurs of discussion: Moldova : <i>Ms. Svetlana Tataru, Ms. Liudmila Muscincsaia, Ms. Cristina Avram</i>	
16:00 – 16:30	Preparation of conclusions for the next day. Wrap up: Moldovan and Georgian presenters and rapporteurs teams facilitated by Ms. Violeta Wagner, ICMPD	

June 27, Wednesday: Day of Law

9:00 – 9:15	Georgian and Moldovan Rapporteurs: Wrap up of morning session	
9:15 – 9:30	Moldovan and Moldovan Rapporteurs: Wrap up of afternoon session	
9:30 – 10:30	Introduction into day of Law	Prof. Peter van Krieken
10:30 – 10:45	Coffee break	
10:45 – 11:00	Warm-up	Violeta Wagner, ICMPD
11:00 – 11:15	Moldovan team: State Sovereignty in Migration process; The evolution of the concept of citizenship in Moldova during last two decades Presenters: <i>Mr. Alexei Cresnov, Mr. Vlad Popa</i>	
11:00 – 11:25	Remarks and notes: <i>Prof. Aliona Rusniac</i>	
11:25 – 11:40	Georgian Team: Migration Management, Nexus between Irregular Migration and State Security Presenters: <i>Ms. Guranda Gujaraidze, Ms. Mariam Neparidze, Ms. Salome Epremidze, Ms. Tea Gvasalia, Ms. Tamta Tsotskhalasvili</i>	
11:40 – 11:50	Remarks and notes: <i>Prof. Ketevan Khutsishvili</i>	
11:50 – 12:30	Joint discussion facilitated by <i>Prof. Peter van Krieken</i> Rapporteurs of discussion: Georgia: <i>Ms Nino Parsadanishvili, Mr. Akaki Beridze</i> Moldova: <i>Mr. Mircea Mitrofan, Ms. Victoria Puiu</i>	
12:30 – 13:45	Lunch	
13:45 – 14:00	Warm-up	Ms. Violeta Wagner, ICMPD
14:00 – 14:15	Moldovan team: The duties and the rights of foreigners in Moldova, Overview of international treaties on migration applicable in Moldova Presenters: <i>Ms. Constanta Vomisescu-Babin, Mr. Mircea Gladchi</i>	
14:15 – 14:25	Remarks and notes: <i>Prof. Aliona Rusnac</i>	
14:25 – 14:40	Georgian team: Principle of non-refoulement in asylum law and in border management Presenters: <i>Ms. Nino Karchava, Ms. Neli Kareli</i>	
14:40 – 14:50	Remarks and notes: <i>Prof. Ketevan Khutsishvili</i>	
14:50 – 15:10	Coffee break	
15:10 – 16:00	Joint discussion facilitated by <i>Prof. Peter van Krieken</i> Rapporteurs of discussion: Moldova : <i>Ms. Iulia Curajos, Ms. Adriana Zbigli</i> Georgia: <i>Ms. Lia Jalagania, Ms Mariam Samkharadze</i>	
16:00 – 16:30	Preparation of conclusions for the next day. Wrap up: Moldovan and Georgian presenters and rapporteurs teams facilitated by Ms. Violeta Wagner, ICMPD	
18:30	Joint dinner in Batumi	

June 28, Thursday: Day of Media

9:00 – 9:15	Georgian and Moldovan Rapporteurs: Wrap up of morning session	
9:15 – 9:30	Moldovan and Moldovan Rapporteurs: Wrap up of afternoon session	
9:30 – 10:00	Migration and Civil Society: example of cooperation in Georgia	Ms. Tamar Bagratia, NALA, Georgia
10:00 – 10:45	Media and Migration: US, California	Prof. Philip Martin
10:30 – 10:45 Coffee break		
10:45 – 11:00	Warm-up	Violeta Wagner, ICMPD
11:00 – 11:15	Moldovan team: Media tools to raise awareness on relevance of migration for local development Presenter: Ms. Victoria Puiu	
11:00 – 11:25		Remarks and notes: Prof. Michail Guzun
11:25 – 11:40	Georgian Team: Management of repatriation against the background of the obligations of Georgia vis-à-vis Council of Europe Presenter: Mr. Davit Jaiani	
11:40 – 11:50		Remarks and notes: Prof. Ketevan Khutsishvili
11:50 – 12:30	Joint discussion facilitated by Prof. Peter van Krieken and Ms. Tamar Bagratia Rapporteurs of discussion: Georgia: Ms. Guranda Gujaraidze, Ms. Nino Karchava Moldova: Mr. Vlad Popa, Ms. Alexei Cresnov	
12:30 – 13:45 Lunch		
13:45 – 14:00	Warm-up	Ms. Violeta Wagner, ICMPD
14:00 – 14:15	Georgian team: Visa liberalization and readmission: ENP versus EU conditionality principle Principle of non-refoulement in asylum Presenters: Ms. Ana Janelidze, Ms. Maia Gabuldani	
14:15 – 14:25		Remarks and notes
14:25 – 14:40	Moldovan team: Migration dictionary Presenters: Mr. Mircea Mitrofan, Ms. Svetlana Tataru	
14:40 – 14:50		Remarks and notes: Prof. Michail Guzun
14:50 – 15:10 Coffee break		
15:10 – 16:00	Joint discussion facilitated by Prof. Peter van Krieken and Ms. Tamar Bagratia Rapporteurs of discussion: Moldova: Ms. Anna Petrachi, Ms. Ana Formusatii Georgia: Mr. Mariam Neparidze, Ms. Neli Kareli	
16:00 – 16:30	Preparation of conclusions for the next day wrap up: Moldovan and Georgian presenters and rapporteurs teams facilitated by Ms. Violeta Wagner, ICMPD	

June 29, Friday: Final Day

9:15 – 9:30	Georgian and Moldovan Rapporteurs: Wrap up of morning session	
9:30 – 9:45	Moldovan and Moldovan Rapporteurs: Wrap up of afternoon session	
9:45 – 10:30	Summer School: Résumé of 4 days	Ms. Violeta Wagner, ICMPD
10:30 – 10:45	Final Discussion	Ms. Alenka Prvinsek Persoglio
10:45 – 11:00	Coffee break	
11:00 – 12:15	Handover of Summer School Diplomas	Prof. Peter van Krieken,
	Final conclusions and closing of the Summer School	All participants
12:15 – 13:15	Lunch	

Annex C: Participants of the Summer School

No		Name	Institution	Faculty/Position
1	MD	Cristina AVRAM	Moldova State University	International Relations, Political and Administrative Sciences, 3 rd year
2	MD	Constanta VOMISESCU – BABIN	Moldova State University	Law, 3 rd year
3	MD	Dorina CIRLIG	Moldova State University	Economic Sciences, 1 st year Master's
4	MD	Iulia CURAJOS	Moldova State University	International Relations, Political and Administrative Sciences, 1 st year Master's
5	MD	Ana FORMUSATII	Moldova State University	Economic Sciences, 3 rd year
6	MD	Mircea GLADCHI	Moldova State University	Law, 3 rd year
7	MD	Alexei CRESNIOV	Moldova State University	Law, 1 st year Master's
8	MD	Mircea MITROFAN	Moldova State University	Journalism, 3 rd year
9	MD	Liudmila MUSCINSCAIA	Moldova State University	International Relations, Political and Administrative Sciences, 3 rd year
10	MD	Anna PETRACHI	Moldova State University	Economic Sciences, 3 rd year
11	MD	Vlad POPA	Moldova State University	Law, 3 rd year
12	MD	Victoria PUIU	Moldova State University	Journalism, 2 nd year Master's
13	MD	Svetlana TATARU	Moldova State University	Journalism, 1 st year Master's
14	MD	Alina ZOTEA	Moldova State University	Economic Sciences, 1 st year Master's
15	MD	Adriana Zbigli	Moldova State University	International Relations, Political and Administrative Sciences, 3 rd year
16	MD	Valeriu MOSNEAGA	MSU, Faculty of International Relations, Political and Administrative Sciences	Chair of Political Science Department/cathedra professor
17	MD	Aliona RUSNAC	MSU, Law Faculty	Associate Professor
18	MD	Mihail GUZUN	MSU, Faculty of Journalism and Sciences of Communications	Dean, Associate Professor
19	MD	Diana CRICLIVAIA	MSU, Faculty of Economics	Associate Professor
20	GE	Mr. Akaki BERIDZE	Tbilisi State University, Law Faculty	MA
21	GE	Salome EPREMIDZE	Tbilisi State University, Law Faculty	MA
22	GE	Maia GABULDANI	Tbilisi State University, Institute for European Studies	MA

No		Name	Institution	Faculty/Position
23	GE	Guranda GUJARIDZE	Tbilisi State University, Institute for European Studies	MA
24	GE	Tea GVASALIA	Tbilisi State University, Law Faculty	MA
25	GE	Tine GVENETADZE	Tbilisi State University, Centre of Social Sciences	Graduate
26	GE	Ana JANELIDZE	Tbilisi State University, Institute for European Studies	MA
27	GE	Davit JAIANI	Tbilisi State University, Law Faculty	MA
28	GE	Lia JALAGANIA	Tbilisi State University, Law Faculty	MA
29	GE	Nino KARCHAVA	Tbilisi State University, Institute for European Studies	MA
30	GE	Neli KARELI	Tbilisi State University, Law Faculty	MA
31	GE	Mr. Shalva KENKEBASHVILI	Tbilisi State University, Law Faculty	MA
32	GE	Mariam NEPARIDZE	Tbilisi State University, Law Faculty	MA
33	GE	Nino PARSADANISHVILI	Tbilisi State University, International Law	PHD
34	GE	Mariam SAMKHARADZE	Tbilisi State University, Human Geography	MA
35	GE	Ms. Tamta TSOTSKHALASHVILI	Tbilisi State University, Law Faculty	MA
36	GE	Tamar BAGRATIA	National Association of Local Authorities of Georgia, NALA	Coordinator of Gender Programmes
37	GE	Ia IASHVILI	Tbilisi State University, Political Science/ Human Geography	Associate Professor of Geography, Faculty of Social and Political Sciences Human Geography
38	GE	Ketevan KHUTSISHVILI	Tbilisi State University, Law	Professor
		Philip MARTIN	University of California, Davis	Professor
		Peter VAN KRIEKEN	Webster, HHS	Professor
		Ketevan GOMELAURI	Civil Registry Agency	Head of International Relations and Project Management Division
		Keti GORGOSHIDZE	DRC	Project Officer
		Alenka PRVINSEK PERSOGLIO	ICMPD	Senior Policy Advisor
		Violeta WAGNER	ICMPD	Project Manager
		Xenia PILIPENKO	ICMPD	Project Assistant

Annex D: Summer School Participants' Testimonials

When I was selected to take part in ICMPD GOVAC project summer School I was so excited that I couldn't believe that I will have an honour to work with Professor Peter van Krieken and Professor Philip Martin. At the same time it was my first summer school and didn't know what to expect, but the beautiful place, positive people, amazing ambiance gave me an answer. First of all I must notice that participation in GOVAC project totally changed my visions, point of views and changed my world also. After interesting, amusing, informative lectures I go back home with something to think.

Relationship with organizers and lecturers was amazing, they make each of us feel that special; they showed us our importance and usefulness. After this School with more knowledge and experience in migration issue I truly believe that we all have the power to make our life better and we can change ourselves and the world either. I hope I will be able to participate in future projects; I already spread the information about ICMPD and GOVAC and will continue to recommend it to my friends. Thank you for all!

International migration, the movement of people over national borders, is an important and complex global challenge. Done right, international migration benefits individuals and both sending and receiving states. Done wrong, international migration can devolve into smuggling and trafficking.

Using the GOVAC project Summer School to train future leaders to understand the factors that motivate migration, the economic and socio-political effects of migration, and national, regional, and global frameworks to govern migration was a sound investment for a better world and an enjoyable experience for teachers and students.

Thank you for the opportunity to participate in ICMPD **GOVAC project Summer School**. It helped me to realize the true problem of migration, its advantages and disadvantages, also make me stronger, **determined** to do something for my country for better leaving.

Importance of this school is that I realized how difficult the issue of migration is;

Common things – I see at the Georgian team too, and we understand there is the same situation in other countries as in Republic of Moldova and we can influence just by decision and work;

Migration – Influence of migration on country change the country's political situation, demography, economy and others;

Personally – I took persuasion to take a leadership which primarily will inform people about how migration fast increases and which may be its consequences;

Diversity – quality and teaching methods at this summer school were the highest, I was motivated to extend the research work on migration and searching for solutions that can be implemented in our country.

This summer school week was fantastic and rich in achievements.



*Lia JALAGANIA,
MA student at the
International Law
Faculty, Tbilisi
State University,
Georgia*



*Professor Philip
MARTIN,
Department of
Agricultural and
Resource
Economics of the
University of
California, USA.*



*Ana FORMUSATII,
MA student at the
Faculty of
Economic
Sciences, State
University of
Moldova*

When I was selected to participate in the GOVAC project Summer School, organized by ICMPD, I thought later I would definitely regret of wasting the whole week, because the Summer School coincided with the final stage of my Master thesis writing. But, in the contrary to my expectations, now after one week with other students and really awesome organizers and devoted professors, I can freely say it is the project that really helped me to look at migration issues from different perspectives and made me think and read much more about debatable questions regarding migration. That's on the credit of distinguished professors. I left the Summer School with lots of unanswered questions I asked myself; hopefully, I will find the answers. We spent a wonderful week by the seaside, participated in discussions, presented our countries, culture, and universities, and made unforgettable friends. I definitely recommend my friends this school. They must experience the same.

GOVAC Summer School project, organized by the ICMPD, is the first Summer School I've participated to. I liked a lot the organization of the activities; everybody was involved and proactive during the exercises that we have practiced. It was a great pleasure for me to meet professors from abroad, to listen to their speeches; I definitely feel that I have learnt a lot from them. It is important for us to be lectured by professors from highly developed countries, because we can further implement their ideas and practices in our home countries, without making the same mistakes.

Our agenda was really tight and full of activities, but I gained new knowledge about migration and experience in interacting with people. These kinds of projects are important for our young generation, in order to develop professional technocrats' skills, which are absolutely necessary in order to ensure our countries' political future.

There are some experiences that cannot be explained in words. For me, the summer of 2012 would be one of them. Participating in the GOVAC Summer School on Applied Migration Research was a truly enriching and inspiring experience.

The programme surpassed my expectations and greatly impacted my life. The design of the programme was very unique in the way that people from different faculties could fully participate. During the classes students were encouraged to contribute their own ideas and knowledge in a creative and unique learning environment. Everything was at a high level: starting from the registration and ending delivery of the certificates.

Last but not least. I must appreciate and to recommend the GOVAC and staff of the International Centre for Migration Policy Development for their dedicated efforts to ensure that participants gained the maximum benefit possible from the Programme, while at the same time enjoying to the fullest extent the very pleasant Georgia summer.

I have attended several summer schools on different topics in different parts of Georgia, but honestly say, GOVAC project Summer School was the best one for several reasons:

1. It was on the topic that unites all spheres of our life and could touch any of us, despite the nationality and the citizenship. So getting information and suggestions how to manage migration was useful;
2. International environment - Students from Moldova and Georgia State universities attended: different people, with different educational or cultural backgrounds, different political views, different vision of the future and different views on managing migration processes – all this made summer school much more effective and interesting;
3. Organizers of the Summer School (Violeta, Alenka, Xenia, Ketii): all of them were so lovely persons, their attitude towards students gave us more courage and even will to spend about 6 hours every day in the conference hall, while others were sunbathing.
4. Professors - the best presenters. I remember almost all speeches of prof. Peter van Krieken and prof. Philip Martin. They really made me think that I should think more, think everywhere, about everything and should start analyzing things, asking questions and thus make the desired and right changes.
5. And finally, since 29 June my friend list on Facebook has increased by almost 100 persons. I really made a lot of friends there, knew more about other people, traditions (and



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wine) etc. etc.

And for those who will have the opportunity to attend this summer school: If you ever wished to attend the summer school and the lectures conducted by the best professors, who play football with you on free time; to attend lectures with warming up sessions; sunbathing on the beach after the lectures; and finally studying how to think and how to manage migration, that is all – GOVAC summer school!

Thank you very much for this unforgettable week in Grigoleti. I'd like this project to continue in the future, because young people are those who really need to get information. Broaden their knowledge on migration issues, migrants are mostly young people and first of all they should understand how to manage this process.

I had a pretty troublesome period when I was chosen to participate in a GOVAC Summer school because a deadline for the submission of my Master thesis was approaching soon. So, I really had a doubt was it worth of it or not. Fortunately, I arrived in Grigoleti with my friends and made many new friends there, professors included in this list.

Because of the quite busy and interesting schedule, I was not able to work on my thesis, but in return, my awareness about those knotty problems related to migration policy development has risen to such a level that I actually thought to change the topic of the thesis.

I will totally recommend this project to my friends because this is a school where you can enjoy the classes, relax, discuss, play and think about the issues you have never come to think earlier.

When I was selected in the GOVAC project summer school, organized by ICMPD, it was a great surprise for me. From the very beginning all my expectations from GOVAC summer school were positive and they all came true.

The issue of migration is linked to my profession, therefore I was very interested in it and this project helped me to improve my knowledge. The lectures I attended, were very fruitful and made me look at the migration from different standpoints and dimensions and I deeply understood the importance of this issue. I believe, the opportunity I got will facilitate my future successes in my professional life.

I met lots of interesting people, including my colleagues from Moldova, this was perfect opportunity to share our ideas and knowledge in migration and other fields and establish professional and friendly contacts. Professors that lectured us, were real professionals with huge experience, whose methods of explanation truly inspired me.

This summer school also was an excellent opportunity for introduction of Moldavian and Georgian people, two different cultures with many similarities.

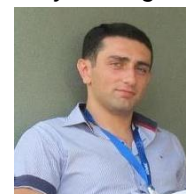
I think, that this project was truly well organized and I'd like to thank one more time for this beautiful week. I would definitely recommend my friends to attend this school if they would be given a privilege to be invited there!

First of all, this was my first summer school, and I want to say that I was very excited to participate in it. Secondly, migration issue is very close to me. I am a journalist and I write about this, and also I have a lot of relatives abroad, including my mother and sister, and this is a sensible theme for me. Thirdly, I like to travel and met new people. I'm very happy that I had the opportunity to "find a new world" named Georgia! :). I liked Georgian students for their lifestyle, but most off all I liked their English skills.

I would like to thank the GOVAC team for offering the chance to try Georgian "haciapuri", to swim in Black Sea, to walk by Batumi's streets, and of course for this amazing exchanges between Moldova and Georgia in migration issues.



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Summer School on Building Training and Analytical Capacities on Migration was an incredible experience. It was informative, inspirational and memorable event. It helped me to increase my awareness on migration issues, as well as gave me the opportunity to meet amazing speakers and participants. I enjoyed discussions on migration problems from different perspectives, explore our different viewpoints and to find the solutions. In addition, it was an honour for me to participate as a speaker and to present the issue of “Irregular Migration and State Security” which is the one of the topical problems for contemporary world. Currently, it is time for participants to show how much we gained from the school, to turn our ideas into action and at least contribute towards the elimination of the problems of migration in Georgia and in Moldova.

At the end I would like to express my gratitude to every person from ICMPD GOVAC project involved in the organizing summer school. I would be happy if other events will be organized in Georgia, as more students will have an opportunity to widen their scope of knowledge in the field.

The Summer School organised in Georgia was not only an important event of the GOVAC project, it was also a reflection of ICMPD values and organisational aims: to promote comprehensive and sustainable migration policies, developed in international environment, to highlight ICMPD’s holistic, multidisciplinary and multi-institutional approach to migration issues while keeping in mind that **migration is about people** – “those who are on the move, those who remain and those who receive”.

It is evident that migration management requires a multidisciplinary approach: and not only topically (law, social and political sciences, economy, media, etc.), but also methodologically. We not only need to know *what* happens (statistics, current trends, development of migration flows and processes), but also *why* it happens. And the applied migration research plays an important role here. It was the aim of the GOVAC Summer School to address all these issues with young academics – the future decision and policy makers. It is the aim of this Reader to illustrate the first results of students’ efforts to apply their knowledge and skills in the multidisciplinary world of migration.

For me, it was the first time to organise an event like this. Today, looking back to preparations, organisation, implementation and lessons learned, I could say that I definitely enjoyed this extraordinary activity and this unforgettable week in amazing Georgia with interested students and devoted professors. When I look forward, I am convinced that working with young academics is an area where ICMPD should and will achieve more for coming closer to the idea of making migration beneficial for all.

The organization of the summer school was very good. It wasn’t boring at all. Sincerely, before it started, I thought that it would be boring to attend all sessions every day, but they were really interesting, even though my speciality is civil law, not international. The location was really good and the evenings were very nice. It was a pleasant stay overall. One can’t complain. The professors were indeed good; especially prof. Peter van Krieken; he is awesome. A person you can learn a lot from, and not only in regards of migration issues.

I recommend you to apply to this summer school if you get a chance. It’s worth the effort making a research. And then who knows? It might even get published!



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When I was selected to take part in ICMPD GOVAC project Summer School, I expected to see/hear, receive, get comprehensive information about modern challenges of migration issues. And now, after one week with other students and Summer School organisers, I can say that my expectations were really fulfilled.

On the one hand, ICMPD GOVAC project Summer School helped me to understand what is migration in “paper policy” and what complications we meet in daily life with regard this issue.

On the other hand, the most interesting was comparative analyzes of migration themes with representation from two countries (Georgia and Moldova) and with academic overview from recognized international scholars. From this point it would be very justifiable to make accent on Prof. Peter van Krieken’s lecture. During this lecture I have such impression that I was sitting at European university and listening to it.

Overall, I can conclude that this summer school had many advantages and impressions which I have gained and will never forget!

The Summer School provided research-oriented, interdisciplinary and pro-active academic lectures, presentations and discussions related to migration and asylum in general and the migration situation in Georgia and Moldova. In addition to receiving lectures from prominent academic experts on state of the art research in different migration areas, the participants had carried out their own research, presented their findings and held intensive debates with a high valorisation level.

There is no doubt in my mind that the students will hail this summer school as an event they thoroughly enjoyed and which should indeed be repeated. A special word of thanks and admiration should be added for the ICMPD-organizers: their input and creative involvement made this summer school a great success indeed. The excellent interaction between students, professors and support-staff added to the success.

The successful students had the opportunity to publish their research paper in the Summer School reader and will have the possibility to receive an unpaid internship of up to three months with a state institution that is involved in migration management in Georgia or Moldova. The internships, lectures, presentations and discussions will be a source for future use (teaching, research) in the respective universities. This way it adds to the GOVAC principles: the building of bridges between government and academia for strategy, policy and implementation purposes.

When I was selected to take part at the summer school I thought it will be a nice summer sleepy week and definitely I would get my beauty sleep☺

But here we are it was completely different even though it was designated for students and master students, me as professor of immigration law I found many interesting things, new views and opinions. ICMPD had organized in the way the lawyers would receive and accept other opinions, which is not so frequently met in this beautiful life. However we (Moldavian law team) were considered mean because we liked to ask many questions but it raised many other migration waves of information. Thank you dearest ICMPD team (Alenka, Violeta and Xenia) for opening new doors toward migration trends in special for Moldavian lawyers.

Finally I strongly recommend to all my colleagues and even more students to attend and be honoured to participate in project summer school (GOVAC) in Grigoleti, Batumi and see for 30 min Batumi but still be HAPPY.



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Summer School Reader

“Building Training and Analytical Capacities on Migration in Moldova and Georgia (GOVAC)” project

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