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and mechanisms of cooperation in the
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Towards an Administration without Frontiers.
An analysis on the instruments and mechanisms of cooperation in
the field of migration from Romanian view

ANI MATEI*

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INTRODUCTION

The core ideas of the analysis represent the outcome of a Colloquium, organized in September 2008, by the European Group of Public Law, entitled “Administration without Frontiers? European Migration Law”¹.

The report concerning the actions of the Romanian public authorities in view of the above analysis, contains references and statements on the national legislative framework in the field of migration, its compatibility and harmonization with the European Union legislation, as well as the institutional framework, national, cross-border and European actors with attributions in monitoring, combating and/or supporting the migrants’ rights.

In this respect, the analysis refers on a broad scale to the legal instruments of the national control on migration, procedures on granting the status of refugee, expulsion and extradition, procedures for granting visas, as well as socio-professional integration of foreigners in Romania.

In the current version, the paper is substantiated on the national and European legislation, as well as important works of Romanian and foreign authors.

In this context, it is worth to mention the publications of Horovitz (2005) on “migration in world history”, Sassen (1996) or Pécoud and Guchteniere (2005) on the dimensions and significance of migration in the era of globalization.

At the same time the works of Shaw (2000) or Douglas – Scott (2002) are overwhelming on the topic of European citizenship.

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¹ The papers presented on the occasion of the colloquium are published in the European Review of Public Law, vol 21_1/2009, spring, ESPERIA Publications, Ltd., London

The current version of the paper turns into account the syntheses presented by Gross (2009), Gnes (2009) and Gautier (2009) within the framework of the colloquium.

The vision from the Romanian perspective is based on papers concerning “expulsion, extradition and readmission in the international law” (Moldovan (2004) or Lupascu and Mihut - Gyongy (2006), Chiriac and Robotin (2006), as well as concerning the refugees’ integration in the Romanian society (Dragoi and Radu (2005), Radu (2006)).

The works of Constantinescu, Muraru and Iorgovan (2003), respectively Miga-Besteliu (2006) provide the constitutional or international perspective.

Chapter I - COOPERATION BETWEEN THE ROMANIAN AND EUROPEAN AUTHORITIES ON MONITORING THE IMMIGRATION

The legislative reform with respect to the regime of foreigners and asylum in Romania presupposed the adoption of a set of regulations in view of ensuring conformity with the Community legislation and with other legal instruments with international character to which the Romanian State is a party. The application of a modern legislative framework imposed the reform of the institutions with duties in the field, thus executing the instruments necessary for putting into practice an efficient management of the immigration phenomenon on the territory of Romania.

With respect to the increase of the inter-institutional coordination level in view of the efficient administration of the legal migration, the provisions of Directive 2005/71/EC were transposed into national legislation.

The foreigners’ registration is organized according to the principle of the place of residence or domicile through the Romanian Immigration Office, at the central level, and its territorial formations, at the local level.

The National System for Registering Foreigners comprises data regarding foreigners, asylum seekers and refugees on the territory of Romania.

The registering of foreigners is organized according to the principle of the place of residency or of domicile, through the Romanian Immigration Office, at the central level, and its territorial formations, at the local level.

Each foreigner who obtained temporary extension or who was granted the right of permanent stay is assigned a personal number by the Romanian Immigration Office, which is written on the stay permit.

Within international cooperation, the bilateral cooperation with similar structures from the neighbouring States (border police, customs etc.) occupies a privileged position. The meetings of this type are preceded by governmental level meetings, where bilateral agreements are signed, on the topic of the legal regime of the State border, agreements which are later ratified by the Parliaments of the countries involved.

At the international level, there is direct cooperation with the SECI Regional Center, achieved by means of Romanian liaison officers, and apart from this cooperation channel an own network of encrypted data transmission functions, network used in the actions at the Center level.

SECI Regional Center in Bucharest is the only regional instrument that directly contributes to supporting the institutions' efforts to enforce the law in South-East Europe, in the fight against transborder criminality.

The main executive organ of the SECI Center is the Joint Cooperation Committee (JCC) which brings together representatives of the Member States within customs administration and police. The World Customs Organization and INTERPOL (as permanent counsellors) and observers (States and international organizations) attend the JCC meetings.

Within the Center function seven working groups specialized in: 1) fighting against drug trafficking - coordinated by Bulgaria; 2) fighting against human trafficking - coordinated by Romania; 3) fighting against financial and informatics fraud - coordinated by FYROM; 4) fighting against stolen cars trafficking - coordinated by Hungary; 5) fighting against contraband - coordinated by Albania and Croatia; 6) fighting against terrorism - coordinated by Turkey; 7) ensuring the safety of containers - coordinated by Greece.

There is a good cooperation between the Center and two important European institutions: EUROPOL and EUROJUST.

The main objectives of the SECI Regional Center are: in the short term, to conclude a cooperation agreement between EUROPOL and the SECI Center, and in the medium term, to transform the Center into an international law enforcement organization, according to the European and international standards.

SECI Regional Center is in a stage of its development in which the Cooperation Agreement for Preventing and Fighting against Transborder Criminality (SECI Agreement) requires significant modifications in order to give this regional cooperation structure the vocation of an international law enforcement organization, according to the European and international standards. Redefining its legal framework consists in elaborating a draft "Convention for establishing the Law Enforcement South-East European Center" (*SELEC Convention*).

On February 9, 2006, at the headquarters of the SECI Regional Center, the official launching of the European Commission Assistance Project to the SECI Regional Center took place in Bucharest. The initiation of the assistance project represented an important stage in the relationship between the SECI Regional Center and the European Commission.

In view of consolidating the Center's Legal Department, on November 26, 2007, the JCC representatives expressed their agreement for the integration in this department of the Secretariat of the Stability Pact Initiative to fight Organized Crime (SPOC).

In 2007, there were 148 registered cases of human trafficking, out of which 26 networks, in which 396 traffickers and 699 victims were identified:

- 76 sexual exploitation cases (Spain, Portugal, France, Italy, Norway);
- 58 cases of exploitation through work (Spain, Belgium, Italy, Greece, the Czech Republic);
- 14 cases of exploitation through beggars (Spain, France).

The Border Police, institution with direct responsibilities in border monitoring and control, has run and is running several institutional union agreements with similar structures from countries of the European Union.

This form of cooperation aims at strengthening the institutional capacity with respect to border control and management, asylum, migration, informational structure analysis, legal approximation of the Community *acquis* in the field of border management and control, the identification and definition of measures for strengthening the border police structures and the adaptation of the operative labour process to the new requirements, the improvement of selection, education and training of border policemen and of the other workers in the border crossing points, the gradual convergence, up to the integration of the training system in the transborder field in Romania to the standards of the European Union, the elaboration of border security strategies, the facilitation of the movement of persons and goods, the promotion of transborder cooperation, the creation of a legal basis for internal and external cooperation at the border, the strengthening of border security, the improvement of inter-agency cooperation among the agencies involved in administering Romania's border, as well as with similar agencies in the neighbouring countries, Member States of the European Union, the improvement of information exchange, the elaboration of an adequate cooperation framework, inter-national and international agencies, the training of personnel for applying Community good practices, the improvement of the managerial performances at all levels of the Romanian

Border Police, the development of a training strategy, the administration of the training centers, courses and study visits, the implementation of the Schengen manual, the digesting of the documents concerning the accession to the European Union and to entering the Schengen space, the fight against the various forms of organized transborder criminality, etc.

The police authorities of the Member States cooperate in preventing and fighting transborder criminality, by means of common information exchange structures, at the borders.

For the purpose of fighting illegal migration and transborder criminality, the Romanian Border Police cooperates directly, as well as through the Ministry of Administration and Interior, with liaison officers and internal affairs attachés, also achieving a broad cooperation through the contact structures.

Sending liaison officers and internal affairs attachés in mission aims at the promotion and acceleration of the cooperation between Romania and other States, especially by granting assistance: in the form of data and information exchange, for the purpose of preventing and fighting against criminality; for solving the requests of police and legal assistance in criminal matters; in connection to the duties of the authorities responsible for monitoring the external borders.

The need for international cooperation between the institutions with duties at the border, as well as between other structures involved in fighting against transborder criminality and the illegal migration phenomenon has led to the establishment of centers, contact points, contact offices, thus achieving an efficient means of international cooperation, for the purpose of preventing and fighting against transborder criminality in all its manifestation forms: illegal migration, human trafficking, etc.

The international police cooperation channels used by the General Inspectorate of the Border Police are:

1. information exchange performed through the centers and contact points established;
2. information exchange performed directly with liaison officers/ internal affairs attachés assigned by other States to Romania;
3. information exchange performed through the liaison officers/ internal affairs attachés assigned by Romania to other States;
4. information exchange performed through the International Police Cooperation Center (especially through the National Focal Point and INTERPOL, following the development of EUROPOL, SIRENE, etc. cooperation);

5. information exchange performed with similar structures in other States on the basis of the bilateral agreements Romania is a party to;
6. information exchange performed through FRONTEX.

According to the bilateral agreements Romania is a party to, periodically, on the basis of the cooperation plans already established, reunions between the heads of the border police structures in the neighbouring States, visits at the level of experts, as well as mixed border meetings and those at the level of persons with responsibility for border control are organized, in view of improving cooperation for securing both the future internal borders of the EU and its external ones.

Romania, through the Romanian Immigration Office, has international cooperation relations with respect to data collecting, by reporting information to EUROSTAT.

The Romanian police and the Romanian Immigration Office are the public institutions that collect data regarding the administrative and legal acts regarding migrants and workers in third countries.

The framework law in the field of persons' protection with respect to processing the data of personal character and the free circulation of that data (Law no. 677/2001, with the subsequent modifications and completions) has as purpose the guarantee and protection of the fundamental rights and liberties of natural persons, especially of the right to personal, family and private life, with respect to processing data of personal character, without distinguishing between Romanian and foreign citizens.

The Romanian legislation establishes that there are criminal accusations for which data sharing is allowed.

Also, there is a monthly/bi-monthly statistical information exchange with CIREFI (Center for Information, discussions and exchanges in matters of border crossing and immigration), which meets regularly within the European Council. CIREFI supports the Member States in exchanging information with respect to illegal immigration, prevention of illegal immigration and stay without legal documents, combating the clandestine immigration chains, improving the discovery of fake or forged documents and regarding the improvement of practices in the field of returning.

For the purpose of applying the provisions of Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania, the regulations or instructions issued on its basis, the Romanian Immigration Office, the Romanian Border Police, as well as other

competent authorities in the matter may perform activities of processing personal character data of foreigners (for example, the National Visas Center within the Ministry of Foreign Affairs).

The processing of personal data of foreigners is performed under the conditions established by the law regarding the protection of persons with respect to the processing of data of personal character and the free circulation of these data.

The administration in Romania performs a data exchange with European and international networks.

Thus, the Romanian Immigration Office represents the National Contact Point for ICONET - project regarding the establishing of the coordination and secured information network, connected via Internet, for information exchanges regarding illegal immigration at the level of the structures assigned to administer the migratory flow in the EU countries. ICONET, which is administered by FRONTEX, allows the Member States to transmit in total confidentiality rapid alert messages regarding clandestine immigration and, especially, the first indications of such a phenomenon or of the activity of clandestine networks, the changes occurred in their itineraries and their operation method or other events or incidents which might announce new evolutions. For the moment, personal character data exchanges are not taken into consideration - due to technical or legal reasons.

Also, the Romanian Immigration Office constitutes National Contact Point for the European Migration Network, which is destined to gather and exchange information in the field of migration and asylum in view of supporting the European Union decisional process in this respect.

The Border Police collaborates with FRONTEX (the European Agency for the Management of Operational Cooperation at the Outer Borders of the European Union Member States), a Community body with legal personality and operational and budgetary autonomy.

The Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania establishes the right of temporary stay for citizens of third countries who are victims of human trafficking and of migrant trafficking.

The citizens of third countries who are victims of human trafficking or of migrant trafficking may be granted a temporary stay permit, even if they entered Romania illegally, at the request of the prosecutor or the court of law, under the following conditions:

a) they manifest a clear intention to cooperate with the Romanian authorities for facilitating the identification and bringing forth criminal liability for the perpetrators of the crimes whose victims they are;

b) they ended the relations with the persons suspected of committing the crimes whose victims they are;

c) the granting of the stay right is opportune for running the legal investigations;

d) their stay in Romania does not present a danger for public order and national security.

The right of stay may be granted for a period of 6 months, with the possibility to extend for new periods under the same conditions.

The right of stay may be revoked in the following situations:

a) the conditions listed earlier are no longer fulfilled;

b) the bearer of the right of stay has intentionally renewed his/her contacts with the persons suspected of committing the crimes;

c) if it is established that the foreigner induced the competent authorities in error with respect to his/her quality of victim or with respect to the data and information supplied;

d) when the victim stops cooperating;

e) when the competent authorities establish the existence of any of the cases indicated in Art. 10 of the Criminal Procedure Code.

Art. 10 of the Criminal Procedure Code establishes that the penal action cannot be started, and when it was started cannot be exerted, if:

a) the deed does not exist;

b) the deed is not indicated in the penal law;

c) the deed does not present the degree of social danger associated to a penal offence;

d) the deed was not committed by the accused or defendant;

e) the deed lacks one of the constitutive elements of the criminal offence;

f) there is a cause that removes the penal character of the deed;

g) the prior complaint of the damaged party, the authorization or notification of the competent organ, or any other conditions provided by law, necessary for starting the penal action, are absent;

h) amnesty or prescription or the author's death has intervened;

i) the prior complaint was withdrawn or the parties reconciled, in case of criminal offences for which the withdrawal or the complaint or the parties' reconciliation removes criminal liability;

j) the criminal liability was replaced;

k) there is the authority of decided thing. The prevention produces effect even if the deed finally judged were given a different legal classification;

The stay permits for citizens of third countries who are victims of human trafficking or of migrant trafficking are issued free of charge.

CHAPTER II - LEGAL INSTRUMENTS OF NATIONAL MIGRATION CONTROL

The legal framework that regulates the admission and conditions of stay for legal migrants is represented by the Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania, published in the Official Gazette of Romania no. 421/2008, republished.

The foreigners in temporary legal stay in Romania can remain on the territory of the Romanian State only until the date established through the visa or, as the case may be, the stay permit ends.

In case the period for which the visas are abolished is not established through the international conventions or the regulations through which the visa regime is unilaterally abolished, the foreigners who do not have the obligation to obtain a visa in order to enter Romania are allowed access to the territory of the Romanian State and they can stay up to 90 days, within 6 months, starting from the day of their first entering into the country.

The foreigner who entered legally the territory of Romania has the obligation to announce it to the competent territorial police organ, within 3 days from the entering date. Exempted from this obligation are the citizens of Member States of the European Union, as well as of the European Economic Space.

In the situation of accommodation in hotels or in other tourist facilities, the foreigner will fulfil the registration formalities with the administration of the respective place, which within 24 hours will communicate the necessary data to the competent territorial police organ.

For the duration of their stay in Romania, the foreigners must declare within 30 days to the territorial organ of the Romanian Immigration Office, which gave them the right of stay, the following:

a) any modification occurred in the personal situation, especially in changing the citizenship, concluding, dissolving or annulling a marriage, birth of a child, death of a family member on the territory of Romania;

b) any modification occurred with respect to his/her employment;

c) the loss, extension of validity or change of the document necessary for crossing the State border.

The foreigner who changes his/her domicile or residence must, within 15 days from the date of moving to the new address, present himself/herself to the competent territorial organ of the Romanian Immigration Office, for registration and for making the corresponding mentions in the identification document.

The stealing or loss of the documents necessary for crossing the border should be declared within 48 hours to the competent territorial police organ.

According to the provisions of Art. 3 of Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners, migrants have the following rights:

- they enjoy the general protection of persons and estates, guaranteed by the Constitution and other laws, as well as the rights established in the international treaties Romania is a party to;

- they can travel freely and establish residence or, as the case may be, domicile, anywhere on the territory of Romania;

- the right to re-enter, for the entire validity of the stay permit, if they temporarily leave the territory of the Romanian State;

- only the foreigners with their residence or domicile in Romania may benefit from social protection measures of the State, in the same conditions as the Romanian citizens;

- the foreigners to whom a document was issued by the Romanian Immigration Office have the right to verify the personal data registered in them and, when the case may be, to request the correction or removal of certain data that do not match reality;

- the foreigners comprised in all levels of education have access, without restrictions, to the schooling and training activities within society.

According to the provisions of Law no. 122/2006 regarding asylum, foreigners are granted temporary protection, respectively temporary humanitarian protection.

In the periods of armed conflicts in which Romania is not engaged, temporary humanitarian protection may be granted to the persons coming from the conflict areas.

The temporary humanitarian protection is granted by Government Decision, elaborated by the Ministry of Administration and Interior, at the proposal of the National Office for Refugees, in the situation when it is established or there is information that in the conflict area there is going to be registered a massive and spontaneous flow of persons in need of protection. By person in need of protection it is understood any person who is part of the civilian population and who left his/her country of origin as a result of an armed conflict and cannot return in conditions of safety and dignity to his/her country of origin.

According to the provisions of Government Expedite Ordinance no. 56/2007 regarding the employment and detachment of foreigners on the territory of Romania, the citizens of third countries may be employed on the territory of Romania with an employer functioning legally, with the cumulative fulfilment of the following conditions:

a) vacant jobs cannot be occupied by Romanian citizens, citizens of other European Union Member States, of the signatory States of the Agreement regarding the European Economic Space, as well as by permanent residents on the territory of Romania; this condition does not apply to foreigners who fulfil the position of administrator in a trading company with foreign participation, in the situation when there is only one person appointed in this position, if the foreigner performs the activity as a professional athlete, in the conditions of the existence of a proof that he/she has performed a similar activity in another country, to the petitioners of the nominal labour authorization, for cross-border workers, as well as to foreigners who have a stay permit for study purposes.

b) they fulfil the special conditions of professional training, experience in activity and authorization, requested by the employer according to the legislation in effect;

c) they prove that they are apt from the medical point of view to perform the respective activity and have no criminal record that is incompatible with the activity they perform or are going to perform on the territory of Romania;

d) they can be included in the annual quotas approved through Government Decision;

e) their employers have fulfilled to date all obligations to the State budget. This condition does not apply to foreigners who fulfil the position of administrator in a trading company with foreign participation, in the situation when only one person is appointed in this position, if the foreigner performs his/her activity as a professional athlete, in the conditions of the existence of a proof that he/she performed a similar activity in another country, to applicants of the

authorization for nominal work, to cross-border workers, as well as to foreigners who have of a stay permit for the purpose of education.

The labour authorization may be issued, at the employer's request, by the Romanian Immigration Office, to the foreigners who fulfil the conditions established by the Romanian legislation with respect to the regime of foreigners, employment and detachment on the territory of Romania.

The labour authorization is necessary in order to obtain the long-stay visa for employment or, as the case may be, the stay permit for work reasons.

The types of labour authorizations that may be granted to foreigners are the following:

a) the labour authorization for permanent workers - entitles the bearer to be employed on the basis of an individual employment contract for determined or undetermined time, with a single natural or legal person in Romania or with a representative office, branch or office in Romania of a legal person with its headquarters abroad;

b) the labour authorization for detached workers - entitles the bearer to perform work, for a period of maximum one year, at an interval of minimum 5 years, on the basis of the detachment decision from a foreign legal person employer to a legal person employer in Romania or to a representative office, branch or office in Romania of a legal person with its headquarters abroad. On the grounds of the provisions of the international agreements, covenants or understandings Romania is a party to, the period for which the detached worker performs his/her activity on the territory of Romania may be extended in the conditions and situations expressly indicated by them;

c) the labour authorization for season workers - entitles the bearer to be employed on the territory of Romania for a period of 6 months at most, within a 12 month interval, without the possibility of extending it in view of occupying a job of a different nature;

d) the labour authorization for beginner workers - entitles the bearer to be employed on the territory of Romania in order to attend a training in view of obtaining a professional qualification;

e) the labour authorization for athletes - entitles professional athletes to be employed with a single Romanian employer, whose main object of activity is the running of sports activities, for a period of 12 months at most, with the possibility to extend it for new intervals of up to 12 months;

f) the nominal labour authorization - entitles the bearer to perform seasonal activities, if he/she has performed before activities on the basis of the labour authorization for season workers, with the same employer on the territory of Romania, and who has respected the obligation to leave the territory of Romania at the expiry of the previous individual employment contract term, according to the conditions imposed by law;

g) the labour authorization for cross-border workers - entitles the bearer to be employed on the basis of an individual employment contract for a period of 12 months at most, with the possibility to extend it for new intervals of up to 12 months, with a single natural or legal person in Romania or with a representative office, branch or office in Romania of a legal person with its headquarters abroad.

The European Commission proposed the monitoring of highly-qualified workers' migration in the developing States towards the EU for identifying the sectors and countries of origin out of which the "export of brains" is significant. Following this monitorization, solutions will be proposed to cover the needs of both the Member States and the countries of origin.

It is also suggested to improve the information in the States of origin regarding the possibilities of legal immigration in the EU.

The Hague Program and the Plan regarding policies in the field of legal migration were followed by other documents of the European Commission which constituted its answer to the invitation of the European Council to inform on the progress of the implementation and program updating proposals. The documents concluded that "a global approach of migration management involves the development, in parallel, of a joint policy in the field of immigration, which to put up for discussion the situation of legal migrants in Europe and of certain measures which to approach more efficiently illegal migration and which to improve the fight against migrants' smuggling and human trafficking, especially women and children".

In 2007 the proposal for a Directive regarding the admission of highly-qualified immigrants was launched, which aims at establishing much more attractive conditions of entry and stay for the citizens of third countries, for the purpose of occupying highly-qualified work positions within the EU. These are joined under the generic name - "the European Blue Card".

However, the proposal does not create an admission right. The scheme created is 100% based on need and observes, in full, the principle referring the preference that Member States' citizens have over third-country nationals. Also, the directive proposal observes the right of Member States to set the number of persons who will be admitted through this procedure.

Considering the fact that needs differ from one Member State to another, the system proposed by the directive is flexible and centered around several key points. For example, a rapid procedure based on common criteria is introduced. In case a third-country national is admitted within a scheme established by the directive, he/she will receive a special right of residence and work, called “the European Blue Card”, which entitles him/her to a series of socio-economic rights and, for example, more favourable conditions for family reunification.

Also, the draft directive further establishes for owners of the “blue card” the possibility of privileged, more favourable, access to the labour market.

Out of the desire to avoid the negative “brain drain” effects from the developing States, especially those in Africa, the draft directive promotes ethical recruitment standards in order to limit, but not forbid, the active recruitment by the Member States from developing States which are already suffering from the phenomenon of “export of brains”. At the same time, the directive draft contains provisions that facilitate circular migration.

Chapter III - LEGAL FRAMEWORK AND ANALYSIS OF PROCEDURES ON GRANTING THE STATUS OF REFUGEE. EXPULSION AND EXTRADITION

A person is considered an asylum seeker from the moment of the manifestation of will, expressed, in writing or verbally, before the competent authorities, from which results that he/she requests the protection of the Romanian State.

The Romanian State grants the status of refugee or subsidiary protection, as follows:

- The status of refugee is acknowledged, upon request, to the foreign citizen who, following a well-grounded fear of being persecuted for reasons of race, religion, nationality, political opinions or belonging to a certain social group, is outside his/her country of origin and who cannot have or, due to this fear, does not desire the protection of that country, as well as to the person without citizenship who, being outside the country where he/she had his/her usual residence, due to the same reasons mentioned above, cannot or, due to that respective fear, does not want to return. The status of refugee cannot be granted in case of foreigners who benefit of protection or assistance from an organ or an institution of the United Nations, other than the United Nations High Commissioner for Refugees (UNHCR);

- The subsidiary protection can be granted to the foreign citizen or stateless person who does not fulfil the conditions for being granted the status of refugee and with respect to which there are serious reasons to believe that, in case of being returned to the country of origin, respectively to the country where he/she had his/her usual residence, will be exposed to a serious risk and who cannot or, due to this risk, does not desire the protection of that country.

The authorities competent to receive an asylum application are the following:

- a) the structures of the Romanian Immigration Office;
- b) the structures of the Romanian Border Police;
- c) the structures of the Romanian Police;
- d) the structures of the National Administration of Penitentiaries within the Ministry of Justice.

After filing the asylum application with the Romanian Immigration Office or its territorial offices, the applicant will fill out a questionnaire, in order to establish his/her personal data and the personal data of his/her family members, of the route taken from the country of origin to Romania, of the data regarding possible asylum applications submitted in other third countries or in an European Union Member State, as well as of the identity or travel documents in his/her possession.

At the same time with submitting the asylum application, the Romanian Immigration Office or the other authorities competent will take the fingerprints of all asylum seekers who, according to their statements, are 14 years old; following that, these data are transmitted and stored on paper support in the library database of the Romanian Immigration Office and in electronic format in the AFIS national database (automated fingerprints matching system).

The transmission and harvesting of the fingerprints of asylum seekers are performed with the observance of the provisions regarding the principle of confidentiality and protection of data of personal character, following that, the person in question is informed in writing with respect to this fact.

Starting with the data of Romania's accession to the European Union, the fingerprints harvested are transmitted and stored in the European database EURODAC (European system of automated identification of fingerprints).

The interview for determining the form of protection consists in a hearing of the asylum seeker before a clerk of the Romanian Immigration Office.

The asylum application is settled on the basis of the documents existing on the applicant's file and of the reasons invoked by the applicant, which are analyzed in relation to the actual situation in the country of origin and with the applicant's credibility.

The examination of the asylum petition must be executed individually and taking into account the following:

a) all relevant aspects regarding the country of origin, at the moment of making the decision, including the legislation of the country of origin and the modality in which it is applied;

b) the relevant declarations and documents presented by the applicant, including the information regarding the fact of having been subjected to a serious risk or the possibility of existence of a serious risk;

c) the applicant's individual situation or personal circumstances, including factors such as: his/her past, gender and age, in view of evaluating, depending on the applicant's personal circumstances, the possibility that the acts he/she was subjected to or is exposed to, represent persecution or other serious risk, as the case may be;

d) if the applicant's actions, subsequent to leaving the country of origin, were provoked for the single purpose or for the main purpose of creating the conditions necessary for submitting an asylum application, in view of evaluating these activities, in order to establish that the applicant is subjected to persecution or other serious risk, as the case may be, in the situation of his/her return to the country of origin;

e) if there is the possibility that the applicant benefits from the protection of a country whose citizenship he/she gained.

The clerk who examines the application issues a decision through which:

a) he/she acknowledges the status of refugee; or

b) grants subsidiary protection; or

c) rejects the asylum application.

Against the decision indicated, a complaint may be lodged within 10 days from the date of receiving the proof of communication or of the document through which it is established that the applicant is no longer at the last residence declared. The complaint, accompanied by reasons, is submitted to the Romanian Immigration Office or, as the case may be, to its territorial structure that issued the decision of rejecting the asylum application and will be accompanied by a copy of the decision to reject the asylum application, the grounds of the

complaint, and the documents or any other elements the petitioner bases his/her complaint on. The complaint is immediately forwarded to the competent court.

In the judicial stage of examining asylum applications, the debates take place in secret meeting, observing the principle of confidentiality.

The complaint is examined by the court in whose territorial area is based the competent structure of the Romanian Immigration Office that issued the decision.

The court examines the complaint within 30 days from receiving it.

The complaint, as well as the other procedural acts regarding its settlement, are exempt of the stamp fee and no trial expenses will be requested.

The contester or the Romanian Immigration Office may file an appeal against the court decision within 5 days from the issuing of the decision.

The appeal is judged within 30 days from its filing with the tribunal - administrative contentious section - in whose circumscription the court whose decision is being appealed is included.

The asylum applications that are subject to an accelerated procedure are:

- a) the asylum applications that are obviously not grounded;
- b) the asylum applications of persons who, through their activity or through their belonging to a certain group, present a danger for the national safety or for the public order in Romania;
- c) the asylum applications of persons who come from a single country of origin.

The asylum applications of unaccompanied minors cannot be settled in an accelerated procedure.

The accelerated procedure may commence during the ordinary procedure, on the date when the specially assigned clerk establishes the existence of any of the situations listed above.

Also, the Romanian legislation regulates the procedure of requesting asylum at the border.

The asylum applications, submitted in an airport control point for crossing the State border and transmitted to the Romanian Immigration Office, must be accompanied by information regarding the applicant, which must comprise the hour when he/she presented him/herself, the flight on which he/she arrived to Romania and the carrying company, the documents in his/her possession, the persons accompanying him/her and other elements of a nature to contribute to the rapid settlement of the case.

Romania has concluded institutional cooperation agreements between the States of origin, transit States and destination States.

Thus, Romania has concluded with the Republic of Moldova cooperation projects in the field of administrative consolidation, in the field of administering migration and border control.

Also, in 1999 an agreement between the Government of Romania, the Government of the Republic of Moldova and the Ministers' Cabinet of Ukraine regarding collaboration in the fight against criminality was concluded in Kiev.

Also in 1999 was signed in Bucharest a cooperation agreement for the prevention and fight against transborder criminality concluded between the Governments of Romania, Albania, Bosnia-Herzegovina, Bulgaria, Greece, Hungary, FYROM, the Republic of Moldova and the Republic of Turkey.

Romania, as a Member State, was the promoter of creating in June 2008 the European Union project "Mobility Partnership EU-Republic of Moldova", whose purpose is the administration of all projects of the Republic of Moldova with the Member States.

At the regional level, within the Black Sea Economic Cooperation Organization, Romania is the Country-Coordinator for the WG on Combating Crime for the term May 2007-April 2009.

Another important action taken by Romania is that it proposed the creation of a cooperation platform in the field of migration and development in the Black Sea region. This proposal was approved in the JAI Council of June 2008, which marked the launching of regional dialogue regarding the management of migration.

To conclude, we can state that Romania is both a transit and a destination State.

Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania stipulates that against the foreigner that committed a crime on Romania's territory an expulsion measure can be ordered according to the conditions stipulated in the Criminal Code and in the Criminal Procedure Code.

Due to the sanction character, the expulsion is ordered in an individual administrative act, motivated by reasons of protecting the public order and for the purpose of State juridical protection, or out of economic or political considerations.

The expulsion is a personal measure, regarding only the foreign criminal, and not his family. According to the specialists, the family members can be expelled, if necessary, by administrative procedure as a consequence of the safety measure taken against the foreign criminal.

Being a sanction measure, the expulsion decision can be taken only by fulfilling some legal conditions:

- if it regards a foreign citizen or a person without citizenship who does not have residence in Romania;
- if that person committed a crime on Romanian soil;
- if the expulsion accompanies an incarceration punishment, executing the expulsion is done after executing the punishment;
- if the expulsion does not accompany a punishment, it is executed immediately.

The expulsion will not be realized though, if there are serious reasons to believe that the person risks to be exposed to torture in the State in which he/she will be expelled to. In accordance with this stipulation of the Criminal Code are the provisions of Government Expedite Ordinance no. 194/2002 that stipulate that the foreigner cannot be expelled in a State where there are justified concerns that his/her life is in danger or that he/she will be exposed to torture, inhumane or degrading treatment. This condition was introduced as a consequence of the obligations assumed by Romania when ratifying the Convention against torture and other punishment and cruel, inhumane or degrading treatment, adopted in New York on December 10, 1984.

There are a series of situations when the expulsion measure is forbidden. So, the expulsion cannot be ordered, or if it has been ordered cannot be executed, if the foreigner is blamed or accused in a criminal case and if he/she has an interdiction of leaving the locality or the country or if he/she was convicted by a final court order to an incarceration punishment. Finding the existence of these situations is of the competence of the court, after the communication made by the Romanian Immigration Office. The interdiction of expulsion lasts until the disappearance of the reasons on which it is built.

In case the expulsion measure was ordered, the right of stay of the foreigner rightfully ends on the date of the order. In case the foreigner does not have a document for passing the State frontier, or sufficient financial means, the Romanian Immigration Office can ask for this in the foreigner's country of origin through the General Direction of Consular Affairs of the Ministry of Foreign Affairs. If the documents for passing the State frontier cannot be obtained not even through these means, the foreigner can obtain a travelling title.

In case the expulsion measure cannot enter into force in 24 hours, the foreigner will be taken into public custody. If the court that ordered the expulsion measure did not also establish taking the foreigner into public custody, this can be accomplished by the prosecutor designated by the Prosecutor's Office attached to the Bucharest Appeals Court, upon request of the Romanian

Immigration Office. The court solves the notice within 3 days after receiving it, and the ruling is final and irrevocable.

The right of stay of the foreigner stops on the date when the expulsion measure was ordered.

Art. 19 paragraph (3) of the Constitution establishes that foreign citizens and stateless persons can be extradited only on the basis of an international convention or in reciprocity conditions. These measures can be established only by justice.

The measure of removal from the territory of Romania is taken against foreigners who entered illegally, whose stay on the territory of Romania became illegal, whose visa or right of stay has been cancelled or revoked, against the persons to whom the extension of the right of temporary stay was refused, or whose right of permanent stay ended, as well as against former asylum seekers.

In case of foreigners declared undesirable, as well as those against whom the court ordered the safety measure of expulsion, the removal from the territory of Romania is carried out by enforcing the provisions of the court orders through which the respective measure was ordered.

The authority competent to take the removal decision is the Romanian Immigration Office (RIO) or its territorial formations, the foreigner being obliged to leave the territory of the country, not accompanied, within the term established by law. That is, 15 days for the foreigner whose visa was annulled or revoked, for whom the stay became illegal, as well as for former asylum seekers for whom the asylum procedure ended; 30 days for the foreigner whose right of temporary stay was cancelled or revoked or for whom the extension of this right was refused; and 3 months for the foreigner whose right of temporary stay for carrying out commercial activities was cancelled or revoked or for whom the extension of this right was refused, as well as for the family members of the person who benefited of a right of stay for reuniting the family; the same is the situation of the foreigner whose right of permanent stay ended, if he/she does not fulfil the conditions established in Art. 80 paragraph (3) of Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania, with the subsequent modifications and completions.

The foreigner must be notified with respect to the measure taken against him/her, either directly, or by mail or by posting at the office of the Romanian Immigration Office or its territorial formations. The decision of removal from the national territory can be appealed within 10 days from the communication date; this fact suspends the execution of the removal measure. The competence for deciding on the appeal belongs to the Bucharest Appeals Court - if the decision was issued by RIO - or to the appeals court in whose competence territory is the

RIO territorial formation that issued the decision. The settling term is of 30 days, and the sentence is final and irrevocable.

In the situation when a foreigner has performed, performs or there are grounded indications that he/she intends to perform activities of a nature to endanger national security and public order, that person may be declared undesirable. This measure is an administrative measure of authority, with effects similar to the expulsion measure.

With respect to the procedure, it is ordered by the prosecutor especially assigned by the Prosecutor's Office attached to the Bucharest Appeals Court, and its duration is of 5 to 15 years, with the possibility of extending it for a new period comprised within these limits, if it is established that the reasons that were at the basis of this measure did not cease to exist. The prosecutor notifies the court, upon proposal of the institutions competent in the field of public order and national security that hold grounded indications with respect to the foreigner. The data and information that are at the basis of the proposal to treat the foreigner as undesirable is presented to the court with the reserves imposed by the regulations regarding national security, and the notification is judged in council chamber with subpoenaing the parties. The Bucharest Appeals Court pronounces, through reasoned decision, within 10 days from the notification, its decision, which is final. The decision is communicated to the foreigner and to the Romanian Immigration Office in order to be enforced. In this case, the foreigner's right of stay rightfully ends on the date of pronouncing the decision that declares the foreigner as undesirable, and the measure is enforced by escorting the foreigner to the border or to the country of origin by the RIO specialized personnel.

The person in question may challenge the decision within 10 days from the communication date. The settling competence belongs to the High Court of Cassation and Justice, which pronounces within 5 days, through a final and irrevocable decision. The appeal against this decision does not suspend the declaration of the foreigner as undesirable, but Government Expedite Ordinance no. 194/2002, in Art. 85 paragraph (2) establishes the possibility that in well-grounded cases and in order to prevent the occurrence of imminent damage, the plaintiff is able to request the court the suspension of execution of the order until settling the action. The court will solve the application in emergency manner, and the decision will be rightfully executory.

The Romanian Immigration Office and the police are responsible for executing measures of expulsion.

According to the Romanian legislation in force, a foreigner cannot be expelled to a State where there are justified concerns that his/her life is in danger or that he/she will be exposed to torture, inhumane or degrading treatment.

The expulsion measure is not ordered, and in case it was ordered it cannot be executed, if the foreigner is blamed or accused in a criminal case and the magistrate orders the interdiction of leaving the locality or the country or if the foreigner was sentenced by a final judicial ruling to an incarceration punishment. In these cases, the measure of not allowing exit from the Romanian territory will be taken by the competent body of the Ministry of Administration and Interior only following a written solicitation of the prosecutor, the court or of the bodies established by law that have attributions of enforcing the incarceration punishment.

The interdiction of expulsion lasts until the reasons on which it was built disappear.

The finding of the situations where the expulsion cannot be executed is of the competence of the court, following the communication made by the Romanian Immigration Office.

In accordance with the stipulations of the Memorandum of Understanding between the Romanian Government and the International Organization for Migration, on 01.12.2005 the joint program with IOM – Office for Romania was operational for the voluntary return of the foreigners to the country of origin.

According to this program, IOM insures assistance for the foreigners that do not have right of stay in Romania and for asylum seekers who wish to return to their country of origin.

For this program can apply the foreigners who are found in one of the following situations:

- Their asylum request was denied;
- They have decided to disrupt the asylum request procedure;
- They have obtained refugee status or temporary humanitarian protection and wish to return to their country of origin;
- They have exceeded the stay period established in the Romanian visa;

- They do not have legal right of stay in Romania;
- They wish to return to their country of origin but do not have travelling documents and have no financial means to obtain them.

The foreigners against whom judicial courts have ordered the safety measure of expulsion or who have been declared undesirable persons for Romania cannot apply for this program.

The advantages of this program consist of: insuring a free travelling ticket from Bucharest to the country of origin; 25 \$ spending money; the travelling documents will not have a seal of

deportation and the authorities of the country of origin will not be informed of the return of the program beneficiary; the limit of the interdiction of re-entry into Romania will be reduced to the half.

The foreigners that did not leave voluntarily the territory of Romania on the date of expiration of the return decision, will be taken away under escort (Art. 86 paragraph 1 let. a of the Government Ordinance no. 194/2002 regarding the regime of foreigners in Romania, with the subsequent modifications and completions).

Chapter IV- THE LEGISLATIVE FRAMEWORK AND THE PROCEDURES ON GRANTING OF VISAS

The legislative framework regarding the granting of visas consists of:

- Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania, republished in the Official Gazette of Romania, Part I, no. 421 of June 5, 2008;

- Government Expedite Ordinance no. 55/2007 regarding the establishment of the Romanian Immigration Office by reorganizing the Authority for Foreigners and of the National Office for Refugees, as well as the modification and completion of certain regulations, published in the Official Gazette of Romania, Part I, no. 424 of June 26, 2007, approved with modifications and completions through Law no. 347/2007, published in the Official Gazette of Romania, Part I, no. 851 of December 12, 2007;

- Order of the Minister of Foreign Affairs no. 310/2008 regarding the List of States for whose citizens it is necessary to fulfil the invitation procedure when granting short-stay visas, in order to enter the territory of Romania, published in the Official Gazette of Romania, Part I, no. 147 of February 27, 2008;

- Government Expedite Ordinance no. 102/2005 regarding the free travel on the territory of Romania of the citizens of the European Union and European Economic Space Member States, published in the Official Gazette of Romania, Part I, no. 646 of July 21, 2005.

The Romanian visa is only granted to a foreigner if:

- a)* the conditions regarding entry into Romania, established in Art. 6 paragraph (1) letters a), c)-h), are fulfilled, respectively he/she owns a valid document for crossing the State border, which is accepted by the Romanian State, he/she presents, in the conditions of this expedite ordinance, documents that justify the purpose and conditions of his/her stay and which prove the existence of proper means, both for support during the stay, and for the return to the country

of origin or for the transit to another State where there is the certainty that entry will be allowed; he/she presents guarantees that he/she will be allowed entry into the territory of the destination State or that he/she will leave the territory of Romania, in case of foreigners in transit; he/she is not included in the category of foreigners against whom the measure of forbidding entry into Romania was adopted or who have been declared undesirable; he/she did not previously breach, without justification, the purpose declared when he/she obtained the visa or, as the case may be, at the entry into the territory of Romania, or did not try to cross the Romanian border with false documents; on his/her name no alerts were introduced in the Schengen Information System, for the purpose of refusing entry; he/she does not present a danger to the national defence and safety, public order, health or morals;

b) there is no reason for refusing entry to foreigners into the territory of Romania, such as those established in Art. 8 paragraph (1) letters b)-d), namely they are signalled by international organizations Romania is a party to, as well as by institutions specialized in the fight against terrorism, that they finance, prepare, support in any way or commit acts of terrorism; there are indications that they are part of organized crime groups with transnational character or that they support in any way the activity of these groups; there are serious reasons to consider that they committed or participated to the committing of crimes against peace and mankind or of war crimes or crimes against humanity, indicated in the international conventions Romania is a party to;

c) on the foreigner's name no alert was introduced regarding the refusal to issue the visa into the integrated informatics system on issues of migration, asylum and visas;

d) on the foreigner's name there were no notifications received regarding refusing entry from representatives of Member States of the European Union, the European Economic Space, as well as of States parties to the Agreements regarding the gradual elimination of controls at the common borders, signed at Schengen on June 14, 1985, hereinafter called the Schengen Agreement, within consular cooperation;

e) there are no reasons to consider that the visa is requested for the purpose of illegal migration;

f) the foreigner was not finally convicted for crimes committed abroad, incompatible with the purpose for which he/she requests the granting of the visa;

g) the general conditions established in this section, as well as the special conditions for granting a visa depending on the purpose it is requested for, are fulfilled.

It is forbidden for carriers to bring into Romania by the transport companies of foreigners that do not have a valid document for passing the State frontier, accepted by the Romanian State; or who do not possess the Romanian visa issued according to the law or, if case be, do not have a valid staying permit, if international agreements do not establish otherwise.

Not respecting these interdiction the carrier commits a contravention that is punishable with fine between 5000 lei and 15000 lei.

The finding of the contravention and the application of sanctions is done by specifically designated officials of the Ministry of Administration and Interior or, if case be, by specifically designated establishing agents of other institutions, according to their competences.

The Romanian authorities issue the following types of visas:

1. *Airport transit visa*, identified through the symbol A, representing the authorization given by the diplomatic missions or consular offices of Romania, which allows the foreigner to pass through the transit area of a Romanian airport, without entering the territory of the Romanian State, with the occasion of a stop or transfer between two sections of an international flight. The visa may be granted on condition of presenting the airplane ticket to the destination and allows foreigners to stay in the airport area for 5 days at most. This visa is mandatory for citizens of the States comprised in the list elaborated by the Ministry of Foreign Affairs in agreement with the European Union regulations. The visa is also required from foreigners who, without being citizens of these States, are in possession of a State border crossing document issued by the authorities of the respective State. At the opposed end are the citizens of the European Union Member States, the owners of visas issued by a European Union Member State, the owners of residence permits or equivalent documents issued by European Union Member States, the owners of diplomatic and work passports, as well as the members of airplane crews, for which this visa is not necessary.

2. *Transit visa*, identified through the symbol B, or B/CL when it is a collective visa, is granted to applicants with the observance of certain conditions. They must be in possession of a visa from a third country and, if necessary, of a State neighbouring Romania, which allows the foreigners to continue their journey and to travel legally until the destination, or to present the driver's license, the green card and the registration documents of the means of transport, in case of drivers.

3. *The short-stay visa* allows the foreigner's entry into the territory of Romania, for reasons other than immigration, in view of an uninterrupted stay or of several stays which will not

exceed in total 90 days within 6 months from the date of the first entry. This type of visa can be issued with one or multiple entries, depending on the activity the foreign citizen is going to carry out in Romania.

In connection with the purpose of the application, the short-stay visa is of several types:

- mission, identified through the symbol C/M;
- tourism, identified through the symbol C/TU or CL/TU, when it is a collective visa;
- visit, identified through the symbol C/VV;
- business, identified through the symbol C/A;
- transport, identified through the symbol C/TR;
- sports activities, identified through the symbol C/SP;
- cultural, scientific, humanitarian activities, short-term medical treatment or other activities that do not contravene the Romanian laws, identified through the symbol C/ZA.

4. *The long-stay visa* is granted to foreigners, upon request, by the diplomatic missions and consular offices of Romania, for a period of 90 days with one or multiple journeys. Although the long-stay visa has the same validity as the short-stay one, the difference is that the long-stay visa may be extended and the foreigner may obtain a stay permit. As in the case of the short-stay visa, this type of visa is also granted for several purposes (Section 6 “Special conditions of granting the long-stay visa” in Government Expedite Ordinance no. 194/2002).

Thus, it is granted for the carrying out of economic activities (symbol D/AE) to foreign businessmen who are going to carry out economic activities in Romania, individually or within certain family associations.

The long-stay visa for carrying out professional activities (symbol D/AP), is granted to foreigners who have the right to individually exercise professions on the territory of Romania, on the basis of special laws.

In case of carrying out commercial activities (symbol D/AC), the long-stay visa is granted to foreigners who are, or are going to become, shareholders or associates with management and administration duties within trading companies in Romania.

For employment (symbol D/AM), the visa is granted to foreigners who are going to enter Romania in order to be employed. The visa granted for this purpose will also be issued to athletes who are going to perform within clubs or teams in Romania, on the basis of an individual employment contract or civil convention under the conditions of the law.

The long-stay visa for studies (symbol D/SD) is granted to foreigners who are going to enter Romania in order to attend courses in pre-university, university or post-university education or, as the case may be, for obtaining scientific titles within accredited State or private institutions, according to the law.

The visa for family reunification (symbol D/VF) is granted in case of foreigners who are going to enter Romania for the purpose of regaining family unity.

For religious or humanitarian activities (symbol D/RU) benefit of the long-stay visa those foreigners who are going to enter Romania in order to carry out activities in the field of recognized cults, at their request, or for humanitarian purposes.

In the situation of scientific research activities (symbol D/CS), the Romanian State offers foreigners the possibility to enter Romania in order to carry out scientific research activities, on the basis of the approval of the National Authority for Scientific Research and of the Romanian Immigration Office, granting them in this sense a long-stay visa.

The internal law establishes the granting of the long-stay visa for other purposes (symbol D/AS) than those mentioned above, as long as they perform activities in agreement with the Romanian law. We can include here, according to Art. 48 of Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania, the foreigners detached on the territory of Romania by trans-national companies, beginner or season workers, volunteers, those undergoing long-term medical treatment or those whose presence on the national territory is necessary for national security reasons.

5. The diplomatic visa and work visa allow entry into Romania (generally for long-term stay) to foreigners, bearers of a diplomatic, respectively work, passport, who are going to fulfil an official position as members of a diplomatic or consular office of the State of belonging in Romania. These types of visas are issued at the request of the Ministry of Foreign Affairs of the sending State or of its diplomatic or consular office. Together with the bearer of the diplomatic or work passport, the members of his/her family living with him/her may benefit from this type of visa. These visas are valid for the period of the mission or according to the bilateral agreements Romania is a party to.

Chapter V - SOCIO-PROFESSIONAL INTEGRATION OF FOREIGNERS IN ROMANIA

In Romania, each institutional actor (Ministry of Administration and Interior, Ministry of Education, Research, Youth and Sport, Ministry of Labour, Family and Social Protection, etc.) is responsible for integrating foreigners in its activity field, for the coordination and monitoring of the policy of the Ministry of Administration and Interior, by means of the Romanian Immigration Office, which also has the duty to offer, through its regional structures, specific services in view of facilitating the integration into the Romanian society of different categories of foreigners.

The coordination at the institutional level is achieved mainly by means of meetings with the decision makers (organized on the Strategy regarding Migration) and of meetings at the level of experts.

The measures established by law for achieving integration refer, on the one hand, to facilitating access to a series of economic and social rights, such as the right to a workplace, to a household, the right to education, the right to medical assistance and social assistance, and on the other hand, the implementation of integration programs (specific activities of cultural orientation, counselling and learning Romanian).

The adoption of Government Decision no. 1122/2007 for the approval of the National Strategy regarding immigration for the period 2007-2010 constitutes a positive initiative performed at the national level for integrating third-country nationals.

The support of the active participation of third-country nationals who are domiciled or have their legal residence on the territory of the Romanian State in the economic, social and cultural life, observing at the same time their cultural identity is another positive initiative.

All measures in the field aim at supporting the active participation of third-country nationals who are domiciled or have their legal residence on the territory of the Romanian State in the economic, social and cultural life of the country, thus contributing to the development of a relationship based on mutual trust and liability between them and the Romanian society. The responsibility for coordinating the integration programs for refugees and other persons who were granted a form of protection belongs to the Romanian Immigration Office, as specialized structure, responsible for implementing the policies of the Government of Romania in the field of asylum, while the practical implementation of the integration programs is executed by this

structure in collaboration with the central authorities, the local authorities and non-governmental organizations.

It is certain that those relevant categories of third-country nationals make all efforts necessary to sufficiently integrate into the Romanian society, including by participating in the programs organized by the Romanian State for this purpose.

Special attention is given to persons belonging to vulnerable persons' categories (victims of persecution based on gender/sex, unaccompanied minors, victims of torture, handicapped persons, elderly persons, etc.). Recognizing the fact that obtaining Romanian citizenship may facilitate the foreigners' integration process, the Romanian State ensures access of all foreigners who are domiciled or have their residence on the territory of Romania to the procedure for obtaining Romanian citizenship.

Another aim is the awareness of all persons involved in this field, public servants of all levels, citizens, including third-country nationals, with respect to the importance of supporting the integration process and identifying the adequate solutions for financing certain projects through the European Fund for Refugees and the European Fund for Integration, in view of improving the services provided to all categories of foreigners.

Public servants, contractual personnel, as well as the persons with management functions in the field of health, education, employment, control and social assistance services will be properly prepared to respect the language, cultural, religious, physical and psychological differences of the persons in the integration process, by finding solutions to facilitate education and training programs for these persons. In this sense, in the following period, the improvement of the services provided to foreigners by the Romanian authorities, of the counselling and information services regarding the status of foreigners in Romania, but also of the services of assistance in order to obtain a workplace will be taken into consideration. Therefore, there will be training programs and programs for identifying viable solutions for ensuring the rights of third-country nationals.

Another positive initiative is represented by the fact that the Romanian Immigration Office cooperates, on the basis of the protocols concluded, with non-governmental organizations in view of supplementing the assistance offered to asylum seekers and refugees. Such organizations include: ARCA - Romanian Forum for Refugees and Migrants (in fields regarding access of refugees to health insurance and social security, Romanian citizenship, occupation, training and information of the local authorities and in the monitoring process of individual cases), Salvați Copiii (counselling and integration of refugee children and children separated

from their families, in the Romanian society, counselling parents in view of the children's attending school, monitoring the school results, additional training and recreational activities), the Romanian National Council for Refugees (legal and social assistance of asylum seekers), the Jesuit Service for Refugees (social assistance, counselling and socio-professional orientation, temporary lodging of families and vulnerable persons), the Organization of Refugee Women in Romania (social counselling activities and information campaigns) and ICAR Foundation (assistance for victims of torture). Also, there is a very good collaboration with the United Nations High Commissioner for Refugees, Representative Office in Romania, which finances a part of the assistance programs of the non-governmental organizations.

In Romania, according to the provisions of the National Strategy regarding Migration and of Government Ordinance no. 44/2004 regarding the social integration of foreigners who gained a form of protection or a right of stay in Romania, as well as of citizens of European Union Member States and of the European Economic Space, policies were elaborated with respect to migrants' integration.

According to the legislation in effect, foreigners (third-country nationals) who gained a form of protection in Romania, have ensured access to the following rights: the right to a workplace, the right to a household, the right to medical and social assistance, social security, the right to education, as well as by running specific activities of cultural accommodation, counselling and learning of Romanian language, joined in integration programs.

Thus, foreigners who gained a form of protection are registered as persons looking for a job with the local agency for the employment of the workforce or with the workpoint in whose territorial area the respective foreigner has his/her residence.

Also, social housing is assigned to foreigners who gained a form of protection in Romania by the authorities of the competent local public administration, on the basis of the eligibility criteria applicable to Romanian citizens.

With respect to the right to education, third-country nationals who gained a form of protection in Romania are ensured free classes of initiation in Romanian for minors, as well as of learning Romanian for adults. They are organized by the county and Bucharest City school inspectorates, according to the methodologies approved by the Ministry of Education, Research, Youth and Sport.

In order to increase the administrative capacity regarding the migration phenomenon, on the date of January 21st, 2009, 4 European funds afferent to the General Program Solidarity and to the management of migratory flows 2008-2013 were launched, which are administered by the

Ministry of Administration and Interior, respectively the General Direction of European Affairs and International Relations and the Romanian Office for Immigrations (as Contracting and Payment Authority), represented as follows:

- European Refugees Fund III (ERF III), having as objective the support and encouragement of the efforts made by the Member States to allow refugees and displaced persons in the territory and to deal with the effects of this admission, considering the communitarian legislation in the field;

- European Fund for the Integration of Third-Country Nationals (FI), having as objective the aiding of the efforts made by the Member States in allowing third-country nationals with different economic, social, cultural, religious, linguistic and ethnic backgrounds to fulfill the residence conditions, and the aiding of their integration into the European societies;

- European Return Fund (RF), having as objective the support and encouragement of the efforts made by the Member States to better manage the return, under all its aspects, on the basis of the integrated management concept and by establishing common actions which to be applied by the Member States or certain national level actions that contribute to the fulfilment of the communitarian objectives related to the solidarity principle, taking into account the communitarian legislation in the field and with the full observance of the fundamental rights;

- Outer Borders Fund (accessible starting with 2010).

BIBLIOGRAPHY

CHIRIAC, M., ROBOTIN, M., (2006), *Necunoscuții de lângă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, Report executed within the program “Minority Rights in Practice in South Eastern Europe” by the Center of Resources for Ethnocultural Diversity;

CONSTANTINESCU, M., MURARU, I., IORGOVAN, A., (2003), *Revizuirea Constituției României: explicații și comentarii*, Rosetti Publishing House, Bucharest;

DOUGLAS-SCOTT, S., (2002), *Constitutional Law of the European Union/Union citizenship*, ed. by Harlow, C., etc., Longman;

DRĂGOI, V., RADU, M., (2005), *Integrarea refugiaților în societatea românească – ghid adresat funcționarilor publici*, by Ministry of Administration and Interior;

GAUTIER, M., (2009), *Les instruments juridiques et leurs effets*, European Review of Public Law, vol. 21_1/2009, spring, pp. 63 -103;

GNES, M., (2009), *Migration Opportunities in Europe*, European Review of Public Law, vol. 21_1/2009, spring, pp. 35 – 62;

- GROSS, Th., (2009), *The Perspective of Third – Country Nationals*, European Review of Public Law, vol. 21_1/2009, spring, pp. 21 – 34;
- HOROVITZ, M., (ed), (2005), *New Dictionary of the History of Ideas/Migration in World History*, vol. 4, pp. 1446ss, Charles Scribner's Sons, Detroit;
- LUPAȘCU, D., MIHUȚ-GYONGY, G., (2006), *Regimul străinilor în România*, Universul Juridic Publishing House, Bucharest;
- MIGA-BEȘTELIU, R., (2006), *Drept internațional public*, vol. 1, CH BECK Publishing House, Bucharest;
- MOLDOVAN, A., T., (2004), *Expulzarea, extrădarea și readmisia în dreptul internațional*, All Beck Publishing House, Bucharest;
- PÉCOUD, A., de GUCHTENIERE, P., (2005), *Migration without borders: an investigation into the free movement of people*, Global Migration Perspectives, no. 27, UNESCO;
- RADU, M., (2006), *Politica și practica privind integrarea imigranților și refugiaților în statele europene*, Calitatea vieții Review, XVII, no. 3–4;
- SASSEN, S., (1996), *Lossing control? Sovereignty in an age of globalisation*, Columbia University Press, New York;
- SHAW, J., (2000), *Citizenship and the European Union, Law of the European Union*, Houndmills, Palgrave;
- Imigrația și azilul în România - anul 2006*, Study, Bucharest, 2007;
- Green Paper –Migration & mobility: challenges and opportunities for EU education systems*;
- Activity report regarding the stage of fulfillment of the Action Plan for the year 2007 for the implementation of the National Strategy regarding Immigration - Analysis elaborated at the level of the Technical Secretariat of the coordination Group for the implementation of the National Strategy regarding Immigration;
- Immigration and asylum in Romania year 2007, Study elaborated at the level of the Technical Secretariat, with the support and data made available by all institutions that are part of the Inter-ministry Group for the implementation of the National Strategy regarding Immigration;
- Government Decision no. 1122 of 09.18.2007 for the approval of the National Strategy regarding Immigration for the period 2007-2010;
- Law no. 122 of May 4, 2006 regarding asylum in Romania;
- DECISION No. 1483 of September 9, 2004 for the approval of the Methodological regulations for enforcing Government Ordinance no. 44/2004 regarding the social integration of

foreigners who obtained a form of protection or a right of stay in Romania, as well as of the European Union Member States and European Economic Space citizens;

Government Expedite Ordinance no. 194/2002 regarding the regime of foreigners in Romania;

Decision no. 942 of August 29, 2002 regarding the putting in circulation of the new types of visa stickers, published in the Official Gazette of Romania, Part I, no. 692/Sept. 20, 2002;

Expedite Ordinance no. 102 of July 14, 2005 regarding the free travel on the territory of Romania of the European Union Member States and European Economic Space citizens, published in the Official Gazette of Romania, Part I, no. 646/July 21, 2005;

Order of the Minister of Foreign Affairs no. 310/2008 regarding the list of States for whose citizens it is necessary to fulfill the invitation procedure when granting short-stay permits for entering the territory of Romania;

Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome, on November 4, 1950;

Convention on the Reduction of Statelessness, adopted on August 30, 1961 by the UN General Assembly;

Convention relating to the Status of Refugees, adopted on July 28, 1951 by the Conference of the United Nations plenipotentiaries on the status of refugees and stateless persons.