

MANAGING THE ILLEGAL MIGRATION WITHIN THE CONTEXT OF THE EUROPEAN NEIGHBOURHOOD POLICY IN THE EAST

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ABSTRACT:

EXTENDING SAFETY BEYOND THE EU FRONTIERS, ESPECIALLY IN ITS IMMEDIATE VICINITY, IS ONE OF THE EUROPEAN UNION'S TOP PRIORITIES. IN THIS RESPECT, ART. 8 FROM THE EUROPEAN UNION TREATY STIPULATES THE DEVELOPMENT OF PRIVILEGED RELATIONS WITH THE NEIGHBOURING COUNTRIES. IN THE SAID NORMATIVE CONTEXT, EU'S ACTIONS ARE DIRECTED TOWARDS SEVERAL DIMENSIONS: A PRIVILEGED POLITICAL DIALOGUE, A GROWTH IN THE ECONOMIC CO-OPERATION, AS WELL AS FINANCIAL SUPPORT, AND THE REGULATION OF PERSONS' MIGRATION. THE LAST DIMENSION, ABOUT THE PERSONS' MOBILITY, IS VERY MUCH INFLUENCED BY OTHER FACTORS, SUCH AS THE DEGREE OF THE INDIVIDUAL'S ECONOMICAL-FINANCIAL STABILITY, AS WELL AS THE PRESUMABLE MIGRANTS' HOME COUNTRY DEMOCRACY STAGE. QUESTIONS RELATED TO PERSONS' MOBILITY FROM EAST TO THE EU ARE STUDIED IN THIS ARTICLE WITH A VIEW TO REVEAL THE EUROPEAN REGULATIONS IMPACT ON MIGRATION WITHIN THE FRAMEWORK OF THE EUROPEAN NEIGHBOURHOOD POLICY (ENP) IN EAST. TAKING INTO CONSIDERATION THE INSTRUMENTS CONCEIVED FOR REGULATING MIGRATION FROM THE EAST TOWARDS THE EU, THE STUDY REVEALS THE IMPORTANCE OF THE DIALOGUE AND COOPERATION OF THE DECISION MAKERS INVOLVED IN FIGHTING CLANDESTINE MIGRATION IN THIS SPACE.

KEY WORDS: MIGRATION, EUROPEAN NEIGHBOURHOOD POLICY, EASTERN COUNTRIES, ILLEGAL IMMIGRATION.

INTRODUCTION

Europe is one of the most traversed regions of the world by numerous migration flows. In this context, we are witnessing the increase of constraints by the authorities of the European countries, especially in the Community, for obtaining a legal entry visa. These constraints are generated by the incapacity of the European countries' authorities in efficiently managing the migration flows, but also by populist movements in these countries that point migration as one of the essential problems of their societies. In the same time, we cannot ignore the perseverance of illegal immigration, determined, most of the time, by the situations of economic

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precariousness in their countries of origin or by armed conflicts that generate real humanitarian crises.

In Europe, the shock of the two World Wars generated massive population movements. Therewith, the emergence of a totalitarian block of communist states restricted the outflow of citizens, and the right to leave one's country became a fundamental human right. At the international level, it became a politicized measure that has been used to indicate the level of liberalism and democracy in a given state². The enlargements of the European Union eastwards in May 2004 and January 2007 pose the biggest demographic change in Europe since the devastation and flux at the end of the Second World War³. One by one, formal restrictions on the free movement of East Europeans are being given up, and a new East – West migration system is being established on the continent⁴. Leaving aside the movements of the new European citizens from the countries that have been integrated in the EU towards the Occident, in the present study we are interested in analysing how are carried out the movements from the counties situated at the recently established borders, after the enlargement, from the East towards the member states.

The ENP is one of the EU tools of relating with the neighbouring countries. After a first phase of generalized approach of the Southern and Eastern neighbours, in the years 2002-2003, lately we are witnessing an increasingly pronounced differentiation of the Union's relationships with the neighbours included in this policy, based on criteria related to these partners' different situations. Initially conceived in an 'euphoric' context⁵ related to the EU enlargement in 2004, the ENP allowed the overcome, to some extent, of the recurring discussions related to the limits of the EU enlargement, being conceived as an alternative to it⁶. The famous expression used by the President of the European Commission at that time, Romano Prodi, of "sharing everything but institutions"⁷ with the EU, although was meant to clear the situation, induced, on the contrary, some opposite, or at least different, interpretations. This has fuelled dangerous ambiguities, which, in the case of Georgia, Moldova, and especially Ukraine, weighted heavily on the internal evolutions⁸. However it is, the ENP objective is to develop closer relationships with these countries based on some common values such as democracy, respect for human rights and the rule of law.

On March 4, 2015, Johannes Hahn, the European Commissioner for Neighbourhood Policy and Enlargement Negotiations, and Federica Mogherini, Vice-President of the European Commission and High Representative of the Union for Foreign Affairs and Security Policy, announced a "fundamental reform" of the ENP, after a three-months consultation in which fall the recently organized summits, on one hand in Barcelona, on April 14, 2015, for the Southern partners (Syria, Libya, Tunisia, Morocco, Palestine, Egypt, Lebanon, Israel, Algeria, Jordan), and, on the other hand, in Riga, on May 21-22, 2015, for the Eastern partners (Ukraine,

² Agnieszka Weinar, "Emigration Policies in Contemporary Europe," *CARIM-East Research Report* 01 (2014), 3.

³ Adrian Favell, "The New Face of East – West Migration in Europe," *Journal of Ethnic and Migration Studies* 34 (2008), 701.

⁴ Favell, *The New Face of East – West Migration in Europe*, 702.

⁵ Édith Lhomel, "La politique européenne de voisinage en débat," *P@ges Europe*, 2015. Accessed May 3, 2015. <http://www.ladocumentationfrancaise.fr/pages-europe/d000779-la-politique-europeenne-de-voisinage-en-debat-du-sud-a-l-est-par-edith-lhomel/article>.

⁶ Florent Parmentier, "The reception of EU neighborhood policy." In *EU Foreign Policy in a Globalized World, Normative power and social preferences*, ed. Zaki Laïdi, (New York: Routledge/ GARNET Series: Europe in the World, 2008), 103-117.

⁷ Romano Prodi, "A Wider Europe - A Proximity Policy as the Key to Stability", Peace, Security And Stability International Dialogue and the Role of the EU, Sixth ECSA-World Conference. Jean Monnet Project, Brussels, 5-6 December 2002. Accessed April 30, 2015. http://europa.eu/rapid/press-release_SPEECH-02-619_en.htm.

⁸ Édith Lhomel, "La politique européenne de voisinage en débat," *P@ges Europe*, 2015.

Moldova, Georgia, Belarus, Armenia, Azerbaijan). Referring to the Arab Spring of 2011 and the conflicts in Eastern Ukraine, F. Mogherini admitted that "the ENP has not always been able to offer adequate responses to these recent developments, nor to the changing aspirations of our partners. Therefore, the EU's own interests have not been fully served either"⁹. Remains to be seen how the European officials will respond to the challenges arisen lately in relation to the EU policy regarding migration or security. With all the hopes it raised at first, lately the ENP is increasingly criticized for its incapacity of ensuring efficient means of cooperation between the EU and its neighbours. Among others, this policy seems to be incoherent even in what concerns migration issues, being unable to conform the action of the European officials with the values regarding human rights, which it claims to protect, in relation to migrants.

After reviewing the instruments included in the EU policy regarding migration (I), we will further, on one hand, attempt to discern how and if the ENP works as a tool of regulating legal migration (II), and to what extent, on the other hand, can it contribute to combating illegal migrant flows from Eastern Europe (III).

I – EUROPEAN UNION'S INSTRUMENTAL FRAMEWORK ON MIGRATION

The migration flows exert a pressure on Europe that no reasonable spirit can objectively deny¹⁰. This pressure requires adequate responses, both from the authorities of each European state and from the European community as a whole. In the same time, the management of the movements of people on the European continent must be the subject of a collaboration between the European authorities and those of the non-EU states of origin for the purpose of efficiently coordinating legal migration and combating illegal migration.

At the Community level, the policy regarding immigration remained for a long time an area of exclusive competence of the states. The common management of immigration and asylum is assumed for the first time by the signing of the Schengen Agreement (June 14, 1985)¹¹. The Treaty of Maastricht (February 7, 1992) provides the inclusion of the matters regarding the conditions of entry, movement and residence, as well as the fight against the illegal immigration of the inhabitants in the Union's "Third Pillar", which was to find its application through the intergovernmental cooperation of the states. The Union only obtains competences in this field with the Treaty of Amsterdam (1997). This "emerging" policy¹² became one of the essential elements of the space of freedom, security and justice. Taken into consideration first from the perspective of security¹³, the migratory policy progressively emancipated in relation to security, without managing, though, to completely detach from it¹⁴.

⁹ European Commission, Home Affairs, *European Agenda on Migration, Why a new European Agenda on Migration?* Accessed June 13, 2015. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/index_en.htm.

¹⁰ Rostane Mehdi, "La politique européenne d'immigration au prisme du réel." In *La gestion des frontières de l'Union Européenne. Défis et perspectives en matière de sécurité et de sûreté*, ed. Jean-Christophe Martin (Paris : Edition A. Pedone, 2011), 107.

¹¹ The Schengen Agreement refers to the progressive suppression of control of persons at the internal borders. The Agreement is implemented through the 1990 Schengen Convention, into force since 1995. Currently the Schengen space includes almost all EU states, as well as several non-EU states.

¹² Henri Labayle, "Un espace de liberté, de sécurité et de justice," *Revue trimestrielle de Droit européen*, 33 (1997), 105.

¹³ Hugues Dumont, "La politique européenne d'immigration, synthèse des travaux en atelier." In *L'étranger face au droit, XXème journées d'études juridiques Jean Dabin*, ed. Jean-Yves Carlier (Bruxelles: Bruylant, 2010), 351.

¹⁴ Rostane Mehdi, "La politique européenne d'immigration au prisme du réel." In *La gestion des frontières de l'Union Européenne. Défis et perspectives en matière de sécurité et de sûreté*, ed. Jean-Christophe Martin, (Paris : Edition A. Pedone, 2011), 107.

In the same time, from the member states we constantly notice the preoccupation for ensuring a comfortable margin of manoeuvre in this area. The Tampere European Council (October 15-16, 1999) defines a common immigration policy founded on the evaluation of the EU economic and demographic necessities and on the situation of the country of origin. The Treaty of Nice confirms the qualified majority in the Council for the acts adopted in the matter of migration, and, thus, the communitarisation of the field. However, the control competence of the Luxembourg Court of Justice remains limited, since it lacks the jurisdiction to rule on the acts taken in what concerns suppressing borders control and the faculty to interpret the matters regarding the free movement of persons. Since June 13, 2002, through the Council Regulation is instituted an uniform model of the residence permit for third-country nationals. The European Pact on Immigration and Asylum from 16-16 October, 2008, is based on the principle of immigration chosen to favour the immigration of highly skilled professionals, to the detriment of low-skilled immigrants. Not being binding to the member states, the architecture of this pact rather suggests a "program of work" or a five-point roadmap than a text that enounces objectives¹⁵.

Currently, according to Article 79 of the Treaty on the Functioning of the European Union, the objective of the common policy on migration is threefold: the effective management of migration flows, the fair treatment of third-country nationals residing legally in the member states, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings. The mobilization of financial means in the field of migration is subjected to the principle of solidarity (TFEU, Article 80). The recoil of unanimity, the generalization of co-decision to the whole of asylum and immigration policies, an increased jurisdiction, the constitutionalisation of the Charter of Fundamental Rights notify welcomed progress in this area.

Immigration for economic purposed constitutes on of the volleys of EU 2020 strategy. In this perspective, the Commission intends to favour a global policy of the workforce immigration directed towards the future and which would enable the finding of a flexible response to the priorities and necessities of the labour markets¹⁶.

In addition to the emergency situations, which require an immediate reaction, the Union and the member states carry out substantive actions against illegal migration. In this sense, the actions of the Union comprise a strategy that is conducted on two levels. It intends to ensure the coherence and effectiveness of its policy in the matter of return, attacking in the same time the factors that favour the development of this complex phenomenon.

From an institutional perspective, the EU equipped itself with several control mechanisms of migration flows. The FRONTEX agency¹⁷ (the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) coordinates the cooperation of member states regarding the management of the external borders, especially in situations that require a consolidated assistance at its borders, in organizing the return operations and in the training of the persons charged with guarding the national borders. The RABIT system¹⁸ (Rapid Border Intervention Teams) allows the establishment, in the case of massive movements of illegal immigrants, of rapid intervention teams at the borders (managed by Frontex) in order to provide assistance to a member state at

¹⁵ Christine Bertrand, "Les conditions d'une politique commune de l'immigration : apport et limites du traité de Lisbonne." *Europe 2* (2010).

¹⁶ Communication de la Commission du 3 mars 2010, Une strategie pour une croissance durable intelligente et inclusive, COM (2010) 2020. Accessed April 28, 2015.

http://europa.eu/legislation_summaries/employment_and_social_policy/eu2020/em0028_fr.htm.

¹⁷The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, established by Council Regulation (EC) 2007/2004.

¹⁸ Established by the Council Regulation of July 11, 2007.

its request. Eurosur¹⁹ (the European External Border Surveillance System) aims to help the member states to monitor by satellite the situation at their external borders, for the purpose of limiting illegal immigration and increasing the response capacity of the services of information and control of the borders.

II - ENP AS A TOOL FOR REGULATING LEGAL MIGRATION

In 2003, the European Commission called the Union to "assist in reinforcing the neighbouring countries' efforts to combat illegal migration and to establish efficient mechanisms for returns, especially illegal transit migration"²⁰. The following year, the ENP strategy paper confirmed the relevance of "cooperation in the fight against illegal immigration, and management of legal migration and implementation of migration plans"²¹. In what concerns the positions of the European officials, Benita Ferrero-Waldner, European Commissioner for External Relations and European Neighbourhood Policy in 2006, highlighted that migration should not be approached as a problem, but as a reality that Europe actually needs at present: "Immigration is an important part of the solution. It will help us make the transition to a new economic situation, and maintain a certain level of growth"²². When asked to assess the first 5 years of the ENP, Štefan Füle noted that "the ENP is a win-win game: the higher our partners' reform ambitions, the stronger our response"²³. Nevertheless, the debates still remain critical, pointing out that some of the political and economic reforms that the ENP demanded from its Eastern neighbours are much tougher than those required by the EU of the Central Eastern European countries accessing in 2004. On this ground, some Polish officials have argued that internal reforms should not necessarily condition accession status, maintaining that the Action Plans for both Ukraine and Moldova should be in the form of Partnerships for Association²⁴.

At the moment of the ENP launch, in order to promote effective management of migration flows, the concerned countries were altogether called to respect legislation based on international principles and standards, in particular the 1951 Geneva Convention and its 1967 Protocol. For preventing and combating illegal migration, the ENP countries were invited to take part in a constructive dialogue with the EU on the facilitation of visa regimes and to cooperate on legal migration, transit migration, return and readmission²⁵. Relying on the initial enthusiasm from its years of debut, the ENP was supposed to determine its neighbours to adopt

¹⁹ Established on February 13, 2008.

²⁰ Commission of the European Communities, Communication from the Commission to the Council and the European Parliament, *Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, Brussels, 11.3.2003, COM(2003) 104 final. Accessed May 1, 2015. <http://eur-lex.europa.eu/procedure/EN/181231>.

²¹ Commission of the European Communities, *European Neighbourhood Policy. Strategy Paper*, Brussels, 12.5.2004, COM(2004) 373 final. Accessed May 2, 2015. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52004DC0373>.

²² Benita Ferrero-Waldner, "Migration, external relations and the European Neighborhood Policy," *SPEECH/06/30*, Accessed May 1, 2015. http://www.europa-eu-un.org/articles/en/article_5604_en.htm.

²³ European Commission, "Five years of European Neighbourhood Policy: more trade, more aid, more people-to-people contacts," *IP/10/566* (Brussels, 12 May 2010). Accessed May 5, 2015. http://europa.eu/rapid/press-release_IP-10-566_en.htm?locale=en.

²⁴ Nicole Gallina, "Ukraine knocking at the door? The EU-Ukraine relationship after the orange revolution." In *Ukraine on its meandering path between east and west*, ed. Andrej N. Lushnycky and Mykola Riabchuk, (Bern: Peter Lang, 2009), 58.

²⁵ Branislav Radeljić, "The European Neighborhood Policy and Its Capacity to Manage Mobility and Migration." In *Territoriality and Migration in the E.U. Neighbourhood. Spilling over the Wall*, eds. Margaret Walton-Roberts and Jenna Henneby, (New York: Springer, 2014), 199.

the European values. Brussels was intending, through its policy, to transform its neighbours, yet keeping them at a distance²⁶.

While analysing the sectorial progress, in its report in 2010 the European Commission listed among the main achievements of the ENP, such as the visa facilitation and readmission agreements with Moldova and Ukraine, the implementation of two mobility partnerships in Moldova and Georgia, and the improvement of border controls and surveillance, which helped the detection of smuggling, illegal migration and custom fraud²⁷. At that time, the Mobility Partnership with Moldova was expected to foster the country's capacity to regulate legal migration flows, to promote the use of remittances for the local economy, to support the implementation of the visa facilitation and readmission agreements, and to protect the victims of trafficking²⁸. The Moldovan government was expected "to regulate legal migration flows, promotion of sustainable use of remittance and their attraction into the local economy"²⁹ in order to achieve the visa-free travel of Moldovan citizens to the EU. The dialogue on this issue has led to the opening of the EU borders to the Moldovans since April 2015.

In what concerns the South Caucasus partner countries, when analysing the ENP effects, the European Commission describes Armenia as a neighbour that is committed to reforms, which is expected to prevent identity fraud, irregular migration, migrant smuggling and human trafficking. Both Armenia and Azerbaijan were expected to show commitment to mobility by providing greater mobility of students, researchers, academics and business operators, by encouraging participation in the EU's Erasmus Mundus program³⁰.

The EU and Eastern Partnership countries signed visa facilitation and readmission agreements, as a key component of the rules for managing the mobility of the citizens of Eastern neighbour states to the EU and the return of the irregular migrants. The EU-Ukraine visa facilitation agreement and readmission agreement entered into force in June 2007. The EU and Moldova signed a Mobility Partnership in May 2008, and the EU-Moldova visa facilitation agreement and readmission agreement entered into force in October 2007. The EU and Georgia signed a Mobility Partnership in 2009, and the EU-Georgia visa facilitation agreement and readmission agreement entered into force in March 2011. The EU and Armenia signed a Mobility Partnership in 2011. The visa facilitation Agreement was signed in December 2012 and the readmission agreement in April 2013. Both agreements entered into force in January 2014. The EU and Azerbaijan initiated the readmission agreement in July 2013, and signed the visa facilitation agreement in November 2013. Both agreements entered into force in September 2014. The Mobility Partnership between the EU and Azerbaijan was signed in December 2013.

²⁶ Dov Lynch, "The Security Dimension of the European Neighbourhood Policy." *The International Spectator: Italian Journal of International Affairs*, 40 (2005). Accessed May 4, 2015. <http://www.tandfonline.com/doi/abs/10.1080/03932720508457109?journalCode=rspe20>.

²⁷ European Commission. (2010a), "Commission Proposes Better Management of Migration to the EU", Press release IP/11/532, 4 May. Accessed April 29, 2015. http://europa.eu/rapid/press-release_IP-11-532_en.htm.

²⁸ Branislav Radeljić, "The European Neighborhood Policy and Its Capacity to Manage Mobility and Migration." In *Territoriality and Migration in the E.U. Neighbourhood. Spilling over the Wall*, eds. Margaret Walton-Roberts and Jenna Hennebry, (New York: Springer, 2014), 200.

²⁹ Radeljić, *The European Neighborhood Policy...*

³⁰ Council of the European Union, "Joint Declaration on a Mobility Partnership between the European Union and Armenia", Brussels, October 6, 2011. Accessed May 1, 2015. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/mobility-partnerships-visa-facilitation-and-readmission-agreements/index_en.htm; European Commission. (2011d), "Implementation of the European Neighborhood Policy in 2010. Country report: Azerbaijan". (*SEC(2011)*). Accessed May 1, 2015. http://ec.europa.eu/world/enp/pdf/progress2011/sec_11_640_en.pdf.

Most of the movement in the region can be defined as spontaneous circulation³¹. The only noted case of regulated circular migration programs was between Portugal and Ukraine and, more recently, between Republic of Moldova and Italy. There are some innovative policy frameworks targeting diaspora and migrant communities abroad (especially in Armenia and Republic of Moldova). Other countries have only been developing policy solutions (Georgia, Azerbaijan) or have limited policy interest in the matter (Belarus, Ukraine).

III - ENP AS A MEANS TO COMBAT ILLEGAL MIGRATION

The definition of illegal migration involves the persons who during their journey, at arrival or during their stay or employment are found in conditions that contravene the international, multinational or bilateral pertinent instructions or agreements or the national legislation³². The study of clandestinity is not reduced to the person of the clandestine migrant. The analysis of the phenomenon and the definition of the policies to combat it should refer to the whole chain of clandestinity, which includes a series of actors: the migrant, the intermediary that facilitates the passage, the enterprise where the migrant works³³.

According to Eneko Landaburu, General Director of DG External Relations of the EU (2000-2009), the ENP was designed as an instrument of Europeanization of the neighbourhood, which would, once Europeanized, provide mechanisms to address and minimize issues such as organized crime, extremism, and terrorism³⁴.

The "return Directive"³⁵ aims at establishing the common norms and procedures for organizing the return of non-EU nationals who are illegally on the territory of the member states, while respecting their fundamental rights. In spite of some criticism it has been subjected to, it establishes a legal framework aiming to ensure the effective return of the foreigners in an irregular position while respecting their fundamental rights. Directive 2009/52/CE regarding the sanctions against employers should dissuade the tendencies of exploiting the migrants. The effectiveness of these "fundamental legal instruments" is, however, questionable. Thus, it is less useful to adopt a directive that incriminates the reprehensible behaviours based on the majority of domestic laws than to apply effective prosecutions against the authors of the crimes³⁶.

According to the Commission document of March 2015³⁷, the EU relationship with its neighbours will be built further starting from four priority areas: differentiation, focus, flexibility and ownership-visibility. In what concerns "migration and mobility [it] is a key area of co-operation for the EU and its partners. Enhancing mobility, especially for education,

³¹ Anna Di Bartolomeo et al., "Circular Migration in East Partnership Countries, An overview." *CARIM-East Research Report* 30 (2012).

³² Yann Moulrier-Boutang, "Dynamique des migrations internationales et économie souterraine : comparaison internationale et perspectives européennes." In *Espaces et travail clandestin*, ed. Solange Montagné-Vilette, (Paris : Masson, 1991), 113-121.

³³ Georges Tapinos, "Les enjeux économiques et politiques des migrations clandestines." In *Les théories de la migration*, dir. Victor Piché, (Paris: Ined, 2013), 505.

³⁴ Eneko Landaburu, "From Neighbourhood to Integration Policy. Are there concrete alternatives to enlargement?" *CEPS Policy Brief* 95 (2006), 3.

³⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

³⁶ Philippe De Bruycker, "L'émergence d'une politique européenne d'immigration." In *L'étranger face au droit, XXème journées d'études juridiques Jean Dabin*, ed. Jean-Yves Carlier, (Bruxelles: Bruylant, 2010), p. 361.

³⁷ European Commission, Joint consultation paper: Towards a new European Neighbourhood Policy, Brussels, 4.3.2015 JOIN(2015) 6 final. Accessed May 5, 2015. ec.europa.eu/enlargement/neighbourhood/consultation/consultation.pdf.

scientific, cultural, training and professional purposes, has positive effects on economies and societies alike. Tackling people smuggling and illegal migration is a common challenge”³⁸.

Given this general framework, each partner state tries to participate, managing, more or less, to face the fight against illegal migration. A study regarding the situation of workforce migration reveals that "in recent years the State made significant steps towards the prevention of illegal emigration: border protection was increased, including the introduction of highly secure personal identification documents and efficient systems to fight against trafficking in human beings. Georgia has been included in the list of 30 countries which are the most successful in fighting trafficking. Presenting the statistical data on border-crossing would have made sense because it would have shown what progress Georgia is making in this area”³⁹. However, despite significant efforts on the part of the Ukrainian government to eliminate human trafficking, Ukraine, for example, does not yet fully correspond to even minimum world standards in this field⁴⁰. In spite of the efforts in combating the illegal migration, one of the main goals of the contemporary migration policy of Republic of Moldova, it can be concluded that Moldova cannot become an economically attractive country for its population and reduce labour emigration and the risks associated with illegal migration. Without a specific long-term policy of targeted investment on the part of the European Union, all measures undertaken by the Republic of Moldova will not lead to the desired success⁴¹.

CONCLUSION

As a consequence of the shipwreck that led to the death of approximately 400 clandestine immigrants of the Lampedusa Italian island in 2013, the member states provided, at the 24-25 October European Council in the same year, the adoption of some measures after the June 2014 elections. As a result, the new Common European Asylum System was adopted. After the shipwreck of more than 800 migrants in the Mediterranean Sea in April 2015, the EU chiefs of state and government decide, at the exceptional Summit of April 23, to triple the means of the Triton surveillance operation, conducted by Frontex, to seize and destroy the boats carrying immigrants, to intervene militarily in Libya against the networks of carriers and to split 5000 Syrian refugees on the European territory.

These tragic situations don't directly concern Eastern Europe, however, in addition to the immediate measures adopted by the European officials in such situations, the EU engages each time to find long-term solutions that would regulate legal migration flows and efficiently combat clandestine immigration towards this region.

By its nature, clandestine immigration is difficult to control and quantify⁴². It is the manifestation of an imbalance between an unlimited offer of candidates for emigration and the limited acceptance of the new entries by the recipient countries⁴³. Starting from these observations, Europe is a region in which, since the entries and legal stay are limited, illegal entry becomes in many cases the only option.

³⁸ European Commission, Joint consultation paper: Towards a new European Neighbourhood Policy, Brussels, 4.3.2015 JOIN(2015) 6 final. Accessed May 4, 2015. ec.europa.eu/enlargement/neighbourhood/consultation/consultation.pdf.

³⁹ Ekaterine Kardava, "Legal Aspects of Labour Migration Governance in Georgia. A Reply to Prof. G. Gabrichidze," *CARIM-East Analytic and Synthetic Notes*, 10 (2012).

⁴⁰ Oleksii Pozniak, "Human trafficking trends in Ukraine." *CARIM-East Explanatory Note 13/67* (2013), p. 3.

⁴¹ Mosneaga, Valeriu; "Illegal Moldovan Migration to the European Union." *CARIM-East Explanatory Note 13/85* (2013), 8.

⁴² Georges Tapinos, "Les enjeux économiques et politiques des migrations clandestines." In *Les théories de la migration*, dir. Victor Piché, (Paris: Ined, 2013), 503.

⁴³ Tapinos, *Les enjeux économiques et politiques...*, 504.

The institutional arrangements of the ENP are unable, for the time being, to ensure the efficient securing of the EU borders⁴⁴. The policy was characterized by a strong centre-periphery complex towards the neighbouring regions of the EU⁴⁵. The EU needs its neighbours' cooperation in order to tackle problems of illegal migration, terrorism and cross-border crime, as much as they need access to partial EU programs. If it does not offer more than is currently on the table, the Union may find itself "a ring of states in distress rather a ring of friends"⁴⁶ (Cameron, Balfour, 2006, p. 17).

The control of illegal migration regards measures of efficient control at the borders, the control of the duration of stays, the control of employment and the sanctioning of the employers of illegal migrants, efficient policies that would stimulate the reduction of emigration. All of these measures involve the constant collaboration of the decision makers from both sides, the EU and the Eastern partner countries. The efficacy of these measures involves legal options for entry, stay and exit. The numerous entry barriers induce the temptation of clandestine entry. A greater freedom of coming and going can generate a reduction of illegal immigrations.

⁴⁴ Branislav Radeljić, "The European Neighborhood Policy and Its Capacity to Manage Mobility and Migration." In *Territoriality and Migration in the E.U. Neighbourhood. Spilling over the Wall*, eds. Margaret Walton-Roberts and Jenna Hennebry, (New York: Springer, 2014), 204.

⁴⁵ Stephan Stetter, "Theorising the European Neighbourhood Policy: Debordering and Rebordering in the Mediterranean," *EUI Working Paper*, 34 (2005), 11.

⁴⁶ Fraser Cameron and Rosa Balfour, "The European Neighbourhood Policy as a conflict prevention tool." *EPC Issue Paper* 47 (2006), p. 17. Accessed May 3, 2015. <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?id=25156&lng=en>.

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