

SMUGGLING OF MIGRANTS THREAT TO NATIONAL SECURITY

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ABSTRACT:

ONE OF THE MOST IMPORTANT SECURITY THREATS AND SETTING STATES IS ORGANIZED CRIME. AMONG THE MAIN ACTIVITIES OF ORGANIZED CRIMINAL GROUPS THAT FALL WITHIN THIS PHENOMENON ARE: SMUGGLING PEOPLE. ROMANIA IS LOCATED IN AN AREA OF STRATEGIC INTEREST AND IT OWNS ONE OF THE LARGEST EXTERNAL BORDERS OF THE EUROPEAN UNION, HAVING AN IMPORTANT ROLE IN REDUCING MIGRATION FLOWS, WHICH HAVE BECOME A GREAT RESURGENCE LATELY. MIGRATION IS A CONSTANT AND DYNAMIC PHENOMENON WHICH PERMANENTLY REQUIRES DIVERSIFIED INTERVENTION POLICIES IN ORDER TO MAXIMIZE THE POTENTIAL BENEFITS AND IN ORDER TO MINIMIZE THE COSTS RELATED TO IT FOR BOTH COUNTRIES, BOTH FOR THE COUNTRY OF ORIGIN AND FOR THE COUNTRY OF DESTINATION

KEY WORDS: SMUGGLING, MIGRANTS, ROMANIA, EUROPEAN UNION, ORGANIZED CRIME, NATIONAL SECURITY.

THE HISTORICAL CONTEXT OF THE MIGRATION PHENOMENON

Starting with the 4th century and until the year 900, the European area was transited and occupied by people from other parts of the world. Schematically speaking there were three phases of this migration phenomenon.

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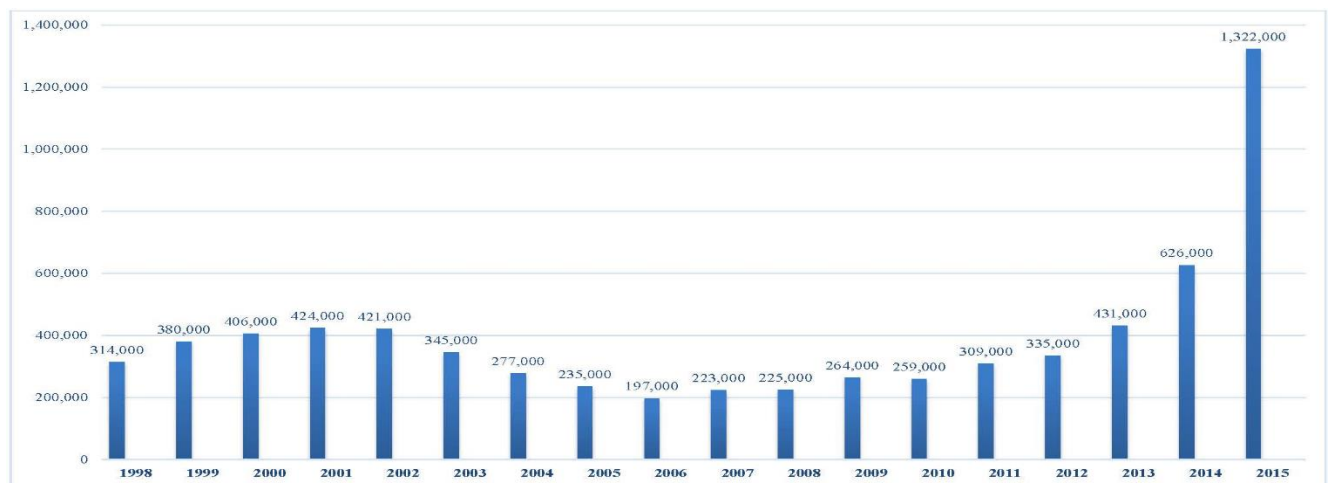


Figure 1 - Asylum applications in the EU-28 (1998–2015)¹

First the Germanic tribes of the North of Europe came down towards the South and the South-East.

In the second stage, the Slavic tribes in the area including Ukraine, Eastern Poland, the East of the Baltic basin, started going towards the center of Europe and towards the South.

In the third stage, Turkish Mongolian tribes in the center of Asia started migrating towards the West, reaching massively what we know today as Europe.²

Starting from the end of the 19th century, migration has earned a new feature, the one of workforce exodus towards economically attractive areas.

Between the second half of the 19th century and the First World War, 40 million persons emigrated in North America, most of them coming from Germany and Great Britain.³

Although they are shown in various forms and proportions over the entire history of humanity, migration displacements carry the mark of the concrete ages and situations that generated them.

¹ Sergio Carrera, Steven Blockmans, Jean-Pierre Cassarino, Daniel Gros & Elspeth Guild, *The EBCG: Addressing migration and asylum challenges in the Mediterranean?* CEPS Place du Congrès 1, B-1000 Brussels, 2017, 3.

² See Maria Mocanu, Elena Visan, Dumitru Codiță, *The migration phenomenon and the current status of refugees*, Editura Print, București, 2016, pp. 3-12. According to Eurostat, “198,600 first instance decisions were made by the national authorities of EU Member States during the fourth quarter of 2015. Among them, nearly 60% were positive (i.e. granting a type of protection status).” See Eurostat’s “Asylum quarterly report”, Luxembourg, http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report, (Accessed on 15 January 2017).

³ <http://www.mai.gov.ro/Documentemigratie2016>. (Accessed on 15 January 2017). See A. Singleton, “Migration and Asylum Data for Policy Making in the European Union: The Problem with Numbers”, CEPS Paper in Liberty and Security in Europe, No. 89, CEPS, Brussels, March 2016.

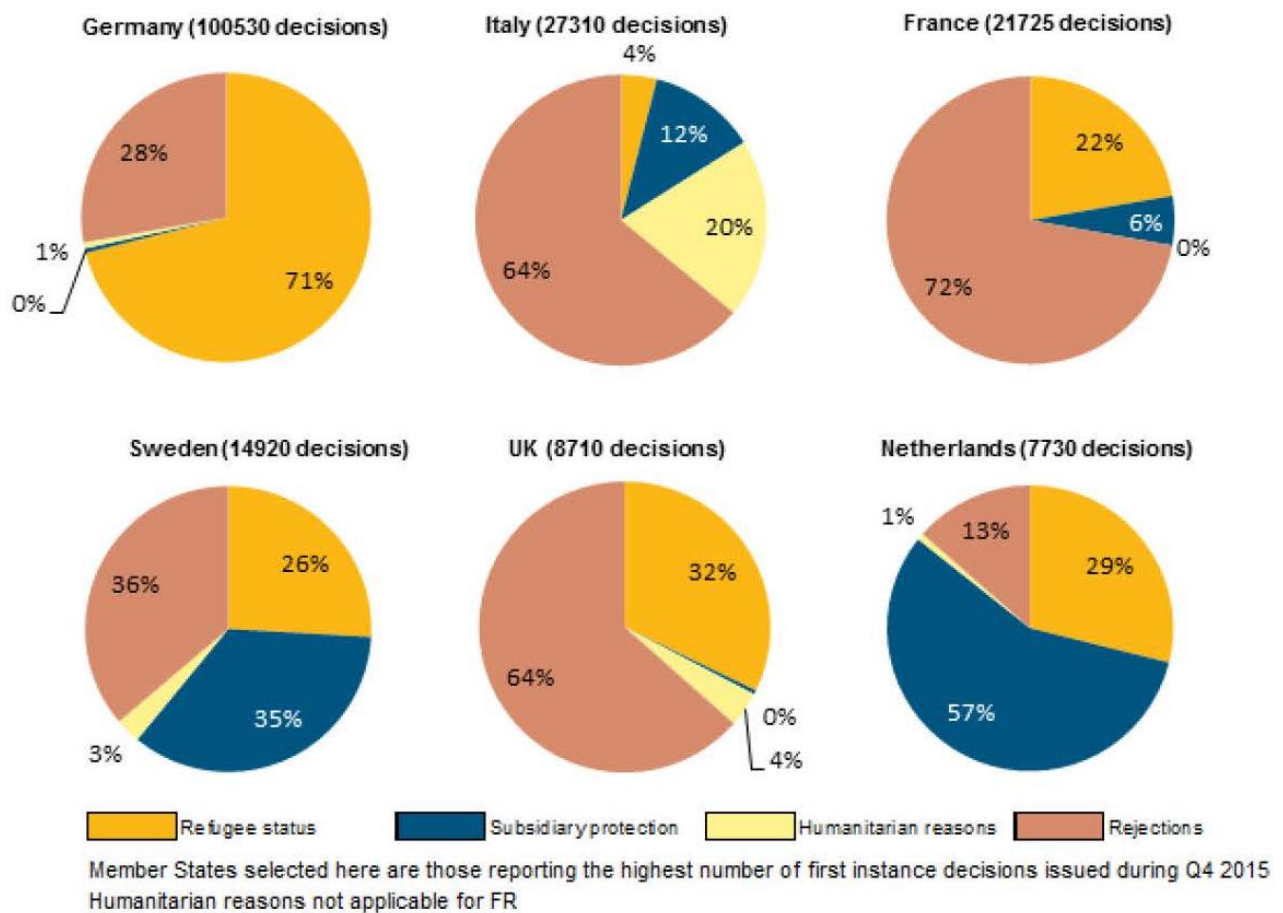


Figure 2 - First instance decisions by outcome in selected member states (Oct. to Dec. 2015)⁴

For scientists, it became more and more clear that this phenomenon must be seen as a normal and instinctual element of the human society over history.

In the narrow sense, migration is defined as a displacement of people from one country to another.

In a broader sense, this phenomenon represents both the displacement of large groups of people from their countries of origin to other states and the effects produced in the economic, social and cultural fields.⁵

Consequently, migration is a constant and dynamic phenomenon which permanently requires diversified intervention policies in order to maximize the potential benefits and in order to minimize the costs related to it for both countries, both for the country of origin and for the country of destination, imposing the support for the voluntary repatriation and a higher overlap between migration and development.⁶

⁴ Sergio Carrera, Steven Blockmans, Jean-Pierre Cassarino, Daniel Gros & Elspeth Guild, *The EBCG: Addressing migration and asylum challenges in the Mediterranean?* CEPS Place du Congrès 1, B-1000 Brussels, 2017, 7.

⁵ See Duță Paul ș.a., *Areale globale. Uniunea Europeană - Africa Subsahariană*, Colecția Studii europene nr.2, Editura Tehno Media Sibiu, 2009, (ISBN 978-606-8030-15-9), 29-37.

⁶ Eurostat, "Asylum statistics," http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics, (Accessed on 10 January 2017).

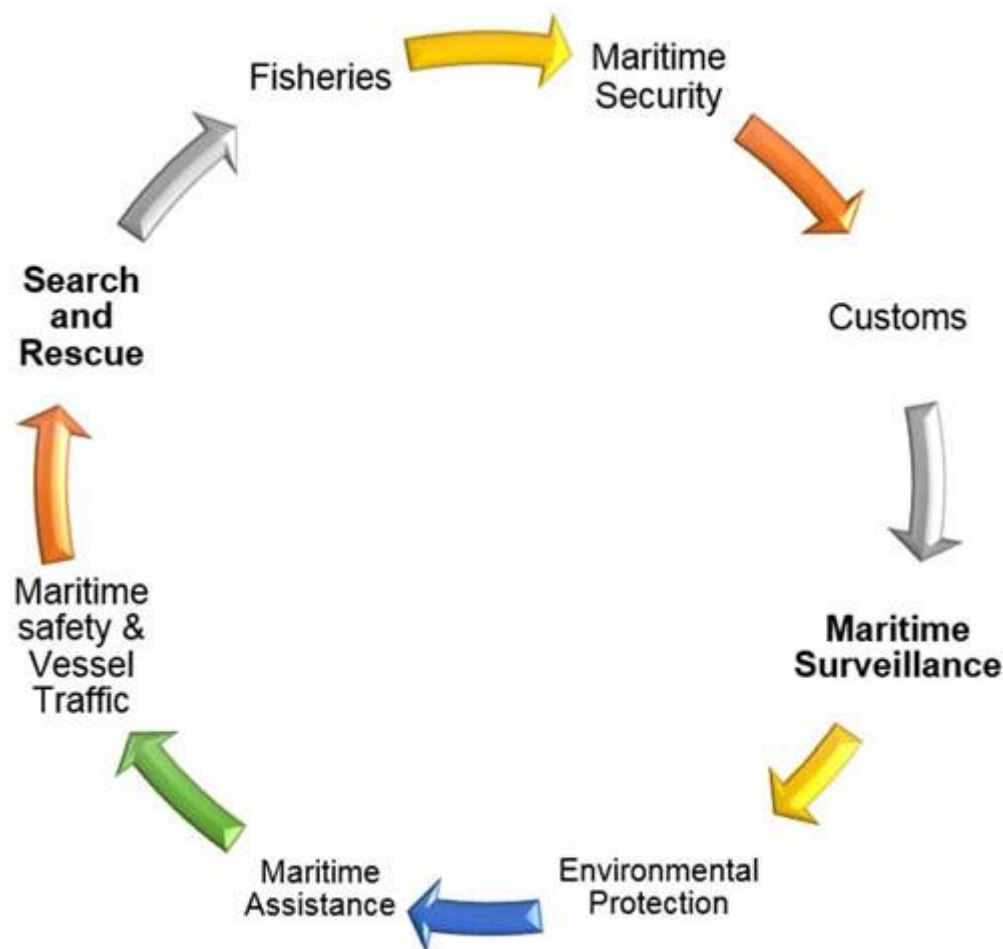


Figure 3 - Coast guard functions in the EU⁷

According to the Protocol against illegal traffic of migrants, additional to the Convention of the United Nations adopted on the 15th of November 2000, in New York, the phrasing “illegal traffic of migrants” represents the act of securing, in exchange for a material profit, the illegal entrance into a state, of a person who is not a citizen or a permanent resident of that state.

The expression “illegal entering” refers to the crossing of the borders when the conditions needed for the legal entering of the country are not met.

Without a doubt, both smuggling migrants and human trafficking are forms of illegal migration and the operation methods present in both cases shared features.⁸

⁷ See Sergio Carrera, Steven Blockmans, Jean-Pierre Cassarino, Daniel Gros & Elspeth Guild, *The EBCG: Addressing migration and asylum challenges in the Mediterranean?* CEPS Place du Congrès 1, B-1000 Brussels, 2017.

⁸ Ramona Acsinte, “International cooperation in the field of human trafficking” in *The Journal of Legal Studies*, Edition No. 4/2009. Directive No. 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337, 20.12.2011.

Under a “cause and effect” aspect, the migration phenomenon is grounded on economic factors, annual conflicts, natural catastrophes, as well as a series of objective conditions, namely human rights' violation, actions of the migrant smugglers and others.

Poverty and political instability form the main reason for the illegal emigration into the states which are members of the EU.

The emigrants from Syria, Afghanistan, and Turkey and from the African continent are headed towards this area.

The lack of the financial means needed for obtaining the traveling documents, the refusal of the authorities to issue documents, the hurry in which they are forced to leave their country of origin contribute to the fraudulent crossing of borders done by these persons.⁹

These persons will resort to the services of the smugglers for various reasons, among which: long distances that they will have to travel, finding a residence or a place of work and others.¹⁰

THE EU AND ROMANIAN NATIONAL STRUCTURES FOR MIGRATION

The Romanian authorities have as a permanent concern the management of migration in tight correlation with the geographical position of our country, the evolution of the migration phenomenon in the South-Eastern Europe, the evolution of the community *acquis* in the field and not lastly the position as a full member of the EU.

The role as collaborator in the management of the migration phenomenon by a unitary management in inter-institutional cooperation falls under the responsibility of the Ministry of Internal Affairs, by its General Inspectorate of the Romanian Border Police and its General Inspectorate for Migration.

The Romanian Border Police is the competent state institution exercising the tasks and obligations assigned to it with respect to monitoring and controlling the crossing of the state borders, with respect to the prevention and fighting of illegal migration and of facts specific to cross-border crime in the specialized field, observing the legal regime of the state border, checking the passports and foreigners, ensuring the interest of the Romanian state on the inside part of the Danube, including Măcin Channel and Sulina Channel located outside the border area, in the contiguous and economic included field, observing the public order regulations in the competent field, under the law.¹¹

Being a relatively young body, yet having old traditions lasting over the ages in ensuring the order at the Romanian borders, the Border Police asserts itself as an institution with its own personality and individuality during the performance of the missions, being also competent to highlight the rule of law and the authentic democracy and civilization of the Romanian people since the moment when the person enters the Romanian territory.

⁹ See Adrian Cojocaru, Ion Ghiban, “*Frequently used methods for the illegal crossing of the state border by using various transport means*”, The briefing and documentation bulletin No. 1/2017, 13-16.

¹⁰ See Eduardo Geronimi, “*Aspects juridiques du trafic et de traite de travailleuses migrants*” Bureau International de Travail Geneva 2010, 5.

¹¹ Art. 1 of the GEO 104 dated on the 27th of June 2001 on the organizing and functioning of the Romanian Police.

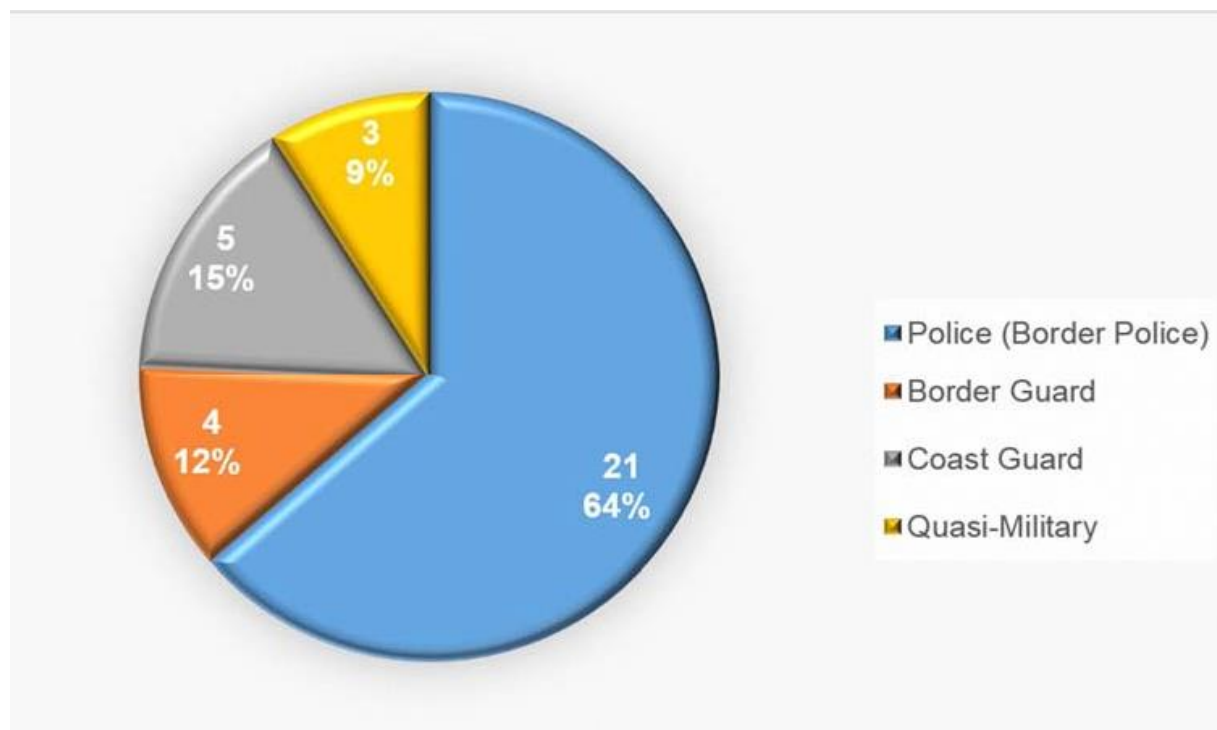


Figure 4 -. Types of national services responsible for Schengen border tasks¹²

Having approximately 3150 km of borders within its responsibility, the Border Police permanently faces extremely wide range of problems and various illegal motivations for transiting the Romanian border, starting from illegal migration, traffic of narcotics, weapons and stolen vehicles and ending with contraband - under all its forms of expressions.

Organized according to the model of similar institutions in the states of the European Union, the Romanian Border Police submits constant efforts for preventing and fighting cross-border crime phenomena and for applying and observing the internal and inter-institutional legislation.¹³

The General Inspectorate of the Border Police is the central unit of the Romanian Border Police with its own legal personality and territorial competence for the entire area of responsibility of the border police, exercising the management and being liable for the entire activity of the border police, performing activities of investigation and research upon the serious crimes related to and classified under the category of organized crime, illegal migration and cross-border crime, committed in the area of territorial competence of the Border Police, as well as performing any other tasks given in competence by law.

Creating a modern and flexible structure according to E.U. standards made the Romanian Border Police undergo a complex process of institutional restructuring and modernization.

Thus, in the years 2000 and 2011, the Border Police has undergone two restructuring stages meant to reduce command functions and streamline its operative capacity.

¹² See *The EBCG: Addressing migration and asylum challenges in the Mediterranean?*

¹³ See Eurostat, "Asylum Decisions in the EU: EU Member States granted protection to more than 330 000 asylum seekers in 2015, Half of the beneficiaries were Syrians", 75/2016, Luxembourg, 20 April 2016. <http://www.politiadefr.ro> (Accessed on 15 January 2017).

It was the establishment of the Coast Guard with competences in the territorial sea, the contiguous area and the inferior Danube, as well as in the counties of Tulcea and Constanța.

The establishment of specialized legal police structures in criminal investigations and intelligence collection, the dissolution of the county border inspectorates and the creation of territorial inspectorates with border police sectors as flexible structures capable to fight cross-border crimes and manage the movement of persons¹⁴.

The directorate for fighting illegal migration and the similar offices and services at territorial level contribute to identifying the persons involved in the development of criminal activities related to human trafficking and they are under the obligation of ensuring the crossing point of the Romanian borders, staff for the identification and delivery of the victims for the purpose of guiding towards specialized institutions.

Based on the Order 617 dated on the 29th of December 2003 of the Ministry of Administration and Interior, the officers and agents with tasks and responsibilities in fighting cross-border crimes and crimes committed in relation to the border were assigned as criminal investigation authorities.

In the performance of the criminal investigation authorities, the border policeman has the territorial competency of the border police unit that he forms a part of.

In the accomplishment of the tasks and obligations assigned to it, the Romanian Border Police collaborates with other institutions of the state in the field of public order (the Romanian General Police Inspectorate, the Directorate for Investigating Organized Crime and Terrorism, the Public Prosecutor's Office), as well as with the border police authorities of the neighboring states.

Also, by means of the national Offices Interpol and Europol, SECI Center and the Focal National Point, there is permanent contact with the International Police Cooperation Center with respect to the exchange of operative data and external intelligence.

The main purpose of this stage where the Romanian Border Police has reached is the harmonization of the legislation and procedures with the ones of the E.U. and international cooperation for fighting migrants trafficking.

The Romanian Police Border has contributed for the purpose of achieving an Integrated Security System for the borders to the fighting of illegal migration.¹⁵

The border police takes a series of measures, among which:

a) Creating mobile teams which travel depending on the operative situation, for the intensification of the state border crossing control.

b) Operative data and information exchange with the other institutions competent in fighting cross-border crime and with their counterparts in the neighboring states and in the E.U. member states.

c) To specialize the border policemen in using at maximum capacity the logistic equipment used in the activity of monitoring and controlling the crossing of the state borders.

¹⁴ See Tomescu Ina Raluca, Mărcău Flavius Cristian, „European policies and strategies for combating cross-border criminality. Implications for the internal legal system”, in *International Conference "New Criminal Legislation - important phase in the development of Romanian law"*, Bologna (Italy), Medimond, 2015, pp. 291-296.

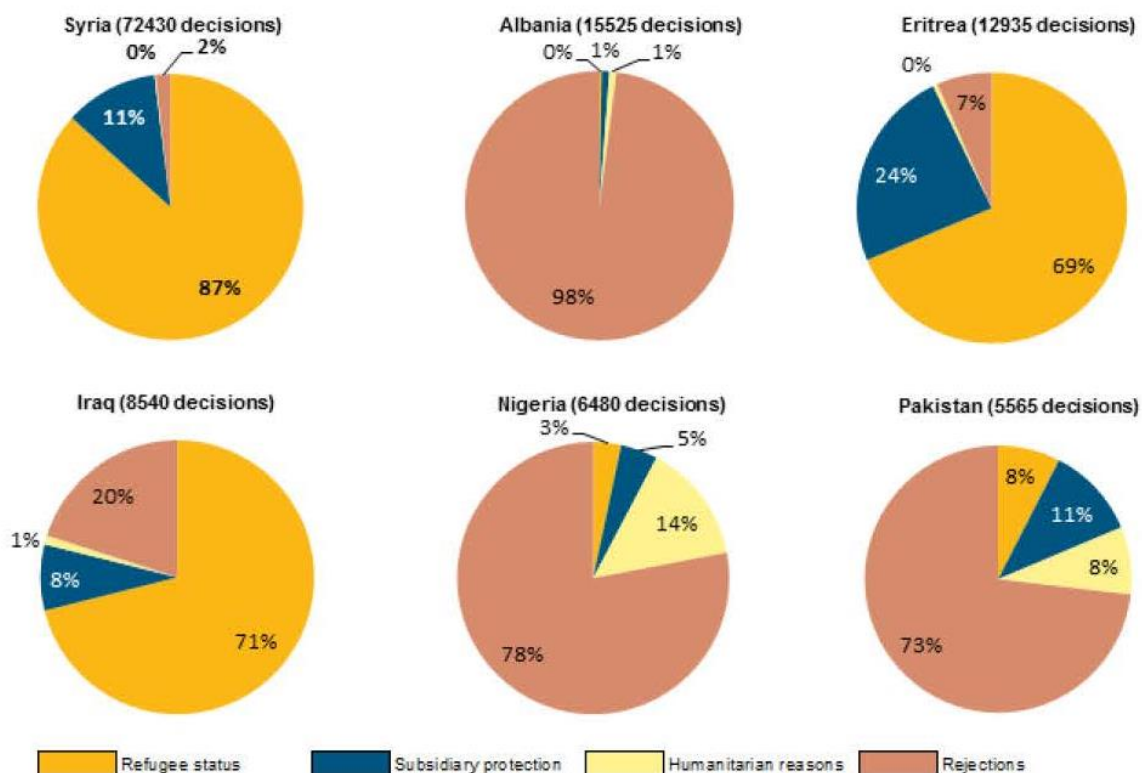
¹⁵ European Commission, *Annex to the Communication, First Report on Relocation and Resettlement*, COM(2016) 165 final, Brussels, 16 March 2016, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160316/first_report_on_relocation_and_resettlement_-_annex_5_en.pdf, (Accessed on 15 January 2017).

ANALYSIS UPON THE ILLEGAL TRAFFIC OF MIGRANTS

During the above mentioned period, illegal migration in Romania had two particularities, which are the following:

a) The illegal migration of Romanian citizens towards Western Europe, whereas the migrants wished to reach the West in order to work, and who legally left Romania, yet remained illegally within the borders of a foreign state.

b) The crossing of illegal migrant flows of Asian origin (India, Turkey, Pakistan, China, Bangladesh), whereas they wished to reach Western Europe, by using Romania as a transit country (very few wished to settle here).



Citizenships selected here are those for which the highest number of first instance decisions was issued during Q4 2015
Data for Austria are not available

Figure 5 - First instance decisions on asylum applications by citizenship (Oct. to Dec. 2015)

The main features of the illegal migration phenomenon were as follows:

- The route most used by the foreigners coming from the Middle and Far East was the following: Afghanistan, Iran, Iraq, Turkey, Bulgaria and Romania.¹⁶

- Turkish or Moldavian citizens, after their illegal entry in the country based on national passports, by means of Romanian citizens who were acting as intermediaries, tried to exit the country by using Romanian, Belgian, Slovakian and Bulgarian forged passports. This operation mode was a masked form of illegal migration.

¹⁶ See Mărcău Flavius Cristian, "Security as a determining factor of quality of life in a state from an insecure regional area," *Analele Universității „Constantin Brâncuși” din Târgu - Jiu*, nr. 4/2015, Seria Litere și Științe Sociale, Editura „Academica Brâncuși”, 77-85.

- Another *modus operandi* for illegally crossing the borders was by hiding in various transportation means, international trains (in the attic of the wagons, under the benches, on the bogies) or vehicles (under the back seats, in the trunk, in the trailer of the trucks) etc.¹⁷

- Also, for the illegal crossing of the border, the migrants acted on their own, taking advantage of certain favorable situations, as the following: the stationing of the trucks in parking lots, speed restrictions for international trains, or by paying 500-1000 € to truck drivers or to train engine drivers.¹⁸

- Additionally to all these, we have to note that the universal motivation of both Romanians and foreigners resorting to these methods in order to reach the West was the search for a better life.

The entering of Romania into the E.U. has automatically led to the increase of migration flow, and for a part of the migrants, Romania became a destination country, while for another part of them Romania was only a transit country.¹⁹

THE ILLEGAL MIGRATION AND THE NATIONAL SECURITY

The trend shows that our country is becoming a launching ramp of the foreign citizens to the E.U. member states, mainly due to the simplification of the procedures for the Romanian citizens to cross the borders to the European area.

The organized crime groups took advantage of this, facilitating the obtaining of the temporary residence right or of asylum in Romania for foreign citizens, in order to obtain afterwards for them false Romanian identity documents and to ensure the transport towards Western Europe.²⁰

Thus, as a first effect, the economy of the transit countries, including Romania, was pretty seriously impacted given the fact that they lack the economic potential to host even temporarily the migrant flows.²¹

Out of the data and briefings obtained from the parties involved in the fight against illegal migration, with respect to the ways for the migrants to enter and exit Romania, the main routes taken by the migration flows were configured.

1. The classic route by using the Southern border, Turkey (the Eastern-Southern area, the Eastern area, the area populated by Kurdish, Iraq, Bulgaria, Romania-Hungary).

This route is targeted specifically by Turkish, Iraqis and Syrians and it presents two operational methods: one consists of the fraudulent crossing of the green border or hidden in transportation means; and the second one consists of entering Romania with a legal visa and illegally leaving the country.

¹⁷ See <http://www.politiadefrontiera.ro>. (Accessed on 15 January 2017). See “New Immigrant Destinations in Global Context”, *International Migration Review* 48(S1):149–179 (2014).

¹⁸ See Hugo, G., “Migration, Development and Environment,” in *Migration Research Series*, No. 35. International Organization for Migration, Geneva. Available from http://publications.iom.int/bookstore/free/MRS_35.pdf (Accessed on 15 January 2017).

¹⁹ See Alexandru Cătălin Văleanu, “Migration in the context of Romania's accession to the E.U.” in *The Borders Magazine*, No. 11/2009, 21-26.

²⁰ See Amalia Constantinescu, Corina Chirvasiu, Simona Stanca, Stancu Pârlea, Nicoleta Cusmir: “*The evolution of crime in the current social-economic context*”, the Institute for Prevention and Psychology, Bucharest, 2009.

²¹ See The report of OCTA on the evaluation upon organized crime in the E.U., 2010. *Practice to Policy. Lessons from Local Leadership on Immigrant Integration*. Maytree Foundation, Toronto. Available from <http://citiesofmigration.ca/wp-content/uploads/2012/03/Practice-to-Policy.pdf>. (Accessed on 25 January 2017).

2. The route through the Eastern border with Ukraine, Moldavia, Romania and Hungary.

This route is used by Moldavian and Ukrainian citizens with legal documents for entering and leaving Romania; false documents being used outside the Romanian territory.

3. The route on the sea, used by Arab origin migrants, coming from Syria, Afghanistan, Iraq, Iran, on improvised boats, leaving from the ports of Turkey, crossing the territorial waters of Bulgaria and reaching Romania through Mangalia or Constanța.

As an operation way, they hire boat drivers and guides who they pay with amounts between 500 and 1000 €.

Once they reach in Romania, they request asylum, and after obtaining temporary residence, they try to escape from the reception centers and to illegally cross the borders through Hungary.²²

In order to have an image on human trafficking and the migration phenomenon at the level of our country, as well as the recrudescence of cross-border crime, we hereby present to you in brief: the evaluation of the border police activity for the year of 2013.

In the last years, the Romanian Border Police has targeted the accomplishment of the tasks given to it by the national legislation enforced, both with respect to the optimization of monitoring and control at borders and with respect to efficiently fighting cross-border crime.

In the development of specific activities, the Romanian Border Police has targeted the following objectives:

- High-level ensuring of the monitoring and control upon crossing the state border, according to the European standards and procedures.
- Effectively using human, material and financial resources allocated to the institution.
- Developing to the inter-institutional cooperation both at internal and international level.
- Finalizing the integration of the Integrated Border Security System,²³
- Applying an effective quality management system at institutional level.

Performance indicators achieved:

- The traffic values recorded at the control points checking the crossing of the border reached 38495000 crossings of persons and 11282000 transport means.
- Increase by 6% of the illegal acts identified by the border police in the areas of competence.

- Most of the illegal actions were in the field of illegal migration.
- 2049 persons were identified crossing illegally the state borders, and out of these persons, 1517 foreigners were involved in the migration phenomenon. Out of these persons, 822 were organized in groups, discovering in total 250 groups of migrants and 190 migrant traffickers.

Also, 9 groups were organized for the purpose of committing traffic with migrants and 34 traffickers and 79 trafficked persons were detained.

²² The evaluation of the activities performed by the Romanian Border Police - M. A. I. in the year of 2013. Attitudes to Migrants, Communication and Local Leadership (AMICALL). Final Transnational Report. COMPAS, Oxford. Available from www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/Amicall_Report_ENG_v3_single_WEB_READY.pdf, (Accessed on 15 January 2017).

²³ The Order of the M.A.I. 154/2013 on the integrated system for the security of Romania's state border, published in the Official Gazette on the 1st of December 2013, No. 707/2013. *Internal Migration Data around the World: Assessing Contemporary Practice*. Population Space Place, published online in Wiley Online Library, www.wileyonlinelibrary.com, DOI: 10.1002/psp.1848, Vol. 21.(1).

- 139 guides were identified - 59 Romanians and 71 foreigners, and of the total of the trafficked persons, over 200 persons coming from countries producing migrants submitted requests for receiving the asylum status.

Significant cases

- At the Black Sea, several groups of migrants were identified, the 120 Syrian citizens being even in need of assistance and first aid from the border policemen, considering the boats used by the traffickers.

- The Romanian border policemen who were on the ship "Ștefan cel Mare" of the Romanian Border Police obtained remarkable results, appreciated by the European colleagues, within the joint operations at sea, whereas 1042 illegal migrants, 34 facilitators were detained, as well as the mother company involved in the transport of hundred of illegal migrants to Italy.

Within a press conference, the Italian authorities stated that this is the first case where a mother ship was detained in international waters and they congratulated on this occasion the Romanian border policemen for their important contribution brought for collecting the evidence needed which prove their involvement into the clandestine migrants' transfer.

- Romania, by its Border police was given the Presidency of the Cooperation Forum at the Black Sea, a body formed of the Border Authorities and the Coast Guards of the countries neighboring the Black Sea, which establish joint measures for the prevention and fighting of crime in this area.

Current and future challenges:

- The civil war in Syria is liable to have a considerable impact²⁴ on the internal security of the E.U. Thousands of Arab citizens coming from the conflict area take the road of migration, forcing the Balkans corridor in the areas of Turkey, Bulgaria, Romania, Serbia and from here, to Hungary.

- The large number of illegal immigrants in the countries where terrorist groups are active: Iraq, Afghanistan, Pakistan, draw the attention upon a potential terrorist engagement in the E.U. area.

- Organized crime networks in Turkey will take advantage of new opportunities for supplying illegal immigrants at sea, respectively at the Black Sea.

- Romania's and Bulgaria's accession to the Schengen area will widen very much the green and the blue border at the East of the E.U. and they will head the attention of illegal immigrants to the Seashore of the Black Sea and to the area of Bulgaria.

- The social and political unrest in the North of Africa must also be taken into consideration, since due to this unrest; organized crime groups facilitate migrant flows by crossing the Mediterranean Sea to the shores of Italy.

CONCLUSIONS

The illegal traffic of migrants is a crime which not only threatens national security but also threatens European and global security.

As a direct consequence of globalization, poverty and armed conflicts, the phenomenon of migration flows knows an unprecedented amplification at international level.²⁵

²⁴ See Flavius Cristian Marceau, „Undemocratic regimes”, in Annals of „Constantin Brâncuși” University of Târgu Jiu, Letter and Social Science Series, Issue 2/2014

²⁵ See Duță Paul, „The African routes of economic migration” in *International Scientific Conference Strategies XXI*, Volume I, 2016 “Carol I” National Defense University, Romania, pp.120-133.

For the purpose of preventing and fighting illegal migrant trafficking, a cooperation of all the states involved is mandatory (supplier state, transit state, destination state).

Such cooperation must take place at all levels, both in legislative aspects and at institutional level, by developing a joint strategy and joint anti-traffic policies, as well as in the field of assistance and repatriation of migrants.²⁶

A very important aspect for the management of illegal migration is to guarantee international rights in the field of human rights in general and to guarantee the right to request asylum specifically.

²⁶ See Mărcău Flavius Cristian, Ina Raluca Tomescu, "Coordinates of NATO – EU cooperation", in proceedings *Strategic changes in Security and International Relations*, 2014, 258-265.

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