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## **REPORT<sup>1\*</sup>**

### **MIGRATION IN THE BSEC MEMBER STATES: LEGAL ASPECTS**

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## I. INTRODUCTION

Since its establishment, the Parliamentary Assembly of the Organisation of the Black Sea Economic Cooperation has addressed the issues concerning setting up of sound legal framework for development of economic cooperation in the Black Sea region and, consequently, from the very first meetings, focused on the important aspects of migration. The Assembly came up with the Reports and Recommendations\* on improvement of legislative framework in the Black Sea region in the related fields of cooperation.

In its turn, the Organisation of the Black Sea Economic Cooperation devoted the substantial part of its work to the topical issues of cooperation in the field of migration through its working groups and specialized meetings. It is noteworthy to mention, that the documents of the BSEC Summits and the initiatives elaborated at the meetings of the BSEC Ministers of Internal Affairs significantly boosted cooperation among the law-enforcement and migration authorities in the Black Sea region.

Given the growing topicality of migration issue the Legal and Political Affairs Committee at its Thirty Second Meeting in Belgrade on 8 October 2008 took the decision to examine the legal aspects of this rather complex phenomenon.

In this respect, the Thirty Third Meeting of the Committee in Manisa on 29-30 April 2009 is dedicated to “Migration in the BSEC Member States: Legal Aspects” with a view to elaborate the Report and the Recommendation for further submission to the consideration of the Thirty Third Plenary Session of the General Assembly in Bucharest in June 2009. It is noteworthy to mention that parallel to the discussions in the Legal and Political Affairs Committee, social aspects of migration in the BSEC member states are assessed in the framework of the PABSEC Cultural, Educational and Social Affairs Committee.

The present report has benefited from the contribution by the national delegations of Armenia, Azerbaijan, Georgia, Greece, Russia and Turkey. The necessary additional reference material has been obtained by the PABSEC International Secretariat through the related internet resources and publications.

The report reviews the relevant legislation and legal practice pertaining to migration, the degree of consistency of migration legislation between the countries with a view to identifying differences and assessing the potential for common approach. It examines the incorporation of relevant international standards into national law and practice and outlines future priorities. It also traces the challenges in the

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\* Report and Recommendation 7/1994 on Visa Facilities between the PABSEC Member Countries; Report and Recommendation 15/1996 on Cooperation among the PABSEC Member Countries in Combating Organised Crime; Report and Recommendation 17/1996 on Basic Principles of the Black Sea Convention on Combating Organised Crime and Terrorism; Reports and Recommendation 1/1994 and Recommendation 20/1997 on the Improvement of Customs Regulations among the BSEC Member Countries; Report and Recommendation 21/1997 on Rights and Social Protection of Refugees and Displaced Persons in the Black Sea Region; Report and Recommendation 35/1999 on Legal Framework on Combating Trafficking in People; Report and Recommendation 43/2000 on Legislative Framework for Cooperation among the Law-Enforcing, Customs and Immigration Authorities; Report and Recommendation 51/2001 on Legal Framework of the Protection of Migrant Workers in the Black Sea Countries; Report and Recommendation 59/2002 on Economic Integration in the BSEC Region: Current State and Future Prospects; Report and Recommendation 73/2003 on the Black Sea region within the context of the Enlargement of the European Union; Report and Recommendation 78/2004 on Facilitating the Movement of People and Goods Across Borders; Report and Recommendation 102/2008 on Role of the Parliaments of the BSEC Member States in Fighting International Terrorism.

light of new vision of global response to the problems encountered in this area and focuses on the necessity of sustained national and dynamic regional and international cooperation.

## II. MIGRATION IN THE BSEC MEMBER STATES: LEGAL ASPECTS

1. Migration is a multifaceted and complex issue touching every country around the world. People move voluntarily or involuntarily from country to country or from rural to urban areas, from villages and small cities to bigger cities within countries due to certain economic, social and political reasons. While many of the usual motivations for migration remain widening disparities in income, low education and life opportunities, environmental degradation, political upheaval, armed conflicts and human rights abuse – the paramount reason for migration, be it internal or international, is coping with unemployment and other economic hardships of transition.
2. Migration trends in the Black Sea region reflect both the political and economic developments within the region and its growing integration with the rest of Europe. Its location at the crossing of continents presents some formidable migration challenges. In many countries of the region, internal migration turns to be far more important in terms of numbers of people involved. This is especially true of countries with marked internal regional inequalities, uneven development, existing conflicts or civil unrests and political instabilities.
3. Migration to wealthier countries and possible return of migrants to their countries of origin, can offer good opportunities for advancing welfare and income in both countries of origin and destination. Remittances also serve as largest source of foreign exchange for local populations and became a crucial component of national economies. Financial remittances as well as many other mechanisms for expatriates to reside abroad and remain actively involved in the economic, cultural, social and political life of their countries of origin create powerful tools for development.
4. Migrant inflows and outflows influence and change social, economic and political dynamics in the countries of destination, transit and origin. Migration inevitably poses serious and complex challenges to the countries including protection of migrants' rights, migration management, combating trafficking in human beings, irregular migration, displaced persons, etc., which require careful government involvement. When badly managed, migration can have negative consequences for both the countries and the migrants themselves.
5. Trafficking in human beings continues to be a serious challenge for the countries in the region. As trafficking patterns and methods continuously evolve and adapt to changing legislative environment and law enforcement efforts, the counter-trafficking response needs a similar adjustment. Targeted capacity-building initiatives for key actors in the fight against trafficking can enhance policymaking and improve the effectiveness of adequate law-enforcement efforts.
6. Migration often creates a new dialogue among civilizations as migrants themselves become the building blocks of bridges connecting different cultures and societies. Migration can become a stimulus and a support for growth and development but the changes it triggers can also become a disruptive factor and put social cohesion at risk. However, as the countries stabilize and prospects of EU integration increase, social and economic transformation urges governments to focus on development programmes.
7. Migration processes increased as globalization and regional integration generated easier communication and more liberal migration policies. More people today are moving temporarily but return to their countries of origin. Study abroad expands at a rapid pace increasingly opening ways

into longer term skilled migration categories. With increased temporary migration, particularly of highly skilled individuals, voluntary return has become a major feature of migration in recent years, yet, depending largely on economic opportunities and job creation in home states.

8. The situation as regard to migration varies in different countries and the opinion of different countries on the issues of migration is also varying. Effective management of migration issues requires careful analysis of the current realities based on a deep understanding of the situation with migration management at large and national interests in particular. Migration is increasingly being acknowledged as an issue that needs a global approach and coordinated responses. Migration is nowadays discussed at bilateral, regional and global arenas.
9. Migration laws, institutional structures and procedures have been tightened lately as part of the broader security measures in the framework of fighting international terrorism. The restrictive migration regimes along with increasingly open flow of goods, capital and foreign investments cause the surge in irregular and clandestine migration. The region represents a source and transit area for both regular and irregular migration.
10. Migration practice and legislation existing in the BSEC countries are also different. There are many gaps in the legislations failing to provide adequate national or international legislative framework. The most of the countries have similar migration laws and practice based on international norms and standards but lack adequate institutional framework to pursue efficient migration policies and strategies.
11. Countries share a number of general and region-specific migration challenges. Displacement issues in the context of unresolved conflicts are rather painful issue on national migration agendas. At the same time, labour migration is increasingly coming to predominance within the national agendas and efforts are undertaken to provide capacity building to tackle the problems.
12. The national parliaments of the Black Sea countries place particular importance upon the review, update and modernisation of existing legal instruments and establishment of proper legislative framework compatible to the international standards meeting the challenges in migration sphere. The PABSEC has repeatedly recommended to join efforts at national and regional levels to promote cooperation and to implement adequate combating measures against organised crime and trafficking also in migration sphere.

### *National level*

13. The policy framework for migration management in **Albania** is outlined first of all in the Action Plan for the Implementation of Association and Stabilization Agreement, posing a very ambitious challenge for political, administrative and economic reform. The Albanian government has set priorities for the period 2006-2009 including the need to improve administrative and financial capacities to enact legislation on migration and asylum, in particular for the implementation of the national strategies and corresponding action plans. Challenges also lay ahead as regards improvement of legislation and standards to meet the EU acquis in the field of migration. The National Strategy on Migration and the corresponding National Action Plan on Migration have been developed in 2004-2005 with assistance from the European Commission and the International Organisation for Migration. The aim of the Strategy is to provide Albania with a more comprehensive policy on migration to combat irregular migration flows. The Action Plan: envisages protection of the rights of Albanian emigrants abroad, the improvement of consular services by Albanian embassies and consulates and supporting of the Albanian communities abroad. The

Institute of Diaspora was established within the Ministry of Foreign Affairs and tasked with the responsibility to conceptualise and coordinate policies for emigration, immigration and diasporas. Albania has readmission agreements including also with the EU. The issues migrants are specified in the National Strategy for the Fight against Trafficking, the draft National Strategy for the Fight against Child Trafficking, the National Strategy on Employment and Vocational Training, and their action plans. The Law on Foreigners includes the provisions on the pre-screening and handling of irregular migrants in the territory of Albania as well as the provisions of detention and removal in case of irregularity.

14. The legislation **in Armenia** governing migration is not unified under one legal act. The various aspects of migration are governed by a series of laws and governmental decisions. The Law on Foreigners covers entry, stay and residency of foreigners in the Republic of Armenia, their transit and exit, as well as other issues connected with foreigners. The Law also covers the peculiarities of labour-related issues of foreigners in Armenia. The Concept Paper on State Regulation of Population Migration, adopted in June 2004 includes such priorities as ensuring manageability of migration to and from Armenia, improving and harmonizing the management of borders with international standards; state protection of the rights and lawful interests of labour emigrants; preventing irregular migration and supporting voluntary return and reintegration of Armenian migrants abroad; maintaining and developing relations with the Diaspora communities, developing and implementing measures to encourage repatriation. Consistent government policies based on these factors can significantly improve the migration processes. The government, supported by various international organizations, is putting more effort into combating trafficking especially through increased attention to border management.
15. The main objectives of the migration policy in **Azerbaijan** are to provide national security, sustainable social, economic and demographic development of the Republic of Azerbaijan; to use effectively the labor resources; to settle population rationally on the territory of the Republic; to resolve the conflict between Armenia and Azerbaijan; to ensure safe and dignified return of refugees and displaced persons to their places of permanent residence; to apply intellectual and labor capacities of migrants; to eliminate negative impacts of irregular migration; to prevent illegal migration including trafficking in persons; to study the reasons of mass migration and elaborate of timely comprehensive prevention measures. In order to achieve the outlined objectives in 2004 the Migration Policy Concept was elaborated and submitted to the Cabinet of Ministers. In addition, with the aim to implement the State Migration Policy of the Republic of Azerbaijan and to improve migration related legislation in conformity with the international norms and contemporary requirements; to prevent deficiencies and misuse in law enforcement; to provide national security, sustainable social, economic and demographic development of the Republic of Azerbaijan; to use effectively the labor resources; to settle population rationally on the territory of the Republic; to apply intellectual and labor capacities of migrants; to eliminate negative impacts of irregular migration; to prevent illegal migration; the State Programme of the Republic of Azerbaijan on Migration Issues (for 2006-2008) was adopted in 2006. In the framework of this Programme, in 2007 the President of the Republic of Azerbaijan established the State Migration Service and approved its Statute. The State Migration Service of the Republic of Azerbaijan has enhanced the work towards improvement of legislation in the sphere of migration, including preparation and submission to the Cabinet of Ministers drafts of Migration Code of the Republic of Azerbaijan and Strategy of Readmission of the Republic of Azerbaijan. At the same time, several amendments and

additions were submitted to the existing legislative acts in migration sphere, drafts of 6 regulations on migration processes were submitted to the Cabinet of Ministers.

16. The migration policy of **Bulgaria** is based on the international commitments and agreements in the field and complies with the EU law. The government undertakes more systematic steps for developing a consistent policy in the field of migration, including development of strategic documents and action plans related to migration issues. The aim of the elaborated policy is to reduce and stabilise the emigration flows and to stimulate immigration as a possible decision for bettering demographic balance and increasing labour supply. The core of the emigration policy is to prevent young people from future emigration. The particular measures and tasks for decreasing the number of emigrating young people includes: promoting employment and reducing unemployment among young people; improving working conditions, remuneration and quality of employment; ensuring equal access to quality education; relief in crediting for the purchase of housing, furnishing and improving dwelling conditions; creating conditions for overcoming poverty and social isolation among disadvantages youngsters; stimulating family formation, child rising and upbringing; elaborating relevant policy for encouraging the return of young people, who have graduated from universities abroad as well as employers to hire such people to work. The National Emigration and Immigration Strategy of the Republic of Bulgaria of 2008 underlines the need for: (a) intensive public debates about the socio-economic role of the immigration; (b) developing immigration policy that stimulates Bulgarians living abroad to settle in the country; (c) improving the existing legislation so as to unify the legal norms concerning immigration problems; (d) further developing the information system for immigrants and creating an administrative register of immigrants in the country; (e) spreading knowledge among the population about manners, customs, traditions and culture of immigrants by conducting information campaigns; (f) regulating the procedures for granting legal recognition of the education and professional qualification of the immigrants, etc. The core in the immigration policy is the focus on ethnic Bulgarians living abroad. There are four main directions of actions, namely: (a) facilitating the procedures for obtaining Bulgarian citizenship; (b) providing scholarships for children of ethnic Bulgarian origin from other countries, wishing to stay in Bulgaria; (c) activating and expanding the spheres of cooperation with Bulgarian emigrants abroad; and (d) elaborating a policy for attracting ethnic Bulgarians to settle in the country and to encourage their entrepreneurship in Bulgaria. The legal framework includes a number of documents - Bulgarian Citizenship Act, Civil Registration Act, Employment Promotion Act, Regulation on the procedure for providing mediator services to foreign employers, Mutual Employment Agreements with other countries, etc.
17. Migration is important component of the internal and external policy in **Georgia**. The government faces several issues which hold implications for the management of migration flows across Georgia's international borders and the stay of foreigners in the country. For elaboration of effective migration policy it is necessary to take due regard to the historical, social, economic and political aspects of the countries development process. The Georgian government elaborates mechanisms of migration policy meeting the challenges of the modern times. The national policy in this sphere has to take due regard to state development, overall social and economic situation, security and international relations. As an additional migration challenge, Georgia will in the near future deal with the repatriation and integration of members of the deported Meskhetian population. The Georgian government develops Migration Action Plan, aiming at implementing the recommendations concerning migration issues stipulated in the European Neighbourhood Policy Action Plan based on a sound migration and border management policy. The existing legislation of

Georgia governing migration issues consists of a number of laws, regulations and instructions stipulating the rights of nationals, foreign nationals and stateless persons and regulating the issues of entry, stay, return, and irregular migration. The legal framework includes a number of documents – Law on Citizenship, Law on Emigration, Law on Immigration, Law on Inspection of Migrants, Law on Legal Status of Foreigners, etc.

18. **Greece** became recipient of massive migration from the neighbouring countries following the collapse of soviet regimes in the Central and Eastern Europe. The Greek government introduced necessary legal and institutional changes for the regularization and integration of this population. The first comprehensive migration law was voted in 2001 with two main aims; a mid term management of the phenomenon (including border control, issue and renewal of stay and work permits, as well as matters of naturalization of foreign residents) and implementing a new regularisation programme. In 2005 a new law was approved in the Parliament which simplified the issue and renewal of stay permits (work permits were abolished) and introduced a third regularisation programme (with approximately 200,000 applicants, although the percentage of successful applications has not been disclosed by the authorities). The new law provided for the incorporation of the European directives on family reunification and the status of long-term residents into the national legislation. Finally, since the law was still subject to significant shortcomings related to the overall processing of applications for new entries or for the renewal of expiring permits, an amendment was approved in February 2007 with a view to simplifying procedures. The legal framework includes Law on Entry, residence and integration of third-country nationals in the Greek Territory; Law on ratification of the Code of Greek Citizenship; Law on Entry and stay of aliens in Greek Territory. The main irregular migration route from Asia to Europe passes through Turkey into Greece, crossing the narrow straits that divide mainland Turkey from several of the Greek islands of the Aegean. Border control operations such as those undertaken jointly with other EU member states and FRONTEX have not been particularly successful considering the number of apprehensions during such operations in relation to the resources employed.
19. The government of **Moldova** is trying to improve migration management through enhancing the development impact of migration, ensuring protection of migrants' rights and combating trafficking in human beings. The legal and regulatory framework for migration is today represented by Migration Policy Concept, Law on Migration, Law on Citizenship, Law on Exit and Entry into Moldova, Law on Legal Status of Foreign Citizens and Stateless Persons in Moldova, Law on Refugees Status and Law on preventing and Counteracting Human Trafficking. The Law on Migration regulates migration processes, ensures observance of rights and legal interests of migrants, provides social security of migrants, promotes national security, security of state borders and observance of interests of the state under the conditions of developing migration processes, controls migration, prevents illegal migration and trafficking in human beings. The Migration Policy Concept states principles, main goals, and priority development directions, ways and means of implementing the migration policy, the need for and procedure of creating an automated migration control system. The migration control system is a component of the migration policy, it provides for the creation of a single informational network and the migration flow database. The migration policy implementation includes the work of central and local public administration authorities in developing and improving the legal framework regulation migration, establishing a legal framework that would define the fundamental rights and duties of the State and of the migrant, bringing local legislation in conformity with international standards, protecting migrants'

rights according to the international law provisions, joining international treaties and organizations operating in the field of migration and migrant social security, developing partnerships with member countries, increasing the liability of central and local public administration bodies, judiciary bodies, NGO's, individuals and legal entities, and other organizations and institutions, irrespective of ownership, in order to fight illegal migration, developing and improving the structure of State administration bodies dealing with migration and ensuring the coordination of their activities, creating the national informational data register comprising information on migrants and implementing an automated migrant record keeping and control system at the border, developing programs on carrying out the migration policy. Regulatory base regarding migration management implies Program of Government Actions for 2005-2009 "Country Modernization – People Well-Being", National Plan for Migration and Refugee Measures, National Plan for Preventing and Counteracting Human Trafficking for 2008-2009, Program of Measures to Support Native Moldovans Living Abroad for 2006-2009, etc.

20. After the EU membership **Romania** attracts increased immigration and its geographical location implies the responsibility of managing the EU eastern border. The government has developed a new migration strategy for 2007-2010 following the priorities of The Hague Programme of the European Union. The strategy emphasizes the need for an effective migration management and sets objectives for three main migration areas: 1) controlled migration; 2) prevention of, and fighting, irregular migration; and 3) asylum and social integration. The new elements brought by this Strategy is admission of foreigners based on the need Romania has on her own labour market; encouragement of the admission of foreigners who want to develop certain private businesses in Romania; implementation of an articulate and efficient system to select those aliens who comes in for education purposes; decrease of the illegal immigration; enhance the international cooperation aiming to control the illegal immigration; enhance the cooperation in the field of returning together with other EU countries the illegal immigrants in their countries of origin. Under this Strategy, the Romanian Government also intends to abide by international standards adhered to through the treaties and conventions to which Romania is part. In the area of migration policy the Romanian legislative framework is aligned on the European acquis. A Government Decision on Refugee Integration was adopted in November 2001. In 2002 legislation was adopted establishing a procedure for reuniting refugees with their family members. A database to record refugees' country of origin became operational in 2003, and it was used in the procedure for determining refugee status. In 2005 Romania formally adopted a Plan for implementing EURODAC. Romania has concluded and ratified 30 readmission agreements. The Aliens Act contains provisions on entry and residence and rules governing expulsion. The Prevention and Combating of Trafficking in Human Beings Act and an Action Plan for Combating Trafficking in Human Beings were adopted in 2001. A Programme aimed at Preventing and Combating Trafficking in Children was also launched at the end of 2003 by the Romanian Police Institute for Crime Prevention and Research. In July 2002 Romania and Bulgaria signed a protocol designed to combat cross-border organised crime more efficiently.
21. **Russia** has become major destination centre for mass entry and transit of migrants. The major task under consideration in Russia is how to organize a civilized migration flow with a view to ensure its positive impact upon economic and demographic situation. The legislative control over the issues related to labour migration has been improved with a view to engage legal foreign workers. Laws have been enacted and procedures have been simplified in the sphere related to stay and work of foreign nationals. The philosophy of these laws fully complies with the international obligations

of the Russian Federation including those of protection of personal information. The experience of a number of European states has been taken into account in the process of improvement of relevant legislation directed towards prevention of use of illegal migrant workers, which envisages large penalty scales imposed upon the employers who hire illegal migrants. The Russian Federation's new migration legislation came into force on 15 January 2007, providing for a simplified procedure of foreign nationals' registration and work permit issuance. At the same time, measures against irregular migrants were enhanced. In 2007, a Memorandum of Understanding was signed between IOM and the Federal Migration Service of Russia (FMS). Seeking to encourage Russo-ponic former Soviet citizens to resettle officially to Russia, in August 2007 the government launched implementation of an assisted voluntary resettlement programme. In this context, emerging issues at the top of the government's agenda are enhancing systems of return management both from and to Russia, development of mechanisms and fostering reintegration schemes to support the return of Russians and compatriots from abroad.

22. Law on Foreign Nationals governs immigration provisions in **Serbia** and regulates entrance criteria, movement and residence of foreign nationals within the Serbia. Agreements on visa facilitation and readmission with the EU were signed. Serbia is also taking the necessary steps to strengthen its borders, to align its legislation to EU standards and to fight organized crime and corruption. With the growing importance of migration as a matter of policy at the global level, with the prospect of formalized labour migration schemes through mobility packages elaboration of migration policy for the country is facilitated by IOM.
23. **Turkey** has always been transit and destination country as well as source country of migrants. The legal provisions regulating migration are stipulated in the Passport Law No 5682, Settlement Law No 5543, Law No 5683 on Residence and Travel of Foreign Nationals, Citizenship Law No 403, Law No 4817 on Work Permits for Foreign Nationals, No 5237 Turkish Penal Code. Responsibilities of Turkey as the EU candidate state in migration field have been set out in the Accession Partnership for Turkey. The work on harmonization with the EU acquis in the spheres of migration, asylum and border control has been undertaken in the framework of National Harmonization Programs of Turkey with the EU Acquis of 2003 and 2008 approved by the Council of Ministers of Turkey and sent to the EU Commission. The Task Force for Asylum and Migration has elaborated the National Action Plan of Turkey on Asylum and Migration, which was endorsed by the Prime Minister on 25 March 2005. The Action Plan elaborated by the Ministry of Interior on the basis of the EU acquis and regulations includes: establishment of an expert unit on the issues of asylum and migration, Introduction of necessary legislative changes, in the framework of the EU accession process, for harmonization of the national legislation with regard to asylum, migration and foreign nationals with the EU acquis, necessary measures and investment projects for improving administrative capacity and infrastructure. The Action Plan to Implement Turkey's Integrated Border Management Strategy was endorsed by the Prime Minister on 25 March 2005. The Action Plan elaborated by the Ministry of Interior on the basis of the EU acquis and regulations includes: fight against illegal migration and trafficking on the land and sea border gates, security at the border checkpoints, entry and exit of passengers, passport control and prevention of forgery, deportation, establishment of single and centralized institution for border management and fulfillment of the legislative, administrative and infrastructural needs for developing its operational capacity. Directorate for implementation of asylum and migration legislation and strengthening administrative capacity was established under the Undersecretariat of Ministry of Interior in 2008 with the aim to facilitate the EU twining projects and necessary legislative and capacity building

work in the sphere of asylum and migration. Directorate for implementation and strengthening of border management legislation and administrative capacity was established under the Undersecretariat of Ministry of Interior in 2008 with the aim to facilitate the EU twinning projects and necessary legislative and capacity building work in the sphere of border management. Procedures and the principles for work permits issued for foreign nationals is determined by “Law on Work Permits for Foreigners” No 4817 of 27 February 2003. Implementation Regulation of the Law came into force as of 6 September 2003. The Law No 4817 centralized the work permits as much as possible and the Ministry of Labour and Social Security is primarily authorized to grant work permits to foreigners in Turkey. With this arrangement the aim was to establish a healthy data base and regular monitoring process on foreigners working in Turkey as well as to prevent both unfair competition unemployment and to combat informal economy and employment of unlawful workers in the labour market.

24. **Ukraine** is a country of transit migration, of emigration, and receiving country for migrants from many parts of the world. Efficient management of migration processes requires thorough analyses of the present situation with due regard to the national interests and the interests of other countries reflected in the international instruments. In this respect, Ukraine had signed relevant European conventions aiming at regulation of migration process, rendering assistance to refugees, and protection of children’s rights. The legislative framework of Ukraine in the field of migration policy includes the laws on migration, on refugees, on Ukrainian citizenship, on legal status of foreign nationals, on state border service of Ukraine. The results of the analyses of the migration situation in Ukraine prove that at present Ukraine substantially loses due to these processes. National labour migrants fill in the labour vacancies in the countries that recently joined the European Union; they are intensively invited to work in Poland, Czech Republic, Hungary, since the qualified work force from these countries has migrated to economically more developed states throughout the world. As a result of recent polls majority of Ukrainian migrants originate from villages and small towns from the western part of Ukraine. They are in their most productive age (18-50 years), have good professional training but work at less skilled jobs with rather low wages according to the western parameters. At present, it is difficult for Ukraine to compensate drain of qualified work force and as a result of these processes there are substantial shortage of qualified workers in the spheres of industry and agriculture. It is obvious that this shortage cannot be remedied by the incoming migrants from the Asian and CIS countries who often do not have adequate qualification. The responsibilities for solution of domestic migration in Ukraine, coordination of actions related to combat against illegal migration as well as enforcement of laws regarding refugees are vested with the State Department for Citizenship, Migration and Registration of Natural Persons under the Ministry of Interior of Ukraine. Upon the initiative of the Department only in 2008 in the framework of measures against illegal migration were detained about 15 thousand illegal migrants, 130 criminal cases were investigated for illegal transfer of persons through the state border. At the same time, 96,4 % of the total number of revealed illegal migrants were deported from the country. One of the migration issues in Ukraine is concentration of illegal migrants in border regions and as a rule these are the people who due to certain reasons could not penetrate into the states of the European Union. In order to solve the problem of temporary stay of illegal migrants detained on the territory of Ukraine two points of temporary shelter with the capacity of 420 persons became effective last year for foreigners and persons without citizenship who illegally stay on the territory of Ukraine. These points of shelter cannot fully solve the problem of accommodation of illegal migrants and, consequently, decision was taken to launch a network of such shelters. In this respect, it is suggested to deeper cooperation with the European Commission

in the framework of the international project for rendering assistance in the issues regarding readmission. At present, Ukraine has signed 19 bilateral agreements for receipt and transfer of persons, 6 of them are with the states with which Ukraine has land border. Migration issues have been discussed during the sessions of the National Security and Defence Council of Ukraine in June 2007 and November 2008. The decisions adopted during these meetings are directed towards optimization of state management system in migration sphere, namely: solution of the problems on setting up of a central executive body on migration issues; elaboration of Concept for state migration policy, introduction of necessary changes in the relevant laws regulating all aspects of stay of foreign citizens on the territory of Ukraine; setting up of a common data base on foreigners having right to enter the state, to work in Ukraine, etc.; elaboration of programme of voluntary return of persons illegally staying on the territory of the state and non-application of punitive sanctions in case of participation in such programmes. Given the level of threat posed by the uncontrolled migration processes and aiming at preservation of labour potential of the state as well as to strengthen fight against illegal migration and human trafficking, Ukraine plans at the international level to: speed up signing of bilateral readmission agreements with the states that are used as transit states for labour migrants; speed up the process of demarcation of state border with Belarus and Russian Federation, its modernization and technical re-equipment; continue effective international cooperation with all states interested in legitimate solutions to the migration problems.

25. Migration trends and policies in individual states show that although confront by similar problems different states practice different migration policies and legal frameworks. Not all the BSEC states have developed comprehensive legislative framework regulating migration. National laws do not address comprehensively different aspects of migration and the issues like visas, entry and residency, citizenship, refugees, asylum, domestic and foreign labour migration are governed by separate laws or government decisions. Many procedures and administrative processes need to become clearer.
26. Although the success of national efforts depends decisively on the policies undertaken within the national borders, bilateral cooperation also plays important role. Through the exchange of information, experience and expertise as well as assistance in handling migration problem the countries can more effectively deal with this phenomenon. The BSEC member states already have bilateral agreements on many topical issues in migration sphere but still there is a need for some countries to come up with the initiatives. For example, Albania has bilateral labour agreements on seasonal employment with Greece, and the readmission agreements with Bulgaria and Romania. Armenia has signed bilateral agreements with the Russian Federation, Georgia, Ukraine on social protection of the citizens working in the territories of these respective countries. Armenia also has the Agreement with Russia on reciprocal visa-free travel of citizens of the Russian Federation and citizens of the Republic of Armenia. Romania has signed bilateral agreements with Albania and Armenia in migration sphere. Turkey has readmission agreements with Greece, Romania and Ukraine. Similar agreements are concluded between some BSEC states.
27. Migration is a common policy issue for all the states in the Black Sea region, which is an origin, transit and destination region for migration. It faces significant challenges in dealing with migration issues. In this context, better migration management requires more concrete cooperation within the region. With this aim and in order to enhance closer cooperation to address the dangers of irregular migration Black Sea Economic Cooperation Organization signed the Memorandum of Understanding with the International Organisation for Migration during the Seventh meeting of the BSEC Ministers of Interior and Public Order. This Document is designed to lay the groundwork for

concrete cooperation and maximize interaction to eliminate any unnecessary duplication between them through the exchange of information and documentation and through technical cooperation and joint action. The areas for mutual cooperation and action include regional dialogue, the provision of expert and legal advice to BSEC member states in migration-related areas, communication and cooperation on border controls, assistance to migrants wanting to return home voluntarily and countering human trafficking.

28. Given the fact that three BSEC states are the members of the European Union and taken into account the increased interaction with the European Union through the Black Sea Synergy and the Eastern Neighbourhood frameworks and other mechanisms designed for individual states, it is utmost important to attribute due regard to the developments in migration sphere within the EU. The European Pact on Immigration and Asylum was adopted in October 2008 by the European Council following its approval by the Heads of State and Government. The Pact is a political document, which contains a set of political objectives and strategic guidelines for the development of European immigration and asylum policies. The Pact commits its member states in five key areas: 1. to organise legal immigration to take account of the priorities, needs and reception capabilities determined by each member state, and to encourage integration; 2. to control illegal immigration by ensuring the return of illegal immigrants to their country of origin or a country of transit; 3. to make border controls more effective; 4. to construct a Europe of asylum; 5. to create a comprehensive partnership with countries of origin and transit to encourage synergy between migration and development. The Pact is implemented by the European Parliament, the European Council and the European Commission, as well as by the member states, as it concerns them individually. The EU has already made notable progress towards integrated immigration policies, including the adoption of a common visa policy, the harmonisation of asylum standards and the establishment of the Frontex agency in charge of external border security. The Pact stresses the need for changes to asylum policies which should lead to the creation of a common European asylum system. Such a system would be supported by an EU asylum office, to be established in 2009, and the development of a single EU asylum policy by 2012. The EU asylum office will aim to facilitate exchange of information and cooperation between national administrations in charge of processing asylum applications. The Pact attributes special importance to the organisation of legal migration and the fight against illegal immigration. The document suggests creating specialised offices to account for different situations on the most troubled land border to the east and the sea border to the south.
29. Frontex, the EU agency headquartered in Warsaw, was established in 2005 for the purpose to coordinate the operational cooperation between member states in the field of external border security. The activities of Frontex are intelligence driven and it complements and provides particular added value to the national border management systems of the Member States. To respond to requests for shared responsibility in managing borders, the European Pact on Immigration and Asylum stresses the necessity to strengthen Frontex and allocate more resources to border controls. Risk analysis originates all activities for Frontex and is given prime attention in order to increase the quality and standards of information. Frontex assesses threats and weighs consequences, it balances and prioritizes resources against risks so that it can ensure that the activities are appropriate, effective and efficient. According to the latest 2008 General Report by Frontex the most risky areas of the external EU borders in terms of illegal migration is border with Ukraine.

## *International Level*

30. The cooperation in migration sphere at multilateral format is realized in the framework of international treaties and agreements. It is important that the national legislation is brought in line with the multilateral legal instruments and commitments. Most of the conventions and agreements listed below were signed by the BSEC member states, however, in many cases the national legislations do not yet take into account all the elements stipulated in these instruments.
31. *The United Nations* – the BSEC states are parties to the basic conventions within the framework of the United Nations relevant to migration issues. These treaties are: the Universal Declaration of Human Rights; Convention relating to the Status of Refugees; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Guiding Principles on Internal Displacement; Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Crime; and the Protocol to Prevent, Suppress and Punish Trafficking in persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime.
32. *International Labour Organization* - two international conventions elaborated through ILO provide a basic essential framework for national legislation and practice on managing labour migration: Convention on Migration for Employment, providing the basis for a normative framework and Migrant Workers (Supplementary Provisions) Convention, which provides a basic framework for national legislation and practice on labour migration. These two ILO Conventions require the states to actively facilitate fair recruitment practices and transparent consultation with their social partners, reaffirm non-discrimination, establish a principle of equality of treatment between nationals and regular migrant workers in their access to social security, conditions of work, etc.
33. *Council of Europe* - the BSEC states are parties to the Council of Europe treaties among which most relevant are: European Agreement on Regulations Governing the Movement of Persons Between Member States of the Council of Europe; European Agreement on the Abolition of Visas for Refugees; European Agreement on Travel by Young Persons on Collective Passports between the Member Countries of the Council of Europe; Protocol to the European Convention on Consular Functions concerning the Protection of Refugees; European Convention on the Repatriation of Minors; European Convention on the Legal Status of Migrant Workers; Convention on the Participation of Foreigners in Public Life at Local Level; Framework Convention for the Protection of National Minorities; European Convention on the Exercise of Children's Rights; European Convention on Nationality; and Convention on Action against Trafficking in Human Beings.
34. *Commonwealth of Independent States* – the migration related agreements within the CIS framework are: the Agreement on Cooperation on Labour Migration and Social Protection of Migrant Workers, signed on April 15, 1994, and the Agreement on Cooperation between the CIS Member States in Combating Illegal Migration. This Agreement outlines the basic directions of interaction between the CIS member states in the field of combating illegal migration: migration control; registration of citizens of the third countries, persons without any citizenship and the citizens of the states parties

to this Agreement, who illegally cross the borders of the states, illegally staying on the territories of the states, as well as the individuals who are not allowed to enter the territory of one of the state; elaboration of a mechanism of deportation of illegal migrants; harmonization of national legislation of the parties as regard to penalizing illegal migrants and all those people who render assistance to illegal migration; exchange of information on illegal migration; training and education of the employees in the respective bodies of the parties dealing with the issues of combating illegal migration.

35. *International Organisation for Migration* aims to facilitate the orderly and humane management of international migration. The Organization addresses the migratory phenomenon from an integral and holistic perspective, including links to development, in order to maximize its benefits and minimize its negative effects. It focuses on the following activities, acting at the request of or in agreement with member states: to provide secure, reliable, flexible and cost-effective services for persons who require international migration assistance; to enhance the humane and orderly management of migration and the effective respect for the human rights of migrants in accordance with international law; to offer expert advice, research, technical cooperation and operational assistance to states, intergovernmental and non-governmental organizations and other stakeholders, in order to build national capacities and facilitate international, regional and bilateral cooperation on migration matters; to contribute to the economic and social development of States through research, dialogue, design and implementation of migration-related programmes aimed at maximizing migration's benefits; to support states, migrants and communities in addressing the challenges of irregular migration, including through research and analysis into root causes, sharing information and spreading best practices, as well as facilitating development-focused solutions; to promote, facilitate and support regional and global debate and dialogue on migration, including through the International Dialogue on Migration, so as to advance understanding of the opportunities and challenges it presents, the identification and development of effective policies for addressing those challenges and to identify comprehensive approaches and measures for advancing international cooperation; to undertake programmes which facilitate the voluntary return and reintegration of refugees, displaced persons, migrants and other individuals in need of international migration services, in cooperation with other relevant international organizations as appropriate, and taking into account the needs and concerns of local communities; to assist States in the development and delivery of programmes, studies and technical expertise on combating migrant smuggling and trafficking in persons, in particular women and children, in a manner consistent with international law; to support the efforts of States in the area of labour migration, in particular short term movements, and other types of circular migration. IOM has offices in all the Black Sea countries and carries out quite a number of pioneering activities. Specifically, IOM approaches the possibilities of cooperation in the Black Sea region and aims to make the Black Sea a model of international cooperation in the field of human mobility.

### ***Towards Effective Migration Regulation***

36. One of the key challenges in migration regulation concern the availability of accurate data and statistics on migration inflows and outflows that is necessary to formulate efficient policy decisions. It is important for each country to have data on foreign nationals who were granted lawful permanent residence (i.e., admitted as immigrants or became legal permanent residents), were admitted on a temporary basis (e.g., tourists, students, or workers), applied for asylum or refugee status, or were naturalized. It is equally important to have precise information on immigration law enforcement actions, including alien apprehensions, removals, and prosecutions.

37. Proper and adequate legislation is of utmost importance in dealing with migration issue. In a rapidly changing and globalised world legislative frameworks increasingly come under strain by emerging migration challenges. It is necessary to enact laws meeting the current realities with due regard to the global migration trends and national perspective in order to remove any contradictions and inconsistencies.
38. It is equally important to ensure incorporation of international normative standards into national laws with subsequent potential harmonization of national legislation with that of neighbouring countries and international and regional treaties. In this context, national parliaments have the role to play in addressing the existing legislative gaps and be more involved in meeting common concerns in the migration sphere.
39. Building capacities and improvement of institutional structures and mechanisms with specific competences in enforcing migration laws and regulations are extremely important in order to underpin migration regimes. A transparent administrative framework should be introduced with clear delineation of responsibilities for the various state agencies and departments involved in migration regulation in order to avoid overlapping of administrative responsibilities.
40. A comprehensive approach to legal migration should be devised in conformity with the capacities and possibilities of each state. Legalization and regulation of migration flows are to be sought, while also opportunities are to be created for those who leave behind. At the same time, it is important to take adequate measures to combat illegal migration and trafficking and further enhance cooperation with other countries in this sphere.

### III. CONCLUDING REMARKS

41. Migration forms an integral part of international relations and is one of the principal challenges today and in the years and decades to come. Migration, be it internal or international, forced or voluntary, attracts more public interest and stands in the centre of the agenda in many states and organisations.
42. Migration has positive and negative consequences. Organised and regulated migration offers opportunities and promotes human exchanges and growth, it is a factor towards strong sense of possibility and hope. It contributes decisively to the economic growth of those states which need migrants and plays important role in the development of countries of origin through remittances sent to the families. In this context, it is important to create a comprehensive partnership with countries of origin and transit, encouraging synergy between migration and development. Internal migration can also produce sizeable benefits, especially by alleviating large interregional differences and efficiently reallocating resources within the economy. On the other extreme, illegal migration serves as a source of tension between the states. With irregular migration continuously taking on new forms, it is important to maintain a strong stand in the fight against it and the criminal organizations facilitating it. It is also important to effectively deal with the challenges of forced migration. To this end, exchange of experience, knowledge and new innovative practices are to be encouraged.
43. It is important to address key aspects of the migration phenomenon including prevention of irregular migration through border management and combating trafficking in human beings, and, at the same time, to facilitate regular migration through economic migration and promoting the links between migration and development. Migration management and regulation is one of the main policy challenges facing the states today. With increasing migration flows, combined with

demographic problems, policy makers at national and international level are supporting development of a comprehensive approach to migration.

44. Migration authorities have to better cooperate with enforcement agencies within the states, with the counterparts in the region and at broader international level. The BSEC countries have to continue cooperation between the migration authorities within the framework of existing mechanisms and study necessity and possibilities of concluding new bilateral agreements designed to cover more specific migration problems. It is equally important to jointly support the establishment of cooperative links with appropriate BSEC bodies as well as respective European institutions and the international organizations. Strengthening cooperation with international, regional and sub-regional organisations will further pave the way towards sharing experience, better use of international resources and introducing new dimensions of cooperation as well as prevent duplications in activities.
45. The challenges of the new era of globalisation require relevant innovation, development and greater synergy between the member states in the specific areas of cooperation including migration. It is important to join efforts to imply broader regional consideration to the national and international obligations and meet the important challenges in migration sphere to enhance domestic and international security of today and tomorrow.