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Research Report

The migration phenomenon from the perspective of Romania's accession to the European Union

Pre-Accession Impact Studies II, No. 5

Provided in Cooperation with:

European Institute of Romania, Bucharest

Suggested Citation: Constantin, Daniela-Luminița; Vasile, Valentina; Preda, Diana; Nicolescu, Luminița (2004) : The migration phenomenon from the perspective of Romania's accession to the European Union, Pre-Accession Impact Studies II, No. 5, European Institute of Romania, Bucharest

This Version is available at:

<https://hdl.handle.net/10419/74618>

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APPENDICES

Appendix no. 1. The legislation and the migration phenomenon in EU

Appendix no. 1.a. The legislation regarding migration in EU

The common policy in the asylum and immigration field that is taken into account after 1999 is based on the hereunder elements:

- partnerships with the countries of origin
- a common European system in the asylum field (the common standards for a correct and efficient asylum procedure, the minimum conditions of receiving the asylum applicants, the coordination of the rules of recognition and the contents of the refugee's statute)
- the correct treatment for third party states' citizens (the citizens that live on the EU territory: rights and obligations comparable with those of the community citizens; economical, social and cultural non-discrimination; measures to prevent racism)
- the migrant flows' management (cooperation between the countries of origin and the destination countries; information campaigns regarding the legal possibilities of migration; human beings' traffic prevention; common policies regarding visas and fake documents)

The following are some of the measures taken for the administration of migrant flows within the EU: the gradual introduction of the integrated coordinated management at frontiers and illegal immigration prevention measures

1. **The gradual introduction of the borders' integrated coordinated management**

The Schengen agreements (1985, 1990 coming into force starting with 1995) represent the most important measures regarding the application of the principles regarding **borders' crossing**. Thus, by the Convention of Application of Schengen¹ agreements, the control at domestic frontiers was obliterated for all persons, regardless of nationality, but measures were taken in order to strengthen the control at external frontiers: common policies regarding visas, cooperation and information exchange between police departments and courts in member countries, at the external frontiers the citizens of the Union must simply identify themselves in order to be admitted in, while the citizens of third party countries need an admission visa for the Schengen area (if they decide so, governments can require in all these countries special admission visas) the EU candidate countries in Central Europe and Eastern Europe have also benefited by the annulment of visas, Romania having got this advantage in 2002. As a technical instrument the Schengen Information System was created (SIS), that includes and provides information regarding visa granting and the admission in the EU of certain citizens from third party countries. Only the police and the authorities that perform the control at the frontier have access to this system, thus assuring the cooperation between the borders police departments of the EU countries.

¹ The Convention for the Application of the Schengen Agreements was signed by 13 EU Member States (except for the United Kingdom and Ireland) and by Norway and Island.

2. Illegal immigration prevention measures

The fight against illegal immigration is also part of the common politics regarding immigration and asylum. For this purpose, on the basis of the plans presented in February 2002 regarding illegal immigration prevention, in November 2002 a Programme of Action for Repatriation was settled. In principle the citizens of third party countries that have not got legal statute to allow them to temporarily or permanently live on the EU territory and to whom none of the Member States is obliged to offer residence, must leave EU and return to their native countries. This can be accomplished by voluntary returns or forced returns. Both because of humanitarian reasons and financial reasons voluntary returns have priority, but when they fail, the forced returns of the illegal immigrants are used.

Appendix no. 1.b. Legislation regarding EU labour force market

Work force recruitment by UE from CEE countries for jobs that requires highly qualified work force or for jobs that are rejected by the local population, takes place based on bilateral agreements between countries. Each west European country that wishes to recruit labour force from Central and Eastern Europe establishes bilateral agreements with those countries in the region where they want to recruit from. For example, in 2000 Germany initiated “the Green Card” programme, by which it grants the residence right and the employment right in Germany for a period of up to five years for the highly qualified personnel in the IT domain. By this programme, by means of the Recruitment Central Office in Germany, the German employers choose yearly a number of 40,000 temporary employees and 3,000 employees on the basis of annual contract, from abroad (OECD, 2001). While India is the country with the most numerous beneficiaries in this programme, Central and Eastern Europe citizens form the group with the highest percentatge of 29%, in 2000-2001². By this selective migration policy, Germany encourages temporary migration for its critical domains.

France and United Kingdom have got similar programmes for IT specialists’ recruitment, while the Netherlands has got recruitment programmes including a larger variety of professions.

In a similar way, Spain and Portugal conclude bilateral agreements with Central and Eastern European countries, for nonqualified or poorly qualified labour force.

In recent years a certain number of European countries have chosen to regulate the illegal immigrants’ flows by regularization processes, by means of which foreign immigrants working on the territory of a country became legal. The regulation campaign included a total number of 1.5 million immigrants at the EU level during the last 5 years.

By these methods that facilitate temporary legal migration, a few important advantages result: labour force is assured where it is deficient; illegal migration is intimidated by offering legal alternatives and are lowered the pressures concerning the systems of asylum granting, as a part of those who are qualified as asylum applicants can temporarily emigrate based on labour contracts.

² Laczko F. (2002) New Challenges for Migration Policy in Central and Eastern Europe, IOM, ICMPD, TMC Asser Press.

Appendix no. 1.c. Legislation regarding the mutual recognition of degrees and qualifications

The main four directives that regulate the mutual recognition of degrees and qualifications are:

- Directive no. 89/48/CEE was the first one that laid the basis of the General System for the Recognition of Diplomas and Qualifications. It had in view the ensurance of higher education degrees' recognition that demonstrate the professional training of a person for at least a three year period. Starting from it the first measures were taken. It was the case of establishing a period of adaptation for those jobs for which the qualifications necessary in the country of origin differ from those in the recipient country, the introduction of skill tests in order to replace the adaptation period, the possibility to recognize the qualification on the basis of an attestation of the previous experience in the field, etc.
- Directive no. 92/51/CEE completes the General System for the Recognition Diplomas and Qualifications by taking into consideration postsecondary education and training. Through this directive there were appointed the sector directives that envisage specific professions.
- Directive 1999/42/CE regulates the qualifications' recognition for professional activities for which it is recommended to take into consideration both formal qualifications and the qualifications based on professional experience.
- Directive 2001/19/CE completes the General System through specific professional qualifications' recognition³, on the basis of acknowledging degrees that have been obtained in third party countries (countries outside of EU) and by validating the experience resulted after the degree issuance. It is also called the SLIM directive (a simplified legislation for the Domestic Market) and as a new element it brings the mandatory recognition of degrees and qualifications, compensatory measures (skill tests and adapting periods) being necessary only in exceptional cases.

³ The professions that are taken into consideration are: nurse, midwife, dental technician, veterinary surgeon, pharmacist, doctor and architect.

Appendix no. 2.a. The concordance between EU legislation and Romanian legislation regarding the free movement of persons* (chapter 2 of negotiation) with consequences on the migration phenomenon, March 2004

Chapter 2: Free movement of persons	
EUROPEAN UNION	ROMANIA
2.10.10. <i>The mutual recognition of professional qualifications</i> (3 EU measures)	
1. Directive 89/48/CEE (21 December 1988) on a general system for the recognition of higher education diploma awarded on completion of professional education and training of at least 3 years' duration	Law 31/2003 regarding the diploma and the professional certificate recognition
2. Directive 92/51/EEC (18 June 1992) on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC	Idem
2.10.20 <i>Lawyers</i> (2 EU measures)	
1. Directive 77/249/EEC (22 March 1977) to facilitate the effective exercise by lawyers of freedom to provide services	Law 51/1995 regarding the organization and pursuit of the lawyer profession OHG 938/ 20.12.2002 regarding the lawyer profession statute
2. Directive 98/5/EC (16 February 1998) Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained	Idem
2.10.30. <i>Architects</i> (3 EU measures)	
1. Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services	Law 184/2001 regarding the organization and the pursuit of the architect profession (modified in March 2003)
2.10.40 <i>Medical and paramedical activities</i> (23 EU measures)	
1. Council Directive 77/452/EEC of 27 June 1977 concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of nurses responsible for general care, including measures to facilitate the effective exercise of this right of establishment and freedom to provide services	Law no. 461/2001 regarding the practice of the profession of nurses responsible for general care amended by L. 496/2002

2. Council Directive 77/453/EEC of 27 June 1977 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of nurses responsible for general care	Idem
3. Council Directive 78/686/EEC of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services	Law no. 74/1995 relating to the profession of doctor and the establishment of the Romanian Doctors College amended by L. 495/2002
4. Council Directive 78/687/EEC of 25 July 1978 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of dental practitioners	Law regarding the practice of stomatologists, the establishment of the organization and functioning of the Stomatologist Doctors' College (on course)
5. Council Directive 78/1026/EEC of 18 December 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in veterinary medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services	Law 160/1998 regarding the practice of profession of veterinary surgeon
6. Council Directive 78/1027/EEC of 18 December 1978 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of veterinary surgeons	Idem
7. Council Directive 80/154/EEC of 21 January 1980 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in midwifery and including measures to facilitate the effective exercise of the right of establishment and freedom to provide services	Law 461/2001 amended by Law 496/2002
8. Council Directive 80/155/EEC of 21 January 1980 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action relating to the taking up and pursuit of the activities of midwives	Idem
9. Council Directive 81/1057/EEC of 14 December 1981 supplementing Directives 75/362/EEC, 77/452/EEC, 78/686/EEC and	

78/1026/EEC concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of doctors, nurses responsible for general care, dental practitioners and veterinary surgeons respectively, with regard to acquired rights	
10. Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of certain activities in the field of pharmacy	
11. Council Directive 85/433/EEC of 16 September 1985 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of the right of establishment relating to certain activities in the field of pharmacy	Law no. 81/1997 (OJ 89/14.05.1997) relating to the profession of pharmacist and the organisation and operation of the Romanian Pharmacists College
12. Council Directive 89/594/EEC of 30 October 1989 amending Directives 75/362/EEC, 77/452/EEC, 78/686/EEC, 78/1026/EEC and 80/154/EEC relating to the mutual recognition of diplomas, certificates and other evidence of formal qualifications as doctors, nurses responsible for general care, dental practitioners, veterinary surgeons and midwives, together with Directives 75/363/EEC, 78/1027/EEC and 80/155/EEC concerning the coordination of provisions laid down by Law, Regulation or Administrative Action relating to the activities of doctors, veterinary surgeons and midwives	
13. Council Directive 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications	All previous laws in the domain
<i>2.20.10 The right of residence (5 EU measures)</i>	
1. Council Directive 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health	<p>OU 194/2002 regarding the regime aliens in Romania</p> <p>Law 227/2001 regarding the approval of OU 265/2000 regarding the abolition of the visas for EU citizens</p>

2. Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services	
3. Council Directive 90/364/EEC of 28 June 1990 on the right of residence	
4. Council Directive 90/365/EEC of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity	OU 194/2002 Law 203/1999 regarding the work permits OU 105/2001 regarding the state frontier OG 65/1997 regarding the passports' regime in Romania
<i>2.20.20 European Citizenship</i>	
Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals	in 2006
<i>2.20.30. Visas regulation</i>	
Council Regulation (EC) No 2317/95 of 25 September 1995 determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States	in 2006

Source: TAIEX, February 2004

* Only the principal regulations both from EU and from Romania were taken into consideration.

Appendix no. 2.b. The concordance between the EU and the Romanian legislation regarding cooperation in the justice and internal affairs field* (chapter 24 of negotiation) with consequences on the migration phenomenon, March 2004

Chapter 24: Cooperation in the justice and home affairs field	
EUROPEAN UNION	ROMANIA
24.01 Asylum	
Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention	Law 357/2003 on the approval of GEO no.194/2002/regarding aliens regime OJ no. 537/25.07.2003
Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention	Law 357/2003 Law no. 46/1991 on Romania's accession to the Convention on the status of refugees (Geneve, 28.07.1951) and to the Protocol on the regime of refugees Law no 677/21.11.2001 on the individuals protection against processing personal data and free movement of these data Other decisions
24.02 External borders	
2000/751/EC: Council Decision of 30 November 2000 on declassifying certain parts of the Common Manual adopted by the Executive Committee established by the Convention implementing the Schengen Agreement of 14 June 1985 and Council Regulation (EC) No 790/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for carrying out border checks and surveillance	GEO no. 105/2001 regarding the state border of Romania (OJ no.352/30.06.2001 and Order no.S/505 of the Minister of Interior and Administration on approving the Border Policeman Manual
24.03 Visa	
Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas	GD no. 942/29.08.2002 on putting into circulation of the new visa stickers (OJ no. 692/20.09.2002)
Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement	Agreement with Turkey for the introduction of visa regime was initialised on 12.11.2003 and Agreement between the Romanian Government and the Cabinet of Ministers of Ukraine, signed at KIEV on 19 12 2003
24.04 Migration	
24.04.01. Admission of the migration (different regulations)	Different governmental decisions regarding the form and the contents of the residence

	permits and of the travelling documents for foreigners (Ex: H.G. no. 1016 on 28/08/2003 regarding the establishment of the form and content of the stay permits and of the travelling documents that are issued for foreigners).
24.04.02. The fight against the illegal migration (different regulations)	Law 357/2003 + OU 194/2002 HG 1137/25.09.2003 regarding the approval of establishing certain accommodation centers for the foreigners who are in the custody of the Romanian state Law 374/2003 for the ratification of the Memorandum of Agreement between the Romanian Government and the International Organization for Migration regarding the cooperation in the assisted humanitarian voluntary repatriation.
24.04.03. Migration – returns and re-admissions	
Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals	
24.05 <i>Organized crime, fraud and corruption</i>	
Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests	Law 161/2003 on certain measures to Ensure the Transparency in the exercises of public dignity and in the business environment to prevent and sanction corruption Law no. 756/2002 on the transfer of the convicted persons abroad, OJ no. 2/2002 Law no. 296/2001 on extradition, OJ no. 326/18.06.2001 Law 656/2002 regarding the prevention of money laundering Law 682/2002 regarding the witnesses' protection Law 39/2002 on combat organised crime Law 236/1998 regarding the ratification of the European Convention regarding the Mutual Help in criminality problems
Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime	Law 678/2001 on combating the trafficking in human beings
24.08. <i>Cooperation of the police</i>	
97/339/JHA: Joint Action of 26 May 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union with regard to cooperation on law and order and security	Agreement concluded with EUROPOL signed on 25 November 2003

Source: TAIEX, February 2004

* Only the principal regulations both from EU and from Romania were taken into consideration; only those regulations with influence over the migration phenomenon were taken into discussion in this chapter.

Appendix no. 3. Legislative summary of the Romanian legislation with influence on the migration phenomenon

Appendix no. 3.a. Legislation regarding migration in Romania

The Romanian Constitution guarantees the right of freemovement, each Romanian citizen benefiting by the right to emigrate and to return to the country.

The main normative acts that regulate migration in Romania are the following:

- Government Ordinance no. 65/1997 regarding the passports' regime in Romania approved by law no. 216/1998 completed and amended by Government Ordinance no. 84/2003.
- Law regarding the aliens' regime in Romania (Government Emergency Ordinance 194/2002 regarding the foreigners' regime in Romania, approved with amendments by Law 357/2003).
- The Emergency Ordinance regarding the statute and the regime of refugees in Romania (O.U. 102/2000).
- The Government Ordinance no. 44/2004 regarding the social integration of the foreigners that acquired a protection form in Romania.
- The Law on combating the trafficking in human beings (L. 678/2001)
- The Law for the ratification of the agreement Memorandum between the Romanian Government and the International Organization for Migration regarding the cooperation in the assisted volunteer humanitarian repatriation domain (L 374/2003).

The Government Ordinance no. 65/1997 regarding the **passports' regime in Romania** approved by Law no. 216/1998 completed and amended by the Government Decision No. 84/2003. These normative acts regulate the means of issuing and possessing passports in order to exercise the Romanian citizens' right to free circulation, as well as the measures for preventing illegal migration.

The law regarding the aliens' regime in Romania (L. 357/2003) is a basic law that regulates circulation of foreign persons in Romania. This law regulates the entering, the stay and the leaving of foreigners from Romania.

According to this law, the *entering of foreigners* on the territory of Romania is permitted once certain conditions are met⁴ and on the basis of a visa⁵. In the year 2000 Romania unilaterally gave

⁴The entrance on the Romanian territory can be permitted to the foreigners that meet the following conditions:

- they possess a valid document for crossing the state border, which is accepted by the Romanian state
- they own a Romanian visa or a valid stay permit
- they show documents that justify the purpose and the conditions of their stay and prove the existence of some adequate means of living during the period of stay, as well as means for returning in the country of origin
- foreigners in transit must show warrantees that their entrance on the territory of the destination country will be allowed or that they will leave the Romanian territory
- they are not included in the category of the citizens against whom a ban to enter Romania was established or who were declared undesirable
- they are not a threat to the national defense and security, order, health or public ethics.

⁵The types of visa that are granted for entering Romania are: aeroportual transit visa, transit visa (inclusively collective transit visa), short stay visa that permits to the foreigners to enter the Romanian territory for an uninterrupted stay or for more stays the total duration of which does not exceed 90 days in a period of 6 months from the date of the first entrance (mission, tourism, visit, business, sport, cultural activities,) and long stay visas that are granted to foreigners, at request, for a period of 90 days, with one or more travels (for performing economical,

up the entry visas for the EU citizens and they no longer have to justify the purpose and the conditions of their stay and they no longer have to prove the existence of certain means of living during their stay in Romania, as well as the means of returning to the country of origin.

Regarding the *stay of foreigners* who temporarily and legally are in Romania, they can stay on the territory of the Romanian state until the residence right established by visa or residence permit expire, and those for whom visas are no longer necessary (EU citizens, USA, Japan, etc) can stay 90 days within six months starting with the day of the first entrance.

The foreigners that were granted or, who, according to each case obtained a prolongation of the residence right in Romania, will be given a temporary residence permit by the Authority for Foreigners, by means of its territorial bodies. In the conditions of the law, foreigners can solicit also the establishment of their domicile in Romania, and the permanent residence permit will be issued for them.

The refugees' regime in Romania is regulated according to resolutions 90/627/CEE and 95/1110/CE, for this purpose having been adopted some series of normative acts that in time have been amended and updated.

Emergency Ordinance regarding the statute and regime of refugees in Romania (E.O. 102/2000) with the already mentioned amendments and completions is the main normative act that regulates the refugees' domain. This stipulates the main forms of protection that can be granted by the Romanian state, the granting procedures of the refugees' statute, the rights and obligations of the refugees and of the persons who have got a form of protection and the methods of ending, withdrawing or annulling a certain form of protection. This way, foreigners can be granted three forms of protection on the territory of Romania: the statute of refugee, conditioned humanitarian protection and temporary humanitarian protection⁶. In order to avoid the further infringement of the principle of non-returning by the Government Ordinance no. 43 in January 2004 there were brought amendments and completions to the O.G. 102/2000 regarding the statute and the regime of refugees in Romania and it is particularly mentioned that measures of expulsion or forced return from the frontier or from the territory of Romania can not be taken against asylum applicants, as long as an executory decision of rejecting their application or the granting of the refugee statute have not been stated.

professional, commercial activities, for employment, for studies, for foreigners who are married with Romanian citizens, for family reunification, diplomatic activity, religious and humanitarian activities and on other purposes).

⁶ The Romanian state can grant the hereunder three forms of protection:

- refugee statute can be granted at the request of the foreigner who proves that, because of a well-grounded fear of being persecuted on the ground of race, religion, nationality, affiliation to a certain social group or political opinion, is outside the origin country and can not receive protection or, because of this fear does not want to be protected by this country.

- the conditioned humanitarian protection can be granted to the foreign person who does not meet the conditions to be considered a refugee, but who proves that in the country of origin has committed acts for which he could be punished by death penalty, he risks to be tortured or inhumanly treated or because of being part of an unfavoured category of persons who could be exposed to dangers that might damage their life, corporal integrity or freedom.

- temporary humanitarian protection that is granted to the persons who are originary from conflict areas, and the Romanian government establishes the measurements and the period for which protection is granted.

Refugees are granted rights by means of other normative acts. Thus, the recognized refugees have the right to receive financial help from the state for a period of nine months and those who are in a more difficult situation (old people, single mothers, families with many children) will also benefit of supplementary financial help. They are the beneficiaries of the same rights as Romanian citizens, including the right to work, but excluding the political rights and those related to the military service. The foreigners' children who have earned the refugee quality in Romania can attend the preschool and the compulsory educational system without paying tuition fees, the refugees who earn incomes benefit of social health insurances in the conditions established by law, with the payment of the contribution of health insurances, while the refugees that have no living means can benefit based on application by accommodation in rooms that are especially meant for this purpose.

A recent normative act is the **Government Ordinance no. 44/2004 regarding the social integration of foreigners** who benefit of a form of protection in Romania. This establishes the granting of rights and obligations in conditions equal to those applicable in the case of the Romanian citizens, to the foreign citizens who benefit of a form of protection in Romania and who benefit of measurements and services meant to facilitate their access to the mentioned granted rights. The ordinance comes into force in 90 days from the date of its publishing in the Official Gazette of Romania, starting with May 2004. The main new element is that the O.G. 44/2004 will be applied also in the case of the foreigners who benefit of conditioned humanitarian protection, so that at the present moment the persons who already benefits of a different form of protection have the same rights and obligations as those who obtained a form of protection, according to the national legislation and under the same circumstances as Romanian citizens. The main improvements brought to the existing legislation by the new ordinance are: the access to the labour market, accommodation, medical assistance, to the social insurance system, to all education forms and integration programmes. O.G. 44/2004 also stipulates the legal basis for the cooperation between agencies regarding integration programmes and the National Office for Refugees is responsible with the coordination activity. Other agencies involved are: the Ministry of Education and Research, the National Agency for Labour Force Occupation, the Child Protection National Authority, the National House of Health Insurance and the nongovernmental organizations involved in the foreigners' integration programmes. The ordinance promotes the active role of local public administrations in facilitating the refugees' integration.

The Law on combating the trafficking in human beings (L. 678/2001) regulates the prevention and the fighting against the traffic in human beings as well as the protection and the assistance granted to the victims of such traffic, which is an infringement of the persons' rights and it damages their dignity and integrity. According to this law, will be labelled as crime of traffic in human beings: the recruitment, the transport, the transfer, the accommodation or the receiving of a person by threat, violence, or by other forms of constraint, by kidnapping, fraud or hoax, authority abuse or by taking advantage of those persons' impossibility to defend themselves or to express their will, or by offering, giving, accepting or receiving money or other advantages for obtaining the consent of a person who has authority over another person, for the purpose of exploiting them. According to this law, it is envisaged the prevention of traffic of persons women and children.

In order to prevent the traffic at international level the law stipulates the establishment of connection officers positions within the Ministry of Administration and Interior, as well as connection magistrate positions at the level of courts, and according to case connection magistrates who perform their activities in other states, in order to coordinate the actions during criminal investigations. For the data and information exchange regarding the criminal

investigation in case of traffic in human beings, the contract stipulates the establishment of a connection point within the Ministry of Administration and Interior with similar institutions from other countries.

The Law for the ratification of the Memorandum of Agreement between the Government of Romania and the International Organization for Migration regarding cooperation in the domain of assisted humanitarian voluntary repatriation (L/374/2003) This law has in view the establishment of a programme for the promotion of the assisted humanitarian voluntary repatriation of the asylum applicants whose applications have been rejected and of other foreign citizens who illegally enter the and/or live on the Romanian territory. By this law, the parties of the contract meaning OIM and the Romanian Government undertook to mutually provide all the necessary information for successfully implementing the programme and they formed a common consultative commission for this purpose.

Appendix no. 3.b. Legislation regarding the labour force market

The main normative acts that regulate the ingoing and outgoing flows within the labour force market in Romania in connection with other countries are:

- the Law regarding work permits (L 203/1999 amended by L. 32/2003)
- Law regarding the protection of Romanian citizens who work abroad (L. 156/2000)

The Law regarding work permits (L 203/1999 amended by L. 32/2003)

Foreigners can get employed on the territory of Romania on the basis of a labour permit. This is granted for six months with the possibility of prolongation at the owner's request for other intervals of six months each. There are certain foreigner categories that can get hired on the territory of Romania without labour permits⁷, and among them are the EU state members' citizens, those of the states who signed the Agreement regarding the European Economic Area and the members of their families.

Foreign workers can be hired on the territory of Romania only if their working positions can not be taken by Romanian personnel and if the foreign employee meets the special conditions of professional training and experience required by the employer and by the legislation in force.

The Law regarding the protection of Romanian citizens who work abroad (L. 156/2000)

According to this law the Romanian state establishes agreements and conventions with public

⁷ The following categories of citizens can be hired without labour permit:

- the foreigners who have settled down their domicile in Romania
- the citizens of the EU member states, of the European Economic Area and the members of their families
- the foreigners who have access on the labour market on the basis of agreements, conventions, bilateral agreements concluded by the Romanian state
- foreigners who have the refugee statute on the Romanian territory
- foreigners who are detached by the companies from abroad with the premises in a member state of the World Trade Organization
- foreigners that promote educational, scientific and artistic activities
- foreigners that are going to perform on the Romanian territory temporary activities requested by the ministries or other bodies of the central or local public administration.

authorities from other states on the principles of equal treatment and application of the clauses that are the most favourable in the Romanian, foreign or international legislation. By such agreements it is ensured the protection of Romanian citizens who work abroad by establishing certain aspects, like: the minimum salary level, the working time and the resting time duration, the general working conditions, the protection and security conditions, occupational accidents and diseases insurance. The coordination and the control of labour force occupation abroad are incumbent on the Ministry of Labour and Social Solidarity, who establishes bilateral agreements between countries.

Appendix no. 3.c. The legislation regarding the mutual recognition of degrees and qualifications in Romania

The Lisbon Convention (1997) regulates the mutual recognition of degrees between the signatory states and was ratified in Romania in 1998.

There is not a clear distinction in Romania between the academic recognition and the professional or qualification recognition. However certain progresses have been recorded in recent years. Academic recognition is established by means of the National Centre for Recognition and Equivalence of Degrees.

Regarding professional or qualification recognition, the recognition procedure is *de facto* when the access to the profession is not regulated by supplementary normative acts. In other words, after the recognition of the study papers, the applicant as a citizen of a Member State can have direct access to a lucrative activity. In July 2003 was initiated the automatic recognition of qualification– either on the basis of professional training or professional experience – acquired abroad, outside the educational system by Romanian or EU citizens, and at the end of the year 2003, by Order of the Labour Minister no. 701/17 December 2003 an institution was designated to admit the documents that prove the qualification acquired abroad, outside the educational system. Practically people hand in an application and a complete file in order to be granted a certificate at the Ministry of Labour and Social Solidarity, on the basis of which they are entitled to perform a lucrative activity. Those certificates cannot be used for the continuation of studies, but for the purpose of being hired.

The legislation introduced in Romania in the domain of degrees' and qualifications' recognition has in view only the transposing of the stipulations of the two directives of the general recognition system 89/48/CEE and 92/51/CEE, while the other two directives are not taken into consideration.

Regarding the sector directives were sett up the Office for Professional Qualifications' Recognition and for the Continuous Training in Medical Professions within the Ministry of Health, the main task of which is the recognition of the qualifications of doctors, stomatologists, chemists, nurses, and midwives. The modification of the university curricula in this domain was also taken into account, starting with the university year 2003-2004.