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European Union Engagement in the Black Sea Region: Efforts to Combat Illegal Migration

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Abstract

This paper analyzes the European Union's engagement in the Black Sea Region and its efforts to combat illegal migration. It is argued that the EU's interest in the BSR evolved very recently and primarily concerns its security considerations. Due to existing regional challenges, such as state fragility, unresolved conflicts, organized crime, illegal migration, and environmental distortion, the BSR is considered as a new regional dimension to the EU's security. Illegal migration is endemic to the region and involves all countries in the BSR. The EU is already partially present in the region through its European Neighborhood Policy, its Accession Partnership with Turkey and its Strategic Partnership with Russia, and it implements the external dimension of its migration control through JHA policy transfer and return policy. The EU's engagement in combating illegal migration in the region will be ever increased due to the adopted "Black Sea Synergy" and the "Global Approach to Migration to the Eastern and South-Eastern regions neighboring the European Union". It will enable the EU to steer intra-regional co-operation and co-operation between the Union and the BSR countries in addressing common challenges, primarily illegal migration. It is exemplified by a practical step, namely the goal to establish the Co-operation Platform on Migration in the BSR. The case study on EU-Ukrainian co-operation in the field of managing illegal migration shows the EU's complex and integral approach to tackling illegal migration and the resulting institutional transformations necessary for Ukraine's capacity-building in managing illegal migration.

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Keywords

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List of Abbreviations

Acquis – *Acquis communautaire*

BSR – the Black Sea Region

BSS – the Black Sea Synergy

BOMMOLUK - EC project on improving management on the Moldovan-Ukrainian state border

CIS – Commonwealth of Independent States

EC – European Commission

EUBAM – European Union Border Assistance Mission to Moldova and Ukraine

EUROJUST – the EU's Judicial Cooperation Unit

EUROPOL –European Police

ENP – European Neighborhood Policy

EU – the European Union

FRONTEX - the European Police Office

ICMPD – International Center for Migration and Policy Development

ICPS – International Center for Policies Studies (Kyiv)

IOM – International Organization for Migration

JFS – Justice, Freedom, Security (JLS – *Justice, Liberté, Sécurite*)

JHA – Justice and Home Affairs

MS – member state

OC (TOC) – organized crime, transnational organized crime

OSCE – Organization for Security and Co-operation in Europe

PCA – Partnership and Co-operation Agreement

THB – Trafficking in human beings

UNHCR – the United Nations High Commissioner for Refugees

1. Introduction

After the recent two rounds of European Union enlargement in 2004 and 2007 the EU's Eastern borders now extend to the Black Sea Region[1] for the first time. The BSR distinguishes itself in a number of ways. Besides its bridging position between Europe and Central Asia and its proximity to the Middle East, it is an important source of energy supply and transportation capacities, it also contains unresolved regional conflicts and is characterized by state fragility, the flourishing of organized crime and environmental degradation. Furthermore, the region is largely affected by illegal migration, a problem which afflicts every country in the region.

The European Security Strategy recognizes state failure, regional conflicts and organized crime, including activities related to illegal migration, as threats to European security. Recent Communications from the Commission, the 'Black Sea Synergy – a New Regional Cooperation Initiative' (April 2007) and 'Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighboring the European Union' (May 2007), demonstrate the EU's growing interest towards the region. Notably, the EU is already present in the region though its three policies – the European Neighborhood Policy, the Accession Partnership with Turkey and the Strategic Partnership with Russia.

Ukraine, as a member state of the BSR, remains a central linkage in a chain of illegal migration known as the 'Central European Corridor', going from Russia to Western European countries. Currently, practical co-operation between Ukraine and the EU in the area of combating illegal migration is advancing and includes provisions on Freedom, Security and Justice of EU-Ukraine Action Plan, a signed Visa Facilitation and Readmission Agreement, the EUBAM operation, cooperation with FRONTEX and much more.

Against this background, the European Union engagement in the Black Sea Region and its efforts to combat illegal migration will be researched. This paper aims to answer the following question: How does the BSR effect the EU's security? What are the specific characteristic features of illegal migration in the BSR? How does the EU respond to the regional challenges and in particular to illegal migration? The hypothesis employed in this research is that the European Union has fully understood the specific components relating to illegal migration in the BSR and the related threats and has developed, and is implementing, policies to deal with the issue.

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[1] According to the "Black Sea Synergy" the Black Sea Region involves the following countries - Greece, Bulgaria, Romania and Moldova in the west, Ukraine and Russia in the north, Georgia, Armenia and Azerbaijan in the east and Turkey in the south. While four countries, namely Armenia, Azerbaijan, Moldova and Greece are not littoral states, history, proximity and close ties make them natural regional actors.
Commission of the European Communities, Communication *"Black Sea Synergy – a new regional co-operation initiative"* COM (2007) 160 final, Brussels, April 11 2007, p.1.

In order to answer the research questions, primarily the phenomenon of illegal migration has to be examined, starting with looking at the definition that the EU applies and its underlying factors. Then special attention needs to be given to the securitization of migration and migration control externalization which to a large extent influence the European Union approach to managing illegal migration.

Secondly, the Black Sea Region as a new regional dimension of the Union's security, will be explored. The BSR's effect on the Union's security and the EU's response to the regional challenges will be analyzed. The specific characteristic features of illegal migration in the BSR will also be elaborated.

Then, analysis of the EU's engagement in the Black Sea Region through its policies in managing illegal migration will be made. It will be accomplished by analyzing the Global Approach to Migration to the Eastern and South-Eastern regions neighboring the European Union and the Black Sea Synergy (migration domain). Also, the changes that happen in managing illegal migration in the ENP countries, Turkey and Russia caused by the externalization of EU migration control will be studied.

Fourthly, the answer to the final research question will be made by analyzing co-operation between the European Union and Ukraine in the area of managing illegal migration. It will be argued that the European Union understands the challenges related to *malgouvernement* of illegal migration in Ukraine and is actively engaged in the country by addressing a whole complexity of sectors related to illegal migration.

Finally, summarizing remarks will be made.

The method applied in this research is analysis and synthesis - that is a subject is divided into separate parts in order to enable its comprehensive study. Analysis presumes investigation of interrelation and interdependence in the course of events, and synthesis allows unification of components in one system. The author's participation in the conference "Importance of the Black Sea for the regional stability and relations between the European Union, Russia and South Caucasus"[2] and attendance at the public lectures by Benita Ferrero-Waldner (Commissioner for External Relations and ENP)[3], Ilkka Laitinen (Head of the Frontex)[4] and Joannes Thuy (Ph.D., Eurojust Press Officer and Spokesperson)[5], also contributed to the study. Additionally, for the purpose of the research a number of interviews and consultations were conducted with Professor Elsbeth Guild; Janos Herman, Hilde Hardeman and Manfred Kohlmeier from the European

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[2] Organized by the European Institute for International Relations, Brussels, February 4, 2008.
[3] College of Europe, Bruges, April 7 2008.
[4] College of Europe Natolin campus, March 2008.
[5] Eurojust office, the Hague, February 27, 2008.

Commission; experts from International Center for Policy Studies (Kyiv), including Viktor Chumak; experts from IOM-Ukraine, including Jim Dasney, Fredric Larsson and Maja Wiebler and State Border Guard Service (Yuliya Petrova) and illegal migrant from Ukraine.

The sources that have been used for the study comprise books on migration and illegal migration, the EU's migration policy, security studies and the Black Sea Region as well as academic articles, EU official documents, reports, and relevant web-resources.

2. Illegal Migration its Causes and Components. The EU dimension.

Migration is not a new phenomenon for the European continent. As Hans Kornø Rasmussen wrote in his book "voyages of discovery, colonial ventures and the 'dream of America' have for centuries formed an important part of the European outlook on the world".[6] Since the outset of European integration, Western European states had a welcoming policy towards immigrants that provided an "extra workforce", this policy could be explained by a lack of "cheap and flexible" workforce in the domestic market required by economic revival.[7] However, since the late 1960s and the 1970s this trend changed to a more restrictive immigration policy, thus making it more difficult to enter the Union legally.[8] This section aims to present an outlook on phenomenon of illegal migration and two interrelated processes, which the author believes, have had significant implications for the European Union approach to address illegal immigration to the EU. First of all, the securitization of migration that brought migration, and illegal migration in particular, into the category of a security threat to states and societies in the European Union. Secondly, the externalization of migration and asylum policies, which allows the EU to target and prevent illegal immigration from far afield.

Before proceeding, it is necessary to clarify the definitions applied throughout the paper and to look at the phenomenon of illegal migration itself.

2.1. Understanding the Phenomenon

The first problem one has to acknowledge is the absence of an established "common definition of illegal immigration" and the multiplicity of terms that are used to describe this phenomenon.[9] Various terms, such as 'illegal', 'irregular', 'unauthorized', 'undocumented', 'clandestine' migration are used interchangeably. A second important aspect, as Elspeth Guild notes, is the role of national legislation which defines "who can cross the border and who can not", thus proving the legal background for defining the 'illegality' of presence on a certain territory.[10]

In this context, the European Commission in the Communication on a "Common policy on illegal immigration" (2001) recognized that "illegal immigration is multifaceted in terms of the

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[6] Hans Kornø Rasmussen, *"No Entry. Immigration policy in Europe"*, Handelshøjskolens Forlag, Copenhagen Business School Press, 1996, p.5.

[7] J. Huysmans, "The European Union and securitization of migration", *Journal of Common Market Studies*, Vol.35, #5, 2000, p. 753.

[8] Huysmans, *op.cit.*, p. 754.

[9] T. Balzacq and S.Carrera, *"Migration, Borders and Asylum: Trends and Vulnerabilities in EU Policy"*, CEPS working Papers, CEPS Brussels, 2005, p.26.

[10] Interview with Professor Elspeth Guild conducted on April 21, 2008 in the College of Europe, Bruges.

individuals concerned and the patterns of their illegal entry and residence".[11] The Communication clearly distinguished two types of activities that lead to the categorization of a person as an illegal immigrant. That is, "those who illegally enter the territory of a member state. This can take place either with an illegal border crossing or at a border post using false or forged documents" and secondly those – "who have entered with a valid visa or residence permit but have 'overstayed'".[12] Notably, in the Communication on "Policy priorities in the fight against illegal immigration of third-country nationals" (2006) further precision of this definition is made. The definition subsequently expanded and incorporated one more activity, namely "unsuccessful asylum seekers who do not leave after a final negative decision".[13] Therefore, the European Union determines illegal immigration as illegal border crossing, 'overstaying' and failure to leave the EU by unsuccessful asylum seekers. This explicit definition explains the current state of affairs on how illegal immigration happens most commonly in the European Union.

At the same time, certain critics expressed concern regarding the usage by the EU of the term 'illegal' rather than 'irregular' immigration. In fact the EU is the only 'institution' among others, which has a high profile on migration issues (such as the Council of Europe, International Labor Organization, IOM, the OSCE and UNHCR) that continues to apply this term.[14] Opponents present the following arguments. Labeling a person as 'illegal' can be "associated with criminal activity", can be interpreted as "denying their humanity", and "may further jeopardize the asylum claims" of asylum seekers who "find themselves in an irregular situation".[15] As Balzacq and Carrera note "the negative brand of 'illegal migrant' might ascribe to the person involved a social status that entails suspicion (leading to the person becoming a 'suspect')".[16] Since the purpose of the research is assessing EU policies, it is legitimate to apply in this study the term and definition used by the European Union, i.e. 'illegal', while it was prudent to mention those arguments in order to present the complex picture of the current debate on migration.

Meanwhile further clarifications should be made with regard to using the term 'immigration'. From the EU's point of view, movement of persons into its territory is 'immigration'. However, since the aim is to evaluate this phenomenon in the Black Sea Region, meaning that movement happens outside the EU and involves several countries, the term 'migration' would be more relevant.

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[11] Commission of the European Communities, *Communication on a "Common policy on illegal immigration"*, COM (2001) 672 final, Brussels, November 11, 2001, available under http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52001DC0672:EN:NOT, retrieved March 19, 2008.
[12] COM (2001) 672 final, *op.cit.*
[13] Commission of the European Communities, *Communication on "Policy priorities in the fight against illegal immigration of third-country nationals"*, COM (2006) 402 final, Brussels, July 19, 2006, available under http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0402:EN:NOT, retrieved March 19, 2008.
[14] K. Koser, *"Irregular migration, state security and human security"*, Global Commission on International Migration, London, September 2005, available under www.gcim.org/attachements/TP5.pdf, retrieved March 17, 2008, p.5.
[15] *Ibid.*
[16] T. Balzacq and S.Carrera, *op.cit.*

It is more general and does not specify whether it is 'immigration in' or 'emigration from'; while for each member state the term 'immigration' remains applicable. In addition, a distinction should be made between terms concerning the countries which participate in migration, namely 'countries of origin' (the sending countries where migrants come from), 'countries of transit' (countries which are used for migrant transfer between country of origin and host country) and 'destination countries' (receiving, host countries).[17]

Why do certain people migrate, flee their homes and why do they choose the European Union as the point of their final destination? So-called 'push' and 'pull' factors will help when examining the migration phenomenon. As Jeff Crisp argues "life has become more difficult and dangerous for the citizens of many states over the past decade", thus amplifying migration on a global scale.[18] The following confirms this statement. According to the International Organization for Migration "World Migration 2005 Report", from 1970 to 2000 the number of migrants has increased twofold from 81.5 million. to 174.9 million. respectively.[19] It must be noted that among this figure, 110.3m migrants moved and reside in developed countries.[20] As regards the migrant population in Europe, it grew by 10m from 22.2m in 1980 to 32.8m in 2000.[21]

Among the main 'push factors' the following can be identified:

- Survival migration – caused by impoverishment, as a result of failing or a lack in the social welfare systems; poor economic situation; unemployment;
- Conflicts, violations of human rights - political instability, civil wars and continuing armed conflicts; dissolution and disintegration of multicultural states, accompanied by religious and ethnic conflicts; discrimination on various grounds;
- Environmental disruption - natural disasters ; climate change;
- Demography – uncontrollable population growth, overpopulation, underpopulation;
- Opportunity seeking migration.[22]

The stimulating 'pull factors', which attract potential migrants to the EU include:

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[17] Information compiled from the International Organization for Migration official website http://iom.int/jahia/Jahia/pid/522, retrieved March 19, 2008.

[18] J. Crisp, *Refugees and International Security: An Introduction to Some Key Issues and Policy Challenges*, Paper Presented for the 4th International Security Forum, 15-17 November 2000, p.1, available under http://intranet.coleurope.eu/ird/programme/OptionalCourses/MacFarlane/2.%20Readings/IV%20-%20Crisp.pdf, retrieved April 21, 2008, p.1.

[19] This passage extracted from Y.Klymko-Overchenko *"Migration as an unconventional international security threat: the EU perspective"*, Essay, *College of Europe*, Bruges, April 2008. Original source R. Dannreuther, *International Security: The Contemporary Challenges*, Cambridge, Polity, 2007, p. 103.

[20] *Ibid.*

[21] *Ibid.*

[22] Information compiled from EUROPOL, *"Organized illegal immigration into the EU"*, Warsaw, 2006, p.1. and IOM, *The Problem of Irregular Migration: What Can Be Done to Combat Criminal People-Trafficking Networks? power point presentation*, Paris, November 2004, available under http://www.cicerofoundation.org/pdf/cicero_nov_04.ppt, retrieved March 18, 2008.

- Economic – a positive economic situation; a need for an increased labor force; demand for cheap and unskilled labor, comprehensive social security;
- Political - democratic systems of government, political and social stability;
- Demography – a declining population; in the case of the EU – ageing;
- Cultural - historical links; common languages; existing communities (diasporas);
- Promotion – 'successful' story-telling, media reporting.[23]

As it became known from a conversation with an Ukrainian illegal migrant, to whom will be referred henceforth as Madam K., (who stayed in Italy for over three years illegally residing and working as a housekeeper) the underlying reasons for choosing this path, were on the one hand "financial inability to sustain the family's basic needs due to the deprived economic situation in the country" and "a common knowledge of the possibility to earn 'decent' money in the wealthy and stable EU".[24] Consequently, as long as the combination of push and pull factors exist and accelerate, global flows of migrants, both legal and illegal, will persist and especially towards the EU.

Another important aspect of contemporary migration is the widening of the concept to new dimensions such as trafficking in human beings and migrant smuggling. The Commission Communication, mentioned earlier, on "Common policy on illegal immigration" recognized the fact that "illegal entries are increasingly organized by facilitators" and that in most cases it involves "organized criminal networks operating at an international level".[25] The Communication of 2006 explicitly stated that illegal immigration happens "with the help of organized criminal networks of smugglers and traffickers".[26] Indeed, EUROPOL estimates that "90% of the immigrants coming to the EU today have been helped, and that help is to a big extent coming from organized criminal groups".[27] To recall the case of illegal migrant Madam K., she confirmed that she used services of a "specialized agency in Kyiv", which facilitated her transfer to the EU "by providing forged documents" and a new life-story.[28] To the author's question of whether she acknowledged that she used organized crime services, she affirmatively pointed to the "business character of the deal and the mutual benefit for all parties concerned".[29]

Now, the securitization of migration in the EU and externalization of its migration control policy will be discussed.

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[23] *Ibid.*

[24] Interview conducted with a female illegal migrant from Ukraine on March 23, 2008, Poltava (Ukraine).

[25] COM (2001) 672 final, *op.cit.*, pp.5, 7.

[26] COM (2006) 402 final, *op.cit.*, p.1.

[27] C. Brothers, "Criminal gangs profit from smuggling of illegal immigrants from Africa into Europe", *the International Herald Tribune*, March 20, 2007, available under http://www.iht.com/articles/2007/03/19/news/crime.php, retrieved April 17, 2008.

[28] Interview with illegal migrant, *op.cit.*

[29] *Ibid.*

2.2. Securitization and Migration Control Externalization

These processes, both securitization and externalization of migration issues in the EU, evolved gradually and are still developing. It is important to recall several events and factors since the mid 1980s that are particularly pertinent, which made an impact on those processes. Before that, as Huysmans notes, migration was mostly associated with "the construction of an integrated labor market in which workers could freely move between member states".[30] However in the mid-1980s the angle shifted: the issue of immigration became "increasingly politicized through the question of asylum" and even more "through (con)fusion of immigration and asylum".[31] Statistics confirm the fact of a steady growth in numbers of applications for asylum. In 1985 it amounted to 175 000 and in 1992 – 670 000.[32] Such a tendency coincided with the internal domestic labor market situation, namely growing "unemployment and a declining need for unskilled migrant labor".[33] As a result the EU undertook restrictive measures by reducing "guest-worker programs" and sized options for immigration.[34] The overlap of those three factors created the perception of asylum as a mean of "by-passing the new systems of immigration control" and as an "alternative route for economic immigration to the EU".[35] In connection to this, asylum was categorized as "a threat to the sovereign right of the Western European states to control the movement of people".[36]

These problems revealed an institutional incapability to handle the pressing immigration influx into the EU. It challenged the "administrative and judicial systems" in a number of ways.[37] It resulted in piles of unprocessed applications, difficulties in forming databases with those who did receive asylum and made it almost impossible to apprehend and deport 'rejected' applicants.[38] In addition, extra public budget funds had to be spent on "processing asylum applications and providing social welfare benefits".[39] It exposed an Achilles' heel, namely the issues of belonging and entitlement. The main underlying question here is who belongs to the welfare state community and who is entitled to receive the benefits of that welfare state? As Andrew Geddes points out, in general terms migrants are perceived as "a drain of welfare state resources".[40] He goes on to say that the

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[30] J. Huysmans, *op.cit*, p.755.
[31] *Ibid.*
[32] J. Crisp, *op.cit*, p.4.
[33] *Ibid*., p.5.
[34] *Ibid.*
[35] *Ibid*. and J. Huysmans, *op.cit*, p.755.
[36] J. Crisp, *op.cit*., p.5.
[37] *Ibid.*
[38] *Ibid.*
[39] *Ibid.*
[40] A. Geddes, "Immigration and the welfare state" in E. Guild, J. Selm (eds.), "*International migration and security: opportunities and challenges*", London, Routledge, 2005, p.165.

attitude "why should 'we' provide for those 'others' that are not like us" eventually undermines the feeling of solidarity in society and has grave repercussions for the welfare state.[41]

Against this background, curbing immigration gained prominence among political parties. As Christina Boswell notes "political parties were competing for electoral support with promises to restrict *unwanted migration* [emphasis added]".[42] Moreover, rising immigration was presented to the electorate as a "threat to social stability and security".[43] The link between immigration and terrorism, organized crime and other illegal activities was established.[44] All these factors lead to the spread of xenophobia and intolerant sentiments towards refugees. Crisp notes that there were certain political parties that "campaigned on an explicitly anti-refugee platform".[45]

One final important remark to make concerns the dimensions of cultural identity and human security. Migration has escalated tensions over cultural identity in terms of challenging fundamental European values such as the principles of liberal democracy, respect for human rights and the rule of law.[46] One may recall the recent example of the headscarves in France. Moreover, the inability or unwillingness of migrants to integrate into the host society has lead to the establishment of migrants' enclaves, detached from the dominant indigenous society that consequently leads to increasing intra-society tensions.[47] This is more remarkable given that this year the European Union declared 2008 as the year of Intercultural Dialogue.

As regards externalization of migration and asylum it is necessary to highlight several aspects. In the mid-1980s, European integration processes were accelerated by the signing of two agreements: the Schengen Agreement (1985), which set out the abolition of border controls between the member states by 1995; and the Single European Act (1986), which entailed the establishment of the single market by 1992 with the principles of free circulation of the '4 Freedoms'. These developments increasingly impacted upon the 'Europeanization' of migration policy in the EU and lead to its institutionalization[48].[49]

The "loss of national control over borders" necessitated increasing co-operation among member states, aimed not only at reducing "irregular movement *between* member states" but at the

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[41] *Ibid.,* p.161.
[42] C. Boswell, "The 'external dimension' of EU immigration and asylum policies", *International Affairs* #79, 3, 2003, p.621.
[43] J. Crisp, *op.cit*., p.5.
[44] *Ibid*., p.6.
[45] *Ibid.*
[46] Y.Klymko-Overchenko, *op.cit.*
[47] *Ibid.*
[48] Firstly, the Maastricht Treaty on the European Union (1992) created a Third Pillar on Justice and Home Affairs, giving migration intergovernmental character of regulation. However, already in the Amsterdam Treaty (1997) migration was communitaurized and put under the First Pillar, with explicit competence of the Commission.
[49] J. Huysmans, *op.cit*, p.755.

same time at "limiting movement *into* the EU or 'Schengenland'".[50] Boswell argues that the need to "co-ordinate efforts to *limit* [emphasis added] or *prevent* [emphasis added] movement into the EU as a whole" was recognized. [51] She continues that interior and police officials believed that "the externalization of border control, restrictive asylum systems and co-operation to combat migrant smuggling and trafficking were the most effective instruments for realizing this goal".[52]

Also, "more intensive co-operation with countries of origin and or transit countries" was acknowledged.[53] As early as 1991 the European Commission called for the incorporation of migration issues into the EU's external policy.[54] A milestone was reached at the Tampere European Council (1999), which called for the creation of a common migration and asylum policy and stated that JHA matters should be "integrated in the definition and implementation of other Union policies and activities, including external relations".[55]

Due to the above factors and developments, according to Boswell the EU's externalization of migration control developed into two components.[56] Primarily, it manifested in the "exportation of classical migration control instruments to sending or transit countries outside the EU".[57] The second component is "the return policy of asylum seekers and illegal migrants" that was instrumentalized by readmission agreements.[58] Scholars labeled the 'exportation' process as a 'policy transfer'.[59] It can be observed in steering migration management in third countries, intensifying their border control and management capacities, combating illegal migration, THB and the smuggling of migrants.[60] In fact, such provisions appeared more and more often in international agreements between the EU and third countries during the course of the 1990s and especially after the Amsterdam Treaty.[61] While certain reservations were expressed with regard to EU 'imperialism', intervening in the internal policies of the countries, Guild believes that it is "less likely as empire but rather exporting EU norms", "transfer of practice and knowledge".[62]

According to Lavendex and Ucarer, "the scope and shape of policy transfer is conditioned by existing institutional links between the EU".[63] In the case of EU candidate countries, they are

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[50] C. Boswell, *op.cit.*, p.622
[51] *Ibid.*
[52] *Ibid,* p.623. .
[53] C. Boswell, *op.cit.*, p.622.
[54] *Ibid.,* p.621.
[55] *Ibid.,* p.620.
[56] *Ibid.,* p.622.
[57] *Ibid.*
[58] *Ibid.*
[59] S. Lavendex and E.Ucarer, "The External Dimension of Europeanization. The Case of Immigration Policies", Journal *of the Nordic International Studies Association*, Vol. 39 (4), 2004, pp. 418–422.
[60] *Ibid.*
[61] Interview with Professor Elspeth Guild, *op.cit.*
[62] *Ibid.*
[63] *Ibid.*, p.417.

compelled to introduce the required measures unconditionally and they are more willing to do so due to the incentive of accession. As regards the ENP countries, while it depends on the political will of states to co-operate and undergo reforms, the EU's 'authority' *vis-a-vis* partner countries prevails.[64] As for relations with Russia, the question of "power and authority" is different and it is less possible to "teach" Russia.[65]

Adopted not long ago, "A strategy for the External Dimension of JHA: Global Freedom, Security and Justice"[66] reconfirms the ongoing externalization of the migration dimension. This strategy repeated that "the EU should make JHA a central priority in its external relations and ensure a coordinated and coherent approach".[67] In order to address the root causes of illegal migration, the Strategy outlined that all available instruments at the EU's disposal (JHA, CFSP, ESDP and Development policies) should be employed to "deliver a tailored and coherent response".[68] Thus, the EU tries to use both strategies – the externalization of JHA and preventive measures by addressing the root causes of migration.

The following conclusions on the phenomenon of illegal migration are pertinent. First of all, there is no common definition of illegal migration and various terms are used to describe this phenomenon. The European Union developed its own definition of illegal immigration, which includes illegal border crossing, 'overstaying' and failure to leave the EU by unsuccessful asylum seekers, which reflects the present nature of illegal immigration in the EU today. The EU remains among the most attractive final destination regions for migrants.

As it has been shown, the discourse about migration in the EU gradually changed from the economic to the security dimension. Perception of migration as a threat to the welfare state, a challenge to its political, administrative and judicial capabilities, as well as to the security of human and cultural identity, led to the progressive securitization of migration since the mid-1980s. At the same time, acceleration of European integration in the form of creating a single market and Schengen border-free area fostered inter-state co-operation on migration control, including through co-operation with third countries. Therefore, the European Union developed new approaches to dealing with migration; that is, the externalization of its traditional internal instruments of EU migration control through JHA policy transfer and readmission, and secondly, by prevention though development, trade and foreign policy tools.

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[64] Interview with Professor Elspeth Guild, *op.cit.*
[65] *Ibid.*
[66] Council of the EU, *"A Strategy for the External Dimension of JHA: Global Freedom, Security"*, 14366/3/05 REV 3, Brussels, November 30, 2005.
[67] *Ibid.*, p.2
[68] *Ibid.*, p4.

For the purpose of this paper, it was relevant to demonstrate the EU's outlook on migration and illegal migration in particular. The approach of policy transfer will be analyzed in the case of EU-Ukrainian co-operation in order to combat illegal migration.

3. The Black Sea Region – Region of Opportunities and Challenges

This part of the thesis looks at the Black Sea Region as a new regional dimension of the Union's security. Answers to the following questions will be explored: How does the BSR effect the EU's security? How does the EU respond to the regional challenges? And what are the specific characteristic features of illegal migration in the BSR?

3.1. The BSR and the EU Security: Key Threats and Vulnerabilities

It was only very recently that the Black Sea Region gained a prominent position among the Western strategic community's interests. The initial impetus originated from those European countries which are located in the region, namely Bulgaria and Romania. After NATO and EU expansion to those states, they "felt that the process of EU and NATO enlargement should not stop with their countries" and that they "had a responsibility to work for stability beyond their own borders".[69] Secondly, the 'Color Revolutions' in Georgia and Ukraine signaled the opportunity for democratic transformations in the region and prospects of developing liberal democratic societies and regional stability. The third factor is the geographical proximity to the Middle East and the gradually evolving understanding of threats emanating from the latter. As Ronald Asmus notes "[T]he Wider Black Sea region is the linchpin between core Europe and the wider Middle East. […] What once seemed to be marginal or on the periphery of Europe was now much closer and central".[70] Lastly, the energy security dimension. The question of energy supply diversification stimulated the exploration of new transportation gateways, thus bringing attention to the BSR and its alternative pipe-lines and energy corridors from the Caspian region.[71]

While the Black Sea Region is distinguished by its rich historical, cultural, civilizational heritage, in the words of Janos Herman it is a sea "with its own personality"[72]. At the same time, it is characterized by a variety of threats and risks. Most of the states in the region are fragile states and, what is more, some have a Soviet legacy. Bad governance and weak state institutions, absence of the rule of law and an ineffective judiciary system, low level of economic development and low living standards are endemic to the region. As a result, state fragility allows corruption, organized crime and illegal migration to flourish.[73] Secondly, the existence of several unresolved simmering conflicts

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[69] R.Asmus (ed.), "*Next Steps in Forging a Euro-Atlantic strategy for the wider Black Sea*", the German Marshall Fund, Washington, 2006, p.16.
[70] *Ibid.,* p.17.
[71] *Ibid.,* p.18
[72] "*Black Sea Synergy: Approaches for a deeper co-operation*", Konrad Adenauer Foundation Ukraine, November 2007, available under http://www.kas.de/wf/doc/kas_12344-544-2-30.pdf, retrieved February 6, 2008.
[73] I. Kempe, K. Klotzle, "*The Balkans and the Black Sea Region: Problems, Potentials, and Policy Options*", Policy Analysis # 2, CAP, April 2006, p.7.

destabilizes regional security. These include, remaining Armenia-Azerbaijan tensions over Nagorno-Karabakh; Georgia has to deal with the secessionist movements in Abkhazia and South Ossetia; Russia is entangled in the protracted conflict in Chechnya and finally the self-proclaimed Transnistrian Republic threatening the territorial integrity of Moldova – this is the reality of Europe's doorstep.[74] Still, it is important to add to the list of risks, environmental degradation and, as it will be showed in the third subchapter, considerable flows of illegal migrants.

Bearing in mind the European Security Strategy (2003), which identifies key security threats to European security – terrorism, WMD, regional conflicts, state failure and organized crime – and the new threats, that will be addressed in the new version of the Strategy[75], like energy security, climate change and migration, it can be affirmatively asserted that the threats of the BSR cause implications on security of the European Union and consequently addressing those threats is of immediate interest of the EU.

To what extent is the EU present and engaged in the region? There are as many as three EU policies in the region: the accession process with Turkey, the European Neighborhood Policy, which embraces Ukraine, Moldova and the three South Caucasus states – Armenia, Azerbaijan and Georgia, and the EU-Russia strategic partnership.[76] However, Fabrizio Tassinari argues "When dealing with threats and challenges of a *transnational nature* in fields such as migration, crime prevention, infrastructures or pollution, *bilateral mechanisms* are effective only to a limited extent".[77] Also the EU, in the person of the European Commission actively participates in a range of regional initiatives and co-operation programs covering the energy sector – for example the Baku Initiative, the INOGATE program, upgrading the energy infrastructure of the Baku-Supsa and the Baku-Tbilisi-Ceyhan oil pipelines as well as the Baku-Tbilisi-Erzerum gas pipeline; in transport – TRACECA, the High Level Group on the Extension of the Major Trans-European Transport Axes to the Neighboring Countries and Regions; in border management - EUBAM; environment; research, science and education.[78] Again, Tassinari notes that "this impressive range of instruments lacks a strategic or holistic approach" and "the very existence of many overlapping regional initiatives has produced the result of dispersing resources and blurring the image of the emerging BSR".[79]

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[74] I. Kempe, *op.cit.*, pp.8-9.
[75] B. Ferrero-Waldner, *speech "The European Union and its place in the world – the current agenda"*, the College of Europe, Bruges, April 7, 2008.
[76] F.Tassinari, *"A Synergy for Black Sea Regional Co-operation: Guidelines for an EU Initiative"*, Policy Brief #105, CEPS, June 2006, p.3.
[77] Tassinari, *op.cit.*
[78] Black Sea Synergy, *op.cit.*
[79] Tassinari, *op.cit.*

3.2. The Black Sea Synergy Initiative – Responding to the Challenges

A response to addressing these regional challenges took shape in the Black Sea Synergy - a new regional co-operation initiative, presented on April 11, 2007. Commissioner for External Relations and ENP, Benita Ferrero-Waldner, said 'Today, we have delivered on a promise made last December to develop a regional dimension to the ENP'.[80] In fact, it is one of the three regional dimension co-operation initiatives, which was created around the EU's 'regional seas' – including the Barcelona Process in the Mediterranean and the Northern Dimension in the Baltic sea.[81] According to Ferrero-Waldner the BSS was designed 'to focus political attention at the regional level and invigorate ongoing co-operation processes, opening an additional space for cooperation with Russia, Turkey and our eastern ENP partners'[82] and to 'capitalize on the new opportunities we gained from Bulgaria and Romania's membership'.[83]

So what is the essence of the Black Sea Synergy and what does it offer?

As noted in the initiative, it does not aim to be an 'independent Black Sea strategy', meaning that the currently existing framework of EU policies with the countries of the BSR will remain. Since five countries in the region are ENP partners, it is not surprising that one whole article in the Synergy is devoted to the strengthening of this policy. If the predominant bilateral framework does not change, then why is it named a 'Synergy'? Further in the document, it is specified that the principal task of BSS is the development of co-operation (i) within the Black Sea region and (ii) between the region as a whole and the European Union.[84] In order to achieve it, this initiative intends to 'ensure greater coherence and policy guidance', to bring coherence to EU policies on the ground and programs, initiatives developed by other stakeholders.[85] Importantly, the BSS is based on the common interests of the EU and the BSR and takes into account the results of consultations with all Black Sea states.[86] So, it is noteworthy that the principles of ownership and partnership underpin the initiative.

Janos Herman, a 'spiritual creator' of the Synergy, distinguishes three basic characteristics of the BSS

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[80] Press release, "*Black Sea Synergy – bringing the region closer to the EU,* IP/07/486, Brussels, 11 April 2007, available under http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/4, February 6, 2008..

[81] L. Rassoha, "New EU's policy in the BSR: experience of the Baltic states", *Ukraine and the World*, # 46 (446), November 12, 2007, available under http://www.uwtoday.com.ua/articlea.asp?Lid=1&NID=5207&JID=232, retrieved February 6, 2008.

[82] Press release IP/07/486, *op.cit.*

[83] B. Ferrero-Waldner, Commissioner, 'The European Neighbourhood Policy and Black Sea Synergy – new opportunities for Bulgaria', Public Lecture, Aula Maxima, Sofia University, Bulgaria, September 17, 2007.

[84] Black Sea Synergy, *op.cit.*, p.3.

[85] *Ibid.*

[86] *Ibid.*

First of all the emphasis on practical, concrete cooperation projects at the regional level, secondly the cooperation between EU projects and projects developed by other players in the region, and thirdly the launch of a political and think tank level in the dialogue about regional priorities.[87]

Indeed, the practical aspect of the Synergy is developing tangible activities in all thirteen areas of co-operation. The EU's interests primarily focuses on five issues - good governance, transport, energy, environment and the fight against cross-border crime. Significant attention is also devoted to resolving dormant conflicts. Commissioner Ferrero-Waldner underlined in her speech

Too many people's lives have been marred by the hatred, the poverty and the hopelessness which are the legacy of these conflicts. It is unacceptable that the European Union of the twenty-first century should turn a blind eye to this suffering on its doorstep. We can and must play a role in finding sustainable solutions to these black-holes of despair. I am personally committed to exploiting our potential to help resolve the frozen conflicts around this region.[88]

The EU's fulcrum in the Synergy is the regional organization. As it was pronounced, the Commission is not creating 'new institutions or bureaucratic structures', but rather paves the way for reinvigorating existing regional co-operation. Primary role as a regional locomotive is given to the BSEC, founded by key regional players such as Turkey and Russia and to which seven EU MS enjoy observer status.[89] Notably, the EU itself seeks to achieve the same status.

For the sake of the argument and in order to present a complete picture, it is valuable to provide an expert's point of view. According to James Sherr[90] 'Black Sea Synergy is a path-breaking initiative, but like all of the most serious EU initiatives, it starts modestly.'[91] The major question that he asks is 'whether it will end modestly or produce a major impact?'. He argues that 'it will end modestly if it merely aims to produce synergy between existing programs and networks' because, from his point of view, only a limited group of people who are directly engaged in programs and co-operation will benefit from it, rather than whole societies.[92] Thus, he continues, that 'the EU will stimulate activity rather than accomplishment if it fails to change incentives and provide support'.[93] It is difficult to deny that there is a need for 'synergy between external impulses and internal

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[87] *"Black Sea Synergy: Approaches for a deeper co-operation", op.cit.*
[88] Ferrero-Waldner Public Lecture in Sofia University, *op.cit.*
[89] Black Sea Synergy, p.9
[90] James Sherr is a Fellow of the Advanced Research and Assessment Group, which is part of the Defence Academy of the U.K. He is one of the leading specialists on Ukraine. He has served as a consultant to NATO on Ukraine. Information obtained from
'BSS –findings of the international conference Odessa-Istanbul 21-23 October 2007', Konrad Adenauer Foundation, available under ttp://www.kas.de/wf/doc/kas_13443-544-1-30.pdf.
[91] *Ibid.,* p.64.
[92] *Ibid.*
[93] *Ibid.,* p.65.

change'. Finally, he questions what role the EU wishes to play: 'a magnet or a barrier'? James Sherr believes that 'any policy that simultaneously promotes integration and erects barriers is a contradiction in terms' and it will result in 'loss of influence', namely loss of EU influence in the region.[94]

3.3. Characteristic Features of Illegal Migration in the BSR

To begin with, all countries of the Black Sea Region are affected by illegal migration but to differing extents, namely being a source, a transit or a destination country (or a combination). There are two major routes going across the BSR. First is the Eastern route ('Central European Corridor') – involving, Russia, Ukraine, Moldova continuing to the EU (through Slovak and Polish borders). Second one is South-Eastern ('Balkan route') engaging South Caucasus, Turkey, Greece, Bulgaria, Romania and Balkans countries. Due to the lack of available research on illegal migration in Black Sea Region (the BSR as an entity), for the purpose of this paper, analysis of illegal migration in BSR will be made by grouping/categorizing the countries as follows: 1. Greece, Bulgaria, Romania; 2. Turkey; 3. Armenia, Georgia, Azerbaijan and 4. Russia, Moldova, Ukraine. The main sources of analysis are four reports: by the International Centre for Migration Policy Development concerning illegal migration and human trafficking in Central and Eastern Europe (Yearbook 2003 and 2006) and in Commonwealth of Independent States (2005), and as well by International Center for Policy Studies "Ukraine's policy to control illegal migration" (2006).

Greece, Bulgaria and Romania are EU member states who are affected by illegal migration. Several flows lead to Greece as a destination country, which will be illustrated further in the text. Greece is a member of the Schengen area, and has thus introduced all required measures with regard to border management. Very recent trends can be observed, namely that the latter two after their accession to the EU gradually turned into destination countries as well.

Bulgaria has three border sections exposed to illegal migration, namely with Greece, Turkey, and Serbia. Main flows of illegal migration through its territory go from Moldova via Bulgaria to Greece; from Iran, Iraq, Syria, Lebanon through Turkey into Bulgaria and then EU member states. The following data shows relative stabilization in the number of apprehended persons at its borders. There were 6.451 persons in 2002, 5.133 in 2003, 5.535 in 2005 and 5.518 in the year 2006.[95] Since Bulgaria lies on the routes leading from territories in conflict, substantial improving of its border control is essential. Thus, in 2006 Bulgaria undertook legal and institutional transformations, namely by reforming the National Border Police Service and adopting the "Strategy of Integrated Border

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[94] *Ibid.,* pp.65-66.
[95] *"2006 Yearbook on Illegal migration, Human Smuggling and Trafficking in Central and Eastern Europe",* ICMPD, Vienna, 2007, p.70.

Management".[96] The Strategy aims at strengthening the borders and "effective combating against terrorism and all forms of cross-border crime".[97] The goals planed to be achieved through the "high level of cooperation between the responsible authorities on the national and international level".[98]

As for Romania, it primarily serves as a transit country and, as has been noted, the gradual shift to a country of destination has been observed. Notably, for many years it has been used by criminal networks for illegal migration and its accession to the EU even "has intensified certain types of criminal phenomena at its borders".[99] Noteworthy the *modus operandi* of illegal migration most often took the shape of "legal entry followed by illegal exit [to Western EU member states]".[100] This tactic was most commonly used by nationals of Moldova, Turkey and China.[101] The main routes of illegal migration through Romania by various nationals are following: Kurds: Romania - Hungary - Austria - Germany; Africans and Asians: Romania - Hungary - Austria - Germany, or Romania - Serbia - Bosnia - Croatia - Italy; Chinese nationals : Romania - Bulgaria / Macedonia - Greece - Italy; Romania - Serbia - Bosnia - Croatia - Italy/Germany; Romania - Hungary - Austria - Germany.[102] Romania has a consistent approach in addressing human trafficking. Notably, in 2002 a criminal responsibility for THB was introduced with the penalty of up to 25 years imprisonment.[103] This measure inevitably led to reducing the level of crime, thus making this activity less attractive. For example in 2005 125 people was arrested in connection with THB and in 2006 - 69 (p. 187 - 2006). Remarkably, Romania is also a source country of illegal migrants. Its citizens mainly move towards Italy and Germany.

Now illegal migration routes in Turkey will be explored. Turkish geographical location makes it particularly vulnerable and most exposed to illegal migration flows in the region. All routes from Asia and the Middle East towards Europe go across Turkey, notably especially from following countries such as Iran, Iraq, Afghanistan, Pakistan, Bangladesh, Somalia, Mauritania, Palestine.[104] Moreover, often Balkan and CIS nationals choose Turkey "as a target country to work and stay".[105] The smuggling fee through Turkey ranges from 2.000\$ to 8.000\$.[106] Turkey has introduced effective law enforcement measures which have led to a significant reducing flow from 94.514 in 2000 to

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[96] *Ibid.*, p.68.
[97] 2006 Yearbook, *op.cit.*
[98] *Ibid.*
[99] Ibid., p.181.
[100] *Ibid*, p.185.
[101] *Ibid.*
[102] *Ibid.*, pp.185-86.
[103] *"2003 Yearbook on Illegal migration, Human Smuggling and Trafficking in Central and Eastern Europe", ICMPD, Vienna,* 2004, p.126.
[104] Ibid., p.223.
[105] *Ibid.*
[106] Ibid., p.224.

51.983 in 2006.[107] As a result of such activities today migration flow through Turkey is decreasing, as a result of the shift and intensification of alternative routes primarily through Caucasus to Ukraine. Notably, the penalty for THB amounts to 20 years imprisonment.[108]

Now, proceeding to Armenia, Georgia and Azerbaijan. These countries have experienced large emigration from their territories caused by regional conflicts. Until today these states continue supplying the EU with migrants of their nationals. Armenia is distinguished by the minor role in trafficking of women from Russia to Turkey and the United Arab Emirates.[109] Also Armenians choose the latter two countries as countries of destination.

As for Azerbaijan, it is a transit country for illegal migration from Iran and Iraq through Russia and Ukraine to the EU. There were 7.640 apprehensions in 2001, 8.299 in 2002 and 3.846 in 2003. Most of the apprehended persons are Iranians. As Armenia, Azerbaijan engaged in women trafficking route: Russia – Azerbaijan – UAE – Turkey - Pakistan. Trafficking in men happens primarily with regard to exhaustive agriculture work in Turkey.

Georgia is not a prominent country of transit in international migration. However Georgian citizens use two routes to get to Western Europe - through Russia and Ukraine and through Turkey. Directions of illegal migration are Georgia - Turkey - Greece; Georgia - Russia - Ukraine - Romania - Bulgaria - Greece; Georgia - Russia - Ukraine - Slovakia - Austria. Before 2005 illegal migrants had used visa-free entry to Belarus for further movement to Ukraine and Russia.[110] Georgian citizens use as well legal entry to France and further illegal movement through the EU.

The final group of countries comprises Russia, Ukraine and Moldova.[111] These counties are interlinked by powerful illegal migration routes. Notably, all three countries are a source for illegal migration; Russia and Ukraine are principal transit countries and for a certain period Russia and Ukraine as well were used as destination countries. The channel through Russia and Ukraine going further to the EU, widely used by illegal migrants from CIS countries also attracts migrants from China, Vietnam, India, and other Asiatic countries.[112] Illegal migrants enter the Russian territory through Mongolian, Chinese, Kazakh borders and further head to Western Europe via Lithuania and in most cases via Ukraine.[113] The visa-free regime between Russia and Ukraine increasingly

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[107] *Ibid.*
[108] 2003 Yearbook, op.cit., p.154.
[109] *Ibid.*, p.23.
[110] *"Overview of the Migration Systems in the CIS Countries",* ICMPD, Vienna, 2005, p.102.
[111] All are the member states of the Commonwealth of Independent States.
[112] "Ukraine's policy to control illegal migration", ICPS, Kyiv, 2006,
[113] Overview of the Migration Systems in the CIS Countries, op.cit., p.199.

facilitates illegal penetration. After passing the Ukraine border crossing, these people head for Ukraine's border with Slovakia and Poland.[114]

The sources used do not provide information about apprehension statistics in Russian Federation. As regards Ukraine, there are two agencies who conduct apprehension - the State Border Guard Service and Ministry of Interior. According to the SBGS there were as many as 19.900 apprehensions in 2004, 17.900 in 2005 and 25.800 in 2006.[115] As for MI statistics: 9.945 persons in 2005 and 17.941 in 2006.[116]

Important to note is that more than 70% of apprehended persons by Ukrainian SBGS are citizens of the Russia Federation, Moldova, Georgia, Uzbekistan, Azerbaijan, Armenia, thus mostly from the Black Sea Region.[117] Joint Ukrainian-Russian organized criminal groups have established powerful networks in Ukraine, employing highly-skilled professionals and they actively engage locals from border-crossing districts.[118] For the Ukrainian part of the transit route criminals charge 3.000 -5.000 USD.[119] According to information from Ukrainian Ministry of Foreign Affairs in 2007 153 organized criminal groups were disclosed.[120] Underlying reasons for the relatively easy operation of the OC groups is wide-spread corruption among officials, thus co-operation with them. To illustrate, Ukrainian journalist V.Martyn of well-reputed Ukraine newspaper "Mirror of the Weak" in 2006 noted "Smuggling of illegal migrants often involves persons who should themselves fight *against it* [emphasis added]".[121] He continues saying that "There was a case, some years ago, when Ukrainian States Security Service arrested several officials from Department on Imprisonment, who attempted to transport 26 illegal migrants of Vietnamese and Bangladeshi nationalities to the border in an 'imprisonment transport' that, according to regulations, does not require checking at the border crossing".[122]

Concerning Moldova, it is a source country of illegal migrants on the routes Romania - Greece and Ukraine - EU. The number of Moldavian citizens apprehended in the period 1999 to 2002 comprises 40.000.[123] Within a long period human trafficking was characteristic to Moldova. It is why for this kind of crime, harsh punishment is provided by Moldavian law, including the possibility

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[114] *Ibid.*

[115] "Illegal migrants in Ukraine", Soderkoping process, available under http://soderkoping.org.ua/page12559.html, retrieved April 28, 2008

[116] *Ibid.*

[117] Ukraine's policy to control illegal migration, *op.cit.,* p.11

[118] *Ibid.*

[119] *Ibid.*

[120] Ukraine-EU co-operation in framework of Action Plan on JFS, Ministry of Foreign Affairs, available under http://www.mfa.gov.ua/mfa/ua/publication/content/13592.htm, retrieved April 29, 2008.

[121] Martyn, Volodymyr, "Path to the West through Zakarpattya", Mirror of the Week, # 42 (621), 4-10 November 2006, available under http://www.dt.ua/1000/1050/54978/ , retrieved April 29, 2008.

[122] *Ibid.*

[123] Overview of the Migration Systems in the CIS Countries, op.cit., p.176.

of life imprisonment. In order to reduce the level of illegal migration as well as the level of smuggling goods, Moldova pays great attention to improvement of the management of its borders. Moldova is used as a transit country by some citizens of Lebanon, Syria, but their number is small (p 152 2006).

From all that has been said above, the following conclusions can be drawn.

The flow of illegal migration though the Black Sea Region countries to a large extent determines the inflow of illegal migrants from Eastern Corridor and Balkan route. The most intensive flows of illegal migration go through Turkey (52.000 persons) and Ukraine (44.000). Each BSR country is involved in the illegal migration chain, but in different roles. The most advanced reforms undertaken by European Union member states Greece, Bulgaria and Romania, and Turkey (which is making reforms according to the EU standards). Institutional weaknesses at controlling illegal migration have created favorable conditions for the prevalence of organized crime. The remaining countries require profound comprehensive reforms in order to tackle illegal migration. Moreover, there is no institutional co-operation among countries in the region on combating illegal migration, thus leaving the challenges of illegal migration to be tackled by countries alone. Finally, a positive trend should be noted, namely the economic stabilization in CIS countries. This may lead to decreasing in numbers of CIS migrants.

4. Assessment of EU Policies in the BSR: Will They Make a Difference? Illegal Migration Prism.

This chapter analyzes the EU's engagement in the Black Sea Region through its policies in managing illegal migration. The Global Approach to Migration to the Eastern and South-Eastern regions neighboring the European Union and the Black Sea Synergy (migration domain) are examined. Subsequently,, the changes that happen in managing illegal migration in the ENP countries, Turkey and Russia caused by the externalization of EU migration control will be studied.

4.1. The EU's New Regional Initiatives

The Global Approach to Migration to the Eastern and South-Eastern regions neighbouring the EU and the Black Sea Synergy – how do they contribute to reinvigorating and steering regional co-operation between the BSR member states, and the EU and its member states, in the area of managing illegal migration? This will be analyzed in subsequent subchapters.

4.1.1. The Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the EU

To start with, it is necessary to point out that the Global Approach to Migration was adopted at the European Council in December 2005. Originally it concentrated on countries in the African and Mediterranean region. Following positive assessments one year on since its inception[124], the European Council in its Conclusions called on the Commission "to make proposals on enhanced dialogue and concrete measures" with regard to applying the Global Approach to the Eastern and South-Eastern regions neighbouring the EU.[125] The specific reasons behind applying it to this region are twofold. Firstly, according to data, nearly one third of foreign nationals residing in the EU come from that region.[126] So, there was a reasonable need to involve it. Secondly, changes in EU's borders due to Eastward enlargement in 2004 and 2007. As a result, the Commission took up the initiative and adopted the respective Communication on May 16, 2007. It covered a wide range of countries in the Eastern and Southern-Eastern vicinity of the EU. For the purpose of this paper, only countries of immediate interest will be explored, namely Armenia, Azerbaijan, Georgia, Moldova, the Russian Federation, Turkey and Ukraine.

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[124] Commission of the European Communities, Communication "*The Global Approach One Year On: Towards a comprehensive European migration policy*", COM (2006) 735 final, Brussels, November 2006.
[125] Commission of the European Communities, Communication "*Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighboring the European Union*", COM (2007) 247 final, Brussels, May 16, 2007, p.3.
[126] *Ibid.,* p.4.

What is the Global Approach to Migration and what is its added value to the EU's policy to the third countries? The spirit of the Global Approach can be described as follows "[It] brings together migration, external relations and development policy to address migration in an integrated, comprehensive and balanced way in partnership with third countries".[127] It encompasses the full migration spectrum, including "legal and illegal migration, combating THB and smuggling of migrants, strengthening protection for refugees, enhancing migrant rights and harnessing the positive links that exist between migration and development".[128]

The Global Approach has a conceptual backbone. The idea underpinning the Approach is a migration routes concept. It identifies the main migratory routes through a particular region towards the EU and works in close collaboration with the third countries along these routes.[129] Therefore, the main elaboration of the Approach is the medium and long-term recommendations, developed for each country. Their analysis will be made further in this sub-chapter. Notably, the Approach employs several tools, such as the co-operation platforms on migration and development and the migration profiles. The former brings together migration and development stakeholders in a country or region to manage migration more effectively, the latter analyzes all the relevant information needed to develop policy in the field of migration and development and to monitor the impact of policies implemented.[130] It can be concluded; that the EU developed its Approach by using a comprehensive theoretical foundation responding to contemporary challenges.

Now, it is timely to take a closer look at the essence of the developed recommendations.

The Global Approach contains several proposals for Turkey, in particular in the area on asylum and refugee protection and the fight against illegal migration and trafficking. It suggests amending "its main legislation on asylum in line with the relevant acquis, to ensure its effective implementation, and to establish an administrative capacity in line with EU best practices".[131] It will enable the safeguard of the rights of persons who may need international protection. Secondly, for effective illegal migration management it is important to conclude a readmission agreement between the EU and Turkey. Other recommendations touched upon regional co-operation, opportunities for circular migration and closer collaboration with FRONTEX.[132]

In the case of Eastern European and the Southern Caucasus countries, the Commission produced a greater amount of recommendations covering a larger range of issues. Certainly, this is due to the fact that there are significant migration and trafficking routes going through these

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[127] COM (2007) 247 final, op.cit., p.18.
[128] *Ibid.*
[129] *Ibid.,* p.19.
[130] *Ibid.,*pp.18-19.
[131] *Ibid.,* p.6.
[132] *Ibid.* p.6-7.

countries and also because the countries lack the institutional capabilities to deal with illegal migration on its own. As regards the question of readmission, the EU will explore the possibility of starting negotiations with the remaining countries of the region, with whom it has yet to conclude agreements. For those who have already endorsed the agreement with the EU, the Global Approach advises concentrating on countries' capacity to implement them. Also, the EU encourages concluding similar agreements among the Member States of the region.[133] The possibility of a mobility partnership with Ukraine is prioritized.[134] Along with the necessary questions of technical assistance and capacity-building, in the Approach a strong emphasis is given to intensification of co-operation at the Black Sea Region level. It advises using the experience and practice of the cooperation structures in the Baltic Sea to explore the possibility of creating a regional co-operation platform.[135] It will engage EU Member States and agencies, regional organizations such as the BSEC, the Baltic Sea Task Force on Organized Crime (TF-OC), and the Black Sea Forum in an effort to better manage migration.[136] As well it is suggested to study the experience of the Söderköping[137] and Budapest processes.[138]

Understanding the complexity of the current migration situation in Russia, the Approach gives special attention to the implementation of the priorities set out by the Road Map of the Common Space on FSJ. Predominantly it includes exchange of information on migration management policies and best practices, including the assessment of statistics, and cooperation with third countries.[139] Also, there is the need to improve protection of internally displaced persons in accordance with international standards.[140] It recommends intensifying Russia's co-operation with Europol on combating TOC. Remarkably, the Global Approach also envisages establishment of a visa-free travel regime as a long-term perspective.

Application of the Global Approach has significant potential for managing illegal migration in the Black Sea Region. It implies engagement of EU's all existing instruments and policies in dialogue with the countries in order to deal with migration and it covers a wide range of migration

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[133] COM (2007) 247 final, *op.cit.*

[134] *Ibid.,* p.8.

[135] *Ibid.*

[136] *Ibid.*

[137] The Söderköping process is an initiative aiming to foster the cross-border co-operation resulted from the EU enlargement to the East. Its objective is to promote dialogue on asylum and irregular migration issues among the countries bordering the EU. Information obtained from http://soderkoping.org.ua/. For further information, please consult this web link.

[138] The Budapest Process is a consultative forum of more than 50 Governments and 10 international organizations, aiming at developing comprehensive and sustainable systems for orderly migration. It involves states from the wider European region (EU MS, SAP, CIS) with the purpose of exchanging information and experiences in dealing with related topics such as: regular and irregular migration, asylum, visa, border management, THB and smuggling of migrants, readmission, return, etc. Information excerpted from the ICMPD web site http://www.icmpd.org/906.html?&no_cache=1&tx_icmpd_pi1[article]=881&tx_icmpd_pi1[page]=885.

[139] Ibid.

[140] Ibid.

issues. The Approach helps to maintain and ensure policy coherence in relation to countries concerned. It can be argued, that the Approach's added value is that it uses a strong theoretical background – the migration routes concept and various tools, which help to address accurately migration in the region. Elaborated recommendations are the guiding lines for the partnership and its effective implementation is the common responsibility of the EU and countries in the region. Throughout the Approach a general idea of intensifying intra-regional co-operation is detected. This is particularly important for the BSR.

4.1.2. The Black Sea Synergy – Better Managing Illegal Migration in the BSR

As it was argued in the third part of this paper, the Black Sea Synergy is a new regional co-operation initiative which aspires to promote closer co-operation within the BSR member states and between the EU and the BSR. In its introductory part, the EU acknowledges that "it is a region with unresolved frozen conflicts, with many environmental problems and insufficient border controls thus encouraging illegal migration and organized crime".[141] Therefore, managing movement and improving security are identified among the priority areas of co-operation. Notably, in the Communication among thirteen fields of cooperation, the area concerned is discussed second, just after sections on democracy, respect for human rights and good governance, followed by sections on frozen conflicts, energy, transport, trade etc. Thus, it reflects the importance for the EU and its security of strengthening the fight against illegal migration, THB and smuggling and organized crime in the region.

What does the Synergy offer in terms of managing movement and improving security? The Initiative advocates improving border management and customs co-operation at regional level "to develop best practices, introduce common standards for saving and exchanging information, establish early warning systems relating to trans-national crime and develop training schemes".[142] It advises channelling experience from other similar initiatives in South-Eastern Europe and the Baltic area and using the potential of the South-East European Cooperation Initiative Regional Centre for Combating Trans-border Crime (SECI) and the Black Sea Border Coordination and Information Centre (BBCIC).[143] Remarkably, there is already a successful practical example of co-operation in this area, namely the EU Border Assistance Mission for Moldova and Ukraine, which has been in place since 2005.

The first impetus for implementation of the BSS was given at the Black Sea Synergy meeting of the Foreign Ministers of the EU 27 and their counterparts from the Black Sea region in Kyiv on

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[141] Black Sea Synergy, p. 2.
[142] *Ibid.,* p.4.
[143] *Ibid.*

February 14, 2008. Ahead of the Ministerial Meeting, Commissioner for External Relations and European Neighbourhood Policy, Benita Ferrero-Waldner, said: "Black Sea Synergy is designed to attract political attention to the Black Sea region and provide new opportunities through increased cooperation with the EU. I am personally committed to exploring all the potential provided by Black Sea Synergy".[144]

The meeting was opened by the President of Ukraine Mr.Yuschenko, thus showing commitment on the part of Ukraine to be an active participant in regional co-operation and integration. Mr.Yuschenko said that "Ukraine is and will remain a reliable partner for the Black Sea Region Member States and for the EU, and will be actively involved in order to successfully implement our common integration goals".[145] As Commissioner Ferrero-Waldner emphasized in her speech "there could be lead countries and/or regional organizations responsible for specific targets, guided, if necessary, by further Ministerial meetings on particular sectors".[146] So, it can be noted that for Ukraine it is an exclusive opportunity to demonstrate itself as a regional leader and to prove its capability to introduce reforms effectively. This may lead to deeper integration with the EU and even to eventual membership in the long-term.

In a Joint Statement following the meeting, the Ministers of Foreign Affairs of the countries of the EU and of the wider Black Sea area recognized that "It is the beginning of a long-term regional co-operation endeavour offering new opportunities and increased stability and prosperity to citizens in the wider Black Sea area and the whole of Europe".[147] It is noteworthy, that there are two articles in the Joint Statement which relate to the movement of and security. Article 5 stated:

> The Black Sea countries and the EU will develop region-wide activities to strengthen cooperation in the fields of migration, law enforcement and the fight against organized crime building on the activities of co-operation arrangements already in place, by ensuring added value and avoiding duplication.[148]

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[144] Press release
http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/221&format=HTML&aged=0&language=EN&guiLanguage=en
[145] Speech of the President of Ukraine Mr.Yuschenko at the Ministerial Meeting of the BSR countries and the EU, Kyiv, Ukraine, February 14, 2008, available under http://www.president.gov.ua/news/9008.html, retrieved April 12, 2008.
[146] Speech of Commissioner Benita Ferrero-Waldner at the Black Sea Synergy Ministerial Meeting in Kyiv on 14 February 2008, Black Sea Synergy: the EU's approach to the Black Sea region, available under http://www.delukr.ec.europa.eu/page46143.html, retrieved April 12, 2008.
[147] Joint Statement of the Ministers of Foreign Affairs of the countries of the European Union and of the wider Black Sea area, Kyiv, Ukraine, February 14, 2008, available under http://ec.europa.eu/external_relations/blacksea/doc/joint_statement_blacksea_en.pdf, retrieved April 12, 2008.
[148] Ibid.

At the same time article 6 pointed to a possible visa facilitation aspect.[149] Therefore, it reconfirms the fact that migration and security are given high priority in the Synergy's agenda.

However, the Black Sea Synergy and the Global Approach are not the only documents which provide strategic guidance. There are concrete target activities. At the time of writing this paper it became known from consulting with Manfred Kohlmeier[150], DG JLS, that recently the Member States reached an agreement to establish a Co-operation Platform on Migration in the Black Sea Region. The decision was adopted by the Council's High Level Working Group on Asylum and Migration on April 23, 2008. As Herr Kohlmeier explained, the general purpose of the BSR Co-operation Platform is to provide a mechanism for establishing a focused and strengthened migration dialogue and improving practical co-operation between Member States and the countries in the region, as well as between those countries themselves.[151] The Co-operation Platform will be built upon already existing initiatives and projects in order to avoid duplication and maximize their impact. In order to develop its content, timeframe and working methods, a special Task Force composed of Member States' experts and the Commission will soon be created.[152]

Important to highlight that launching of the Global Approach and the Synergy are timely because tackling illegal migration in BSR require integral and complex approach.

4.2. The BSR Member States

As mentioned earlier, the BSR is not a homogenous region and relations with its member states and the EU have developed under different policies. To start with, there are five countries within the framework of the European Neighborhood Policy. These are Armenia, Azerbaijan, Georgia, Moldova and Ukraine. Secondly, the Russian Federation, which rejected the option of the ENP, and insists on its special 'strategic' place in the constellation of the EU's external relations. Thirdly, an important actor in the region is Turkey which is notably the only EU candidate country in the region, with relations currently being developed within the Accession Partnership 2006.

Before proceeding to the assessment, it is worth mentioning that the initial relationship between the six former Soviet states and the EU is determined by the Partnership and Co-operation Agreements. These entered into force between 1997 and 1999. The Agreements are underpinned by principles of respect for human rights, democracy and principles of the market economy, and

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[149]Joint Statement, op.cit.
[150] Manfred Kohlmeier is a national expert from Germany seconded to the European Commission working in the Immigration & Asylum Unit of DG JLS.
[151] Consultation with Herr Kohlmeier via e-mails, April 29-30, 2008.
[152] *Ibid.*

established the basis for political and economic relations with the countries.[153] Besides a wide scope of issues as trade, agriculture, education etc., it dealt with the matter of combating illegal migration, but to a quite limited extent. It obliged the Co-operation Council to examine joint efforts to control illegal immigration, but only taking into account the principle and practice of readmission.[154]

4.2.1. The ENP

Looking ahead to the 'big-bang' enlargement in 2004, the Copenhagen European Council of 2002 recognized and emphasized the EU's commitment to 'avoid new dividing lines in Europe and to promote stability and prosperity within and beyond the borders of the Union'.[155] The Commission's Communication in 2003, 'Wider Europe - Neighborhood: A New Framework for Relations with our Eastern and Southern Neighbors' presented a new concept of relations with the respective countries. The overarching objective of the policy can be described as follows "reducing poverty and creating an area of shared prosperity and values based on deeper economic integration, intensified political and cultural relations, enhanced cross-border co-operation and sharing responsibility for conflict prevention between the EU and its neighbors".[156]

What were the policy implications in the area of illegal migration?

Firstly, due to ever increasing geographical proximity to the EU, it recognized the need to manage the new external border and trans-boundary flows. It said that the partners should co-operate in areas of migration policies, customs procedures and frontier controls in order to create favorable conditions for "crossing borders for legitimate purposes".[157] Equally, it emphasized the necessity of joint approaches and intensified co-operation to address the threats to mutual security, including illegal immigration, THB, smuggling of migrants and organized crime.[158] Secondly, the EU explicitly declared its willingness to assist in reinforcing the neighboring countries' efforts to combat illegal migration. The EU gave particular attention to establishing efficient mechanisms for return, especially of illegal transit migrants. The EU prioritized concluding readmission agreements with its neighbors believing that it is an 'essential element in joint efforts to curb illegal migration'.[159]

Following the Council decision, which welcomed the new policy and exploratory talks with the future ENP partner countries, the Commission developed a Strategy Paper on ENP. The Strategy

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[153] DG RELEX, official web site http://ec.europa.eu/external_relations/ceeca/pca/index.htm
[154] Partnership and Co-operation Agreement between the European Communities and their Member States, and Ukraine, http://ec.europa.eu/external_relations/ceeca/pca/pca_ukraine.pdf
[155] Copenhagen European Council December, Presidency Conclusions, 12-13, 2002, art.24.
[156] Commission of the EC, Communication *"Wider Europe - Neighborhood: A New Framework for Relations with our Eastern and Southern Neighbors"*, COM (2003) 104 final, Brussels, March 11, 2003, p.9.
[157] *Ibid.,* pp.6,11.
[158] *Ibid.*
[159] *Ibid,* p.11.

further specified the principles and scope of the policy, the role and place of the Action Plans in policy implementation, underscored the importance of regional co-operation and provided financial provisions. For the purpose of this analysis, it is notable that the Strategy identified the precise role of the policy in achieving the Union's objectives in the area of JHA, in particular in the fight against organized crime, corruption, all forms of trafficking, as well as with regard to issues related to migration.[160] It is important to underline the core idea of the policy – the adherence to shared values and partners' commitment to them through implementing activities in priority areas. This cross-cutting is essential for transforming societies in these states.

In the area of JHA, the Strategy again reiterated common challenges such as migration pressure from third countries, THB and a common interest to tackle them jointly.[161] It spelled out that the target activities will be elaborated according to the needs of the countries, but, at the same time, specified that "the border management is likely to be a priority in most Action Plans".[162] For that reason, the Action Plans should include measures helping to improve the efficiency of border management (training and creating the corps of professional non-military border guards, secure travel documents).[163] Furthermore, in areas related to migration it suggests covering asylum, visa policies, organized crime and THB. Judicial and police co-operation, including collaboration with the EU agencies Europol and Eurojust, were also mentioned. In addition, the EU emphasized the need to ratify and implement relevant international conventions. Moreover, it repeated the Union's interest in concluding readmission agreements with partner countries.[164]

The rational way to evaluate the effectiveness of the ENP in the area of illegal migration is to look at the implementation of the Action Plans. The recent Commission Communication on Implementation of the European Neighborhood Policy in 2007[165] and accompanying Sectoral progress report will be used for the analysis. When presenting the interim policy outcomes, Commissioner Ferrero-Waldner said "Our Neighborhood Policy is a success story".[166]

Indeed, the Communication stated

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[160] Commission of the EC, Communication *"European Neighborhood Policy. Strategy Paper"*, COM (2004) 373 final, Brussels, May 12, 2004, p.6.
[161] *Ibid.*, p.16.
[162] *Ibid.*
[163] *Ibid.*, pp.16-17.
[164] *Ibid.*
[165] Commission of the European Communities, Communication on *"Implementation of the European Neighbourhood Policy in 2007"*, COM(2008) 164, Brussels, April 3, 2008, available under http://comeuroint.rada.gov.ua/komevroint/control/en/publish/article;jsessionid=2087342B6682DF755C2D7CE81D8D0 3CC?art_id=47726&cat_id=46145, retrieved April 28, 2008.
[166] Soderkoping process official web site, http://soderkoping.org.ua/page17581.html

The ENP is gradually establishing itself as a mutually beneficial partnership for reform and development, helping our neighbors to come closer to the EU, bringing new benefits to their and our citizens and promoting regional integration beyond the borders of the Union.[167]

According to the Sectoral progress report[168] there are a number of important achievements. First of all, notable progress was reached on migration and visa facilitation. To illustrate this, Ukraine and Moldova concluded readmission and visa facilitation agreements with the EU, which entered into force on January 1, 2008.[169] The EU took steps to encourage a mobility partnership with these countries in order to stimulate legal migration and, at the same time, to combat illegal migration; remarkably, Moldova was chosen as a pilot country for the mobility partnership.[170] Some progress was reported with regard to legislation and measures concerning refugees and asylum seekers, largely owing to the AENEAS[171] program and cooperation with the UN High Commission on Refugees.[172] Since the EU paid considerable attention to the issue of border management, partner countries are currently working on the preparation of new institutional and legal frameworks for the establishment of integrated border management systems in line with European standards.[173] Bearing in mind recent new measures to tighten borders, which include introducing biometric data in travel documents, further steps forward are still needed to improve document security.

The EU emphasizes the need to foster further reforms in the area of police and judicial cooperation. It is urgently needed to ratify the European Convention on Mutual Assistance in Criminal Matters and the Council of Europe's 2005 Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.[174] In 2007 no substantial progress was achieved on this matter. Remarkably, certain countries advanced co-operation with European agencies like Eurojust and Europol. Co-operation Agreements were signed by Moldova with Europol and negotiations are ongoing between Ukraine and Eurojust.[175] Concerning the fight against OC and THB, all countries showed their commitment to it and signed the UN Convention against Trans-national Organized Crime with two subsequent Protocols – the Protocol to prevent, suppress and punish trafficking of persons and the Protocol against the smuggling of migrants. With regard to the Third Protocol on Firearms, some countries still need to sign and ratify it. It is remarkable that ENP

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[167] Communication on *Implementation of the European Neighborhood Policy in 2007*, p.2.
[168] Commission of the European Communities, Commission staff working document Accompanying the Communication from the Commission to the Council and the European Parliament 'Implementation of the European Neighborhood Policy in 2007' Sectoral progress report, SEC(2008) 403, Brussels, April 3, 2008, available under http://ec.europa.eu/world/enp/pdf/progress2008/sec08_403_en.pdf, retrieved April 28, 2008.
[169] Ibid., p.5.
[170] Ibid.
[171] AENEAS program provides financial and technical assistance to third countries in the field of migration and asylum
[172] *Ibid.*
[173] *Ibid.*
[174] Ibid. p.6.
[175] Ibid.

countries established national action plans and strategies to combat OC and THB and now the most crucial aspect is their full and effective implementation, particularly in the context of regional cooperation.[176]

Therefore, it can be concluded that in the case of the ENP, the European Union realizes externalization of its migration control by incorporating JHA matters in its Action Plans. It aims to achieve it through the tool of policy transfer with the following priorities: border management, asylum, judicial and police co-operation, adherence to international conventions and the readmission tool. The accomplished results are testimony to the reforms that the EU has stimulated in the ENP countries of the BSR in the area of managing illegal migration. The general overall achievements reached by the partner countries have been analyzed. More detailed analysis of the EU-ENP co-operation in the area of illegal migration will be made in the case of co-operation with Ukraine in the next thesis chapter.

4.2.2. The Accession Partnership

As mentioned above, relations between Turkey and the EU are determined by the Accession Partnership 2006. This document sets short and mid term priorities for Turkey's application, to prepare Turkey for full membership in the community. The section on JFS suggests strengthening law enforcement institutions and aligning their status and functioning with European standards.[177] Importantly, it points to the necessity to continue implementing the National Action Plan on Migration and Asylum, to combat illegal migration and to conclude urgently a readmission agreement with the EU.[178] The EU also accentuates the adoption and implementation of the National Action Plan on Border Management, which will enable the establishment of a professional non-military border guard service.[179] Strengthening the fight against organized crime (through adopting a national strategy) and trafficking in persons is also advised.[180] From a medium term perspective, the EU requires Turkey's alignment with the European *acquis* and standards in all sectors – asylum and migration legislation "with a view to preventing illegal migration", data protection, customs and border management "so as to prepare for full alignment with the Schengen acquis".[181]

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[176] *Ibid.*

177 Council of the European Union, *Decision 2006/35/EC of 23 January 2006 on the principles, priorities and conditions contained in the Accession Partnership with Turkey*, available under http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=32006D0035&model=guichett, retrieved February 26, 2008.

[178] *Ibid.*
[179] *Ibid.*
[180] *Ibid.*
[181] *Ibid.*

The recently published Progress Report on Turkey 2007[182] gave a rather moderate evaluation of Turkey's progress on Chapter 24 on JFS. The general tone of this part of the document can be seen from such phrases as 'limited progress' and 'some progress'.[183] According to the Report, Turkey did not make improvements in the areas of migration and asylum, external borders and Schengen, judicial co-operation in criminal matters or police co-operation. In the area of migration, in both the Reports from 2006 and 2007 the EU underlined the necessity to intensify efforts to implement the National Action Plan on Asylum and Migration for alignment with the EU *acquis.* Also, it pointed out the need to activate negotiations on a readmission agreement between Turkey and the EU. It is said bluntly that since December 2006 "no actual progress in negotiations was made".[184] As regards asylum, limited progress was reported in preparing for de-centralization of asylum procedures and for improved reception conditions.[185] It suggests the adoption of new legislation in order to ensure fair and standardized asylum procedures.[186] Arguably, Turkey has advanced in the management of its external borders by introducing an inter-agency co-operation meeting at political level; certain state institutions have started to exchange database information for the screening of persons crossing the borders and a risk analysis unit was established within the Customs Administration.[187] Nevertheless, there is more room for work to be done, in particular concerning the development of a more concrete roadmap with precise actions, targets and responsible authorities; and establishing a risk analysis unit within the police administration and the new border law enforcement authority.[188] Also, the Report discusses the measures required for strengthening police and judicial co-operation.

Notably, the Report identifies some valuable progress in the area of visa policy, the fight against organized crime, drugs and THB and customs co-operation. Further alignment with the EU acquis has been achieved by introducing new visa instructions and also Italy was added to the EU positive list.[189] Remarkably, Turkey adopted a national strategy against OC and it continues to work effectively on combating THB by introducing legislative amendments to the offence of trafficking.[190] Increased customs co-operation with police bore fruit in the increased number of seizure of drugs and THB.[191] Since Turkey is in the midst of the accession process, the EU

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[182] Commission of the European Communities, Commission staff working document *"Turkey 2007 Progress Report"*, SEC(2007) 1436, Brussels, November 11, 2007, available under
http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf
, retrieved April 26, 2008.
[183] *Ibid.,* pp.63-66.
[184] *Ibid.,* p.64.
[185] *Ibid.*
[186] *Ibid.*
[187] *Ibid.,* p.65.
[188] *Ibid.*
[189] Ibid., p.64.
[190] Ibid., p.65.
[191] Ibid., p.66.

scrutinizes Turkey's Partnership implementation more thoroughly and is more judgmental and critical about its achievements. Notably, the requirements for Turkey are deeper and more complex, and cover a larger scope of issues on illegal migration management.

Following the 2007 Report findings, the Council adopted a Decision on the Principles, priorities and conditions contained in the Accession Partnership with Turkey 2008.[192] Based on the results achieved, the Partnership 2008 defines the same guidelines and priorities as contained in the Accession Partnership 2006. EU determines demanding objectives: it finds essential to bring Turkey's migration policy in line with the *acquis* and underlines necessity of EU-Turkey readmission agreement.

4.2.3. Strategic Partnership

Lastly, relations with a geo-politically important player in the BSR, namely the Russian Federation, and the EU are based on the Partnership and Cooperation Agreement, within which a JHA Sub-Committee and a JHA Permanent Partnership Council at ministerial level were established.[193] Also JFS issues are regularly discussed during biannual EU-Russia Summits. Relations were further deepened at the EU-Russia St. Petersburg Summit of May 2003 by establishing the four Common Spaces.[194] One of them covered Freedom, Security and Justice matters. In a Joint Statement the partners

Reiterated […] [their] common view that enhanced co-operation in the field of JHA between Russia and the EU, including on border management and migration issues, will serve the objective of building a new Europe without dividing lines, thus facilitating travel and contacts between all Europeans.[195]

At the Moscow Summit in May 2005 the partners adopted a single package of Road Maps in order to implement the established four Spaces.[196] Each Road Map consists of the target activities to be put into practice in the short and medium-term. The Road Map on FSJ states that work in this area

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[192] Council of the European Union, *"Decision (2008/157/EC) of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey and repealing Decision 2006/35/EC",* Official Journal of the European Union, L 51/4, February 26, 2008.

[193] Delegation of the European Commission to Russia official web site, available under http://www.delrus.ec.europa.eu/en/p_210.htm

[194] *"The European Union and Russia: Close Neighbors, Global Players, Strategic Partners",* DG RELEX, Brussels, 2007, available under http://ec.europa.eu/external_relations/library/publications/russia_brochure07_en.pdf, retrieved April 25, 2008, p.16.

[195] Joint Statement EU-Russia Summit, St Petersburg, May 31, 2003, available under http://ec.europa.eu/external_relations/russia/sum05_03/js.htm, retrieved April 25, 2008.

[196] DG RELEX official web site, Relations with Russia, http://ec.europa.eu/external_relations/russia/intro/index.htm#comm, retrieved April 25, 2008.

between the EU and Russia "is already advanced and has become a key component in developing a strategic partnership between the parties".[197]

What are the priority areas of co-operation related to managing illegal migration? Principally, like with other countries of the BSR, the EU identified the conclusion of a readmission agreement as a primary element of co-operation, which it believes is an important tool to respond to illegal migration. Secondly, it is necessary to complete border demarcation[198], as well as intensify border management and border protection by strengthening the institutional and administrative framework.[199] Next, it stresses the need to support the better management of migration and asylum policies through implementing international conventions such as the Protocol against the Smuggling of Migrants by Land, Sea, and Air, supplementing the UN Convention against TOC, and the 1951 UN Convention relating to the status of refugees.[200] In order to prevent illegal migration improvement of documents security is required.[201] Importantly, the EU pays special attention to combating TOC and THB. Essentially, realizing the EU-Russia Action Plan on Organized Crime is needed and co-operation with Europol, with whom a co-operation agreement was signed on November 6, 2003, should expand, to include data protection and information exchange as regards THB.[202] The EU also promotes international and regional law enforcement operations to combat THB, especially in relation to women and children.[203]

So, it can be noted that the EU sets a comprehensive and exhaustive agenda for Russia so that it will be able to better manage and respond to illegal migration. Implementation of the Road Maps will soon reach their three year anniversary. So, it is appropriate to assess the achievements reached by the Russian side. On the occasion of the eighth EU-Russia Permanent Partnership Council (PPC) on JHA, that took place on April 25, 2008, Vice-President Jacques Barrot highlighted the progress the EU and Russia have made in implementing the Common Space of FSJ.[204] The most tangible achievement in this sector has been the entry into force of the agreements on Readmission and Visa Facilitation on 1 June 2007.[205] Mr. Barrot noted: "I have appreciated the constructive and fruitful discussions with the Russian side, particularly in the field of visas, where an excellent dialogue has been established resulting in a common understanding about shared objectives and appropriate

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[197] Road Map for the Common Space on Freedom, Security and Justice, p.31.
[198] For example, all Southern borders with Ukraine require demarcating.
[199] Road Map, op.cit., pp.34-35.
[200] Ibid., p.35.
[201] Ibid., p.39.
[202] Ibid., pp.41, 49.
[203] Ibid., p.49.
[204] Press release, Vice-President Jacques Barrot welcomes the enhanced co-operation between the EU and Russia in the field of freedom, security and justice, IP/08/646, April 25, 2008, available under
http://www.delrus.ec.europa.eu/en/news_1013.htm, retrieved April 28, 2008.
[205] EU-Russia Common Spaces Progress Report 2007, March 2008, available under
ec.europa.eu/external_relations/russia/russia_docs/commonspaces_prog_report2007.pdf, retrieved April 28, 2008, p.30.

methods of achieving them".[206] The question of document security was discussed at an expert level meeting. Moreover, the border demarcation process with Latvia has started.[207] Russia's co-operation with FRONTEX is advancing speedily. Thus a joint cooperation plan for 2007-2010 has been agreed. Currently, Europol assesses Russia's national legislation on implementing the Council of Europe 1981 Convention on the Automatic Processing of Personal Data.[208] Upon its positive evaluation an operational agreement between Russia and Europol will be concluded. The possibility of a co-operation agreement with Eurojust is also being examined.

Thus, it can be argued that the European Union is an important actor, stimulating Russian modernization, including by developing its capacities in the area of illegal migration management. Effective implementation on Russia's side is essential for addressing the current problem of the uncontrollable flow of illegal migrants.

Therefore, the EU mobilises all its available instruments and policies in place in the region in order to deal with migration, and, as noted before, it addresses an inclusive range of migration issues. The Global Approach and the Black Sea Synergy might create positive implications on illegal migration control. Establishment of the Co-operation Platform on Migration in the Black Sea Region will enable the deepening and strengthening of regional co-operation. The present European Union polices, such as the ENP, Accession Partnership and Strategic Partnership, cover basic problems related to illegal migration, however a joint regional response in tackling illegal migration is preferred.

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[206] Press release, IP/08/646, *op.cit.*
[207] Progress Report 2007, *op.cit.*, p.31
[208] *Ibid.*

5. Combating Illegal Migration in Ukraine: Practical Aspects of EU-Ukrainian Co-operation

This final chapter reviews co-operation between the European Union and Ukraine in the area of managing illegal migration. The key reason for selecting Ukraine is the fact that a major Eastern route of illegal migrants heading towards the European Union goes across the Ukraine. This case study illustrates and confirms the understanding on the part of the EU of the challenges which originate from *malgouvernement* of illegal migration in Ukraine, and demonstrates active EU engagement (in the country) by addressing a whole complexity of sectors related to illegal migration. Co-operation is examined by looking at the EU-Ukraine Action Plan on JHA and its implementation, the Readmission Agreement, the EUBAM operation and co-operation with EU law enforcement agencies.

5.1. EU-Ukraine Action Plan on Justice, Freedom and Security

Relations between Ukraine and the EU in the field of better management of illegal migration are already advanced. As has been outlined in the previous chapter, the Partnership and Co-operation Agreement constitutes the legal foundation of co-operation. It only envisaged, however, limited co-operation in the area of JHA; that is, fighting illegal migration, money laundering and drugs trafficking. Nonetheless, over the years the co-operation has expanded to other fields beyond the Agreement provisions. As national expert Gabriel Aslanyan underlines closer co-operation in JHA matters was a priority for the partners.[209] In support of this fact, in December 12, 2001 the partners adopted the EU-Ukraine Action Plan on Justice and Home Affairs. Notably, Ukraine remains the only country with a special Action Plan on JHA among ENP countries. Following expert consultations, in July 2002 a special scoreboard was designed in order to evaluate its assessment. Remarkably, the level of the political meetings on JHA was upgraded to EU Troika at the level of Ministers. Key priority areas in the Action Plan were defined as follows: migration and asylum, border management and visa, the fight against OC, THB, the strengthening of the judiciary, the rule of law and good governance.

Following the launching of the ENP, which also involved Ukraine, the Action Plan on JHA became an integral part of the EU-Ukraine Action Plan 2005 section on Freedom, Security and Justice. In light of further enhancements of the relationship, during the EU-Ukraine Co-operation Council meeting of June 18, 2007 a new version of the Plan was adopted. At a preceding meeting of

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[209] Aslanyan, Gabriel, "Problems of implementing EU-Ukraine PCA", Laboratory of Legislate Initiatives, Kyiv, July 29, 2004, available in Ukrainian under
http://www.parliament.org.ua/index.php?action=draft_art&dtopic=7&ar_id=1169&ch_id=&as=0, retrieved, Mrach 20, 2008.

the Ukraine Ministers of JHA and the EU Troika on June 11, 2007 they noted that this revised Action Plan "will provide the framework for intensifying JLS co-operation between the EU and Ukraine".[210]

The revised Action Plan identifies the "main challenges and strategic aims for this co-operation", among which the most pertinent(vital) are the strengthening of the partnership and practical co-operation between the European Union, its Member States and Ukraine in the field of FSJ; supporting Ukraine's efforts to consolidate democracy, protect human rights and fundamental freedoms; promoting the strengthening of stability and effectiveness of the state institutions concerned, as a basis for consolidating rule of law more generally; continuing work with Ukraine to ensure the application of the principles of rule of law, independence and efficiency of the judiciary including access to justice and good governance.[211] Notably, the agreed priority areas remained the same: readmission, border management, asylum, combating OC, THB, migrants smuggling etc.

Now, the target activities will be explored in greater detail.

The partners identified several important activities relating to illegal migration management that require prompt implementation. Foremost, it is necessary to establish the State Migration Service of Ukraine in order to ensure adequate intra-agency co-operation at central, regional and local levels involving all responsible migration state agencies.[212] Special attention must be paid to management of migration flows. As a starting point it advises conducting consultations regarding statistical data and information on illegal migration and best practices; then, it is important to organize an evaluation of the illegal migration scale going through Ukraine and systematically monitor those migratory movements.[213] To anticipate migration fluctuations and elaborate preventive measures, the Action Plan advises drawing up risk assessments and participating in international assessments on flow of illegal migrants which are of relevance for Ukraine.[214] The possibilities for co-operation to improve the management of migration flows and engagement of the EU Member States and the Commission should be explored.[215] Furthermore, particular emphasis is made as regards the detention of illegal migrants. The EU obliges alignment with European standards for facilities for the detention of illegal migrants; approximation of administrative legislation in respect of persons detained for illegally crossing the Ukrainian border; and ensuring appropriate judicial control over all decisions on persons detained longer than 72 hours.[216] Lastly, it

[210] *Fifth Ministerial Meeting on Matters of JFS between Ukraine and the Troika of the EU',* available under http://www.ukraine-eu.mfa.gov.ua/eu/en/news/detail/5596.htm, retrieved March 20, 2008.
[211] "Revised EU-Ukraine Action Plan on Freedom, Security and Justice", June 18, 2007. p.2
[212] Ibid., pp.3-4.
[213] *Ibid.*
[214] *Ibid.*
[215] *Ibid.*
[216] *Ibid.*

recommends increasing participation in regional and international migration-related co-operation networks and fora.[217]

Before proceeding further with an analysis of EU-Ukrainian co-operation, it is pertinent to evaluate what has been achieved so far and to what extent the JHA Action Plan has been implemented. In order to do so, the findings of the Progress Report Ukraine on Implementation of the European Neighborhood Policy in 2007 will be used. The major achievement of the partners is the conclusion of the EC- Ukraine Visa Facilitation and Readmission Agreements that entered into force on January 1, 2008.[218] The Progress Report highlighted and recognized the fact that "Ukraine remains a major transit country for irregular migrants from Asia, the Arabic countries and Africa and the number of migrants is increasing".[219] In view of this situation, with the help of the EC, reform of the State Border Guard Service is continuing. One concrete result is that conscripts are no longer required to serve as border-guards, which was part of Soviet practice.[220] Such reform will enable transformation of the Border Guard Service into a law-enforcement institution capable of responding to contemporary challenges, including combating illegal migration. As well as recruitment processes, career development and education of border-guards are under reform. An illustration of the seriousness of Ukraine's intention to advance reforms is shown by the adoption of the Cabinet of Ministers Resolution "On approval of the state special purpose law enforcement program 'Organization and reconstruction of the state border' for the period until 2015".[221] According to this, the Ukrainian government will allocate up to approximately €133 million for the improvement of border infrastructure, including equipment. The success of this Program will thus largely depend on the systematic allocation of funds.

As regards asylum procedures, the Report explicitly states that the "asylum system deteriorated".[222] Yet "no asylum authority was appointed to take positive decisions on asylum applications".[223] Such a situation led to the massive accumulation of unprocessed asylum claims. The shortcomings in refugee law are pointed out, in particular on the question of accelerated procedures that the law established which are frequently used to reject claims without considering the substance of the claim.[224] Additionally, there are no provisions on nondiscrimination of refugees on the grounds of race, religion or country of origin; the Report notes that this is particularly relevant

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[217] *Ibid.*
[218] This practical aspect of co-operation will be examined in following sub-section of this paper.
[219] Commission of the European Communities, Commission staff working document accompanying the Communication 'Implementation of the European Neighborhood Policy in 2007' Progress Report Ukraine, SEC (2008) 402, Brussels, April 3, 2008, available under http://ec.europa.eu/world/enp/pdf/progress2008/sec08_402_en.pdf, retrieved April 25, 2008. p.13.
[220] *Ibid.*
[221] *Ibid.*
[222] *Ibid.*
[223] *Ibid.*
[224] *Ibid.*

in the case of the ethnic Chechens from the Russian Federation who are not generally recognized.[225] Moreover, the law "does not provide access for legal specialists of NGOs or UNHCR to refugees' individual files or for refugees to have legal representation during refugee status determination".[226] So, asylum applicants lack the opportunity to have timely legal advice. To have a broader picture of the problem, it is worth mentioning as well, and it is underlined in the Report, that applicants are often "subject to police harassment, arbitrary and protracted detention as well as a serious risk of *refoulement*, while refugees face serious obstacles to the enjoyment of their rights and to integrate in Ukraine".[227] As Human Rights Watch reported "Ukraine is not a safe country".

With regard to combating organized crime, Ukraine continues to implement the UN Convention on TOC, particularly the part on trafficking in persons. Further efforts are still needed to prevent THB, and to promote the reintegration of victims and protection of witnesses in cooperation with civil society groups.[228]

Following this assessment, it can be concluded that EU-Ukrainian co-operation in the domain of combating illegal migration is an important component of Ukraine's efforts to reform its migration management. Latest results of the implementation of the Action Plan show that although there is a 'painful' long way to go, Ukraine's commitment to reforms are feasible. In particular, progress was achieved in concluding the "Readmission Agreement" and ongoing State Border Guard Service reform.

5.2. The Readmission Agreement

Concluding a readmission agreement between Ukraine and the EU has been among the EU's top priorities in the field of controlling illegal migration for a long time. The negotiations were opened in 2002 and finalized by the signing of the Agreement between the European Community and Ukraine on the Readmission of Persons on June 18, 2007.[229][230] Vice-President Frattini, Commissioner responsible for the Justice, Freedom and Security on this occasion stated

> "I am very pleased that the agreements on visa and readmission have been signed - this means that Ukrainians will now be able to travel more easily while maintaining the efforts to clamp

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[225] *Ibid.*

[226] *Ibid.*

[227] *Ibid,* p.14.

[228] *Ibid.*

[229] The Readmission Agreement was ratified by the European Parliament in October 2007 and by Ukrainian Parliament in January 2008.

[230] In turn Ukraine received simplification of visa procedures for certain categories of persons (businessmen, students, journalists, family members etc) with a fixed price of 35 euros.

down on illegal migration. The EU and Ukraine can aspire to a qualitatively higher level in their relationship, and these agreements are particularly important in this perspective".[231]

The agreement sets out readmission obligations, procedures and financial 'burden-sharing'. According to the Agreement, the signatories undertake obligations to readmit to their territory persons, third-country nationals or stateless persons, who do not, or who no longer, fulfill the conditions in force for entry to, or stay on, the territory of the respective partner (either Ukraine or EU Member States).[232] With regard to implementation of the provisions on the readmission of third-country nationals and stateless people, Ukraine achieved certain exemption. It will come into force only after a transitional period of two years.

This exemption is of high importance to Ukraine for several reasons. Experts from the International Center for Policy Studies (Kyiv) agree that "Ukraine is not prepared to fulfill this Agreement entirely".[233] The underlying problem is that "Ukraine does not have the capacity to accept, detain and transfer nationals of third countries to their countries of origin after being returned from the EU".[234] The initial problem starts with migrant identification. Ukraine does not have effective procedures of identification and lacks professional personnel to fulfill these tasks. In accordance with Ukrainian legislation, the identification procedure lasts six months. If a person is not identified within this period, he or she receives a certificate and is allowed to go. Shortcomings in the identification system create favorable conditions for numerous attempts to cross the border illegally by the same person. As noted during consultations with experts from IOM-Ukraine, such cases happen more and more often. A particularly difficult problem emerges in the case of identifying persons from the following countries: India, Vietnam, China, Pakistan, Sri Lanka, Liberia, Afghanistan and Iraq. Co-operation with the diplomatic services of the respective states is not well-established. Viktor Chumak thinks that it is a result of 'unspoken'/'hidden' policies of those countries. Yet another difficulty emerges regarding identifying citizens from the Commonwealth of Independent States. Such citizens sign a 'voluntary leave agreement', which declares one's voluntary intention to leave the territory of Ukraine. On the one hand, it allows them to avoid administrative prosecution, while on the other hand continuing their attempts at illegal crossing of the border.

The situation with regard to migrant detention facilities is grave. There is not a sufficient quantity of detention centers and their absorption capacity does not reflect current needs. According to Human Rights Watch, besides "severe overcrowding" many detainees were "deprived of

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[231] Press release, *"Further strengthening EU-Ukraine bilateral relations: visa facilitation and readmission agreements are signed today"*, IP/07/849, June 18, 2007, available under
http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/849&format=HTML&age, retrieved April 25, 2008.
[232] Agreement between the European Community and Ukraine on the Readmission of Persons on June 18, 2007
[233] Such view is expressed in the report made by V.Chumak, N.Shapovalova and P.Kazmierkiewicz "Ukraine's policy to control illegal migration", Kyiv, 2006, p.4.
[234] *Ibid.*

appropriate bedding and clothing, and access to exercise, fresh air, natural light, adequate food, and medical services".[235]

5.3. The EUBAM

One of the most successful projects of EU-Ukraine co-operation is the functional EU Border Assistance Mission to Moldova and Ukraine (EUBAM). Its priority objectives include enhancing the professional capacities of Ukrainian and Moldavian border guards and customs services, improving co-operation and complementarity between the law enforcement agencies, enhancing cross-border co-operation and decreasing corruption of border guards and customs, which are of special relevance for improving Ukraine's border-management practices.[236] As the Head of EUBAM noted

> Thanks to the Mission's observation of the situation on the border and its objective advice on legal, structural and practical issues there is greater transparency and cooperation along the Moldovan-Ukrainian border.[237]

During the period 2005 to 2007, notable results were achieved in those areas. To illustrate, as regards capacity-building, a large amount of training was delivered, covering a broad scope of topics including seminars on the Concept of Risk Analysis, Detection of Forged Documents, Anti-Corruption and Trafficking in Human Beings.[238] As the Report notes "significant progress was achieved in building risk analysis capabilities" through developing intelligence databases with operational information based on daily information exchange.[239] A short-term expert on anti-corruption, recruited by mission, provided recommendations for identifying corruption cases, including declarations of wealth by all employees. This enables helping the partner services to tackle corruption and malpractice.[240] Remarkable results were achieved in increasing surveillance and border control that allowed improvements in the checking of vehicles, goods and people.[241] In terms of illegal border crossing, 138 persons were detained by October 2006 and 87 by April 2007.[242]

Notably, in 2007 EUBAM expanded its operational capacity to cover new areas of assistance to the Ukrainian and Moldovan authorities by establishing an Investigation Advisory Unit (IAU). This unit has provided support to investigation units of the Border Guards and Customs Services and

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[235] "European Union Managing Migration Means Potential EU Complicity in Neighboring States' Abuse of Migrants and Refugees", Human Right Watch, October 2006, p.10.
[236] http://www.eubam.org/index.php?action=group&group=3&sid=tiwcok4kndxfa2qa8yz6a63cxc7343do
[237] EUBAM Annual Report 2007, available under http://www.eubam.org/files/500-599/500/Report_2008_ENGL.pdf, retrieved April 30, 2007, p.4.
[238] *Ibid.,* p. 9.
[239] *Ibid.*
[240] *Ibid.,* p.12
[241] Mission Achievements 2005-2005. p.1.
[242] Joint pres release by the Border control and law enforcement services of Moldova and Ukraine and the EUBAM, Odessa, April 17, 2007, http://www.delukr.ec.europa.eu/press_releases.html?id=43199 , retrieved January 25, 2008.

other law enforcement agencies, through assistance with the implementation of special operations, day-to-day support to local officers, and facilitation of the exchange of information with international organizations and agencies.[243]

In addition, EUBAM administers another EC project on improving management on the Moldovan-Ukrainian state border - BOMMOLUK. This project aims on the one hand to support EUBAM's work and at the same time to reinforce measures under the ENP framework. Within the scope of its first phase, BOMMOLUK 1, a number of achievements were recorded. Over 2.2m euros were spent on procurement of equipment for the border guard and customs services of Moldova and Ukraine.[244] Furthermore, a total of 30 staff participated in eight study trips to Member States.[245] Importantly, BOMMOLUK 1 assisted in the developing of systems for the exchange of information between customs services.[246] The total EUBAM contribution to this component amounted to more than 100 000 euros.[247]

Further development of the EUBAM activities will enable improvement of border-management in order to adequately response to illegal migration.

5.4. Co-operation with European Law-enforcement Agencies

Illegal migration and related organized criminal activities like THB and smuggling of migrants require joint efforts due to their transnational nature. Therefore, Ukraine's commitment to co-operate with the Union's law-enforcement agencies such as FRONTEX, Eurojust and Europol is logical. For the moment, only one agreement with an agency exists. On June 11, 2007 at the meeting between the EU JHA Troika with Ukraine in Luxembourg, a working agreement was signed between FRONTEX - the European Border Management Agency - and the Administration of Ukrainian Border Guard Service.[248] Interior Minister of Germany, the country then holding the EU Presidency, Wolfgang Schauble noted

> 'As a direct neighbor with long common borders, Ukraine is of particular importance for the EU. […] This is especially urgent with regard to countering human trafficking; because

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[243] EUBAM Annual Report 2007, *op.cit.*, p.8.
[244] Press release, "The Customs Service of Ukraine will receive equipment worth almost half a million EUR in the framework of EC-funded project BOMMOLUK", Delegation of the EC to Ukraine, November 15, 2007.
[245] EUBAM Annual Report 2007, *op.cit.*, p.16.
[246] *Ibid.*, p.17.
[247] *Ibid.*
[248] *'Ukraine signs an agreement with FRONTEX',* June 12, 2007, available under http://soderkoping.org.ua/page14724.html, retrieved March 20, 2008.

Ukraine is one of the main countries of origins of the victims trafficked to Western Europe, Russia and the Middle East'.[249]

Both parties warmly supported the arrangement and believed that it would lead to a sustainable and fruitful partnership on border management issues between FRONTEX and Ukraine.[250] The accord created a common background for the mutual improvement of border security arrangements, border control efficiency and a reliable exchange of information.[251] The first stage of collaboration comprises a 'Five Borders' project, which aims to co-ordinate operational co-operation at the EU's external border - namely along the Polish, Slovak, Hungarian, and Romanian sectors of Ukraine's state border.[252] This co-operation has been developing steadily since its initiation. Already in mid-June 2007, the Border Guard Service of Ukraine and its counterparts participated in discussions on the project.[253] In August, a delegation of FRONTEX visited Kyiv to make the collaboration more efficient and during the first week of September, there was a joint practice operation in Zakarpattya (Ukraine) engaging FRONTEX and Ukrainian border guards.[254]

As far as co-operation with the agency is concerned, Mykola Lytvyn, the Head of the Ukrainian Border Guard Service, is confident that 'only the first steps have been made here: further on, cooperation is going to reach a new level'.[255]

As regards cooperation with the other two agencies – Eurojust and Europol, there is presently no official co-operation agreement concluded. Of course there are certain contacts in place, as in the case of operation 'Koala', which concerned sexual abuse of Ukrainian youth. The Action Plan on FSJ emphasizes the urgency to continue talks between Eurojust and Ukraine on a co-operation agreement and to sign a strategic cooperation agreement between Europol and Ukraine.

Also, the EU provides financial and technical assistance to third countries (including Ukraine) in the field of migration and asylum within the Program AENEAS. Notably, from beginning of this year a Capacity Building and Technical Support (GDISC) to Ukrainian authorities to effectively respond to irregular transit migration is launched.

This case study showed that the policy transfer in the domain of controlling illegal migration is a powerful component of the ENP. The European Union expands its security area by promoting institutional reforms in neighboring countries. The applied approach in the EU-Ukraine JFS Action

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[249] Ibid.
[250] *'Fifth Ministerial Meeting on Matters of JFS between Ukraine and the Troika of the EU',* available under http://www.ukraine-eu.mfa.gov.ua/eu/en/news/detail/5596.htm, retrieved March 20, 2008.
[251] Op.cit., 'Ukraine signs an agreement with FRONTEX'
[252] '*FRONTEX and the Ukraine*', available under http://pawschino.antira.info/2007/11/15/frontex-an-the-ukraine/,
[253]'*Joint FRONTEX project on 'Five Borders*', available under http://soderkoping.org.ua/page14744.html, retrieved March 20, 2008.
[254]Op.cit., '*FRONTEX and the Ukraine*'
[255] Ibid.

Plan is comprehensive and systemic, covering a broad scope of issues concerning illegal migration. This approach entails institutional transformation and developing capacity-building within the country. Even though the readmission agreement at their current stage has exposed shortcomings in Ukrainian migration control, in the mid-term it will bring improvements to the national migration policy.

6. Conclusions

Therefore this paper has analyzed the European Union's engagement in the Black Sea Region and its efforts to combat illegal migration.

It was shown that the EU's perception and approach to illegal migration to a large extent has been formed and determined by two factors – migration securitization and externalization of migration control. Perception of migration as a threat to the welfare state, a challenge to its political, administrative and judicial capabilities, as well as to the security of human and cultural identity, inevitably led to the fact that migration was securitized, i.e. put in the category of a threat. Recognizing the need to co-operate with third countries in addressing migration, the EU developed new approaches for dealing with it. First is the incorporation of JHA matters in international agreements with third countries, namely a JHA policy transfer and return policy (readmission). Second is a preventive measure addressing the root-causes of migration using instruments of development, trade and foreign policy.

It was discussed that the European Union's interest in the region emerged quite recently due to geo-political changes in the region ('Color Revolutions', further Eastwards enlargement) and for security considerations (proximity to Middle East and energy security). The BSR is exposed to a number of security challenges, such as state fragility, unresolved conflicts and organized crime. Also, the BSR impinged upon illegal migration, involving all countries of the region. Acknowledging this the European Union recognizes that the Black Sea regional security is a new security dimension of the EU.

The analysis has shown that the EU's approach to the BSR is fragmented and is being realized mainly though its three polices, namely the European Neighborhood Policy, Accession Partnership with Turkey and Strategic Partnership with Russia, embracing all the region. In the framework of all these policies, the EU instrumentalizes its external dimension of migration control policy. The priority areas include, policy transfer in migration, border management, asylum, combating organized crime and the return policy. The case study on EU-Ukrainian co-operation showed comprehensive and integral approach in addressing problems of poor illegal migration control policy in Ukraine and it is proved to be essential for developing Ukraine's capacities in tackling illegal migration.

While policy implementation has proved to be efficient (as examined in the second part of the fourth chapter and in the final case study of EU-Ukrainian co-operation), the rationale for launching the "Black Sea Synergy" and the "Global Approach to Migration to the Eastern and South-Eastern regions neighboring the European Union" is pertinent and timely. The EU sets the target to reinvigorate intra-regional co-operation, as well as co-operation with the EU and its member states,

in order to address common challenges, including illegal migration, more vigorously and effectively. This is in particular feasible through the goal to establish the Co-operation Platform on Migration in the Black Sea Region. Adoption of these new approaches requires an evolving understanding of the challenges and risks originating form the illegal migration in the Black Sea Region and increasing engagement of the EU in transforming the BSR.

As a final remark it should be pointed out that the EU's approach could have been started earlier, arguably after 1991, enabling reforms to start earlier. However, right now the European Union has all the instruments and potential to transform this region of challenges into a region of opportunities.

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