

INSTITUTE OF PUBLIC POLICY

MIGRATION POLICIES
IN THE REPUBLIC OF MOLDOVA

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Introduction

The current situation in the Republic of Moldova with regard to the issue of migration has mainly occurred due to some negative aspects of the country's development, incited by factors inherited from the past socio-economic system and the uncertainties and institutional instabilities of the transitional period. The long-lasting economic decline and the conflicting nature of economic, political and social changes has a negative impact on many aspects of life, in both social and economic spheres. Poverty has generated multiple problems the mass exodus of a substantial proportion of the country's workforce.

Having a great percentage of its labor-force working abroad, the Republic of Moldova has become a **migrant society**, where changes in the structure of income and employment opportunities have generated a massive circulation of the working population, and not necessarily of the unemployed. On one hand, we have informal networks and institutions of migration serving as an innovative solution for people, which leads to the *malfunction* of some formal institutions like the labor market, capital market, the assurance of products and prices, and the mediation of the labor-force abroad at the state and private sector level. Yet, on the other hand, there are adaptive community responses to our situation, which contradict the national values. The political framework of migration, which addresses the enormous task of engaging in the race against illegal labor migration, has been incompletely implemented in the Republic of Moldova. There have been both nation and international actions taken by the government, but so far all attempts have failed to bring about expected results.

In the context of discussing the main problems of a sustainable development in the Republic of Moldova, the creation of this report is important and necessary for the following reasons:

- Today, there are no comprehensive study or researches in Moldova regarding migration;
- There is not a single strategy regarding migration, which would recommend viable solutions to the problems generated by this phenomenon;

The report's findings are of great significance because they bring about awareness of the complex phenomenon of migration and of its major socio-economic and political implications to the public authorities and society as a whole..

The need to overcome this current situation has determined the elaboration of a strategic, systemic and participatory vision for new regulations with regard to the consequences of the migration phenomenon. The workgroup has performed an exhaustive study of the current situation in the country and has issued recommendations for adjusting the national legislation to the international standards.

Summary

The purpose of this study is to describing the most important problems of migration in the Republic of Moldova, to analyze migration policies of the country, to issue recommendations and suggestions for the improvement of the process of formulating and elaborating policies and new legislative framework, as well as for the implementation of an effective management of labor migration.

The report consists of seven chapters and is structured in a way that demonstrates awareness for the proportion of the subject studied, as well as for the factors that intensify the migration scourge.

Chapter I: „General Overview of the Economic and Social Condition”, contains a large variety of main social development indicators, current situation and socio-economic development, lack of balance and constrains that might occur. Institutional uncertainties and instabilities of the transitional period have caused significant changes in the development of macroeconomic environment, which correspondingly has generated an enlarged budget deficit and a considerable aggravation of the social indicators. The phenomenon of poverty accompanied by a strong income differentiation remains to be a major problem in Moldova and represents an essential factor of labor migration. The defective functional structure of the labor market generates problems for labor employment; the unemployment affects women and young people first, because under impoverished conditions they are the first to become socially vulnerable.

Chapter II, „Labor Emigration”, addresses the aspects that have emerged in the Republic of Moldova and emphasizes the consequences of this phenomenon. The majority of emigrants are forced to leave their country because of the pressure environment: economic decline followed by a negative impact on the living standards of the population, the economy that is mainly agrarian is affected by the difficulties of the transitional period, high population density, poor employment etc. Geographically, labor migration is mainly directed towards Western Europe, which is usually a destination for urban people and mostly women, and towards Russia, a destination preferred mainly by rural people and mostly men. Another important aspect is the illegal flux of migration that represents one of the main causes of trafficking in human beings and has unacceptable proportion for our society. The impact of the labor migration process is very complex and has political, economic and social consequences with both positive and negative sides. Economic consequences of labor migration are positive on the short-term (satisfying additional labor needs for the host countries, increasing the welfare of a large part of the population, diminishing the pressure on the labor market and the decrease of sub-employment and unemployment, improving skills and minimizing social conflicts). At the same time, these consequences become negative on medium-term and especially on long-term (“brain drain”, human resources deficit, political risks and social consequences, changes in the demographic structure and genetic base, violation of children’s rights, trafficking in human beings etc.) The large number of emigrants demonstrates that international labor migration is a relatively new phenomenon for Moldova and the state does not currently have the necessary experience to measure it, to promote coherent policies for its settlement and is generally unable to formulate an official and clear attitude towards this specific issue.

The situation of foreigners residing in the Republic of Moldova, their entrance, stay and work activity is described in **Chapter III, „Migration”**. There is also an analysis over the juridical status, the general situation of the legislative system regarding refugees and asylum solicitants, extradition and expulsion procedures. The immigration quota of the Republic of Moldova is decided upon by the Law regarding migration and is set to 0.05%. According to the information from state authorities and sociological surveys, Moldova is presently hosting approximately 20 thousand legal or illegal foreigners. Even though the immigration of foreign citizen to the territory of the Republic does not present a major problem now, it requires control and coordination by the appropriate institutions. The permeable nature of the eastern border, together with the agreements regarding passage without a visa have facilitated illicit migration by foreign citizen to or through the territory of the Republic.

Chapter IV, „The Institutional Framework of Migration Management”, emphasizes the aspects related to the administration and settlement of the migration phenomenon, the cooperation and interdependence of the central representative body – The Migration Department of the Republic of Moldova and the competence of other public administration bodies from the emigrational field. The State has a key-role in formulating and adopting policies, administrative measures and implementing comprehensive practices in order to achieve an efficient management of labor migration directed towards reducing the causes that stimulate illegal migration and trafficking by broadening employment opportunities in the country, as well as establishing legal measures for those citizens who want to leave for other countries. This section also presents an evaluation of recruitment forms from abroad, analysis of the activity of public and private agents, a short description of main clauses of bilateral pacts that have already been signed or are still being negotiated between the Republic of Moldova and recipient countries.

Migration policies advocated in the Republic of Moldova, their essential features and development over the years are described in chapter **“Migration and Administration Policies Framework: Laws and Practices”**. Migration policies are a part of national and international policies of the State and their implementation represents one of the most important responsibilities of state authorities. The chapter also specifies objectives, principles and relevant concepts advocated by migration policies for the purpose of settling and managing the migration process in the interest of the individual and the society. Subsequently, the stages of development and implementation of migration policies are being analyzed by emphasizing the stages of creating the institutional and legislative frameworks, the engagements agreed upon social protection of migrants and their families, establishing common relations with other countries, creating legal employment opportunities abroad for Moldovan citizens, fighting illegal migration and trafficking in human beings. Another important issue here is human trafficking which is the reason for an analysis of the current legal framework, access to justice by victims of human trafficking, methods of preventing this blight, collaboration with non-governmental organizations etc.

Chapter VI, „Migration Policies and International Mechanism” presents the adjustment of the Republic of Moldova’s migration policy to related regional and international standards. The European and international legislations have the tendency to transform migration into an organized and controlled process and to respect fully the human rights. Moldova has joined and is joining many international standards regulating labor migration processes and trafficking in human beings prevention. The framework of these standards reunites the Conventions of the International Labor Organization and the Conventions of the Council of Europe, but Moldova remains behind in the matter of joining the Conventions of the United Nations.

The analysis described in this report could serve as a strong base for the formulation of actions to be taken, which are aimed to improve the situation and to develop a system or regulation of the migration process, as well as for the active and participatory commitment on the part of the part of the subjects and partners of migration policies in order to accomplish these goals.

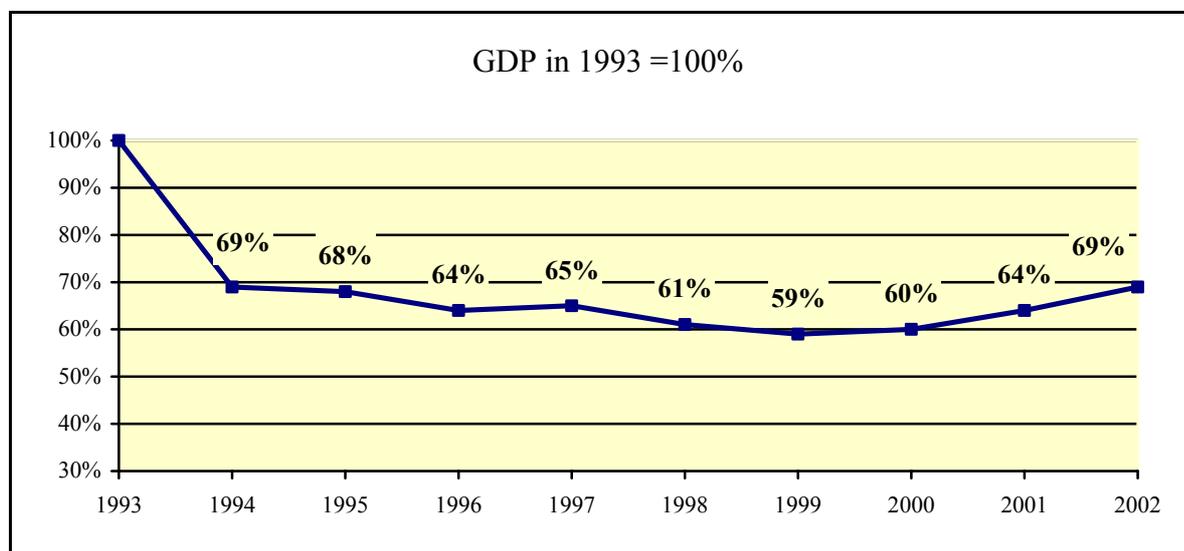
Chapter I. General Overview of the Economic and Social Situation”

The transitional process from a closed society based on a totalitarian regime, on an inefficient economy with centralized planning, and on a system of social protection and insurance providing all citizen with relatively decent minimal needs, has generated changes that have affected the population of the Republic of Moldova in a dramatic way. The country’s economy has suffered a major drop leading to mass population poverty, strong diminishment of expenses for social services – education, healthcare, and social security, in both absolute and relative values, such as income polarization. The development of the country was and is still affected by the phenomenon of Transnistrian separatism, instigated and supported from the outside.

1.1. Economic Situation

The macroeconomic situation of the Republic of Moldova is being characterized by a critical drop-down (of approximately 66%) of the GDP, beginning from the time of self-proclaimed independence, a period of stabilization in 1999-2000, and starting to redress in the 2001-2003.

Figure 1. Gross Domestic Product of the Republic of Moldova (1990–2002)



Source: Department of Statistics and Sociology.

The GDP per capita had a constant rise during the period of 1993-2002, taking into consideration the equivalent in Moldovan LEI to current prices. On the other side, a fluctuation of the GPA per capita may be noticed when calculating its value in US dollars to the purchasing power parity. In 2001, the Republic of Moldova recorded the lowest value of GDP per capita (2296 USD for PPP) between member states of the ECE and CIS, except Tajikistan, and being three times lower than the regional average (6598 US dollars for PPP).

Table 1. Evolution of living standards (1993-2002)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Gross Domestic Product (GDP) per capita in lei, current prices	505	1 313	1 798	2 167	2 441	2 498	3 379	4 402	5 247	6 228
GDP per capita in US dollars	348,1	323,3	400,5	470,5	527,9	464,9	321,4	354,0	406,7	447,4
GDP per capita in US dollars la purchasing power parity*	2 935	2 975	2 105	2 128	2 207	2 087	2 033	2 112	2 296	2 428

* Estimate based on the result of the European Comparison Programme of 1996.

Source: Department of Statistics and Sociology.

The amount of foreign investments per capita (less than 198 US dollars) is one of the lowest in Europe. The amount of direct foreign investments in 2002 was 2.6 times lower than the volume of money transfers by emigrants working abroad. On macroeconomic scale, the expansive fiscal policy has generated a high level of economic absorption, stimulation of imports and deterioration of commercial stability. The economic growth potential in Moldova has not been fortified, because the funds have not been directed towards resourceful investments, but towards the inefficient state sector.

The effects of the structural and institutional reforms, launched in the previous years, have started to manifest themselves only in 2000, a fact that contributed to the continuation of economic and financial stability. Nevertheless, the positive results of 2000-2003 kept being characterized by a high level of fragility. The reviving of the national economy in that period was due to the increase in households' consumption, supported not only by the increase of pensions, salaries, allocations and compensations, but also mainly due to the afflux of wealth of the persons working abroad.

1.2. Poverty

The enormous social costs of transition, generated by difficult economic transformations of the Republic of Moldova have been followed by the appearance and spreading of the *poverty* phenomenon. Information collected by the surveys of households in 2002 indicates that the percentage of population living under the level of *extreme* poverty (alimentary brink of poverty) represents 26.2%, the population living under the level of *absolute poverty* represents 40.4% (for 2002, the brink of *extreme poverty* was set to 212 lei (15.6 US dollars), and *absolute poverty* – to 271 lei (19.9 US dollars) monthly).

Poverty in the Republic of Moldova typically manifests itself in *rural* areas, workers of the agricultural sector being mainly vulnerable. More than 64% of the poor consists of the rural population and 36% - urban population. In rural areas, incomes in kind make up 71% of the total volume, and the ones in cash – 29%. The quota of income in cash of extremely poor sections of the population from rural areas is under 26%. The main source of income for the rural population is made of agricultural products, a fact that allows many poor peasants to avoid extreme poverty. The lack of a cash incomes and the impossibility of getting loans for buying things that are necessary in processing and irrigating the land diminishes the possibility of farmers to raise bumper crop. The enrichment of land implemented our days and the voluntary establishment of cooperatives represents a promising factor in the improvement of the living standards in the villages.

Poverty is sharp and profound in small towns of Moldova. With a percentage of 18.1% from the total population, small towns host one third of all poor people and the risk of entering the category that category is twice as high as in rural areas. A long-term structural unemployment persists there and is conditioned by the lack of alternative economic opportunities that are at hand in the big cities.

Similar to other underdeveloped country, poverty in Moldova is characterized by the followings:

- low and average incomes, even though there is an increase in real income;
- salary incomes and other money incomes compose a small part of the income structure, especially in the rural areas;
- high percentage of expenses for groceries;
- high income inequality;
- low living standards;
- precarious healthcare situation of the poor;
- predominance of the agricultural sector and the extension of agricultural activities in the rural economy, vulnerable to the unfavorable climacteric factors.

Today, poverty assumes an extremely dangerous self-perpetuation characteristic, which creates a vicious circle when passed on as "inheritance": the children of poor parents risk remaining poor themselves. The commonwealth strongly relates to the level of education. The level of poverty for households, who's leader is a person with incomplete technical studies, makes up 49.4%, and of those without any studies – 59.2% (the categories of households mentioned represent 30% of all households)¹.

¹ *Economic Growth and Poverty Reduction Strategy Paper (2004-2006)*, Chisinau, March 2004

According to the data from the Department of Statistics and Sociology, in the year 2001, 51% of country's population was poor, in 2002 – 42.2%². Poverty in Moldova affects not only vulnerable categories of population like the persons with poor or untrained educational skills, but also persons suffering from long-term unemployment (of all poor people, 15% are unemployed and the effect of this phenomenon has increased from 78 unemployed register at the labor offices in 1991 to 110 thousand in 2002³), periodically employed, including work-able persons, qualified and healthy ones. Infantile poverty persists in our country (children make up 23% of the country's population and 31% of the total poor people), especially in rural areas, where four out of ten children under ten years old live in extreme poverty⁴. Infantile poverty is widely spread in large families, with many children, in rural areas, as well as in the urban areas. Among the people that live in persistent poverty, meaning they have been living in poverty for at least four years in a row, are many children that were left without parental care because of emigration in search of working places. Among the segments of population affected by poverty are families of retired persons whose main sources of income are only the pension.

There is a manifest of *current poverty* in Moldova (temporary inability to provide for oneself), as well as *constant poverty*, typical for persons without a home, socially deviant persons (alcoholics, drug-addicts, vagabonds) etc. At the same time, an important issue of socially disfavored groups is the high vulnerability to some events that can easily drive them under the level of poverty (insufficient crops, a macroeconomic shock, an unexpected illness of the family's leader, the failure or difficulty in receiving money from relatives working abroad etc.) This kind of vulnerability manifests itself as a chronicle situation, permanently, and derives from the structural characteristics of the Moldovan economy.

Poverty in the Republic of Moldova is follow by a strong *price differentiation*. The study of households' budgets demonstrates that the rich (20% of the population) spend almost 45% of the total consumption volume, but the poorer part of the population (20%) spends only 6-7% of the total consumption volume⁵. Income differentiation is characterized by the Gini coefficient, varying between 0 (a perfect equality of income or consumption distribution) and 1 (an absolute inequality in distribution) indicates an important social stratification in the Republic of Moldova. During the period of 1993-2002, the Gini coefficient has increased from 0.36 to 0.42.

Table 2. Evolution of the Gini coefficient in the Republic of Moldova (1993-2002)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Gini coefficient	0,36	0,38	0,39	...	0,44	0,44	0,44	0,42	0,43	0,42

Source: Government of the Republic of Moldova. *Interim Economic Growth and Poverty Reduction Strategy Paper, 2002. Economic Growth and Poverty Reduction Strategy Paper, 2003.*

Public opinion surveys carried out during 1998–2004⁶ prove these facts. Therefore, in May 2004, the results of the research estimate that 43% of respondents assert that their incomes do not provide even the strictly necessary and 40% assert that their current income covers only the strictly necessary. Only 13% of the participants to the survey believe they have a decent living, but still cannot afford buying expensive goods.

² *Ibidem*, p.23

³ *Statistical Year-Book of Moldova, 2003*

⁴ *Economic Growth and Poverty Reduction Strategy Paper (2004-2006)*, Chisinau, March, 2004, p.22

⁵ Source: Government of the Republic of Moldova. *Interim Economic Growth and Poverty Reduction Strategy Paper, 2002. Economic Growth and Poverty Reduction Strategy Paper, 2003.*

⁶ *May 2004. Public Opinion Barometer. Republic of Moldova.* – Chisinau, IPP, 2004, p.113

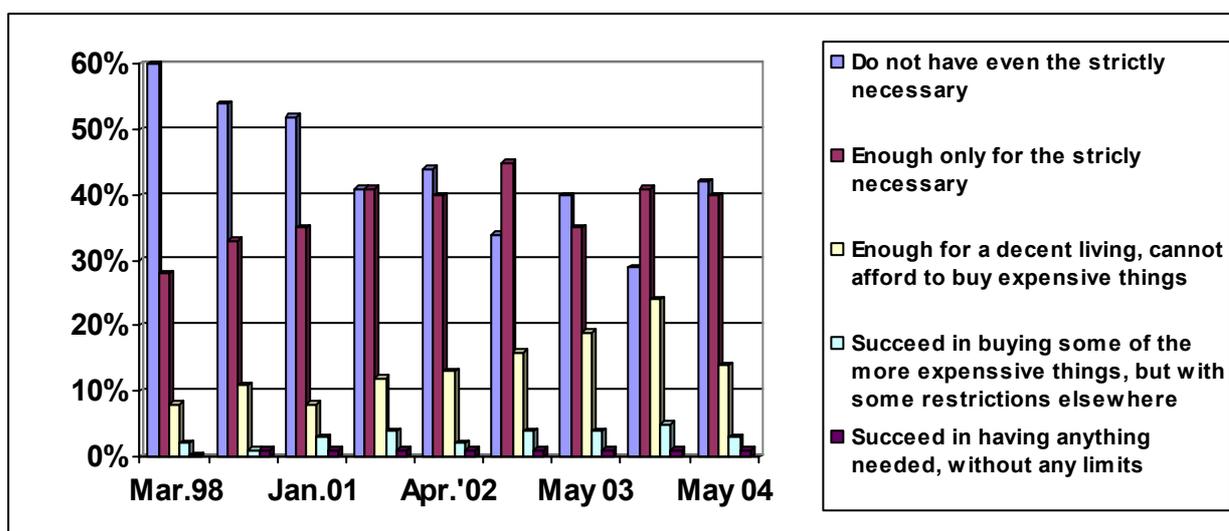


Figure 2. Subjective evaluation of the living standards

1.3 Labor Market

The labor market of the Republic of Moldova is characterized by an *imperfect functional structure*. During the transitional period, official sources indicate an essential decrease of labor force employment, as well as the total number of employees in the economy (see Table 3). At the same time the levels of actual and official unemployment registered pretty modest values (6.8% and approximately 1.9% in 2002) having the tendency to decrease.

Table 3. Basic indicators of the labor market (does not include the regions from the left side of the Nistru river)

Indicators	1996	1997	1998	1999	2000	2001	2002	2003
Total population, <i>thousands</i>	3599	3654	3652	3646	3639	3631	3618	3607
Economic active population, <i>thousands</i>	1686	1671	1809	1682	1655	1617	1615	1474
Occupied population, <i>thousands</i>	1660	1646	1642	1495	1515	1499	1505	1135 6
Number of employees, <i>thousands</i>	1188	1104	1003	805	696	659	683	683
Unemployed according to BIM, <i>thousands</i>	X	X	167	187	140	118	110	117
Unemployed registered at work offices, <i>thousands</i>	23,4	28,0	32,0	34,9	28,9	27,6	24,0	20,0
Inactive population, <i>thousands</i>	1913	1983	1843	1964	1984	2014	2002	1380t
Persons emigrated abroad in search of a working place, <i>thousands</i>	X	X	X	X	138	149	234	294

*Number of employees working with organizations or companies of at least 20 employees.

Source: Department of Statistics and Sociology

A distinctive feature of the Moldovan labor market is the inefficient *use of labor force* conditioned not only by the transitional effects, but also by the specific character of work in the Republic of Moldova: a) excessive supply of labor, determined by high population density, compared to neighboring regions; b) an imposing part of the occupied population works in agriculture (in 2002, 49.6% of the population was working in agriculture), a branch that can not

assure a fast increase of labor productivity and consequently a raise of actual incomes for the active population; c) a significant part of labor force is engaged by the budgeting sector, where salaries depend on the limited possibilities of the budget. These are usually workers from the social area: education, healthcare, culture etc. (Table 4).

Table 4 Structure of occupied population by main types of economic activities, %
(According to the data of the labor force survey)

Field of activity	2000	2001	2002
Agriculture, hunting and forestry	50,8	51,0	49,6
Industry	11,0	11,0	11,4
Construction	2,9	2,9	3,1
Transport and communication	4,2	4,3	4,1
Commerce, wholesale and by detail; hotels and restaurants	10,7	11,0	11,6
Public administration and defense; education; healthcare and social care	16,5	16,0	16,2
Other activities	4,5	3,8	4,0

Source: Department of Statistics and Sociology; Statistical Yearbook of the Republic of Moldova, 2003

The structure of economy also determines extremely low level of salaries. The percentage of salaries from the total income in the Republic of Moldova was evaluated at approximately 27% during the period of 2000-2003, with unessential increase from previous years. In economically developed countries, the percentage of salaries from the total income maintains an approximate 50-70% average with the help of different governmental policies, thus assuring labor motivation, labor productivity and social equity. (Table 5)

Table 5. Structure of available global income
(according to research data of household budgets, %)

	1998	1999	2000	2001	2002	2003
Available global income – total	100,0	100,0	100,0	100,0	100,0	100,0
Including income from:						
Salaried work	34,7	35,4	37,3	37,8	37,0	37,3
Agricultural work	39,4	38,5	34,5	31,9	30,0	28,9
Individual work	3,0	3,3	3,0	2,7	2,6	3,9
Social payments	10,1	8,3	9,3	10,9	14,1	14,0
Other sources	12,8	14,5	15,9	16,7	16,3	15,9

Source: Department of Statistics and Sociology

During the peak of the socio-economic crisis (1999), the average monthly salary in actual terms made up only about 25% of the ones in 1990, and the average pension – about 17%. The restart of the economy during 2000-2002 has favorably influenced the dynamics of population's income and consumption. Most of the sections of the economy have registered an actual increase of salaries, together with average monthly salaries increasing by approximately 50%. At the same time, salaries have mainly increased in those sections where its level was predominantly low – agriculture, education and healthcare. Starting from 2001, the pensions have increased and during 2001-2002, the actual amount of pensions has increased with almost 64%⁷.

Table 6. Socio-economic indicators that characterize population's income and living standards.

	1997	1998	1999	2000	2001	2002
Monthly nominal salary of one employee per economy, lei	219,8	250,4	304,6	407,9	543,7	691,5
Average amount of monthly pension (set at the end of the year), lei	82,8	83,9	82,8	85,1	135,8	161,0
Minimum of existence (monthly average fro one person), lei					468,7	538,4
Related to the minimum of existence, %						
Average monthly nominal salary					116,0	128,5

⁷ Economic Growth and Poverty Reduction Strategy Paper (2004-2006), Chisinau, March, 2004

Average amount of monthly pension set					29,0	29,9
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* Pensioners registered with the institutions of social care

Source: Department of Statistics and Sociology, Statistical Yearbook of the Republic of Moldova, 2003

Even with all these changes, the Republic of Moldova is currently characterized by *the lowest level of salaries* comparing to all transitional countries.

Table 7. Average nominal salary by types of economic activities, lei

	1998	1999	2000	2001	2002
Total, lei	250,4	304,6	407,9	519,2	691,9
<i>Of which:</i> Agriculture and forestry	140,6	172,8	251,7	315,1	393,8
Industry	423,5	518,6	683,4	826,5	1001,8
Constructions	362,4	426,2	539,8	682,8	838,1
Commerce, wholesale and by detail	265,7	319,0	394,6	531,1	641,7
Transports and communications	376,5	455,3	635,0	860,8	1054,5
Financial activities	1135,4	1672,5	2353,1	2278,4	2564,4
Education	183,0	193,0	247,7	336,9	463,3
Healthcare and social care	183,5	186,7	230,1	314,6	439,1
Other activities	331,1	235,4	295,8	390,9	505,3

Source: Department of Statistics and Sociology, Statistical Yearbook of the Republic of Moldova, 2003

Consequently, some branches of the national economy have a severe lack of qualified specialists under the situation of *prominent unemployment*. *Teaching staff is massively abandoning the educational system*. During the period of 1998 – 2000, almost 4200 teaching staff has abandoned schools and nearly 2700 in 2002.

The underground sector of the economy is currently playing an important complementary role for the unemployed population, for assuring decent living standards. *Because of the large proportions of the underground economy, the evolution of the labor market as a whole cannot be identified for elaborating correct policies for engaging the labor force*.

1.4 Main Features of Unemployment

At the current stage, a distinctive feature of the labor market of the Republic of Moldova is extremely low level of *actual unemployment*, as well of the *official one*. In many cases, the national informational system regarding work resources differs from international standards. This *methodic disagreement complicates the comparison of veridical unemployment indicators* in the Republic of Moldova⁸ (see Table 8).

Table 8. Unemployment evolution recorded by labor force offices

	1997	1998	1999	2000	2001	2002
Number of unemployed (end of reference period), thousands of people,	27,973	32,021	34,918	28,873	27,646	24,019
Percentage % to economically - active population	1,3	1,5	1,7	1,3	1,2	1,1
Unemployed that receive unemployment help, thousands of people	7,5	8,1	11,4	6,6	5,5	3,5
Number of unemployed officially registered	1,5	1,9	2,1	2,1	2,0	1,9
Distribution of the unemployed according to unemployment time						

⁸ Starting with 1998, the Department of Statistics and Sociology determines the unemployment number according to International Bureau of Work, where the information is more relevant.

in %:						
▪ up to 6 months	63,5	60,7	52,7	50,3	60,0	64,4
▪ 6-12 months	22,2	24,6	27,8	24,9	22,0	19,7
▪ More than a year	14,3	14,7	19,5	24,8	18,0	15,9
▪ Average unemployment period	6,5	6,7	7,6	8,2	7,0	6,6

Source: Department of Statistics and Sociology

Under the circumstance of a 66.3% economic decline over the last 10 years of transitional period, a level of 1.9% official unemployment (according to the data of the National Agency for Labor Force Employment) demonstrates the hypothesis of either a serious deficiency of the of statistical evidence system, an insufficient activity of the regional Agencies for Labor Force Employment or a specific employment structure of the economy of the republic. A more profound analysis has established that all these three aspects of the phenomenon are interdependent and omnipresent.

The distribution of unemployment analyzed from the perspective of *sex and place of residence* is irregular: the number of male labor force is higher than the one of the females', and the number of the unemployed in urban areas is higher than the number of unemployed in rural areas (Table 9).

Table 9. The number of the unemployed according to sex and environment (%)

Years	Total	Men	Women	Urban	Rural
1999	11,1	13,3	8,9	19,1	5,4
2000	8,5	9,7	7,2	15,7	3,4
2001	7,3	8,7	5,9	13,8	2,7
2002	6,8		6,2	12,1	3,0

Source: Department of Statistics and Sociology

As a result, *women unemployment cannot be considered as a major problem in the Republic of Moldova. The fact that the number of inactive women of an work-able age is higher than of work-able men can be explained by the reproductive role of women, determining them to be absent from the labor market for a period of time.*

A certainty of the labor market is increasing unemployment among young people. In 2002, the number of unemployed persons between ages of 15 and 19 made up 15.3%, 20-24 years – 15.1%. This exceeds by two times the number of the unemployed in the country. (Table 10)⁹. At the same time, for each 17 unemployed there is only one available work place.

Table 10. Number of the unemployed according to age groups in 2001 (%)

Age groups	Total	Men	Women	Urban	Rural
15-19	19,0	20,2	17,5	42,9	11,2
20-24	14,5	17,0	11,7	23,7	8,4
25-29	9,3	11,3	7,4	15,2	4,0
30-34	7,2	9,1	5,4	13,0	2,5
35-39	6,1	6,9	5,3	11,3	1,7
40-44	7,0	8,2	5,9	13,4	1,5
45-49	5,6	7,0	4,4	10,9	1,1
50-54	5,2	5,8	4,6	10,9	0,8
55-59	3,6	4,7	2,1	8,9	0,5

⁹ Economic Growth and Poverty Reduction Strategy Paper (2004-2006), Chisinau, March, 2004

60-64	1,0	1,6	0,4	3,7	0,1
over 65	0,1	0,2	0,1	1,3	0,0

Source: Department of Statistics and Sociology

The great number of the unemployed among young people represents a typical feature for the modern labor force market. This is a negative social phenomenon called “unemployment of the young” that requires many employment policies and social protection of the unemployment.

Education has a great influence on the number of the unemployed. Data collected in 2002 shows that the great majority of the total number of unemployed are people with technical studies and general studies. The small number of unemployed with primary studies (1.7%) can be explained on one hand because the number of persons with primary education is very small and on the other hand, unqualified labor is currently required more than qualified labor in the Republic of Moldova, which is determined by the occupational structure of the economy. Another issue here is the great number of the unemployed with higher education that made up 12,0% of the total number of the unemployed in 2002, which is not typical for developed countries with a market economy. Same tendencies are noticed in the distribution of unemployment according to the level of education for men and women, as well as for urban and rural areas. (Table 11).

Table 11. The unemployment distribution according to sex and education in 2002 (%)

Level of degree	Total	Men	Women	Urban	Rural
Higher education	10,1	8,3	12,7	12,4	1,9
Long-term higher education	15,6	13,5	18,8	17,9	7,6
Technical studies	31,1	35,4	25,6	33,9	22,6
General studies	24,8	23,2	27,3	23,6	29,2
Incomplete general studies	16,9	18,1	15,2	11,4	36,6
Primary education	1,1	1,6	0,5	0,9	2,1

Source: Department of Statistic and Sociology

An element of the labor market is represented by the system of professional training and the changes of its duties according to market economy's needs. The development of the labor market in the Republic of Moldova can be described as uncertain, because the old system of centralized lower economy is experiencing recession and a new one is still under construction.

1.5 Socio-Economic Situation of Women. Gender Problems

The analyses of women's situation on the labor market in a society should be regarded in the context of women's status as an index of development for the modern society. Women make up 52.1% of the population in the Republic of Moldovan. They participate together with men in social life; manifest their intellectual and professional capacities, assuring approximately 50% of the Gross Domestic Product. Although, in many cases, they have no equal rights to participate in different fields of activity or government. As long as the concept of equal women's and elderly rights will not become a priority for the state policies, there will be a violation of women's rights in all the fields of activity, including on the labor market because of gender discrimination

The process of democratization in the Republic of Moldova is mainly dominated by men, while women represent an invisible minority in all decision-making authorities and processes. The number of women working as managers is still insignificant. Men hold higher positions and well-paid jobs in most of the institutions, although women present a greater number of the staff. Among public officials, the higher is the position, the fewer are women. The index of women participation (participating in political and economic decisions-making, and equal income distribution) in the social life equals to 0,511 (Table 12).

Table 12. Index of women participation in social life	1992	1999	2000	2001	2002
Percentage of women from the total population	52,4	52,1	52,1	52,1	52,1
Percentage of women from the active population	49,1	49,3	49,96	50,11	50,76
Parliamentary participation (%)	10	7,9	7,9	12,9	16,0
Leaders and high officials (%)	0,5	36,6	33,2	37,5	40,2
Intellectual and scientific occupations	62,0	61,3	63,1	62,4	60,3
Index of women participation in social life	0,383	0,428	0,414	0,473	0,511

Source: National Report of Human Development 2003

More than 50% of people working in science are women, but only 3.1% have a Ph.D. in science, and 12.7% are doctor emeritus.

Although the number of businesswomen and women managers of industrial enterprises is increasing, it is still very low. From the number of managers of industrial enterprises and financial groups, women make up only 1-2%, in medium business -10%, in little business and private business - 40%. Women's access to new possibilities offered by the market economy is lower than the possibilities of men. The number of women that have a bank account is 2-3 times lower than of men¹⁰. Access to credits is also limited. Only 4% of women started a business by privatization compared to 13% of men. Women home-based business is more frequent (24%) compared to men's (10%). This happens because women do not have enough financial resources to combine business with housekeeping¹¹.

The country's legislation guarantees that persons with of same position regardless of sex would receive the same salary according to the law. Nevertheless, salaries of women are typically lower. Having the same qualifications, women frequently hold positions that are poorly paid. From the point of view of employers, these things can be explained, because the use of women's labor force is more "expensive" since maternity leave must be paid. For example, the machinery industry has 200 persons working as locksmiths for mechanic assembly, of which 35 are women and their salary is 590 lei. Salaries of men are 40% higher. In commerce by detail, the salary of women equals 901 lei or 19% less than the salary of men.

Women make up 54,9% from the structure of the disfavored population (lower than the minimum of existence), about 70% of the number of the persons without a permanent work place. The situation of women in rural areas is very complicated. The percentage of women that were given a professional degree in agriculture is three times less than men's. Three quarters of employed persons in work fields that do not require high qualification are women.

The most productive categories of population (20-49 years old) prevail according to age structure of women affected by unemployment, and makes up more than 70% registered unemployed women. The main reason of their unemployment is reorganization and closing down of industrial enterprises. Women with a low level of training, mothers of many children, women older than 40 years and retired women are ones particularly affected. There are no outcomes of partial loss compensation for this category of population. *Under poverty conditions, these women have the tendency of becoming members of social risk groups.*

A new form of massive exploitation of women labor force is their employment in street commerce industry, in different private firms without any signed individual work contracts. These persons do not pay taxes and do not have any social or judicial protection. As a result, they do not gather any essential work history, and their elderness is predestinated to poverty as a fact.

¹⁰ Women entrepreneurship in countries with transitional economies: based on the example of Ukraine, Moldova and Uzbekistan / International scientific project carried out in 2003 by the National Institute of Economy and Information of the Republic of Moldova, in partnership with different international organizations.

¹¹ Ibidem.

1.6 Private Enterprise Environment and Small Business Development

The reform of the economy was accompanied by consolidating the private property and developing a new judicial-organizational form of entrepreneurship. According to the legislation, the activity of free enterprise can be implemented in different ways: based on enterprise patent, ltd, shareholdings, mixed enterprises. On first of January 2000, 121634 thousands economic agents were registered, including 59904 thousand industrial units with the right of natural person; 59692 of these are individual industrial units. Moldovan corporations represent medium and large shareholdings, where financial assets are concentrated. Such companies represent 2.6% of the total number of industrial units, 25.7% of the total number of employers, and 34.8% of net buy.¹² Corporations contribute essentially to the budget income; promote exports and have a positive impact on economic policies.

Support and development of small business are essential in order to attract the population towards economic activity, creating new work places, saturating the market with goods and services, raising the spirit of entrepreneurship, regional development and poverty reduction. Radical changes of the economy have placed medium and small enterprises on the first steps of the country's economy. They make up 29% of the number of employers and 30% of the number of business in the country. Little business is characterized by a high level of economic efficiency. From the total number of industrial units that have gained profit, 85% are small enterprises, of which 60% - small business¹³. This sector has mainly strengthened in the field of commerce, which is accessible for small investments and attractive because of the capital speed rotation. Therefore, in 2003 small industrial enterprises of commerce covered 45% of the total volume of sales in the country. Small industrial enterprise of the processing industry made up 16% of volume¹⁴.

There are certain constrictions for the development of private enterprise and small business that decreases the possibilities of people getting involved in business. They have a structural, technical, administrative and financial character. There is poor financial and creditor support for the starting entrepreneurs. Limited access to financial sources is caused by high interest rates, rejection of long-term loans by the banks, insufficient warranties, deficiency of the mortgage system, insufficiency of qualified staff, bad quality of business plans, lack of specialized analyses of the market environment, lack of informational advisory assistance infrastructure and lack of training for the development of free enterprise in most of the regions etc.

Local financial programs are being implemented in order to facilitate access to receiving credits, as for example, insuring loans and offering small grants for business initiatives. Financial support in the Republic of Moldova is given to entrepreneurs from rural areas by organizing co-financing, based on the *Law regarding economic institutions and loans of the citizens*. World Bank contributes to the creation and consolidation of those associations by forming a special credit line with the help of the rural financial Corporation.

A number of centers were established in the Republic of Moldova (Moldova Business Center, Private Enterprise Training Center, BIZPRO-Moldova Project, Moldo-American Center of Private Initiative, Moldova Micro-financing Alliance, Volunteers Program Agro-business, Private Farmers Assistance Program etc), with a large network of branches spread throughout the country, *offering training and informative services*.

Very few organizations in the country offer financial support for the development of small business. Different programs have to combine training, advising services, small grants, pledge cover, etc and take into consideration all groups of the society from rural and urban areas.

¹² *Economic Growth and Poverty Reduction Strategy Paper (2004-2006)*, Chisinau, March, 2004, p. 45

¹³ *Economic Growth and Poverty Reduction Strategy Paper (2004-2006)*, Chisinau, March, 2004, p.46

¹⁴ *Ibidem*.

Chapter II Labor Force Emigration

2.1 Causes of Emigration

Legal and illegal labor force emigration in the Republic of Moldova is one of the most outstanding phenomena that characterize the situation of the labor market. The shapes and fluxes of the labor force proved to be very flexible. Voluntary migration makes up an outline for manifesting economic and socio-cultural globalization and democratization of human civilization. This would give people the right and possibility to choose the place of residence and place of work, but unfortunately the majority of emigrants have left the Republic of Moldova under the pressure of circumstances.

Some of the political factors that influenced labor force migration are: the fall of the iron curtain, the liberalization of the in and out policies, removal of the restrictions regarding the emigration of citizens of the Republic of Moldova, processes of globalization and economic integration, consolidation of the spirit of European integration generated by the country's democratization.

Decisive causes of massive labor force migration in the Republic of Moldova include many socio-economic aspects.

2.1.1 Economic Decline

The general situation of the economy, inefficiency of economic and social reforms implemented during the last two years has worsened the financial situation of people and they found themselves living under conditions of something like "save yourself".

The economic decline that affected the Republic of Moldova after the declaration of independence had a negative impact on the living standards of the population. The lack of a lasting strategy for the national economy that would have assured the stability of the main actions of all the governments, reduced efficiency of mass privatization, and lack of real support for the free enterprise by the state served as causes for the deterioration of the economic situation of the country.

The crisis of the 90ty's had drawn a massive and continuous decline in all sections of the economy and then had aggravated as a follow-up of financial system instability at macro and micro levels. As a result it was marked by inflation and even hyperinflation (during 1992-1993), by substantial budget deficit, that had increased to 9.7% of the GDP in 1996¹⁵, because of failure to return payments and barter, as well as because of the large number of inefficient enterprises. The 1998 financial crisis from Russia created a "shock" reaction to the national economy, significantly dependent of the Russian market, a target destination for more than 60% of the Moldovan exports.

During the crisis period of 1998-1999, an unprecedented decline of economic activity was recorded. In 1999, the crisis has reached the peak, GDP in actual terms made up only 34% of the one in 1990, the volume of industrial production – 32%, agricultural production – 50%¹⁶, the volume of imports and exports has decreased by almost 50%. Devaluation of Moldovan leu versus US dollar was the main cause of a considerable increase in external debts, recalculated in national currency. Inflation processes have increased – during 1998, the prices increased by 18.3%, in 1999 – by 43.7%. A substantial degradation of the process of funding reproduction has occurred because of multiple decreases in the fixed capital, which in 1999 made up only 11% of the one in 1990.

2.1.2 Poverty

The economic decline has led to a sudden increase in the living standards, the phenomenon aggravated by the big discrepancies in income distribution (see Chapter I). Low income of the population does not cover the necessities and the structure of incomes is unfavorable – salaries cover only 34-37% of the available global income. Unemployment is not the most important cause of migration – the majority of people that wish to migrate are employed, but their salaries are much too low.

Poverty is the decisive factor of labor force emigration.

¹⁵ *Economic Growth and Poverty Reduction Strategy Paper (2004-2006)*, Chisinau, March 2004. p. 15

¹⁶ *Ibidem*, p.15

2.1.3 Agricultural Character of the Economy

The economy of the Republic of Moldova is of agricultural nature.

The economic fall has also manifested itself significantly in agriculture. Negative balance between the prices of used resources and the price of agricultural products sold, loss of Moldovan agricultural competitiveness on the usual markets, reduced level of agriculture reorganization, hesitant character of the reforms have deeply affected the agriculture of the country. The gross agricultural product in 2000 made up 45%¹⁷ versus the one recorded in 1990. Crops per hectare are 20% to 60% lower than during the period of 1989-1991, depending on the type of plantation. Agricultural degradation was also followed by changes in the production structure: the volume of animal production has decreased and the surface of multi-year plantations has been reduced. The factors that determine the low levels of incomes are poor productivity of agricultural activity, lack of agricultural equipment, small areas for agricultural plantations, substantial dependence on the climate.

The main source for households' income is the agricultural activity. The great importance of agriculture as a source of income is determined by the fact that most of the population (58.6%)¹⁸ lives in rural areas and agriculture is their main activity. Possessing land does not guarantee welfare – 79.2% of rural families possess land for agricultural activity¹⁹.

This situation has worsened the living standards of the population from rural areas and as a result, they had to look for other methods of surviving.

2.1.4 Demographic Factor

Moldova is an European country with high density (119 persons per km², in 2003) and has one of the youngest populations. At the moment, every fourth person is aged between 15 and 29 years old²⁰. About 30 percent of the total population of 4.228,9 (end of 2003)²¹ of the Republic of Moldova represents children and teenagers under 18 years old (29.5%).²² These facts place Moldova on the third place on the continent, after Albania (35.5%) and Macedonia (30.0%) (The Progress of Nations, UNICEF, 1999). The severe lack of employment *opportunities* for this category of population has mainly conditioned labor force migration.

2.1 Favoring Factors of Migration

2.1.4 Labor Force Demand Abroad

Labor force migration in the Republic of Moldova is a part of a global phenomenon. The current evolution of international labor force migration is growing in many world countries driven by the globalization process. Migration number of the population doubled during the years 1960 - 1990, getting to 2.6% during 1985 – 1990. The biggest values were recorded in well-developed regions where the number increased from 0.3% during the period of 1965–1975 to 2.7% during the period of 1985–1990. The number of migrate workers on the globe is currently about 130-150 million of persons and this number is constantly increasing.

Inefficient use of labor force in the Republic of Moldova and the demand of unqualified labor force abroad are important factors that determine emigration.

Because of labor force migration processes, a double work market is formed in target countries – *one of national labor force and the other of foreigners*. Native population performs qualified work in the fields of industry and services, where the majority of immigrants are involved in unqualified works. They work in harmful conditions; have the longest work-hours and have lower salaries than

¹⁷ Culeac P. *Agricultural policy of the European Union and the agricultural policy of the Republic of Moldova in the context of European extension. // The Republic of Moldova and European integration. Strategic Elements.* – Chisinau, IPP, 2003, p.335.

¹⁸ *Ibidem*, p. 29

¹⁹ *Ibidem*, p.23

²⁰ *Ibidem*, p.123

²¹ *Statistical Yearbook of Moldova, 2003*

²² The following main definitions for children and teenagers are used in the terminology and practices of UN: **children**: persons aged under 18 years old; **teenagers**: persons aged between 10-19 years old (includes early, medium and late childhood); **adolescent**: persons aged between 15-24 years old; **young**: all those aged between 10-24 years old –MONEE Report nr. 7, *Young People in Changing Societies, 2000*.

the natives have. The main fields of activity are industry, agriculture, transport, mining, household and sexual services. Seasonal tendencies are noticed when migration increases by 30-40% during the period of plantation and crops rising in the field of agriculture.

Many countries welcome highly qualified immigrant persons. (Canada, USA, Great Britain).

2.2.2 Country Democratization

The process of democratization and the opening of the country have favored massive emigration, especially towards the West. The fall of the iron curtain has aroused the interests of ex-soviet citizen, initially generating massive tourism, which has gradually changed into a legal manner that was vigorously exploited for the purpose of illegal emigration. Liberalized policies for entering and leaving the country, as well as omission of the "exit visa" have favored the circulation of people, including their emigration.

2.2.3 Relatively High Educational Level

Another important factor that has favored labor force emigration out of the country is the rather high educational level of the population. The educational rate is of, while among young people between ages of 15-24 years old, this indicators makes uplevel of mandatory education graduates - The bilingual character of the society is another important educational factor: even though the statistics show that approximately 65% of the population speaks at least two languages, surveys assert that the percentage is much higher.²³ In this context, Moldovan emigrants easily adapt to the linguistic environment of the East, especially Russia, as well as of the West, especially latin countries. Gagauz natives linguistically adapt very well in Turkey.

2.2.4 Traditions and Historical Values

The Republic of Moldova has experienced significant migration fluxes during its history. A big part of the country's population consists of immigrant descendents (Russians, Ukrainians, Gagauz, Bulgarians etc.), while another part has relatives emigrated to the East or West, especially after the soviet conquests of 1940 and 1944. We should also stress out the policies of stimulating labor force migration promoted officially or unofficially by the soviet governments.

2.2.5 Illegal Emigration Channels

The transition to a democratic political system, the demolition of the full-surveillance police system, the liberalization of the internal life of the country all had negative consequences. Among them are the appearance, arousal and development of criminal units, including organized crime, which have recurrently merged with some state structures. Different networks of illegal emigration have emerged in this context, including trafficking in persons, favoring further the migration phenomenon.

2.2.6 Transparent and Porous Frontiers

The Republic of Moldova has confronted multiple problems from the time of becoming an independent state, one of them being the border-control. The country has inherited the Western border from the USSR, traditionally well organized and guarded; the Eastern border has been and still is less organized, presenting multiple opportunities for migration. As a result, Moldova becomes not only a country-source of emigration, but also a transit country for migrants from the East.

²³ *Public Opinion Barometer*

2.2.7 Favorable Geographical Location

Small country, located at the crossing point of three civilizations – European, Slavonic and Muslim, the Republic of Moldova provides relatively simple emigration opportunities for its citizens because of the favorable geographical location. Relative proximity towards countries with an important demand for cheap but qualified labor force presented an additional stimulus for emigration.

2.3 Migration Fluxes

There is a great discrepancy between official statistical data and unofficial estimates from different sources regarding the number of citizens working abroad.

Official data presented by the Migration Department indicates that almost 6678 persons were legally employed abroad during the period of 1993-2003, the majority in Israel (their number increased from 11 persons in 1993 to 1.165 persons in 2003)²⁴. A sociological survey performed by the Department of Statistics and Sociology reveals that in 2002 no more than 234.000 Moldovan citizens were working legally or illegally abroad. This number represents 11.4% of the active population, 68.3% men and 69.9% - workers from rural areas²⁵.

Data from the Borderguard Department regarding border crossings shows a stable fluctuation during 2003 (except in May and December), with a great number of citizens of the Republic of Moldova leaving the country (1848461) and the ones coming back (1753955). As a result, the balance is negative: 94506 persons more left the country than the ones that entered the country. An estimate of 45.31% of the total number of persons that left the country are women (837589), while those who entered registered at 44,31% of the total number (or 773886). It is an obvious tendency that women who left the country would not return.

The Moldovan press has spread information estimating the number of Moldova citizens working abroad. The number was between 600.000²⁶ and 1.000.000, but these numbers seem to be exaggerated.

The results of the sociological surveys performed in April and November 2003 by the Institute of Public Policy demonstrate that in the last 2-3 years between 25 and 29% of workers worked legally or illegally abroad in different work fields²⁷.

Some analyses demonstrate that almost each rural community with a population of 1000-2000 inhabitants has from 50-100 persons working abroad (10 per cent), in some cases, almost half of a community's population had left.²⁸

Even if permanent employment does not attract everyone, temporary employment is a goal for most of the population. The surveys confirm this tendency - about 80 percent of the population wants to leave the country forever or only for a short period.²⁹ Almost 90 percent of young people between ages of 18-20 want to leave the Republic of Moldova for a period. If there were a possibility, about 37 percent would want to leave the country forever. Only 9% of young people want to stay in the country.

The initial forms of economic migration of the country's population appeared as commercial migration, while labor force migration had a secondary role. According to the surveys performed in 1998, economic migration had involved about 500 thousands of persons.³⁰ Commercial migration of the population (the commercial tourism of "commutational" type) has disappeared during the last years, but an unexpectedly increase of Moldovan labor force migration has been noticed.

²⁴ *Yearbook statistics regarding migration fluxes in the Republic of Moldova. Year 2004.* – Chisinau, SSM, 2004, P.8

²⁵ E.Sleptova. *Labor force migration in Europe: Importance for the Republic of Moldova. /The Republic of Moldova and European Integration. Strategy elements.* – Chisinau, IPP, 2003, p.402

²⁶ *At the beginning of the year 2000, it was believed that about 600.000 of Moldovan citizens were abroad looking for a place of work or of a place of residence* – UNDP, *National Human Development Report, 2000*; OIM, *Trafficking in Women and Children*, 2001.

²⁷ *Public Opinion Barometer. April 2003The Republic of Moldova.* – Chisinau, IPP, 2003, p.78-79; *November 2003.Public Opinion Barometer The Republic of Moldova* – Chisinau, IPP, 2003, p.77-78.

²⁸ OIM, *Trafficking in Women and Children*, Moldova, 2001.

²⁹ *Public Opinion Barometer, August 2000 –November 2003. Institute of Public Policy.* – www.ipp.md.

³⁰ Moşneaga V. *Independent Moldova and Migration.* – Chisinau, Perspective, 1999.

2.3.1 Migration to the East

During the times of the former Soviet Union, the Republic of Moldova had a centralized economy, which was characterized by an intensive *inner labor migration*. The excess of labor force offered by the country was being absorbed by labor force distribution services, by “bigger sites of socialist building” of the Soviet Union. From the time of Soviet Union collapse, inner migration became external, modifying at the same time its reasons and intensity. The borders that have appeared between the republics did not stop the migration fluxes of workers towards the east. They became more intense, especially because of higher incomes and employment opportunities compared to their lack at home. The type of migration also changed. It changed from permanent into temporary or seasonal. The official statistic sources establish that starting with the year 1990 until 1998, 252 thousand of persons from the Republic of Moldova had emigrated to ex-soviet republics. In the same period, 195.4 thousand of persons from these countries came to the Republic of Moldova. The balance is negative and represents 56.5 thousand persons. The great majority emigrated to Russia and Ukraine - 243,8 thousand of people, or 96,7% of all the migrants towards that direction. The main destination in Russia was Moscow. According to Moscow authorities, more than 250.000³¹ Moldovans are illegally employed in the capital of Russia, but these facts seem far too exaggerated.

2.3.2 Migration to the West

The declaration of independence of the Republic of Moldova and the facilitation of traveling to European countries has motivated labor force migration to change its direction from east to west. It was also stimulated by the reunion of many other issues: the distance between Moldova and Moscow (Russia) or south eastern European countries is approximately equal, although profits in the west are higher, the formation of a massive Romanian and Russian languages Diaspora in west European countries, corruption and illegal behavior of employers in Russia, migration and police structures in European Union countries are less than in Russia., etc.

An imposing and permanent migration to the west is noticed. The great majority have immigrated to Israel (44.3 thousand people), USA (15.7 thousand people), and Germany (12.2 thousand people). Geographically, labor force migration from Moldova aims especially towards Occidental Europe, and the most affected countries are Italy, Portugal, Germany, the Czech Republic, Turkey, Cyprus, Greece and Israel.

Current researches present the following tendencies in migration of Moldovan workers to Europe³²:

- Researches from the Czech Republic estimate that 2000 Moldovans work in this country. At the same time, the SIS of the Republic of Moldova declares that the number of Moldovan emigrants is less than 40000.
- Official data provided by German authorities reveals that about 31400 Moldovan employees work in this country.
- During the last two years more than 10000 Moldovan migrants were deported from Portugal, Spain, Turkey and Israel.
- In Portugal, 88% of illegal workers are Moldovan, Romanian and Ukrainian.

One of the characteristics of labor force migration from Moldova is that persons from rural area and mostly men leave for work towards the east, where people from urban areas and mostly women – towards the west. The phenomenon can be explained by the supply, character, work field, activity and great mobility of the urban population³³.

³¹ E.Sleptova. *Labor force migration in Europe: Importance for the Republic of Moldova. /The Republic of Moldova and European integration strategic elements.* – Chisinau, IPP, 2003, p.403

³² *Ibidem*, p.402

³³ Мошняга В. *Молдавские гастарбайтеры в СНГ и «старом зарубежье» (сравнительный анализ по результатам социологических исследований).* // *MOLDOSCOPIE (Political Analysis Problems). Part XVIII.* – Chisinau, USM, 2002, p.61-84; Долгих Е. *Трудовые мигранты из Молдовы в России (по данным социологических опросов в поездах Кишинев-Москва-*

2.3.3 The Characteristics of Labor Force Migration

The differences between working migrant men and women prevail in the activity of migration policies. In many cases, the legal system offers working places in the field of construction and agriculture, which are exclusively for men, although the number of women working abroad is also very high. According to data provided by Moldovan mass media, about 50-60 women leave Moldova on a daily basis. The situation in some villages is catastrophic – 75% of women work abroad. Very few opportunities of employment are offered to women that want to migrate (ex. taking care of children, old persons, working as nurses or in the sex industry).

Representatives of all ethnical groups and of all ages living in Moldova are involved in labor migration, although the majority of migrants are young people at the reproductive age of 20 to 30 years old. The Republic of Moldova is situated on the third place among Eastern and Central European countries/CIS (Community of Independent States) /Baltic States for the number of young migrants. The number of young people aged 15-24 years old that have migrated to other countries is of 130.000³⁴ according to researches from 1989, a number exceed only by Kazakhstan and Bosnia-Herzegovina³⁵. People aged 45-55 years old fall under the second category of age by size. They are the ones that have to pay for their children' education, tuition fees for the Universities in the Republic of Moldova.³⁶

According to the Statistical Yearbook of 2003 regarding migration fluxes in the Republic of Moldova, only 2.800 of citizens of the Republic of Moldova have requested employment abroad from the Migration Department. Among them 769 (27.47%) are women. From the total number of citizens of the Republic of Moldova that have requested work abroad, 786 (28.08%) posses a higher education degree; 2.014 persons (or 71.92 %) – technical degree; 76.2% (2.134) are office workers, and 22.1% (618 persons) - workers.

Table 13. Division of solicitants (by age and sex)

Age	Persons	Men		Women	
			in %		in %
Under 24	727	513	70,58%	214	29,41%
25-30	356	294	82,6	62	17,39
31-36	401	289	72,0	112	27,98
37-42	403	293	72,72	110	27,27
43-48	381	286	75	95	25
49-54	466	303	65	163	35
55-60	66	53	80	13	20
Total	2800	2031	73,53	769	27,47

Source: Statistical Yearbook of the Republic of Moldova regarding migration fluxes, 2003

Even though the labor migration phenomenon is caused first of all by socio-economic conditions of the country, they still cause multiple problems that slow down the potential for development and improvement of the country.

Кишинев). // Трудовая миграция и защита прав гастарбайтеров: практика посткоммунистических стран. – Кишинэу, Молд.ГУ, 2003, с.46-56.

³⁴ MONEE Report nr.7, *Young People in Changing Societies*, 2000.

³⁵ *Public Opinion Barometer– Republic of Moldova. CSOP/Taylor Nelson SOFRES, January 2001.*

³⁶ See: *Население Молдовы и трудовая миграция. – Chisinau, CAPTES, 2000; Moldova, Romania, Ukraine: Labor Force Migration and European Integration. – Chisinau, CAPTES, 2000; Mosneaga V., Evdoghimova L., Koman A., Krauze A., Rusnac G. Трудовая миграция в лицах: люди и судьбы. – Chisinau, CAPTES, 2000.*

2.4 Consequences of Migration

Migration between countries or inside a country is considered a process of development - more significant at a moment or another, and for one country or another, sometimes a cause of events, and sometimes just their consequence. The impact of labor force migration is complex and has political, economic and social consequences, which can be positive as well as negative.

2.4.1 Consequences for Migrants

Positive Consequences

- Enrollment in the *field of work*: a great part of emigrants are unemployed, emigration usually being their only solution. The small number of employment opportunities from their native country forces them to look for other chances.
- High incomes: As we have mentioned above, emigrants are usually employed and the cause for emigration is only low incomes. Even though there are usually paid less than native workers, the incomes of emigrants are much higher compared to the income they were getting at home. Moldovan migrants receive average retributions of 772 USD³⁷. The retribution differs substantially from country to country, varying from 425 US dollars in Russia, to over 1200 US dollars in France, Germany, Benelux.
- *Achievement of new skills, knowledge*. A positive factor of labor force emigration is the educational one, because it contributes to the adjustment of the labor force to the new economic environments. Persons that have emigrated abroad in search of work gain new skills, typical to the market economy, and their use at home will contribute to the consolidation of market relations and reduction of the economic transition period. Migration can lead to the improvement of qualifications, apprehending modern methodology of labor management.
- *Possibility of supporting families, children (especially for educational purposes)*. Under the circumstances of a profound economic crisis, with a small amount of opportunities for employment and low incomes, the external migration from the Republic of Moldova is presented as an essential source for solving the problem of ensuring a decent living or even surviving for a great part of the country's population. A large part of emigrants' income is meant to cover children's higher education, supporting the families, retired parents who can not count on anything else except this financial support.

Negative consequences

- *Unqualified labor, with a lower status*, supplementing the additional requirements of labor force in some sectors of the host countries national economy, where the deficit is quite big because of the nature of the population's structure. These sectors include construction and public works, public nourishment, housekeeping etc., meaning the sectors which require a large number of unqualified workers. The retreat of population from these branches favors the increase in the number of immigrant workers. Immigrants usually accept jobs with a lower status than their qualification. Therefore, according to the survey organized by MMA, housekeeping and social care "absorb" almost the entire feminine labor force, preferably in elderly ages and with higher education degree³⁸. By analyzing the fields of activity and the profile of legal and illegal migrants, we come to the conclusion that the majority of persons that emigrate having high professional qualifications get employed at temporary or seasonal jobs, which are difficult and poorly paid in the branches that require unqualified labor force. Migrant workers are involved in almost 40 types of activities, while only 27.3% work according to the

³⁷ "Remitențe", survey organized by MMA, 2004

³⁸ *Ibidem*

qualifications. Almost 70% believe that their employment abroad has nothing to do with their specialty³⁹.

- *Lack of social care for illegal migrants.* Migrants are left outside any system of social care or social insurance when working under illegal terms, without signing any contracts. Many of them do not realize the problem except when they get ill, traumatized at their work place, or when they reach retirement age.
- *Separated families, children affected.* According to data gathered by the central prosecutor's office, in the last two years almost 20 thousand children were left without parental care, parents who have emigrated abroad. Both parents of almost 3000 children are working abroad, who are left with their grandparents, relatives or neighbors, who usually have a low living standard themselves. Over a thousand children were pulled out of the country, violating the legislation in many cases, without the consent of parents, as well as without a warranty of their future. Left without parental care and means of income, many children abandon school, commit crimes, usually related to stealing.
- *Increased number of sexually exploited underage girls.* Labor or sexual exploitation of minors is another negative consequence of emigrations, with tragic impact on their future. Even though leaving the country of underage girls is only allowed with parents consent, slave dealers use counterfeit passports. The short time and the simplicity of getting these passports would not be possible without the involvement of some corrupt office workers.

2.4.2 Consequences for Migrants

Positive Consequences

- *Discharging social pressures, decreasing sub-employment and unemployment.* Emigration can be perceived as an advantage for the discharge of social pressure and the decrease of sub-employment and unemployment.
The economic crisis has aroused a considerable decrease in the number of work places, which led to mass unemployment and labor force migration abroad. The number of people working in the economy has decreased by 193 (or 11.4%) compared to the period of 1994-1999. In 2000-2002, the number of employees has increased only by 10 thousand persons (0.7%), with a great misbalance between the number of work places and their actual demand, also including the potential demand of emigrant workers. We should mention that the decrease of the unemployment "statistical" rate (from 11.1% in 1999 to 6.8% in 2002⁴⁰) was mainly due to mass emigration of labor force abroad, and not by the increase of number of work places and of the population working in the national economy. Therefore, getting rid of unused labor force migration in the country in fact alleviates internal unemployment, thus reducing the risk of social conflicts in the country and civic insubordination of the population.
- *Huge remittent fluxes.* A large increase in welfare for a great part of the population is due to the incoming money resulted from external migration. At the same time, the increase in the aggregate demand is stimulated by consumption increase, which assures favorable conditions for economic development. This money being in forte currencies, compensate to some extent the commercial deficit, contributing to the insurance of the national currency. In other words, the negative balance is set off by labor force export that can also be considered as a similar value of welfare consumption and investment.

People that have left Moldova are supporting their families, thus diminishing the pressure on the budget expenses. According to some recent assessments of the National Bank, migrant workers have sent home more than 268 millions US dollars in 2002, a figure that is comparable

³⁹ E.Sleptova. *Migrațiunea forței de muncă în Europa: Importanța pentru Republica Moldova. / Republica Moldova și integrarea europeană. Elemente de strategie.* – Chișinău, IPP, 2003, p.403

⁴⁰ "Statistical" unemployment calculated according to the methodology of the International Labor Bureau.

to the annual national incomes (Table 14). Incomes from labor migration have increased in 2002 by 3.2 times comparing to the year 1997, while the nominal volume of salary budget has increased by 2.4 times⁴¹.

During the first trimester of 2004, the net supply of currency from natural persons who work abroad made up 118.9 millions US dollars, which is more with 76.3% compared to the same period of last year. The flux of currency has increased during the same period by 46.7%, till 263.7 millions US dollars⁴².

Table 14. Dynamics of money transfers of labor migrants in Moldova

	1999	2000	2001	2002
Money transfers of labor migrants in Moldova				
US Dollars (million.)	109,8	159,0	223,0	268,0
% of GDP	9,3	12,3	15,1	16,5

Source: National Bank of Moldova

In order to support the national currency, NBM promotes an errand policy without imposing any restrictions to imports of exchangeable currencies in the country. The majority of these resources are being used for expenditures⁴³, a fact that inevitably contributes to the development of the economy.⁴⁴

Very few persons migrate with the purpose of opening their business or investing their money somehow. There are different reasons for that: a) paying the huge debts; b) Low trust in the success of own business, due to the unfriendly business environment; c) limited access to areas for developing an activity; d) Great difficulties in controlling own resources as a result of frequent changes of taxes, fees and credits settle etc.; e) Bureaucratic, corruption; f) Default of manager experience and economic culture specific for market economy.

Productive investments will appear in business, technologies etc. will appear only later, (after some cycles of migration) as the international experience shows. The migrant, keeping in touch with the persons and institutions they worked for, can attract investments in the native community or can fulfill valuable business partnerships. The issue of a correct investment policy would motivate the return of many emigrants to their country. Practically all Moldovan citizens legalized in Italy have not withdrawn their residence visa from Moldova and do not want to ask for an authorization for permanent stay in Italy. The majority of Moldovan emigrants plan to return home, a fact that is confirmed by the increased amount of acquisitions of real estate in Moldova by persons permanently or temporarily residing in Italy.

- **Changing mentality.** From a social point of view, labor force migration is not only a consequence of poverty, but also a result of the democratization process of former soviet countries and Eastern European countries, a route towards European Union integration, and generally towards the generic process of globalization. After their return to Moldova, even after a short stay, migrants bring back international affinities and new ideas that will eventually contribute to the country's development. They became pro-active, independent and ready to undertake managerial risks, carriers of other mentalities.
- **Diaspora formation.** Legalization of illegal migrants (a process taking place first of all in Italy and Portugal) will lead to Diaspora, as proven by the experience of other states (Turkey, Yugoslavia,

⁴¹ *Economic Growth and Poverty Reduction Strategy Paper (2004-2006)*. – Chisinau, March 2004, p.25

⁴² Luchian N. *Volunteer market crisis indicates an economical depression*. // *Time (daily)*, 21 May, 2004, p.6

⁴³ Мошняга В. *Турецкий опыт для нас ценен*. // *Unprotected labor. Strategy and tactics of the syndicates*. – Chisinau, Labor Institute, 2002, p.145-156.

⁴⁴ Горелова Е. *Дефицит инвестиций и трудовая миграция из Молдовы*. // *Трудовая миграция и защита прав гастарбайтеров: практика посткоммунистических стран*. – Кишинэу, Молд.ГУ, 2003, с.40-46

China, etc.), and increase its role as a main social actor in the protection of fellow compatriots from abroad.⁴⁵ The importance of Diaspora is increasingly recognized in the stimulation of economic development by circular fluxes and investments in the native country.⁴⁶ Moldovan Diaspora could appear in counties of Occidental Europe.

Negative consequences

In short-term, the economic consequences of labor force migration might be positive, but in long-term they became negative.

- *Brain Drain.* The most obvious phenomenon of labor force migration from the Republic of Moldova is the *extremely fast migration of highly qualified specialists*. This feature of labor force entitled "brain drain" (or "mind exodus"), inevitably leads the loss of intellectual capital.

There are currently 79 thousand students enrolled in higher education and only one out of eight graduates finds a job in the country. Therefore, the Republic of Moldova gradually becomes to its own prejudice a supplier of qualified labor force to other countries. In this context, the degradation of human potential of the country is obvious.

The "drain brain" phenomenon is also stimulated by the frame of mind of the young that do not imagine their future in the Republic of Moldova.

Ignorance of decision-makers besides this phenomenon can lead to an intellectual crisis. The outrunning of the crisis will require a longer period than reestablishing the economy of the republic. The flux of qualified labor force brings out a great devastation of work market and general disqualification of labor force.

- *Deficit of human resources.* A deficit of human resources is already is already felt in some fundamental sectors of the economy. Some researches show that the Republic of Moldova already has a considerable demographic deficit of labor force in agriculture. The departure of the young people from rural areas affects the human potential capital. A modern agriculture can only function based on young labor force and the spirit of free enterprise. It is essential to encourage migrants return and to promote investments in agriculture.

The deficit of human capital in Moldova affects the growth of some well-developed Industrial sectors in the field of information and technology because many Moldovan graduates of the corresponding specialties leave the country forever (to Canada, USA, Germany, Romania, Russia etc.). Moldova faces many problems because of the lack of specialists, qualified workers in achieving different projects in medicine, culture, and social care education. The situation merges into a paradox: people leave not because they have no working places, but because of poor salaries that do not correspond to the actual minimal costs of living, or expenses for their children's education etc.

- *Inflation pressure generated by endorsements.* As it was mentioned above, the amount of money transferred by emigrant persons is considerable and it contributes to the stabilization of the national currency, although this stabilization is somewhat artificial. It had negative consequences as well by decreasing exports. These transfers will lead to the increase of the monetary deposits, thus generating inflationist tendencies, which have manifested themselves especially in the real estate industry. A durable economic development can not be based on these financial fluxes which are vulnerable to the fluctuations of migration policies of other countries.
- *Loss of potential income (taxes etc).* Emigration from Moldova is for the most part illegal, thus emigrated persons do not contribute in any way to the development of the state budget; besides, a big part of emigrated persons are employed, they had a work place, and when the emigrated they stopped paying taxes or any other contributions to the budget. It is very difficult to estimate the potential income lost that way.

⁴⁵ See: Мошняга В., Евдокимова Л. Трудовые мигранты Молдовы: в поисках механизма защиты (по результатам экспертного опроса). // MOLDOSCOPIE (Political analysis). Part XXII. – Chisinau, USM, 2003, p.43-84.

⁴⁶ Towards a fair deal for migrant workers in the global economy, Report VI, International Labor Conference, 92nd Session, 2004

- *Increased demographic pressure.* The reduction of work places has led to the diminishment of the population employed (over 10% of work-able population is out of the work field⁴⁷). The demographic task has increased and that can become a real obstacle for promoting economic reforms. The coefficient is currently 0.77 (or 77 children and elders for every 100 work-able persons), which is way over the critical limit of 0.31.
- *Negative image of the country abroad.* Labor force migration negatively affects the relations between native countries and target countries and brings out external political risks. Taking into consideration the great number of illegal Moldovans in the Czech Republic, Italy, Portugal, Greece and Germany, we can suppose there are few chances for Moldovans to be welcomed and accepted by the natives, especially by unemployed persons. Besides the disturbances that migrate workers create for the host country's labor market, there are side effects like increase in criminal activity, robbery, drug deals and women traffic. Criminal activity abroad is very high among our citizen. For example, a great majority of people that live surreptitious in Italy get themselves arrested. Comparing to the year 2002 when 732 persons were expelled, in the first nine months of the year 2003, 310 of our citizens were expelled from Italy.
- *Changes in the demographic structure.* Natural increase of the population is now negative (-0.2%), thus promoting a process of country's depopulation (decrease of population from 4.37mln. in 1991 to 4.28 in 2000). The demographic factor and genetic core of the country are subjected to a serious trial, because usually persons of reproductive age leave the country. Breaking apart of couples for a long period effects their relations and sexual behavior, creating problems for the family. Many families divorce and that affects the views and values of children. Such a complicated environment has multiple negative consequences on long-term: change in the moral standards of the society, birthrate decrease, affected genotypes, increased spread of infections and sexual transmissible diseases, etc.
- *Trafficking in human beings:* Illegal migration is one of the main components of trafficking in human beings with the purpose of economic exploitation and profit. Illegal immigrants are usually under the control of dealers. They pay fees for protection and are forced to work at dealers indications. There are reports that criminal groups from the Republic of Moldova have extended their activity to Portugal, demanding money from Moldovan citizens for protection. Many migrants become half-slaves because of their illegal status and not wanting to return to their country and that prevents them from addressing the authorities. It is known from different sources that many citizens of the Republic of Moldova were detained in the most inhuman and degrading conditions, obliged to perform hard work against their will, without getting paid, later denounced to the police by the exploiters and sent back to their home country without any money and with bad health. The extent of trafficking in human beings as a labor force is unknown, but it is estimated to have unacceptable proportions for our society. All the researches performed until present in the Republic of Moldova are exclusively centered on trafficking in human beings for sexual exploitation reasons. NGOs that carry out services for trafficking victims point out the fact that all persons who have been lately asking for help had suffered different forms of abuse, most of them being women.

The total number of persons exposed to sexual exploitation cannot be exactly estimated. The number of the young, victims of this phenomenon is estimated at 10.000, *30 percent of them being underage*. According to the last statistics of the International Organization for Migration, about 64% of girls from ex soviet countries that were identified and repatriated were Moldovan. The statistical data gathered by the International Organization for Migration (the report is based on real stories of 510 victims of trafficking back in the country, and the information was extracted from personal interviews with each person), estimates that about 58% of trafficked persons are between the age of 18-24 and 22% are up to 30 years old. Statistical data regarding the economic situation estimates that: 58% are from poor families; 7.3% - from medium-wealth families; 16.3% from very poor families. Regarding recruitment methods: 88.2% of trafficked persons went abroad to find a work place, and 65% were proposed a work place, then were

⁴⁷ *Economic Growth and Poverty Reduction Strategy Paper (2004-2006).* – Chisinau, March 2004, p. 120

betrayed and obliged to work as slaves, 72.7% of women were obliged to become prostitutes and 16% to work in entertainment places.

The large and extremely serious spectrum of social danger generated by trafficking in human beings requires an adequate reaction of state authorities, including professional activity of justice authorities.

2.4 Conclusions and recommendations

Social, economic and politic development started immediately after the fall of the Soviet Union and the socialist base created the premises for some considerable changes in the field of migration, requiring special attention in the frame of political dialogues and international collaboration. The concern of most states has increased together with the stir up in emigration fluxes, including newly appeared countries on the political map regarding adherent problems of mass migration processes.

The phenomenon of labor force migration in the Republic of Moldova has positive and negative demographic, socio-economic and politic consequences. The number of illegal migrants cannot be reduced by government restrictions. It can neither be solved by creating new work places if the salaries would remain the same or have an insignificant increase. The citizen of the Republic of Moldova should have the choice of staying at home or leaving for work under legal conditions with all necessary warranties that would assure the necessary protection. When the process of recruitment, the endorsement fluxes and returned migrants will all merge into a *virtuous circle*, the results will lead to the development of an important "external industry", also a benefit for those that do not migrate. Promoting a long-term consensus regarding migration problems are main responsibilities of the internal and external policies of the country.

- The main objective of migration coordination must be directed to make best use of the *mechanism of benefits development for all countries involved*.
- It is necessary to *create a proper working environment, which would correspond to the population's need and create new employment opportunities*.
- *The coordination of labor force migration should be regarded as one of the possible solutions of internal unemployment*, a process that should be planned and even stimulated with the purpose of preventing illegal migration and abusing people's rights. The state should be involved in this process with the purpose of assuring citizens rights.
- It is necessary to segregate statistical data according to gender and age regarding the entrance and departure in and from the country in order to get a more effective picture of migration tendencies.
- Another idea is the implementation of a unique database regarding migrate workers abroad, which would contain information regarding employees, agents performing employment services, contracts (according to target country, occupation, time limit of contract) information about endorsements.
- The significant amount of endorsements could influence in a viable way the development of the country if innovative methods of investment would be elaborated and implemented. Migrants should be motivated to return home and invest money in business.
- In order to employ the human potential of returned migrants, it is imperative to *simplify the procedures of deployment and progress of small free enterprise, improve the investment and entrepreneurship environment, subdue nowadays largely by the corrupt biurocracy*.

Chapter III. Immigration⁴⁸.

There are four types of migration established in the Republic of Moldova⁴⁹: family migration; labor migration (which also includes pendulous migration); educational migration; special migration.

These types of migration are managed by the Law regarding migration, resolutions of the Government of the Republic of Moldova based on state policy regarding the use of labor force, agreements between the Republic of Moldova and other states, and eventually by the special legislation of the Republic of Moldova. Family migration managing has the aim of bringing families together and preserving their integrity. The Law stipulates that the immigrant family may consist of the spouse, children and parents under the condition that they would be supported by the immigrant. Family reunification happens only in the limits of the migration quota. Current stipulations do not refer to certain groups of persons that are subjects of migration stipulations directed by a special legislation.

The entrance, stay and work activity of migrant workers on the territory of the Republic of Moldova is managed according to the legislation. Qualified authorities also elaborate identifications for migrant workers according to the legislation. Migrant workers' activity is legalized by an individual work contract⁵⁰. The legislation requires: an immigration certificate and work permit with fixed time limit up to 3 years issued to immigrants who have a work activity for the time being on the territory of the Republic of Moldova; immigrant certificate and permanent work permit – issued to immigrants with the right of permanent living in the Republic of Moldova, as well as to highly qualified specialists particularly solicited in the country⁵¹. The immigrant certificate is issued on a quota-base or over-quota. An evidence of immigrant certificates is performed during the year. A state fee regardless of the immigration type is perceived for the issue and prolongation of the immigrant certificate of foreign citizens and homeless persons arrived in Moldova.⁵²

The immigration quota in the Republic of Moldova was established at 0.05% by the migration Law. According to the Ministry of Internal Affairs, Migration Department and sociological surveys, there are about 20 thousand of legal and illegal foreign citizens in the Republic of Moldova.

3.1 The juridical status of foreigners

The legislation of the Republic of Moldova regarding foreigners is still under development. Plenty of norms and standards that would assure an absolute security are missing, that results due to the presence of foreigners on the territory, and in the same time guaranteeing secure stay of foreigners in the Republic of Moldova. According to the legislation in force, foreign citizens and homeless people have the same rights, liberties and obligations as the citizens of the Republic of Moldova⁵³ with some exceptions defined by laws:

- The right to work and its security (except for jobs and activities requiring citizenship of the Republic of Moldova);
- The right for vacation and healthcare (at the same time they are obliged to pass a medical examination for determining possible HIV and AIDS diseases);
- The right of salaries, retirement pensions and other social insurances;
- The right of dwelling;
- The right of property;
- The right for education;
- The right for association (if the status of associations do not stipulate otherwise);
- The right of free conscience, opinion and speech;
- The right of marriage, personal life;
- The right of free travel on the Republic of Moldova according to the law;

⁴⁸ This Chapter was taken from.....

⁴⁹ The law of the Republic of Moldova regarding the migration nr. 418-XII, 19.12.1990

⁵⁰ The resolution of the Government of the Republic of Moldova regarding the temporary employment of migration workers nr.1077, 20.11.1997.

⁵¹ The law of the Republic of Moldova regarding the migration nr. 418-XII, 19.12.1990

⁵² The law of state fee nr.1216-XII, 20.12.1992; art. 2(1),point 3

⁵³ The Constitution of the Republic of Moldova adopted on July 29, 1994, art.19; Law of the Republic of Moldova regarding the juridical status of foreign citizens and stateless persons on the territory of the republic of Moldova nr. 275-XIII of 10.11.1994, art.5.

- The right of inviolability of the person and the dwelling;
- The right to justice;
- The right to ask diplomatic protection of their status.

Foreign citizens and stateless persons are subjected to taxes, fees and other pays on a general basis as the citizens of the Republic of Moldova, unless international agreements signed by Moldova stipulate otherwise, they do not have the right to elect and to be elected in legislative, executive and others eligible authorities, neither the right to participate in the universal vote. Foreign citizens and stateless persons can not be members of parties and other socio-political organizations and can not fulfill military service in the armed force of the Republic of Moldova. They have administrative and criminal responsibility for the violation of the legislation in force.

The legislation defines foreign citizens as persons that do not have the citizenship of the Republic of Moldova, but have the certificate of affiliation to another state; stateless persons are individuals that have neither the citizenship of the Republic of Moldova nor the certificate of affiliation to any other states.⁵⁴ Difficulties usually appear in juridical formulations, more than that the given definitions do not exactly correspond to those stated by the citizen law, or can even be interpreted in a different way. The conflict is obvious, or the difference between a person who is not a “citizen of another state⁵⁵” and “the certificate of a membership of another state” is significant. A stipulation in the legislation was issued because of the missing premise of a certificate as a membership to another state. According to the stipulation, foreign citizens who did not have the possibility to prolong the time limit of the identity acts or can not present new acts during a year are issued identity bulletins for homeless persons at their request.⁵⁶ The Republic of Moldova appealed to this method as a temporary solution for informing the persons that do not have the possibility to get an identity certificate, though this norm is projected by the Convention regarding the decreasing of stateless cases in 1954, thus fulfilling their legitimacy.

The possibility of modifying the legislation is being discussed in order to institute a temporary certificate that will be issued to persons whose national identity certificates are expired. Such a certificate would also allow them to travel abroad to the nearest embassy of the origin state.

The lack of an adequate legislation generates controversial situations. There are cases when citizens of other countries are married and live together with the citizens of the Republic of Moldova, have children, but can not exercise their rights or cannot perform juridical certificates because their identity documents are missing. Such persons are caught in a vicious circle, and under these circumstances the procedure of issuing a stateless bulletin is regarded as a quick and effective way of giving the citizenship of the Republic of Moldova under the form of naturalization.

The law of the Republic of Moldova regarding the juridical status of foreign citizens and stateless persons guaranties their right of residence in the Republic of Moldova based on valid identity certificates and in accordance to the law. Residence permits are considered as documents of identity in the national system of passports. The passport and the identity card for stateless persons are issued to stateless people with a permanent residence on the territory of the Republic, for leaving and entering the country as well for the internal use in the country.

Foreign citizens and stateless persons use international customs points for entering and leaving the Republic of Moldova using a valid national identity certificate, containing an entrance visa or by presenting an invitation. The entrance visa with a time limit of up to 90 days can be obtained at diplomatic and consular missions abroad the Republic of Moldova.

Foreign citizens and stateless persons can not be employed and enrolled in education without the authorization of the Ministry of Labor Social Care.

3.2 Asylum

The general situation of the legislative system regarding refugees and asylum solicitants can be characterized as a “building process”. The Constitution of the Republic of Moldova stipulates in art.19, .2 „the right to asylum is granted and withdrawn according to the law, by respecting the

⁵⁴ *The law of the Republic of Moldova regarding the juridical status of foreign citizens and stateless persons in the Republic of Moldova nr. 275-XIII, 10.11.1994, art.1 and 2.*

⁵⁵ *The law of citizenship of the republic of Moldova nr. 1024-XIV of 02.06.2000, art.1.*

⁵⁶ *Attachment.2, entitled the rules of staying of foreign citizens and stateless persons in the Republic of Moldova, the decision of the Government of the Republic of Moldova nr. 376 , 16.06.1995 regarding the additional measurements in achieving the national system of passports*

international agreements which the Republic of Moldova has signed". The draft law regarding refugee status adopted on 20.05.2001 is not yet enforced.

In trying to protect those that need protection, the Republic of Moldova applies the provision of the international instruments referring to human rights in order to ensure these rights and to prevent their violation: the European Convention on Human Rights (ratified by the Parliamentary Decision nr.408-XII at 12.12.90), UN Convention against torture and other cruel, inhuman, degrading treatment or punishment (ratified by the Parliamentary Decision nr.1298-XIII), International Pact on Civil and Political Rights, UN Convention on the Rights of the Child, Universal Declaration of Human Rights, etc.

Art.29 of the law regarding the juridical status of foreigners and stateless persons stipulates that „Foreign citizens and stateless persons cannot be expelled from the Republic of Moldova to a country where there are proofs that they are ill-treated because of race, nationality, or religion, or will be exposed to inhuman or degrading treatment, torture, or capital punishment.”

A number of normative acts make references to refugees, though primarily focusing on other issues: the Law on citizenship, the Law on migration, etc. Since the Republic of Moldova does not have special legislation, it adhered to a number of international instruments that refer to refugee status. Or, based on similar normative acts of conterminous countries it has adopted laws and regulations which directly refer to refugees⁵⁷.

A representation of the United Nations High Commissioner for Refugees was opened in 1997 at the invitation of the Government of the Republic of Moldova. The reasoning behind this invitation was the lack of a standard state body that would deal with asylum problems or of a special law that would settle the procedure of offering the asylum. Based on the agreement between the Government and UNHCR (02.12.1998), this agency will have to solve the asylum demands according to its mandate, and to offer international protection to persons that need it, whereas the Government of the Republic of Moldova will ensure the recognition of legal actions and documents issued by UNHCR. UNHCR investigated 853 asylum demands (619 cases) prior to January 1st, 2002, and of these, 214 people were recognized as refugees (101 cases). Special treatment was given to these people and their children, and they enjoy certain rights and immunities that foreigners in general do not.

On the 23rd of November, the Parliament of the Republic of Moldova adopted the law on adhering to the Convention on refugee status from 1951, and to the Protocol to this Convention from 1967, thus assuming the responsibility to respect and apply the provisions of the Convention, which creates a consistent and complete legal framework for refugees and asylum solicitants.

The qualified authority in refugee problems, *the Monitoring and Co-ordination Section of asylum solicitants and refugee problems*, subordinated to the Ministry of Labor and Social Protection, started its activity in March 2001. This authority is currently subordinated to the Migration Department, named *Main Office for Refugees*, and has the task to promote international standards and to enact the necessary legislation for an efficient and qualitative asylum system in the Republic of Moldova.

3.3 Extradition

The Republic of Moldova assumes the responsibility to hand over, based on the principle of reciprocity, under the rules and conditions determined by conventions and bilateral agreements to which it adhered, persons who are investigated due to an offense they committed or wanted for punishment, or merely as a safety measure (*any measures of freedom deprivation that were additionally disposed or substituting a punishment, at the decision of a qualified judicial court*⁵⁸) by the legal authorities of the solicitant state. The Legislation of the Republic of Moldova is the only feasible procedure of extradition and of temporary arrest, though there are certain procedure

⁵⁷ For example: *The Convention on the European Higher Education Institutions; the international Convention on the rights of the child; the law on the Red Cross Society in the Republic of Moldova; the Law on citizenship; the Law on children's rights; the Government Decision regarding the approval of Regulations on the methods used for the evaluation of knowledge about the Constitution of the Republic of Moldova and the national language; the Government Decision regarding the additional measures for implementing the national system of passports; the Government Decision regarding the rules for issuing, delaying and retrieving immigrant certificates and work permits in the Republic of Moldova; Guidelines for the calculation and collection of taxes for custom procedures; the Regulation regarding the transferring of goods at custom points of the Republic of Moldova by natural persons.*

⁵⁸ *European Convention on Extradition, art.25*

peculiarities that were discussed beforehand and accepted based on bilateral agreements of the Republic of Moldova with other states⁵⁹.

The legislation of the Republic of Moldova does not yet include a normative act that would regulate extradition in particular; this is regulated by: Paris European Convention on Extradition from December 13th, 1957 and enforced at April 28th, 1960, ratified by the Republic of Moldova on May 14th, 1997; CIS Convention regarding juridical assistance and legal relations in civil, family, and criminal cases concluded in Minsk on January 22nd, 1993, ratified by the Republic of Moldova on March 16th, 1995 and enforced at March 26th 1996; Criminal Procedure Code of the Republic of Moldova, March 24th, 1961; and other bi- and multilateral agreements in this field between the Republic of Moldova and other states.

The extradition procedure begins at the moment when the General Prosecutor's Office of the Republic of Moldova receives a written demand from an institution of another state regarding the extradition of a certain person. Foreign citizens and stateless persons can be extradited only in the basis of an international convention or in reciprocity conditions based on judicial court decision.⁶⁰ In reality, this happen differently: the first condition is respected, but not the second one. If the extradition is required for capital punishment purposes by the law of the solicitant state, the extradition will be granted only after sufficient guaranties are given to the Republic of Moldova that the capital punishment will not be performed.

3.4 Expulsion

The first provisions regarding expulsion were introduced in the Law regarding the judicial status of foreign citizens and stateless persons only in December 1999, when seven new articles were included to settle the expulsion institution at general standards. One of these articles stipulates that citizens of the Republic of Moldova can not be extradited or expelled out of the country⁶¹.

Foreign citizens and stateless persons can not be expelled in the case when the legislation of the Republic of Moldova bans them to leave the territory of the country⁶². Collective expulsions are prohibited⁶³.

If foreign citizens and stateless persons are refused permanent residency in the Republic of Moldova, they are obliged to leave the territory of the country. In case of disobedience, these persons will be expelled according to the national legislation in force⁶⁴. In case the immigrant worker was employed, and violates the laws of the Republic of Moldova, he/she is expelled from Moldova according to the national legislation⁶⁵. The reasons of expulsion are different and contain many forms⁶⁶: it can be applied as administrative sanction to foreign citizens and stateless persons for committing administrative offences for violation of public or state order⁶⁷; and to foreign citizens who were involved in practical activities and religious rituals without an approval from public authorities⁶⁸. The person who is in the process of expulsion may be arrested or legally convicted with the exception of deprivation of liberty⁶⁹.

The expulsion of foreign citizens and stateless persons is performed by internal affairs on the basis of judicial court decision⁷⁰. Foreign citizens and stateless persons that are expelled have to leave the territory of the Republic of Moldova by the deadline indicated by qualified authorities.

The Ministry of Internal Affairs and the Information and Security Service undertake additional actions to trace out and to counteract illegal activities of foreign citizens who practice illicit trafficking abroad, including expulsion and forbidding access in the country of these foreigners.

⁵⁹ *ibid.*, art.22

⁶⁰ *Constitution of the Republic of Moldova, art.17 and Criminal Procedure Code, art.18/5*

⁶¹ *Constitution of the Republic of Moldova, art.17, passage.3; Criminal Procedure Code, art.18/5, passage.1, p.3; the Law on citizenship of the Republic of Moldova, 02.06.2000, art.8, passage.2*

⁶² *the Decision of the Government of the Republic of Moldova on additional measures for creating a national System of passports, 06.06.95 ; p.60*

⁶³ *European Convention on Human rights, art.3 and 4*

⁶⁴ *the Decision of the Government of the Republic of Moldova on additional measures for creating a national System of passports, 06.06.95 ; p.33,passage.3*

⁶⁵ *the Decision of the Government of the Republic of Moldova regarding temporary employment of migrants, 20.11.97, p.63*

⁶⁶ *the Decision of the Republic of Moldova on additional measures for creating a national System of passports, 06.0695, p.58*

⁶⁷ *Constitution of the Republic of Moldova, art.25,passage.3*

⁶⁸ *the Decision of the government of the Republic of Moldova on additional measures for creating a national System of passports , 06.0695, p.37,letter g.*

⁶⁹ *ibid.*, pct.55-57

⁷⁰ *ibid.*, pct. 61-63

Pursuing, arresting and the deportation of illegal immigrants are also the task of the Ministry of Internal Affairs. In this context, this service proposes projects to modify some legal provisions, plans and develops migration strategies that are the mandate of the Ministry of Internal Affairs.

In the last months of the year 2003, 2122 criminal investigations were begun in the field of migration (in the same period of the year 2002 there were 1500), 135 of judicial decisions were adopted regarding deportation (in the same period of the year 2002 - 30) and in 28 cases the duration of stay of foreigners was reduced (in the same period of the year 2002 - 7).

A number of foreigners who were temporarily or permanently in the Republic of Moldova from January-December 2003 committed violations of the current legislation according to the Ministry of International affairs data. Foreigners committed 84 crimes in 2003, and another 64 crimes were committed against foreigners. There were also 5083 cases where foreigners violated the current legislation of the Republic of Moldova, and verbal processes were undertaken for administrative sanction. Among them: 3663 – violation of registration and re-registration methods; 1165 – violation of residence without identification documents. Official reports were also undertaken for: 37 – refusal to leave the territory; 37- employment without permit; 119 – illegal work activity; 4061 – other articles.

233 cases of deportation for illegal residence were performed in the framework of the special operation „The Quest”, initiated by the Ministry of Internal Affairs against illegal residence and transit. The persons staying legally or illegally were verified by policemen. 180 cases were discovered this way, as well as another 1200 cases of legislation and regulations violation regarding migration.⁷¹ Such operations take place interminably, and if you take into consideration the time and the resources used, this action was popular and great in importance, including at the political level. According to the Ministry of Internal Affairs, the problems discovered in their field are also evident to the Department for Frontier Troops, the Migration Department, and the Ministry of External Affairs: the difficulty of identifying and obtaining travel documents for those to be deported, lack of collaboration, deficiency of stock, etc.

3.5 Conclusions and Recommendations

Although the problem of foreign immigration on the territory of the Republic of Moldova presently is not of great interest to Moldovan society, with the focus being on labor force emigration of the Republic of Moldova, this topic can not be abandoned, and it requires control and coordination from special structures.

Moldova is regarded nowadays as one of the most favorable environments for migration of both Moldovan citizens as well as foreigners. The formal borders with our CIS neighbors, and the agreements regarding traveling without a visa contributed to illicit migration, characterized by illegal stay or transit in the Republic by foreign citizens. A number of them practice criminal activities, deal weapons or drugs, organize criminal groups, organize further trafficking of countrymen in tertiary countries. As long as the Eastern border of the Republic of Moldova is weak the influx of illegal foreigners will increase and will facilitate traffickers' "activity".

In settling the process of migration of foreigners on the territory of the Republic the following measures should be undertaken:

- Consolidating control over the eastern border of the Republic of Moldova, especially on the side controlled by the separatist authorities from Tiraspol.
- Establishing border control by creating a mixed Moldo-Ukrainian customs point on the territory of the Ukrainian border, in case the Transnistrian problem is not solved.
- Improving the necessary legislation regarding foreigners and relating to international and regional standards. For example, if we consider the Law regarding migration in the context of the European Convention on the juridical status of the emigrant worker, the first problem is the notion of a migrant worker that the law does not include. There is no distinction between a migrant worker and other categories of foreigners who enter the territory of the Republic of Moldova.
- Designing a database which will record every person entering the Republic of Moldova.

⁷¹When a foreigner violates the legislation, but not to the degree of being deported, he/she receives a summons to be presented to the MIA. Experience indicates the fact that many times the foreign citizens that are not in penal servitude have the tendency to disappear, especially those who would be deported.

- Forming a deportation fund. The current settlement stipulates that the guest has to pay the fee. The Ministry of Internal Affairs has to pay in fact, and then recover expenditures from the guest. If there is no invitation, the expenditures will be paid by the state budget.
- A more efficient collaboration between the states in the region and international structures in the matter of preventing illegal migration and related transgressions.

Chapter IV Migration Policy Framework. Laws and practices

Migration policy is a part of a national and international policy of the state and its implementation represents one of the most important responsibilities of the state authorities. Labor force migration should be regarded as a balancing mechanism of tendencies on the internal labor market, which must be settled according to its development tendencies and forecasts that will identify the sectors with excess labor force or, on the contrary, a labor deficit.

4.1 Strategies and Relevant Concepts

The concept of migration policy in the Republic of Moldova was adopted by the Parliament on October 11th, Decision nr.1386-XV.⁷² The concept has the aim to establish a state policy in the migration sector, which to a certain extent will allow for respect towards Human Rights, settle and conduct the migration process depending on the interests of the society and people, *social protection of migrants and their families, establish cooperation between states, set up legal conditions of employment abroad for Moldovan citizens, fight against illegal migration and trafficking in human beings.*

Migration policy of the Republic of Moldova is based on the following *principles: respecting Human Rights and fundamental freedoms*, confirmed by the Constitution of the Republic of Moldova, in other normative documents, and in international agreements of whom the Republic of Moldova is a member of; *guarantee the rights of every citizen of the Republic of Moldova to travel*; race, nationality, ethnic origin, language, religion, sex, opinion, political membership, fortune, social origin discrimination or of any other types, migrants respecting the legislation of the Republic of Moldova; *respecting non-refugent principle regarding asylum solicitants and refugees.*

As the role of management for the labor market, migration policies have several goals:

a) economic goals: decreasing unemployment, increasing financial flows to the country, increasing savings. Foreign currency transfers of migrant workers have a major role in regulating migration policies of labor force.

b) social goals: increasing educational and training investments, improving salaries and work conditions of citizens working abroad; decreasing recruitment expenditures by eradicating mistreatment; offering complex protection measures for the security of migrant workers; preventing illegal migration and establishing legality in the migration process.

This set of social and economic expectations outlines the policy of labor force employment abroad, but in order to achieve these expectations, *the state has to underline more specific goals and tasks, which will eventually become strategic goals for labor force migration policies.*

c) strategic goals: diversifying employer countries; influence on the professional background of the migrant workers; using migration as a method for gaining new knowledge; decreasing the loss of qualified specialists from different fields and the appearance of a disequilibrium; decreasing salary differences generated by the extension of the labor market.

The major problem of the country's migration policy is the control over the illegal labor force migration. The base for the migration policy represents the settlement of the three levels of migration circle: *departure of workers, their stay abroad and their return to the country.* This means, practically, that the following conditions are sustained at all levels: *the rights of the citizens, free movement and employment are generally being recognized; the possibility of return to the country is guaranteed; the stability of entrance into the country and efficient transfers of emigrants' money is assured; immigrant workers are offered social guaranties.* Strong mechanisms for permanent evaluation of these issues should be enforced, together with changes caused by internal and regional development tendencies.

The process of elaborating and implementing the migration policy should be regarded in the context of economic and social development tendencies. The Government of the Republic of Moldova has currently issued a series of strategies that have a direct connection to the problems regarding labor force migration⁷³.

⁷² "Monitorul Oficial" of the Republic of Moldova nr.146-148, 31.10.2002

⁷³ Medium-term Socio-Economic Development Strategy (until 2005) (HG 1415 of 19.12.2001); Investment Strategy of the Republic of Moldova (HG 234 of 27.02.2002); Labor force employment Strategy in the Republic of Moldova (HG 611 of 15.05.2002); State Programme of small business support for the period of 2002-2005 (HG 850 of 27.07.2002); The concept of migration policy of the

Although all strategies point out the fact that unregulated migration of labor force has increased and has been transformed into a distinctive feature of labor force in the Republic of Moldova, thus creating great risks for a stable development of the country and reform implementation because of human capital deterioration, there is often no connection or continuity between the objectives of these documents, the logistics of strategies being poorly coordinated between the others.

The Labor Force Employment and Medium-term Socio-economic Development of the Republic of Moldova Strategy Papers (till 2005) state general objectives: to monitor labor force employment and institutional improvement of the labor market; revise and improve the legislative framework; issue annual action plans for labor force employment; amplify professional course and training activities; offer financial support for economic agents in creating new jobs and micro-crediting the unemployed, helping them to launch their own private business etc.

In this context, it is necessary to merge the *principles and priorities of the labor market development policy, including labor force migration policies and the priorities of the structural and investment policy.*

The main goal of the *Labor Force Development and Social Protection Strategy Paper*, part of the *Economic Growth and Poverty Reduction Strategy Paper* (EGPRSP), is to ensure the *functionality of the labor market*. This basically presumes the development of favorable conditions for the improvement of satisfactory behaviors of labor and demand holders which would be adequate for a market economy. One way to ensure functionality of the labor force market according to EGPRSP can be the promotion of international labor migration regulations. The persons who worked abroad based on an official individual work contract have gained new working abilities and behaviors, thus will contribute to the improvement of the labor force mechanism in the Republic of Moldova in case of a further employment in the republic.

The Youth Strategy Paper includes a special chapter regarding employment opportunities of the young, including the following objectives: 1) to stop the “*brain drain*”; 2) create legal opportunities for working abroad. This objective is confusing, or it is not a clear request – do we stop migration or offer legal possibilities for leaving?

Problems related to the migration of the Republic of Moldova’s population are also tackled in the National Action Plan for Human Rights 2004-2008. Chapter 15 of this document stipulates various solutions for modifying migration policies in order to achieve the objectives suggested: to improve and to adjust the legislative frame regarding migrants’ and refugees’ rights towards international standards; to increase the social status of migrant workers and guarantee their rights (sign bilateral agreements, carry out different language courses, professional development, assuring transparency of data related to available legal places of work, guarantee social protection etc.); information and trainings in the field of migrants’ and refugees’ rights.

The Concept of integration of the Republic of Moldova into the European Union was issued when the Government of the Republic of Moldova showed interest in becoming a member of the European Union. This document stipulates the possibility of the Republic of Moldova to integrate in the European Union and to benefit from the Union rights, one of them being the open right of free travel for the labor force.

It is necessary for the principles and objectives of the Concept of Migration Policy regarding labor force emigration to evolve based on the stated objectives concerning strategies of country’s social economic development in the process of settling labor force migration, considered as an integral part of occupational migration policies in the Republic of Moldova,.

A correlation between the Concept and international standards is missing. The Concept of migration lacks basic legal concepts used according to International Organization standards of work, specially in the UN Convention „*Regarding the protection of the migrant worker and his/her family*”,

Republic of Moldova (of 31.10.2002); Economic Growth and Poverty Reduction Strategy Paper (EGPRS): Economic Growth and Poverty Reduction Strategy Paper of the Ministry of Labor and Social care; Youth Strategy; National plan regarding human rights for the period of 2004-2008 (of 24.10.2003); Concept of the Republic of Moldova joining the European Union; National Plan for fighting trafficking in human beings (November, 2001).

4.2 Stages of Labor Force Migration Policy Development

The labor force migration policy issued by the Government of the Republic of Moldova is underlined in three stages of development⁷⁴.

Stage one (1990-1994). The content of this stage consists in the management of labor force migration processes specific to the post soviet era.

The migration policy promoted by the Moldovan state is based on the law “*About migration*” (December 1990) that has the purpose of **stopping uncontrolled immigration from other soviet republics**, without referring to labor force migration from Moldova to other states.

The Republic of Moldova has been a supplier of labor force during the Soviet Union. After the declaration of independence the Government of the Republic of Moldova has signed the Bisek Agreements „*About the travel without a visa of CIS citizens on the territory of member states*” (1992) in order to settle the juridical status of Moldova workers categories in the Republic of Moldova and abroad. Other bilateral agreements regarding labor migration force were signed with Russia (May 1993), Ukraine (December 1993), Belarus (May 1994).

In the context of CIS, Moldova has signed the agreement between CIS states „*About the warranties of CIS state members regarding retirement funds*” (March 1992) and „*About collaboration in work protection and establishment of work traumatism of workers from abroad their country of residence*” (December 1994). In March 1995 Moldova ratifies the agreement „*About collaboration in the field of labor force migration and social protection of migrant workers*” (April 1994), etc.

At this stage, all the migration fluxes were headed in and out of the ex soviet regions, a reason for all normative acts issued during that period to be related almost exclusively upon these processes. A number of normative acts were issued to establish the labor migration process of the Moldovan population: Decision of the Government of the Republic of Moldova: “*Regarding the regulations of temporary employment of the citizens of the Republic of Moldova that are abroad and of foreign citizens from the Republic of Moldova*” (December 1991); “*Regarding the rules and sanctions for issuing certificates and licenses to natural persons and legal entities that act as intermediates in organizing temporary employment of the Republic of Moldova’s citizens abroad*” (June 1992); “*Regarding the modification of some decisions from the Republic of Moldova*” (March 1995).

Stage two (1994-1999) is characterized by the country’s integration into international migration, primarily European. Labor migration in Moldova and the integration of state authorities’ to the international migration area are two independent processes, and there is actually no interdependence or interference between them. The monitoring of illegal labor force migration has caused a great number of abuses and glaring violations of fundamental rights of citizens, one of them being trafficking in human beings and economic exploitation.

Under the pressure of information coming from different sources about multiple cases of abuse, the State has *elaborated the basic judicial frame that stipulates the policy for labor force migration*, in an attempt to settle the process of labor force recruitment and social security of the migrant people by initiating the procedure of signing bilateral agreements between countries and without involving any social partners like the syndicates or the patronage.

Many attempts were undertaken for introducing concordance in international labor migration process of the Republic of Moldova citizens. Moldova *suggested bilateral agreement in the field of migration with 24 states*, which to a certain extent were importers of Moldovan labor force. This includes Bulgaria, Germany, Greece, Hungary, Israel, Estonia, Lithuania, Lithuania, Poland, Canada, France, the Czech Republic, Slovakia, Italy, Kuwait, Yugoslavia, Slovenia, Macedonian, Bosnia and Herzegovina, etc. The initiative has not been achieved, because none of these countries was interested in signing such an agreement, explaining it by the high rate of unemployment in the country.

Later, *Moldova signed bilateral readmission agreements* with Poland, Hungary and Lithuania. These agreements have actually facilitated the cooperation process regarding illegal migration control, even though they do not refer directly to migrant workers.

⁷⁴ See: Мошняга В. Регулирование трудовой миграции в Республике Молдова: состояние и основные этапы. // Трудовая миграция в СНГ: социальные и экономические эффекты. - Москва, Центр изучения проблем вынужденной миграции в СНГ, 2003, с.159-168.

In the context of CIS, Moldova signed the agreement regarding *Basic principles of member states in-border collaboration (March 1996)*.

In November 1997, the government sanctioned the Decision “*Regarding temporary employment of migrant workers*”. New regulations were approved regarding *employment of migrant workers abroad by companies with special license*, and the mechanism of social protection by individual work contract was disputed. However, the measures undertaken did not bring the expected results and as a consequence the process of illegal migration continued with a great number of victims from different types of abuse.

Under the pressure of and massive illegal labor migration, western states started promoting a **restriction policy** („*Closed doors*”). Countries of the European Union demanded that the Moldovan authorities promote more active policies to stop illegal labor force migration, trafficking in human beings and sexual exploitation of young girls and women. The interest of state structures and public opinion regarding this phenomenon is increasing. Attempts are undertaken towards fighting against organizations that profit from trafficking of illegal labor force migrants. However, because of the Moldovan legislation’s deficiency, these attempts have not succeeded. Generally speaking, *the foreseen goals in the field of labor force migration were not achieved, the main cause being trafficking in human beings*.

Stage three (started in 2000) is characterized by some positive changes from both the Republic of Moldova and the western states. During this period, the actions continue towards improving the institutional and judicial actions regarding the control of labor force in the Republic of Moldova.

The institutional status of specialized migration services was changed in the context of the national Moldovan executive power. The State Migration Service founded as a part of the Government of the Republic of Moldova (2001), and was later changed to **Migration Department** (2002) by the decision of the Parliament. At the same time, *the General Department for refugees* of the Ministry of Justice became a part of the Migration Department. As a result, all *problems regarding different aspects of migration were merged under the supervision of a single institution*. This specialized body is authorized with enough authority and autonomy to settle an efficient policy in the field of migration.

The Agency for Moldovan Citizens Employment Abroad (2002) was established besides the Migration Department in order to facilitate the process of employment on the international labor market. The Law “*Regarding migration*” and the Concept of the migration policy of the Republic of Moldova were elaborated by the Migration Department and approved by the Parliament.

Generally, the negative attitude of recipient states has not changed with regard to signing bilateral agreements related to labor force migration. Nevertheless, European Union countries have to be aware of the numerous fluxes of migrant workers from ex-soviet states, and the impossibility of solving the problem of migration only by restrictions. *The practice of migration amnesty in different states is increasing (Greece, Portugal, Italy), as well as the establishment in Moldova of embassies and consulates of different recipient countries (Greece, Portugal, Italy) and of Moldovan embassies and consulates in those countries*. The Italian Government offers Moldova the quota of migrant workers for two years in a row. Italy and Portugal have accepted to sign bilateral agreements to a great extent (intergovernmental with Italy and Portugal in the field of labor force migration in Moldova). The collaboration process with different Italian regions and communities has intensified the field of labor force employment from Moldova, etc.

New methods are wanted for expanding the employment diversity in the labor market for Moldovan migrants. In June 2002, the Intention Protocol was signed with Kuwait. Negotiations continue between Moldova and European Union countries in the matter of signing bilateral agreements, interregional collaboration etc.

The Republic of Moldova continues to collaborate with countries members of CIS in the issue of migrant workers’ protection. Some international documents issued in the context of this structure are the following: *The concept of establishing common market and labor force migration control of CIS state members* (December 2000); *The convention regarding the judicial status of migrant workers and their families – citizens of CIS country members*; *The agreement regarding general concepts of the CIS country members collaboration in the field of on-border labor migration* (October 2002). Moldova increases collaboration with Russia in this matter, negotiating regarding intergovernmental agreement regarding repatriation process and protection of

repatriated rights. The Migration Department has asked the Russian counterparts to offer 35-50 thousands work places for Moldovan migrant workers.

The national legislative and normative frameworks are coordinated together with international rights standards regarding the control of trafficking in human beings, *with great stress on decreasing sexual exploitation of young girls and women.*

As a feed-back to the obligations acknowledged by the Stability Pact, the Government of the Republic of Moldova has established the National Committee for Trafficking in Human Beings in November 2001, which is supervised at vice-ministry level. The group includes decision-makers from ministries and departments, while representatives from international and nongovernmental organizations have the status of observers. There are three topic subgroups members of this body: *Legislative framework and its enforcement; Prevention and awareness of the trafficking in human beings phenomenon; Social assistance and rehabilitation of victims of trafficking in human beings.*

In November 2001, the Committee has adopted the **National Action Plan for Fighting Trafficking in Human Beings**⁷⁵, which stipulates actions initiated by different ministries and nongovernmental organizations in cooperation with foreign organizations and NGOs for the following issues: research and evaluation, social awareness, prevention of social and economic circumstances that facilitate the trafficking, assistance for victims, return and reintegration of victims, judicial reform, application of laws, international cooperation and coordination.

In order to improve the functionality of state authorities, a **Specialized Department For Fighting Trafficking in Human Beings** was established, as a part of the General Department for Organized Crime Control under the Ministry of Internal Affairs made up of three sections: international traffic, internal traffic, *a department for illegal migration control*, and an analytic-informative center. A specific person was appointed by the Prosecutor's office to be responsible for trafficking in human beings. The Ministry of Internal affairs together with the Department of Informational Technologies are responsible for generating and maintaining a database of trafficking victims.

The department participates together with the Border Police in the exchange of information related to trafficking and deportation cases. *The program does not perform efficiently because of lack of cooperation and corruption among border police.*

Local Committees for fighting trafficking in human beings were created in the field having members from the local authorities, educational bodies, social assistance, families, police and were obliged to undertake measures in the field and work together on different aspects of the trafficking in human being issue.

A considerable number of international organizations participate as partners in the implementation of the National Action Plan for Fighting Trafficking in Human Beings: OSCE, UNICEF, UNDPD, OIM, US Embassy in Moldova, European Council, European Union, as well as NGOs from the Republic of Moldova that activate in the field of trafficking in human beings.

4.3 Legislative frame of migration policy

National legislative framework which coordinates labor force migration can be divided in several blocks of documents:

- *Entrance and departure from the Republic of Moldova;*
- *Documentation and evidence of migrant persons;*
- *Employment in the work field of migrant workers;*
- *Contravention of the time of stay and illegal migration;*
- *Social protection of migrants* is determined by international and community normative acts, as well as by related bilateral agreements. However, these agreements provide no protection for illegal migrants, emphasizing social protection of legal migrants, even though the majority of emigrants are illegal.

The current report is based on the **Law regarding migration, Nr. 1518-XV of December 6th 2002**. According to this *Concept* the *Law* represents **the base of the normative framework which coordinates the problems of migration**, determines the major principles and objectives, duties of

⁷⁵ Monitorul Oficial" no. 136-138/1274 of 15 November 2001

administrative bodies involved in the migration issue and stipulates basic rules for emigration and immigration. The principles and objectives stipulated in the Law match with those mentioned in the Concept.

Terms of emigration stipulated by the Law regarding migration are very few and very vague. *Emigration* is only coordinated by three articles, article 10, which stipulates the rights of our citizens to settle a residence and place of work outside the country. Article 10(3) stipulates the method of performing evidence of citizens that leave the country. The porous nature of the borders, especially the Eastern ones implies a big problem – *the impossibility for efficient control of migration fluxes*. Articles 11 and 12 stipulate the terms for minors' emigration and restrictions regarding emigration. Therefore it is obvious that the law does not handle the multitude of social relations regarding migration, especially taking into consideration that Moldova is a country with great migration potential.

Although Article 17 of the Law regarding migration, entitled „Labor Migration” stipulates towards the end „... *finding work places abroad for the citizens of the Republic of Moldova in order to decrease internal unemployment*”. The Law does not use strict rules for handling emigration processes of persons, collaboration standards with private agencies, mechanisms of assurance for migrant workers' protection. It seems that the main stipulations of the law are centered on immigration process in the Republic of Moldova, and not on the emigration one.

The Republic of Moldova signed the European Convention regarding the Juridical Status of migrant workers at the 11th of July 2002, but the document of major importance has not been ratified yet. This does not allow migrant workers from Moldova to benefit from the rights and protection of the states members of the agreement (France, Italy, Holland, Norway, Portugal, Spain, Sweden and Turkey).

Migration policy relates to a set of normative acts for the emigration process management, which contains partial stipulations for the issue.⁷⁶ We should mention for example that by the Decision of 16th of August 2001 regarding methods of accomplishing the action plan of the Government of the Republic of Moldova for the years 2001-2005 “Economy rebirth – country rebirth”, the Government pays great attention to the social protection and rights warranty of citizens of the Republic of Moldova temporary employed abroad. Chapter V, Point 94 states the regulations for labor force migration by signing intergovernmental agreements, where the Minister of Labor and Social Protection together with the Migration Department would be responsible for the issue.

There are also some difficulties in the coordination of the emigration process. For instance, even though the Law of Tourism was recently adopted and for a just cause (February, 11th 2000), it creates ambiguity in activities and relations between the Department of Tourism, Migration Department, Border-Guard Department, Department of Informational technologies and Ministry of External Affairs. According to the Law the *tourism is defined as a field of the national economy, with complex functions, that connects a number of goods and services offered for consumption to persons who travel outside their usual environment for less than a year and with the purpose other than practicing a paid activity in the place they visit*. In this context, everything that refers to studies, families, business is regarded by the Department of Tourism as tourism, a fact that does not link with many other functional mechanisms from the Republic of Moldova.

Another problem is the evidence of the Republic of Moldova's citizens who are abroad based on a tourist agency's offer. The Law does not stipulate any responsibilities for the tourist operators that do not offer tourist services up to the end (in fact this is a cloaked method way of leaving abroad for work). Up till now there is no synchronization between the individual evidence of a person and the tourist agency that has facilitated the person's departure abroad. Intermediary

⁷⁶ Law regarding free enterprise and firms; Law regarding the issue of license for several types of activities; Law regarding the entrance and departure from the Republic of Moldova; The Law regarding the status of foreign citizens and stateless persons in the Republic of Moldova, Law regarding the citizenship of the Republic of Moldova; Code regarding administrative contraventions; Government Decisions: „Regarding setting the annual immigration quota in the Republic of Moldova for the year 2004” (N 1498 of 12.12.2003); „Regarding the detachment of employees of companies, institutions and organizations from the Republic of Moldova for the approval of the Regulation regarding the detachment of employees of companies, institutions and organizations from the Republic of Moldova” N836 of 24.06.2002; “Regarding the approval of Regulation for temporary employment of the Republic of Moldova's citizens abroad and of foreign citizens in the Republic of Moldova” N717 December 24th, 1991; “Regarding the approval of rules for issuing certificates and licenses for natural persons and corporate bodies, to entities acting as intermediaries in organizing temporary employment of the Republic of Moldova's citizen abroad” N.451 June 29th, 1992; “Regarding temporary employment of migrant workers” N.1077, November 20th, 1997; Bilateral agreements in the field.

4.4. Trafficking in Human Beings for Economic Exploitation - Legal Incrimination Aspects

a) Legal framework

On April 18, 2002 and April 14, 2003, the Parliament has adopted the new Criminal Code and Criminal Procedure Code. Regulations on human trafficking were adjusted to the international norms and standards; also, human trafficking victims would not hold criminal responsibility of for the offences committed during the period he/she was trafficked.

The Criminal Code of the Republic of Moldova (Art.165) defines *trafficking in human beings* as: the act of recruitment, transportation, transfer, shelter or reception of a person for exploitation purposes by work or forced services, into slavery or conditions similar to slavery, through deception, threat, by applying physical or psychological violence, including kidnapping, document confiscation and servitude, with the purpose of reimbursing a debt of an unreasonably established amount, by abusing of the vulnerability or abuse of power, giving or receiving benefits to obtain the consent of the persons that controls another person. According to this article, trafficking in human beings should be punished with 7 to 25 years of detention or detention for life.

The same acts committed on a minor (person up to 18 years of age) are legally regarded according to the provisions of Art. 206 of the same Code; it stipulates that *trafficking in children is a separate crime of the trafficking in adult persons*.

Because in most cases of trafficking in human beings for the purpose of exploitation by forced labor cross-boarder organized networks are involved, the investigation of these crimes is very complex. It is observed that, actually counteracting the phenomenon of “trafficking in human beings” is limited to combating organized crime. Trailing criminals is primarily focused on the criminalization of their actions. It rarely includes witness protection and the respect for witness’ rights. In most cases the interests of the victim are entirely subjected to the interests of investigation.

Illegal migration in the light of trafficking in human beings for economic exploitation involves a person or a network of persons starting with the recruiter and ending with the last person that buys or receives the victim (like the owner of an enterprise with improper working conditions); or a person that holds another person in conditions of slavery or forces this person into practices similar to slavery, forced labor, or any other servitude.

Illegal migration cannot be incriminated as an offense, or administrative contravention, due to the lack of a normative framework. The criminal code of the Republic of Moldova does not contain an article on illegal migration.

Still, some actions in the process of illegal migration can be incriminated as offenses, or administrative contraventions, according to who commits them, the place and the purpose of the illegal migration. Although in case of illegal emigration, it is possible the immigrant may commit some illegal actions that may be incriminated both in his/her origin country, as well as in transit and destination countries⁷⁷. It is necessary to mention that most illegal actions are committed by the intermediaries of the illegal migration, meaning persons that receive benefits as a result of this illegal migration. These individuals can be divided into two categories: *persons that organize illegal migration* (recruiters and transporters both as individuals and legal entities); *persons in high*

⁷⁷ See, Criminal Code: Art. 191, Art.359, Art. 361, Art. 362

*level positions that insure the protection, contribution, and promotion of the interests of these traffickers.*⁷⁸

The existent legislation in Moldova is *insufficient for solving the whole spectrum of problems relating to trafficking in human beings for economic transportation*. The legislation does not provide for preventive actions, neither for the standards of the social reintegration services rendered to the victim, cooperation mechanisms between state and non-governmental organizations, nor had it appointed the structures responsible for these activities.

Due the clandestine character of this crime, none of the statistics or data retrieved illustrate the real situation. Trafficking for other purposes other than prostitution does not get the full attention of legal structures, and in these situations the capacity of the victims to seek help is limited.

According to the statistical report of the Ministry of Internal Affairs of 2003, criminal cases were recorded and initiated regarding:

- Trafficking in human beings (Art. 165, Criminal Code from 2002) – 173 out of which 58 criminal cases were remitted for trial;
- Trafficking in children (Art. 206, Criminal Code from 2002) – 15 out of which 2 were remitted for trial;
- Fraud committed by people that organize the cross-border travel (Art. 190, Criminal Code) – 143 out of which 47 remitted for trial.

In order to effectively counteract this negative phenomenon at the national level, it is first of all necessary to improve the national legislation, by clarifying the concepts of illegal migration in all its forms, developing enforcement mechanisms for these norms, as well as developing a legislative framework that would allow for the regulation by law of prevention and rehabilitation actions for the victims of trafficking.

There is a need for coordination and elaboration of an action plan for cooperation between governments and NGO's in order to fight against trafficking in human beings in the whole region.

b) Insuring access to justice for the victims of human trafficking

Although insuring the access to justice of the victims of human trafficking for economic exploitation is done based on the Constitution of the Republic of Moldova, criminal and civil procedure codes, administrative contravention code, European Convention on Human Rights and other instruments of the Council of Europe, in judicial practice of the Republic of Moldova, there are more and more recorded cases of restricting the access to justice of victims of trafficking.

Therefore, decision factors that have the right of legislative initiative and law making need to consider the improvement of the judiciary system, not just under organizational aspect, but also under the functional one. This should be done in correlation with the principle of proportionality for the real implementation in the legislation of the free access to justice through investigative mechanisms.

A special role in insuring the free access to justice of the victims of trafficking is played by non-state and international structures which are preoccupied with these problems and are specialized illegal issues.

4.5 Conclusions and Recommendations

Having a high rate of labor force abroad, the Republic of Moldova represents a *migrant society*. Informal networks and institutions of circulatory migration are on one hand the innovative response of individuals to the *poor functionality* of some formal institutions such as: the labor market, capital market, and the mediation of labor force abroad at state level and private level. On the other hand, they are an adaptive response of the community to new situations, which are in

⁷⁸ Criminal Code: Art. 165, Art. 166, Art. 167, Art. 168, Art. 190, Art. 195, Art. 196, Art. 206, Art. 207, Art. 241, Art. 242, Art.243, Art. 244, Art. 324, Art. 325, Art.326, Art. 327, Art. 330, Art.332

contradiction with traditional values. Essential changes performed during the development of the migration policy in the country do not directly have an effect on the Moldovan migrants working abroad⁷⁹. The actions undertaken until now did not bring expected results. A set of coherent policies is required for the diminishing of the negative consequences of labor force migration.

Concluding from what is stated in this chapter; both general problems and problems regarding legal regulation of migrant labor force are identified.

- Legislative acts are usually acknowledged without fully considering international legislation which might later impose further modification⁸⁰.
- The legal framework does not contain clear rules for the sharing of responsibilities in administrating migration progresses, which would allow the coordination of activities, the improvement and supervision of their enforcement.
- Legislation does not include clear implementation mechanisms of the rights declared, state supervision and control mechanisms over the activity of other actors.
- Legislative norms do not include regulations regarding some basic steps in the process of emigration: information, social rehabilitation and insertion, cooperation principles with other social actors such as NGOs, labor unions, employers.

Recommendations

- **The integral review of the law** on migration as well as of the adherent legislative framework, which regulates labor force migration, and unifying it into a single normative act. The latter will approach the multitude of juridical relations that appeared in the process of migration, covering all immigration aspects and especially emigration.
- Determine the priorities regarding the adhesion or ratification of international treaties and conventions in the field.
- Establishing public workers in order to familiarize them with the requirements of international legal instruments in the field.
- Migration policies need to correspond to the international practices and to facilitate regional economic integration processes.
- **Establish a dialogue** between the authorities in the field of migration, especially the Migration Department, social partners and agencies that render foreign employment services for Moldovan citizens. Cooperation as such would ensure the convergence of actions. The Migration Department should stimulate this dialogue through concrete actions, especially when there are concrete employment opportunities coming from other states, and which need to be reevaluated.

Considering the fact that **trafficking in human beings** for labor exploitation purposes extends way beyond national borders, it is necessary to take concrete common actions by origin destination and transit states:

- Carrying out multi-disciplinary, coordinated actions that involve competent authorities from the social, judicial, administrative, customs, police, migration field, and non-governmental organizations.
- Promoting the cooperation at the level of national authorities and NGOs between origin, transit, and destination countries of victims in human trafficking through bilateral and multilateral agreements.
- Concentrating efforts in preventing and liquidating labor exploitation, both regarding potential victims, by reducing vulnerability (raising the standard of living), and those that create the demand for this “merchandise.”

⁷⁹ For example: Convention on the Juridical Status of the Migrant Worker, the Convention of the International Labor Organization on Private Agencies, UN Convention on the Protection of Migrant Worker and His/Her Family

⁸⁰ For example: Convention on the Juridical Status of the Migrant Worker, the Convention of the International Labor Organization on Private Agencies, UN Convention on the Protection of Migrant Worker and His/Her Family

- Encouraging research on the national and international levels concerning: *influence of mass media and especially new information technologies on trafficking in human beings for labor exploitation purposes; clients of slave trade; evolution of demands and consequences on trafficking in human beings in labor exploitation purposes; origins of the phenomenon of trafficking and methods used by traffickers.*
- Collecting national and international statistics that would allow for a better understanding of the trafficking in human beings phenomenon for labor exploitation purposes and comparing the evolution of this phenomenon in different states. Currently in the Republic of Moldova there is an informal information exchange practice and it bears a occasional character, based on individual knowledge.
- The acknowledgement of the law regarding fighting trafficking. Clear provisions regarding the creation of adequate punishment mechanisms of violators for the protection and the rehabilitation of victims are needed.
- Creating an efficient control mechanism of private agencies that deal with job placements abroad, in order to prevent their participation in trade with women and in order to take rapid actions against those that were unveiled.
- Monitoring and verification of publicity in the newspapers and other types of advertising that provide deceitful information concerning employment opportunities abroad.

Chapter V: Institutional Framework of Migration Management

Introduction

The state plays a central role in formulating and adopting policies, as well as administrative measures and implementation of practices for developing a management of labor migration directed to the reduction of causes that stimulate clandestine migration and trafficking. This can be done through increasing employment options within the country, as well as through establishing legal ways for those that want to leave for abroad.

In the Republic of Moldova *migration management* is carried out by the central specialized authority – the *Migration Department of the Republic of Moldova*, with the assistance of such structures as; Ministry of Labor and Social Protection, Ministry of Internal Affairs, Ministry of Foreign Affairs, Department of Informational Technologies, Chamber of State Licenses. The participation of social partners such as the syndicates, the labor unions, the employer unions, and NGOs to this process is insignificant.

5.1. Administrative Capacity

The Migration Department is a central public administrative authority, with the ability to promote a unique state policy in the field of migration. It was created through the **Law on Migration from December 2002** (previously the department was a specialized structure in the framework of the Ministry of Labor and Social Protection)

The intention is to *centralize the competencies in the framework of the Migration Department in order to allow it to supervise the whole process of employment abroad, from the moment of work contract negotiations based on bilateral agreements up to their actual execution*. All activities of the Migration Department are covered in three steps: *pre-migration*, *migration* – fulfillment of the work contract, and *post-migration* – return and the services provided. Through the governmental decision from August 7th, 2003, the functions of the migration departments are determined and the transfer of competencies from some state authorities to the Department is legalized. The competency of the Department includes both **political** responsibilities (policy development) and **operational attributions** (labor recruitment, signing of work contracts).

Every direction in the framework of the Migration Department functions on the basis of regulation that provides for the attributions, rights, and the organization of the activity of the direction. In the framework of this structure, the authorities that focus on labor migration are Direction of Labor Migration and External Relations and the Principle Juridical Direction and State Inspectorate.

The Ministry of Labor and Social Protection - In context of the present Report, the tasks of the Ministry includes problems referring to labor force occupation and social protection of people in search of jobs. Although the Ministry does not hold attributions in the field of migration, it is hard to underestimate its importance. This authority may propose policies on changing the occupational structure, may propose real statistics concerning unemployment and evaluate tacit unemployment, determine attractive employment opportunities inside the country etc.

The Ministry of Labor participates in developing and carrying out social and professional rehabilitation and re-insertion programs for returned migrants or victims of human trafficking.

The Ministry of External Affairs of the Republic of Moldova, General Consular Direction (MEA) contributes to promoting and implementing migration policy of the state on the international legal arena, developing and verifying acts concerning foreign citizens and aliens that wish to immigrate into the country and issues them entry visas. Our consulates practically lack competency in the framework of foreign labor force, meaning that nobody can monitor the

respecting of rights of Moldovan citizens that work abroad. *A new position is recommended to be created in Moldovan embassies abroad, attaché for labor issues.*

The Ministry of Education does not hold specific responsibilities concerning migration. Still, this authority is responsible for the professional level of human resources and need to participate in the development of migration policies. The Ministry of Education needs to participate in the professional training of migrants before their departure through professional training centers. Up to the present moment, ME has not undertaken concrete steps in the field of legal migration, except for training for students in technical schools.

The Ministry of Justice - The specialized central authority of public administration that controls, monitors, and coordinates all the legal activities and insures law enforcement. In developing *migration policies* regarding labor force, the Ministry of Justice needs to ensure: adequate guarantees against abuses, exploitations, especially those relating to work contract execution abroad by guaranteeing the well-functioning of the legal system.

The Ministry of Internal Affairs created a specialized unit for the purpose of combating illegal migration – *The Service for Combating Illegal Stay and Foreign Citizens Migration*⁸¹. In June 2001, a specialized *Direction for Combating Trafficking in Human Beings* was created.

Among the basic attributions of MIA is the control over the stay of foreign citizens, either permanently or temporarily, the control over the compliance with residence norms of foreign citizens, combating illegal migration, trafficking in human beings, etc.

Department of Informational Technologies develops the automated informational system of population migration.

Department of Border Troops insures verification at state borders and keeps records of those that cross; it includes in a unique informational system data concerning people that cross the state border.

Chamber of License is a public authority that insures the state regulations of entrepreneurial activities through licensing and controlling whether they fulfill the conditions established. Article Six “licensing authorities” from the Law on Licensing of different types of activities (June 30th, 2001) provides that this authority has the right to give licenses and to offer job placement services.

In facilitating the development of strategies in the field of labor migrations, it would be necessary to include other authorities, such as: the Ministry of Finance and the Ministry of Economy.

The Ministry of Finance needs to be an active subject in developing migration policies regarding money transfers of migrants and secure conditions and the statistics of remittent flows.

It is necessary that the **Ministry of Economy** participates in the development of investment policies which will facilitate the return of migrants and reinvestment of profits, policies to prevent the phenomenon of “brain drain” and loss of human capital. As part of its activity, the Ministry of Economy makes forecasts concerning labor force deficit in certain fields caused by massive migration. Concerning the latter, it contributes to educational planning.

⁸¹ Actually, this service was created in July 2001 through an internal MIA order, based on the Government Decision nr. 398 from June 6, 2001 regarding the creation of DTI. According to this Decision, all registration and documentation responsibilities of foreigners in Moldova were transferred from MIA to DTI, except for the control of stay regime of foreigners. Before that, DTI was part of MIA and was called “General Direction for Registration and Record Keeping of Population”.

5.2. The Role of Social Partners. Labor and Employer Unions

One of the fundamental rights of the migrant worker is the right to associate and negotiate collectively in the receiving country. Insuring this right is one of the tasks of the Migration Department, as well as of labor unions.

According to the Law on Labor Unions (from June 7th, 2000), the labor unions are public organizations created in order to defend professional, economic, work, and social rights and interests, collective or individual interests of its members.

Considering the provisions of the above-mentioned law, the labor unions have the right to participate in administrating public issues, developing social-economic projects, draft laws and other normative acts in the field of labor remuneration, social insurance, social protection, etc.

The labor unions have no indicated attribution concerning the regulation of labor force migration. Thus, in reality, they do not play an active role in regulating migration flows from Moldova.

Still, based on their rights, these institutions could protect the rights of Moldovan migrants (members of the labor union) by establishing and maintaining a relationship with their colleagues from destination countries. Another important attribution that these organizations have is their participation in public control, in the verification of compliance with different individual work contracts through private agencies. Not in the least, labor unions may contribute by participating in project development in the field of social economic development, draft laws, and other normative acts in the field, developing special programs (for migrants and potential migrants). An activity that needs to be stimulated and maintained is their participation in the development of bilateral inter-governmental agreements.

According to the *Law on Employer Unions* (from May 11th, 2000), *employer unions* are non-commercial organizations formed based on the free association of employers from different fields of activity, in order to assist its members. Although having no attributions in the field of migration, employer unions, together with labor unions, should assist in the creation of some organizations for returned migrants, and to get involved in the development of strategies for the efficient use of money transfers of migrants. They could also get involved in the verification of individual work contracts intermediated by economic agents from Moldova, by monitoring the legality of private agent activities, etc. The employer unions should work close together with private agencies in order to encourage, or even to impose them, to activate according to the current legislation. One of the methods of making their activities more efficient would be the creation of Associations of private job placement agencies.

Due to the fact that up to the present moment neither labor unions nor employer unions are involved in solving migration problems, it is necessary to establish cooperation between the latter and the active state authorities in the field.

Thus, the implementation of policies regarding labor force migration should include *social partners at all the levels of functioning of the migration management*: in development and implementation of migration policies at the national and international level; in activities relating to migration processes regulation at all stages; in providing information concerning employment conditions abroad and methods of employment among its members; in bringing concrete proposals to the government, in order for the latter to negotiate certain employment aspects with other governments; to assist in the verification of private employment agencies as well as in the verification of the individual work contracts; to cooperate with NGOs and other civil society organizations that work in the field of migrant protection; to establish and maintain a continuous dialogue between labor and employer unions from Moldova with their partners abroad, etc.

5.3. Recruitment Organization

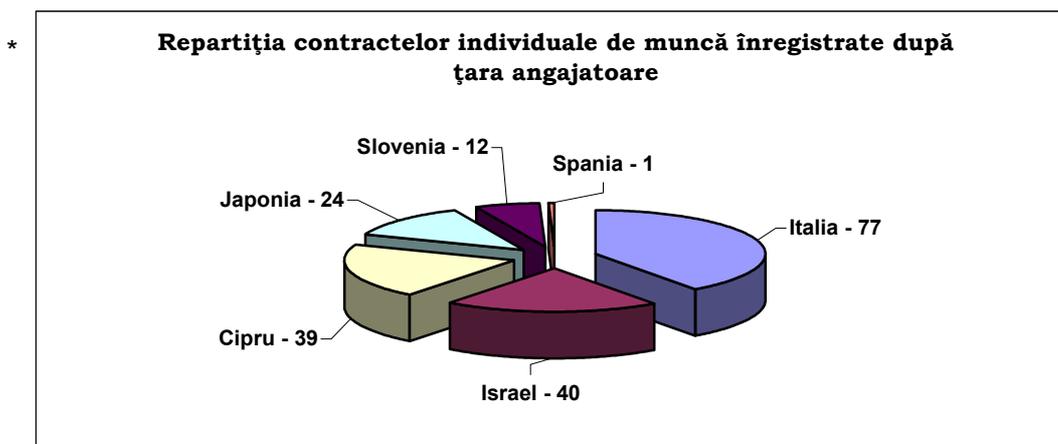
Legal employment opportunities abroad are very few. The legal recruitment of the citizens of the Republic of Moldova is carried out through bilateral agreements, signed between Moldova and other states, or through private employment agencies for permanent seasonal work.

a) Public agencies

The Migration Department, as a specialized agency, provides information services regarding jobs offered by the Department based on bilateral agreements, working conditions, the amount of salary, social protection conditions, etc. It also informs the solicitants about private licensed agencies. The Direction for foreign employment and external relations of the Migration Department serves daily over 120 people that ask for information concerning working abroad. The problem is that all these services are concentrated in Chisinau and the quality of the services rendered is low. This happens because the service for information and qualified consultants regarding jobs that will cover multi-disciplinary aspects does not exist.

In order to organize legal employment abroad for the citizens of the Republic of Moldova, to ensure their rights and social protection, as well as to reduce severe consequences of spontaneous and uncontrolled labor migration, a special authority in the framework of the Direction for Labor Migration and External Relations has been created – **Labor Migration section**. The main task of this authority is to monitor the labor market and to develop collaborations with European countries and other regions regarding labor migration. The section offers consultations to any solicitor regarding employment abroad, informs the potential migrants regarding entrance and residence rules, work activity and work conditions, remuneration, the rights and obligations of the subjects stipulated in individual work contracts, etc. The citizens of Moldova that wish to obtain employment abroad may always count on the Labor Migration section in order to be registered as work solicitants. Currently a database includes all the information about those that would like to work or intern abroad. This database contains information about approximately 5,000 solicitants.

In 2002, the *Agency for employment abroad of Moldovan citizens* was created in the framework of the Migration Department. In 2003, 2,800 citizens applied for employment abroad at the Migration Department, out of which 27.7% were women. In the same year, the Department registered 193 work contracts concluded between the citizens of the republic and foreign employers from six countries: Italy, Israel, Cyprus, Spain, Slovenia, Japan.



*National Agency for Employment*⁸² is a state authority working in the field of labor issues (information on job vacancies in the country, career orientation, job enrichment courses, re-qualification and professional training for the unemployed, business training, etc.) To be noted that this agency does not have responsibility and thus does not provide services for solicitants of work abroad.

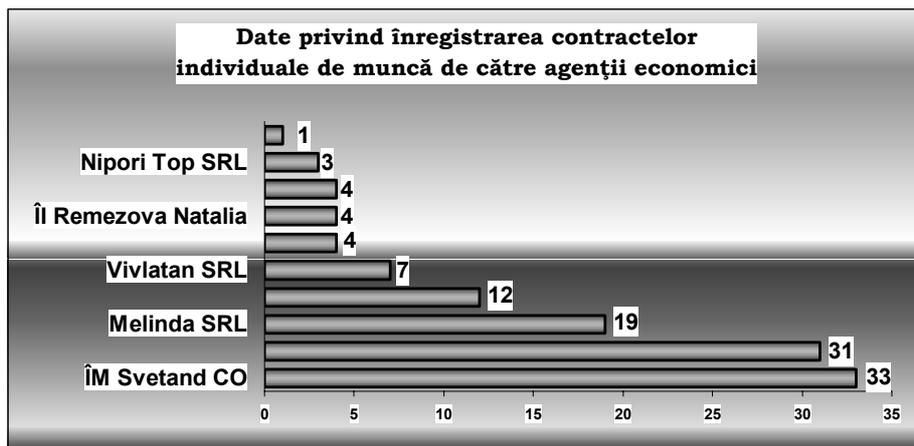
b) Private Agencies

Insuring the right for social protection of Moldovan citizens that work abroad, as well as the participation in developing migration processes needs to be a priority for the private agencies that provide employment services⁸³.

⁸² National Agency for Employment is a subdivision of the Ministry of labor and Social Protection. It includes 35 employment agencies that activate at the regional, municipal level and in UTA Gagauzia

⁸³ The activity of these agencies is regulated by: Law on Licensing of different activities, Law on Entrepreneurship; Republic of Moldova Government Decision 1077 on Tentative Employment of Migrant Workers (November 20, 1997), etc.

Although Moldova ratified the Convention no. 181 *Regarding the activity of private agencies that provide employment services*, and the legislation is adjusted to the respective standards, *the present situation in this field is unsatisfactory because there is no systematic intervention of the government in monitoring and controlling the activities of these agencies*. Liberalizing the activities of employment abroad did not bring the expected results. Although the number of these type of agencies increased from 11 to 48 (between 2001-2003) the number of individual registered work contracts in these agencies decreased in the same period from 1,173 to 124. Currently on the territory of the Republic of Moldova, 33 *private placement agencies* are activating. During the year 2003, these agencies employed only 124 people. This generates a wide range of questions concerning their activity, their motivation to obtain licenses, their role in our society, as well as measures that need to be taken in order to regulate and monitor future activities. *Out of those 33 private firms, only 10 registered the individual work contracts of the citizens.*



Because of insufficient activity of private agencies, the actual tendency is to heighten licensing conditions, or more recently, to liquidate them in order to make the activity of state authorities exclusive. The concrete services that these agencies provide are unknown. The legislation prohibits taking any advanced payment from work solicitors up to the moment of conclusion of individual work contract and visa issuing. In reality, though, it is known that these agencies take various payments from their clients in order to obtain the contract and the visa for the solicitor. Due to the fact that these payments are not done according to the existent financial procedures, the amounts received by these agencies are not known as well.

At this point, *no state authority can supervise* the compliance of individual work contracts concluded between the citizens of the Republic of Moldova and foreign employers.

The **primary problems** identified are the lack of correlation between the activities from the private and public sector; completely unrelated activities of the agencies; fraud activities of these agencies (only in 2003 15 out of 48 agencies were unlicensed); the criminality of these structures – the appearance of “ghost” enterprises that “employ” workers abroad. Although it is known that private intermediaries play a crucial role in facilitating migration, many of them are responsible for immoral practices which generate severe violations of human rights.

c) Bilateral Agreements

One of the important methods of migration regulation, of diminishing the misunderstandings between social actors from the civil society from the recipient states in the problem of migrant workers protection, is inter-governmental bi and multilateral agreements. The latter have the purpose of legalizing this process, introducing some limits in the process of labor migration.

These acts regulate the fundamental directions in the collaboration of contracting parties regarding work activity and social protection of migrant workers, referring to entrance into the country, job placement, stay in the country, and exiting the territory of the employer state, conclusion of the individual work contract, imposing incomes for the rendered work, recognition of educational degrees, mutual recognition of seniority, insurance and social assistance according to

the legislation of the employer state, the providing of medical services, compensation for work accidents, and professional disease during exercising the work obligations, etc. For example, because of signing the bilateral agreement with the government of Italy, 130,000 migrant workers from Moldova applied for legalizing their stay in the country. In 2004, Moldova has been granted 1,500 entries into Italy, for working purposes.

Box 1. The agreement with the Government of Italy

Examining the agreement concluded between the Government of the Republic of Moldova, and the Government of Italy in the field of work and the attached Executive Protocol, we may conclude that, although many social guarantees are stipulated for the protection of the migrant worker, the agreement does not refer to the individual work contract clauses. It only mentions that migrant workers enjoy the same rights and protection as the workers from the receiving countries. The agreement does not include important norms concerning the legal examination of work or other types of litigations appeared during the implementation of the work contract by the citizen of Moldova.

The following table (Table 15) presents a summary description of main clauses that are already signed or are in the process of negotiation.

Table 15. Bilateral agreements signed by the Republic of Moldova

State(s)	Subject(s) of the agreement	Approved	Key provisions**
Russian Federation	Workers and their family members	October 14, 1993	The workers enjoy the rights established by the labor legislation of the employer country
Belarus	Workers and their family members	February 25, 1997	The workers enjoy the rights established by the labor legislation of the employer country
Ukraine	Workers and their family members	February 25, 1994	The workers enjoy the rights established by the labor legislation of the employer country
CIS. Agreement regarding the collaboration in the field of labor and social protection of migrant workers (1994)	Workers and their family members	September 11, 1995	Individual work contract, insuring pensions, recognition of diplomas and study certificates, income taxing, social insurances, damage reparation for workers in case of mutilations, professional diseases, or other health damage.
Italy	Seasonal workers Subordinated un-seasonal workers Autonomous workers	Signed November 11, 2003	-Migrant workers enjoy the same rights and insurances that the workers in the receiving country have -The contracting parties will encourage the professional trainings of candidate immigrant workers for the purpose of supplying qualified personnel -The Executive Protocol of the agreement provides for ways of regulating work labor force flow (including the worker in the lists made by the migration department and private foreign placement agencies, the data that needs to be included on this list, the Ministry of Labor and Social Policies from Italy will inform the Migration Department of the Republic of Moldova regarding the necessary labor force in Italy)
Russian Federation	Labor migrants	Signed on March 17 th , 2003	

Table 16. Bilateral agreements under negotiation

Negotiations

Ukraine	Frontier migrant workers	Negotiations initiated through HG 562 from May 15 th , 2003	Frontier labor migration
Portugal	Migrant workers	Ready for signing	Temporary residence for the purpose of employment of migrant workers
Benelux States	Migrant workers	Negotiations initiated through HG 1086 from September 8 th , 2003	Job placement and social protection of migrant workers
Cyprus	Migrant workers	Negotiations initiated through HG from January 13 th , 2004	Regulation of migration labor flows
Spain	Migrant workers	The decision of the President of the Republic of Moldova for initiating negotiations no. 1471-III from October 3 rd , 2003	Regulation of migrant labor force flows

To mention that, in spite of the efforts undertaken, employment abroad in the basis of inter-governmental agreements is decreasing (Table 17).

Table 17 *Employment based on inter-governmental agreements*

Total employees based on intergovernmental agreements	1995	1996	1997	1998	1999	2000	2001
Total	7076	9676	9028	10607	8714	12056	8123
Including:							
Russian Federation	6713	9426	8881	10469	8619	11925	7853
Ukraine	342	236	137	130	85	114	265
Belarus Republic	21	14	10	8	10	17	5

Source: Data according to Annual statistics on migration flows from the Republic of Moldova, year 2000

Although employing migrant workers from Moldova based on bilateral agreements, started many years ago, it can be stated that the procedure is not unified, and is not developing on the basis on established standards. A model of agreements that would specify mandatory clauses of a bilateral agreement has not been developed.

Box 2. Model for International agreements

In order to ensure the protection of the migrant worker according to international standards, all agreements need to include several mandatory clauses, negotiated before signing the agreement. The object of these clauses mostly refers to basic conditions that need to be respected by the recipient country in order to ensure the protection of the migrant worker.

Thus, the **Recommendation of the International Labor Organization “Regarding migrant workers (revised)” nr. 86 from 1949** suggests the utilization of a *model of international agreement that would refer to issues that need to be the object of negotiations*: 1) The competent authority to sign the negotiated contract; 2) *Informational exchange* concerning workers, work conditions, cultural aspects etc; 3) What institutions, in the recipient country,

deal with the problem of illegal migrants, deportations etc.; 4) How will the emigrants from the origin country have access to *information concerning job vacancies* in the recipient country, should or should not the job posting include specifications regarding age, professional qualification, the character of work offered, etc.; 5) How should the origin country complete the *lists of people that wish to work abroad*: should or should not details concerning specialization be included in these lists, as well as information concerning the type of activity they would like to have abroad, information concerning their family situation etc.; 6) Selection methods; 7) Medical insurance; 8) Individual work contract and work conditions; 9) Social Insurance; 10) departure documents, residence permit and work permit; 11) Money transfers etc.

The states that Republic of Moldova negotiates with face political, economic problems (internal unemployment), ensuring public order (criminalization of illegal migration, trafficking in human beings, illegal to tertiary countries etc.), social problems (disease spread, lack of a social infrastructure etc.) and are not eager to sign contracts that might be considered unpopular, especially before elections. In many cases, the negative image of migrants from Moldova creates hindrances in the process of negotiations.

5.4. Support Services and Actions for Migrant Workers

Although the protection services provided to the migrant worker need to include all the steps of the migration process (pre-migration, migration, and post-migration), this network is underdeveloped in the Republic of Moldova.

a) Services rendered to migrants during pre-migration stage

The Migration Department, provides *information* services regarding jobs offered by the department based on bilateral agreements, work contracts, amount of salary, social protection conditions, etc., as well as informs the solicitants about the licensed private agencies abroad. The mechanism of providing these services is characterized by a range of administrative gaps:

- Services are concentrated in Chisinau and the lack of developed institutional framework at the local level makes the development of informational campaigns impossible at the local level;
- Lack of a unique database regarding job vacancies inside the country and abroad, which would give the person the right to choose;
- The mechanisms of collaboration with active NGOs in this field are not created, and social partners are not involved in the informational campaigns, although they have a network of members covering the whole territory of the country;
- The information distributed, currently, in rural areas through various international programs is focused more on prevention of trafficking in women with the purpose of sexual exploitation and does not cover aspects regarding the prevention of illegal migration, the risk of employment without work contracts, etc.;
- The lack of a concept of informational and prevention campaigns that would cover all aspects regarding labor migration abroad, and qualified consultant services regarding job openings is not created.
- The practice of *training* migrant workers before their departure for abroad is also not yet created, for example, although the concluded bilateral agreement with Italy provides the right of the migrant worker for preventive training according to the profile occupation of the labor demand on the Italian labor market, such practices were not implemented.
- The Migration Department and the National Agency regarding labor force occupation have not developed common activity programs for the creation of a concept on the *professional formation and training* or professional re-qualification according to the demand on the labor markets abroad. Although there is a network of training centers in the country which provide professional formation services to the unemployed at the recommendation of the Agency for Labor force occupation and some private formation centers are formed, their services are not extended to those that wish to work abroad.

b) Services provided during the period of contract execution abroad

Problems regarding the representation and defense of the interests of our citizens that execute an individual work contract abroad (the competent authority to represent the interests of the worker in the receiving countries both in relation to administrative authorities and legal authorities in case of violations or the disregarding of some clauses of the work contract abroad) are not examined and the services provided abroad, in this sense, are absolutely underdeveloped. The national diasporas is not formed and diplomatic missions do not have a unit that would deal exclusively with migration problems, including work migration. There is also a lack of direct relations between the representatives of social partners and non-governmental organizations.

Lack of language and internal legislative knowledge usually impedes the access to qualified services for the migrant worker, causing multiple abuses, especially in cases of illegal migrants, and depends completely on his employer.

c) Rehabilitation and social re-integration services of migrant workers

The State does not have a well-determined concept over human resources use, created on the external markets, with new abilities of working and thinking. Currently, both on the political and civil society level there is no concept regarding the motivation of migrant workers to return back home. There are no institutions specialized in offering post-migration services to returned citizens. There is a lack of an information network regarding job opportunities available on the internal labor market, same situation with re-qualification services.

5.5 Conclusions and recommendations

- Operational problems identified in the institutional framework:
- Lack of genuine statistics for determining tendencies and fluxes;
- The mechanism of coordinating the activities of the Migration Department is underdeveloped;
- Lack of an efficient mechanism of collaboration between state institutions involved in the labor force migration policy and their cooperation with social and non-governmental partners;
- Lack of a strategic concept for establishing collaboration partnerships with Moldovan Diaspora;
- Many important domains for assuring an efficient management of migration process are completely uncovered, such the supervision of individual work contract execution abroad, the procedure of addressing complaints and solving litigations regarding the execution of work contracts abroad etc.

Recommendations:

- Elaborating and implementing strong instruments of coordination between all institutions involved, because of their multidisciplinary nature and the multitude of parties involved at national and regional levels. The coordination should have permanent communication by establishing joint structures of monitoring and evaluation.
- Developing a system of electronic information exchange between all relevant authorities (Border Guard Troops, police, Migration Department).
- Examining training in common opportunities for the personnel that provides various services, in different structures, but for the same category of users in order to solve a complex problem;
- Developing of the strategy regarding the cooperation with the *civil society and mass media* (informational mass media campaigns, information for the potential migrants and their families etc.).
- Elaborating the strategy regarding the cooperation with the Moldovan Diaspora.
- The development of rehabilitation and social reintegration services of migrant workers
- Attracting labor and employer unions in the process of development and implementation of migration policies by their participation at the meetings of the Migration Department;
- Establishing common activities between the agencies and the Ministry of Labor, Labor Unions, Employer Unions in order for the working contracts to be concluded in accordance with international norms and for the existent violations to be eliminated;

- Establishing and coordinating the activities between the private job placement agencies, Migration Department, Chamber of Licensing, and other state authorities; this should make the private agencies report on their activity, and the latter perform unbiased and periodic verifications;
- Intensifying sanctions for private agencies that do not follow legal provisions;
- Creating regional structures of the Migration Department;
- Initiating negotiations for signing re-admission agreement with countries from Central Asia, in order to prevent the massive flow of illegal migrants, foreseen in case of Romania joining the EU in 2007.

Chapter VI: Migration Policies and International Tools

Introduction

Today, the main global concern in the field of international labor migration is the spread of illicit migration, considerably increasing in the last years. This evolution could be attributed to the recruitment process becoming more commercial and to the increase of unjustified restrictive migration policies. The income gaps between developed and developing states increased four times in the last two decades. The recent studies, conducted by the International Labor Organization, have shown that integrated globalization processes have, in some concrete cases, negative effects on development, and even severe consequences on circulation of people. Between 1970 and 1990 the number of states employing foreign workers has doubled from 42 to 90. More governments recognize the necessity to establish, monitor, and enhance the legislation, the policies, and the administrative measures in the field. For the purpose of developing a unique policy in international structures regarding juridical regulation; for the purpose of developing standard methods for combating illegal migration, labor force exploitation, *several international juridical acts have been adopted in many states of the world.*

6.1 International migration regulation tools

The European and international legislation aim at transforming the migration into an organized and controlled process, integral compliance with human rights. *Adjusting the national legislation to international standards will facilitate the compliance of the Republic of Moldova to international requirements.* International Organization for Migration activates in Chisinau since 2000. The mission of this organization is to promote organized and civilized migration.

The **Conventions of the International Organization for Migration** and **UNO** regarding migrant workers provide information and advise referring to migration administration. The experience of many other countries has proven that the application of standards is an efficient hindrance against illegal migration, thus diminishing exploitation risks .

The Conventions and recommendations of the International Labor Organization comprise international guiding tools that stipulate basic rights for both local and migrant employees up to the same degree. Over a few decades, a special attention to labor migration is paid by the International Migration Programme (MIGRANT). Its objectives are: providing help to countries for policy formulation, developing and enhancing legislation, and institutional development for the purpose of training a quality labor migration management. In order to achieve these objectives, the activities of MIGRANT focus on three components:

1. Protection of rights of migrant workers and promoting their integration in destination and origin countries;
2. Establishment of an international consensus on migration management;
3. Improving basic knowledge on international migration.

Since its creation, the Organization has provided help for approximately 13 million refugees in settling in over 125 countries. The increased concern of the international community vis-à-vis migration problems is reflected in the progressive increase in the structure of the International Labor Organization. Today, it comprises 86 member states and over 40 countries that have observatory status.

The basic regulations of the *Conventions of the ILO*, presented in table 18, prohibit the discrimination in work relations, by specifying that all persons, including migrant workers, should benefit of equal work and treatment opportunities. The recommendations of ILO indicate the necessity of ensuring the protection of the migrant worker at different stages of the migration process and in different circumstances. According to Convention 97, the state has the priority in recruiting labor force and in supervising the recruitment process.

Trafficking in human beings for exploitation purposes, especially for forced and mandatory labor and other practices similar to slavery, are also regulated by a number of Conventions under the mandate of ILO. (See Table 18)

Although not formally part of the United Nations system, IOM maintains a close cooperation with UN structures and operative agencies. The future activities of IOM for the purpose of combating forced labor and exploitation are according to the following UN Conventions:

- UN Convention on Combating Trafficking in Human Beings and Commercial Sex Exploitation by Tertiary Persons (1949);
- Supplementary Convention on Abolition of Slavery, Trade with Slaves, Institutions and Customs Similar to Slavery (1956);
- Protocol regarding the Prevention, Combating, and Sanctioning Trafficking in Human Beings, Especially in Women and Children (2000), in addition to the UN Convention on Combating Cross-Frontier Organized Crime.

In December 1990, IOM adopted the *International UN Convention on Protection of Migrant Worker Rights and His/Her Family*. This Convention covers the basic principles of the IOM in ensuring the protection rights of migrant workers at different stages of migration and in different circumstances. By ensuring civil, political, and social rights, it regulates the fundamental rights of the migrant worker and indicates actions that states members of the Convention need to undertake in order to ensure these rights. The Convention includes basic definitions of “migrant worker”, seasonal and border worker, etc. and confirms the right of the persons to leave the country, including his/her own country (Art. 8); the right to life, guaranteed by law (Art.9), condemns any actions that aim at exploitation through forced labor or at limiting movement rights of the migrant worker.

The Republic of Moldova has not adhered to this Convention, although the basic principles of this Convention can be found in two important documents on regulating labor force migration processes: “The Concept of Migration Policy of the Republic of Moldova” and “Law on Migration”.

In the labor standards, IOM treats the problem of trafficking in close connection to the problem of forced labor, abuse of migrant workers, work discrimination (especially in certain sectors where women and foreigners are disproportionately affected), and one of its most severe aspects of child labor exploitation. IOM firmly maintains its position in sanctioning women and children traffickers and supports the state, civil society, and financing institutions in their effort of preventing human trafficking, in getting victims out of slavery, and in re-establishing their perspectives to become responsible and productive citizens.

Moldova has adhered and continues to adhere to international standards that regulate labor force migration processes and trafficking in human beings. The frames of these standards cover the Conventions of IOM, Conventions of the Council of Europe. Still, Moldova has not adhered to the Conventions developed by UNO (mentioned above) regarding the regulation of the issue analyzed. Also, it needs to be mentioned that although the European Convention regarding the juridical status of migrant worker has been signed, its ratification is being severely delayed. This delay is mainly caused by the provision of Art. 2 “Recruitment methods” (part of the IOM recommendations as well) that states that administrative expenses for recruitment, introduction, and placement should not be bared by the future migrant worker, in case the latter are performed through a public authority. The responsible state authorities do not have sufficient financial resources to offer all departure services to migrants for free.

Table 15. International Conventions that the Republic of Moldova adhered to

Convention	Signed	Ratified	Adjustment of legislative framework based on Conventions
CONVENTIONS OF THE INTERNATIONAL LABOR ORGANIZATION			
Convention on Forced Labor, 1930 (Nr. 29)		+ March 23, 2000	Forced (mandatory) labor is prohibited (Art. 7) in the Labor Code (N 154-XV from March 28, 2003) Article 5 from LC – Basic principles for regulating terms of work and other relating relations. Forced (mandatory) labor implies any kind of labor or service imposed to a person under threat or without his/her consent (Art. 7 LC)
Convention on Migration for Employment Purposes (revised), 1949 (nr. 97)	-	-	-
Convention on the Abolition of Forced labor		+ October 10, 1993	Forced (mandatory) labor is prohibited (Art. 7) in the Labor Code

Convention on Discrimination (Employment and Occupation), 1958 (Nr. 111)		+ August 12, 1996	Art. 8 in the Labor Code: Prohibiting discrimination at the workplace. Art. 5 of the LC stipulates basic principals (non-discrimination) in regulating terms of work and other relating relations.
Convention on Minimum Age, 1973 (Nr. 138) NB – Minimum Age specified by Republic of Moldova – 16 years		September 21, 1999	The new Labor Code stipulates that the individual gains its working capacity at 16 years of age. It is prohibited to employ persons younger than 15 years (Art. 46 LC)
Convention on Migrant Workers (Supplementary Provisions), 1975 (Nr. 143)	-	-	-
Convention on Private Placement Agencies, 1997 (Nr. 181)		+ December 19, 2001	The legislation is adjusted to this instrument
Convention on the Most Severe Forms of Child Labor 1999, (Nr. 182)		+ June 14, 2002	Art. 25 in Labor Code – Activities for which persons younger than 18 years can not be employed. The state protects the child from economic exploitation and execution of any work that puts his/her health under risk, or hinders his/her educational process, or damages his/her physical, intellectual, spiritual, and social development (Art. 11. The right to work – Law on child rights from December 15, 1994)
CONVENTIONS OF THE COUNCIL OF EUROPE			
European Convention on the juridical status of the migrant worker, November 24, 1997	+ June 11, 2002	-	-
Social European Book			
European Convention on Social Insurance			

6.2. Migration and Regional Integration Policies

Eastern European countries have a specific migration situation. Economically, they become external migration reservoirs. The process of EU enlargement to the East will integrate part of these countries in the European family, thus decreasing the gaps and probably transforming many of these countries in international migration destination countries. Migration flows between candidate countries and EU countries will play an important role in accelerating the integration process and in decreasing the costs of integration. This will only happen if origin countries know how to institutionalize these labor movements. The studies conducted by IFO (German Institute for Economic Research) show that the migration involved in the process of enlargement to the east will sufficiently increase the European GDP in order to cover the costs of migration. For this purpose, this increase needs to be directed to social protection⁸⁴.

In 1998, 13 million people, or 3.5% of the EU population were migrants from developing countries. This represents a 50% increase compared to the year 1985⁸⁵. In order to prevent the decline in the number of population and the decrease of dependency rate forecasted in EU countries, a number of 615,000 migrants per year are estimated to enter these countries from 2000 till 2025 and 1.3 million migrants per year from 2025 till 2050⁸⁶.

6.2.1 European Orientation of the Republic of Moldova

European Integration represents one of the most recent approaches not just for EU candidate countries, but also for those countries that will boarder with the EU. Republic of Moldova is one of these countries, thus it entered the race of promoting European principles, of adjusting national principles to European standards. It is hoped that these efforts will help Moldova in

⁸⁴ Enlargement Link Dossier: Free Movement of People, June, 2001

⁸⁵ Social Situation Report 2002, EU

⁸⁶ UN Report 2000: Replacement Migration. Is it a solution to deny access for the elderly persons?

obtaining the status of *associate state*. Nevertheless, in the spring of 2001, the EU launched the new vicinity policy, which did not predict a quick transformation of Moldova into an associate state. The EU, facing the largest extension since its formation, has to also face major challenges. It will not only enlarge its territory and add another 105 mln to its population, but it will also have to reform the entire decision making process and to redefine its policies and priorities regarding its new neighbors.

The mutual relations between Moldova and the EU are based on the Partnership and Collaboration Agreement, which came into force in 1998. The agreement establishes the principles and objectives of collaboration, based on the development of democracy, protection of human rights and minorities in Moldova, the rule of law, and market economy. The agreement provides for the gradual harmonization of national legislation with the European one in the field of trade, entrepreneurial activity, customs, banking, fiscal, and social systems, as well as infrastructure.

6.2.2 Migration policy and region perspective

The EU extension creates new integration conditions and possibilities for Moldova in the frame of European Neighborhood Policy (ENP). Although this policy does not state fast EU integration for related countries, the Republic of Moldova can use the instruments of this policy to prepare for the EU integration. Being a member of the Stability Pact for South-Eastern Europe, Moldova benefits from collaboration with the countries in the region, including for the migration problem, hence countries in this region often serve as destinations for the trafficking in human beings.

The Republic of Moldova has elaborated a partnership with the EU – Action Plan for European Commission in the frame of ENP. In order to regulate the migration policy, the Action Plan Moldova – EU includes structural and sustainable development reforms, as well as many other aspects such as Justice and Internal Affairs. It also covers the **migration problems** section (legal and illegal migration, re-admission, visa, and asylum), which covers the following objectives:

1. *Free circulation of people, including labor force circulation;*
2. *Estimation the proportions of illegal migration through and from Moldova and monitoring migration movements* – information exchange and estimation of illegal migration proportions in the EU and Moldova, including the creation of a database for monitoring migrant flows through and to Moldova
3. *Supporting efficient migration flow management, by providing counseling and financial assistance at the expert level in the Government of Moldova. Promoting its activities, especially those that aim at enhancing the professional level of relevant personnel, by learning from the international experience and internships at relevant EU services that implement a modern migration policy:*
 - Adopting and implementing a *National Action Plan on Migration and Asylum in Moldova* (migration problems)
 - Developing an *electronic information exchange system* between all relevant authorities (border guards, police, Migration Department);
4. *Consolidation of cooperation in the field of re-admission of own citizens, stateless persons, and citizens of tertiary states, for the conclusion of a re-admission agreement between the Republic of Moldova and European Community:*
 - *Dialogue and information exchange* regarding the circulation of people (migrants, long-term residents), as well as benevolent return and reintegration programs
 - Examining possibilities to conclude a re-admission agreement between the Republic of Moldova and EU;
5. *Information exchange on visa regimes:*
 - Dialogue regarding the cooperation on visa regimes, including the eventual adaptation of the visa system of the Republic of Moldova, visa and travel documents issuing procedure, and the security of travel documents and visas;
6. *Development of an efficient and comprehensive state border management system in all border sectors of Moldova;*
7. *Intensifying and facilitating the cross-border cooperation between Moldova, EU member states, and neighboring countries;*

8. *Ratification and complete implementation of international tools that have a special importance in combating organized crime;*
9. *Amplifying the fight against trafficking in human beings, especially in women and children, against illegal migrants, as well as trafficking prevention and victim reintegration activities (see also above Human Rights).*

The phenomenon of trafficking in human beings, as a result of illegal migration and having a wide scope on the territory of the Republic of Moldova imposes the development of urgent political interventions, effectively identified and implemented for the benefit of all migrant workers, especially, for women and children that become victims of traffickers. The Republic of Moldova committed itself to eliminating this phenomenon by joining different regional documents;

The documents of the Council of Europe

The recommendation of the Committee of Ministers R (2000) 11 member states regarding actions for the prevention of human trafficking for sexual exploitation purposes, May 19th, 2000.

The documents of OSCE

European Security Map from Istanbul, November 19th, 1999

The Declaration of the Parliamentary Assembly from Bucharest, July 10th, 2000

The Decision of the Council of Ministers no.1, Strengthening OSCE Efforts in Combating Trafficking in Human Beings, MC (8) DEC/1, November 28th, 2000.

Stability Packed for South East Europe

Anti-Trafficking Group of Actions of the Stability Pact, Anti-Trafficking Ministerial Declaration for South East Europe, December 13th, 2000.

The Anti-Trafficking Group of Actions in the frames of the Stability Pact for South East Europe is a coordinating tool in order to encourage and enhance the cooperation the South Eastern states of Europe for accelerating the existent regional efforts in human trafficking combating. In the opinion of this Group, illegal migration represents a major problem in the region, and trafficking in human beings is the direct consequence of illegal migration. Thus, it is suggested:

- to promote comprehensive migration policies that would serve as collaboration mechanisms between governments and organizations that are involved in solving migration processes;
- to establish legislative and institutional framework

Human trafficking is one of the OSCE priorities, because it affects almost all member countries of OSCE, origin, transit, and destination countries. The OSCE mission in Moldova functions as a main coordinator for international efforts regarding the combating of human trafficking. Its objectives include the identification of current programs, detecting the gaps and the fields that require intervention.

The Republic of Moldova was invited to collaborate at the MARRI initiative (Migration, Asylum, and Refuge Regional Initiative). MARRI organization was created as a result of a merger between the Ex-Regional Return Initiative – RRI and Migration and Asylum Initiative – MAI. The MARRI objective is to increase human and state security and to initiate, facilitate, and coordinate development processes in the field of asylum, migration, border management, entry/exiting policies, visa, support in the process of learning and adjustment to international and European standards, etc. Thus, through its activity, MARRI will contribute to free and organized mobility of population in the best interests of security and prosperity.

It is obvious that the migration situation in the Republic of Moldova is primarily conditioned by the economic crisis. But, this is not the only cause and many of these refer mainly to security issues. Moldova has a relatively small territory, and its border is weakly secured, especially its eastern border, which lacks any security and favors organized crime, illegal migration, drug and human trafficking. Besides these problems, the EU enlargement wave will have even more negative consequences for the regional stability. Moldova will become a major transit route for traffic persons and transit workers from Central Asia, which will continue the way to Romania and further into the EU. It should be mentioned that a few illegal immigration routes are already created and their final destination is the EU. The first route passes through Russia – Ukraine –

Poland – Germany, and from there extends to the rest of the EU. Another route is Russia – Ukraine – Republic of Moldova – Romania – Hungary – EU (Austria). The problem becomes even more severe for Moldova due to the existence of Transnistria, separatist structure, uncontrolled territory by the authorities in Chisinau and creates a gap in the weak border with Ukraine.

6.3 Conclusions and Recommendations

With the Republic of Moldova joining international agreements or treaties in the field and the harmonization of national legislation to international provisions, the implementation of international legal norms will become possible. It will also create the conditions necessary for complete compliance with migrant rights. The rights and the privileges that the states mutually offer to the citizens will be recognized and respected in case of the citizens of the Republic of Moldova that are legally abroad.

- Related to the requirements stipulated in Article 4, and Article 8 respectively, in the Constitution of the Republic of Moldova (adopted on July 29th, 1994)⁸⁷, **signing and ratifying international tools, impose the government to take concrete actions in implementing them.** The preventive analysis of the adherence to international legislative framework and of the adjustment of national legislation to its provisions demonstrates that in the majority of cases modifications of national legislation followed. This can be noticed from the tables 13 and 14, although a wide range of incompatibilities can be traced. For example, although the *Convention on Private Placement Agencies*, 1997 (no. 181) was ratified on December 19th, 2001, the legislative adjustment measures have not yet been undertaken. The activity of private employment agencies is still regulated by the Government Decision No. 1077 from November 20th, 1997 “*regarding tentative employment of migrant workers.*”
- The **process of adherence needs to be analyzed integrally, in detail, labor migration policy priorities need to be identified in Moldova.** The process of adjustment to international standards will enhance the protection of migrant workers, considering the fact that the migration process imposes states to take measures to ensure the rights of their citizens. This will also guarantee the protection rights of migrant workers arriving in Moldova. This is a bilateral process, and *only by applying the same international standards, abuses and violations of the fundamental rights of citizens can be avoided.*
- *Bilateral agreement with countries where most Moldovan citizens work are necessary – Portugal, Israel, France, Czech Republic, Spain, etc.* The efforts to initiate negotiations for concluding intergovernmental agreements regarding tentative employment and social protection of migrant workers have failed. The main reason for this is the high rate of unemployment in these countries.
- *It would be recommendable for the Republic of Moldova to examine in detail the practices of other states in signing bilateral agreements, as well as in developing and approving an internal normative act on the model of bilateral Agreement regarding labor force according to international recommendations and standards.*
- In order to make conclusions and recommendations concerning the adhesion of Moldova to other Conventions of the International Labor Organization due to its status of member country, a *profound study needs to be carried out. This study needs to look into the application of international tools that regulate labor force migration and the adjustment of*

⁸⁷ Art. 4. Human Rights and Freedoms (1) Constitutional provisions regarding human rights and freedoms are interpreted and applied according to the Universal Declaration of Human Rights, other Pacts and Treaties that Moldova adhered to.

(2) If there are discrepancies between the pacts and treaties on fundamental human rights that Moldova adhered to and its internal laws, international regulations have priority.

Art. 8. Respecting International Right and International Treaties (1) Republic of Moldova assumes the responsibility to respect UN Map and treaties that it is part to, to base its relations with other states on the principles and norms unanimously recognized in international law.

(2) Before coming into force, and international treaty that includes provisions in contradiction with the Constitution will be revised.

- these tools to the national legislation. This will allow for the identification of incompatibilities and will indicate the fields to be enhanced.*
- The most important aspects that Moldova needs to solve in the frames of its migration regulation policy, especially for combating illegal migration, are those relating to **securing national borders and harmonization of the national legislation to European standards**, meaning:
 - *Enhancing border control procedures;*
 - *Enhancing the cooperation and information exchange with border services in other countries.* It is important to introduce a new information system at customs points that corresponds to the EU standards and will allow for the monitoring of migration flows. This would be an integrated information system, implemented by several state authorities that work in the field of migration and coordinated by the Migration Department; it would provide complete information on the migration situation in the country and data about the persons that entered the country, exited the country, persons that stay illegally etc.
 - *Changing and diversifying the visa regime.* Moldova will not be able to prove itself as a trustful partner and as a secure region, as long as 200 million people from the territory of ex- Soviet Union have free access and do not need a visa to enter Moldova. On the other hand, **entry procedures need to be simplified for EU citizens:**
 - *Conditions for visa issuing* need to be established for countries with high migrant potential;
 - It would be useful for *the invitations to be accompanied by a bank deposit*, opened by the host. This deposit will be used by Moldovan authorities to cover the expenses for returning the persons to their origin countries, once their stay becomes illegal;
 - It would be indicated to carry out a visa reform, by creating an *on-line system of visa processing.*
 - Moldova was included in the black list of the Schengen visa system. The reason for that is the illegal labor force migration to Western Europe. Just like most migrants from the ex-soviet space, the citizens of the Republic of Moldova enter the EU on tourist visas and find employment having no working documents. Thus, Moldova appears as a state that supplies illegal labor force, as well as a transit state for many migrants from Asia.
 - Presently, in the European Union there are 15 million unemployed. Still in many sectors of the economy there is a lack of labor force. This has to do with the field of informational technology, but there is also a demand for unqualified labor force. A specialist in demography forecasts that in the next 50 years, the population of the EU will decrease by 311 million. Also, a continuous process in labor force reduction is registered. This means that the EU will need to attract migrant labor force. In this situation, the problem of adopting an adequate policy regarding labor migration is a political one, and depends on the level of economic growth. In this context, **projecting migration policies of Moldova will have to complement the European ones.**
 - Western countries also need **a more constructive position regarding illegal migrants.** Transforming them into legal migrants (by amnesty mechanisms), especially in countries where it is known that the number of Moldovans is imposing, creates real possibilities for minimizing the negative consequences of these phenomena for working together with the origin state. In this case it will be important to involve, in a civilized dialogue, the most important and the most interested actor in human rights protection – migrant worker. The diplomatic representations from Moldova play an important role in this process.
 - *The cooperation with EUROPOL* could become a good option for combating not only illegal migration, but also trafficking in human beings, and smuggling of migrants.
 - *Fraternity conventions in the field of professional training for migration personnel* need to be concluded with similar authorities in EU countries. Technical provisions are an important aspect in the frames of migration policy. Thus, the *modernization of border structures* is necessary, as well as the adequate computerization of the whole system that manages migration issues and training of personnel.
 - The elaboration and approval of an External Occupational Policy will allow for a decrease of emigration costs by minimizing abuse at the recruitment stage, stopping illegal migration

and creating a more organized migration process, increasing the number and diversity of employer countries, using migration as possibility of gaining new qualifications and skills, improving salaries and terms of employment of the citizens working abroad.

It is obvious that all these reforms require financial resources that Moldova does not have. That is why the support of the EU through some tools or instruments could solve many problems. In its dialogue with the EU, for the purpose of efficient migration management, Moldova needs to follow the experience and the achievements of central Eastern European and EU states. Moldova should also develop coherent development policies and adequate mechanisms for migration management. Only by coordinating the efforts it will be possible to increase the efficiency of migration policy.

If managed adequately, migration may contribute to the prosperity, development, and mutual understanding between people.

Conclusions

Economic and social discrepancies that cause labor force migration have aggravated in the last couple of years and the tendency will continue unless fundamental economic measures would not be implemented for increasing growth, promoting equitable distribution of income reducing economic instability.

Being an integral part of the development process, migration can have different meanings in time and space. As we have mentioned in the report, the migration process leads to positive and negative consequences for all parties involved: migrants, countries of origin and destination countries. Therefore, the main objective of migration coordination should be directed towards the development of the mechanism for benefit maximization emerged as a result of this process, for all parties involved.

Although the migrants and their families benefit from external migration, many of them work under conditions of exploitation and abuse, totally lacking access to legal social protection. Illicit migration places many of migrant categories, especially women, in vulnerable positions and as a result they become subjects of multiple forms of discrimination. Urgent efforts should be implemented at national and international level in order to guarantee migrant rights according to all active international standards. In order to succeed in the effective protection of migrants' rights, it is important for the national and international standards to have a clear and direct impact on the status of migrants' majority and to efficiently accomplish migration management. There is also a poor support mechanism for the process of coordinating migration by the government and social partners, which would increase efficiency in the implementation of migration management principles. Promoting a long-term consensus of migration related problems is the main responsibility of the internal and external policy of the country.

The migration policies in the Republic of Moldova are not being discussed in the context of socio-economic development of the country. Labor force migration is not perceived as a part of the policies regarding labor force employment and is not considered as a temporary or stable mechanism in the solving of problems related to the labor market from the macroeconomic point of view.

Migration policies require powerful instruments of coordination between all parties involved, because of its multilateral nature and the large number of members involved at national and international levels. Coordination should involve permanent coordination by establishing common structures of monitoring and evaluation. The situation and the prejudices caused by the migration flux, migration policies of the labor force should acknowledge a series of actions: adjust to international standards; determine the elements that ensure an adequate protection of migrant workers; facilitate the process of regional economic integration; train the migration management team; provide coordination between decision-makers, especially social partners.

Recommendations and suggestions projected by this report will allow for the elaboration of an action plan that could guide competent authorities and their partners in the development of a coherent, actual and multilateral structure of migration process coordination.