

ILLEGAL MIGRATION – A FORM OF MANIFESTATION OF ORGANISED CRIME

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Abstract

Illegal migration is one of the types of crime bringing huge profits, reason for which it has actually become one of the basic activities of criminal organizations which have been perfecting in the entire registry of services necessary for this form of migration. The researches highlight that this illegal migration phenomenon will continue with bad influences for the destination states and for the transit ones. Considering this evolution of the phenomenon at the level of the European continent, EU member states and third party states collaborate and fight together in order to combat this phenomenon with serious consequences for the entire international community. The favouring facts of illegal migration are presented in this study, along with the ways and stages covered by the migrant trafficking specialised networks for reaching the proposed purposes, its effects on the national states, as well as the ways through which the states try to fight against this serious criminal phenomenon.

Keywords: *illegal migration; cross-border criminality; fighting against and prevention*

1. Introduction

The verb *to migrate* comes from the Latin *migrare*, with the meaning to shift, to travel or to move. Actually, the migration represents that movement in the mass of some populations from one territory to another, influenced by economic, political, social, natural factors². The words family made up from the term *migrare* includes also emigration and immigration; the first refers to the action of a person or group of persons – emigrants – to leave their own origin country and to resettle into another, permanently or temporary. The second one consists

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² O. Gălăţeanu, *Illegal migration and the anti-migration policy from the European Union*, in Proceeding of the International Conference Globalization, Intellectual Dialogue and National Identity, Târgu Mureş, vol.2/2015, ISBN 978-606-93692-5-8, pp.368-374, www.upm.o/gidni2/?pag=GIDNI-2/volo2-Ssm; A. Stoica, *Illegal migration at the confluence with human trafficking*, Pro Universitaria Publishing House, Bucharest 2014, p.86, ISBN 978-606-647-971-4

in the reverse action, to enter into another country and not leave. In both cases, the movement is done with the purpose of permanent settling or residing into a new country³.

The foundation of the progress of human society includes also the mobility, reason for which the migration phenomenon has occurred early; it has been playing a major role since old times in the formation of Europe and North and South America's nations, existing at present and it will make known its presence in the future.

International migration refers to the movement of persons leaving the country they are usually residing in or their country of origin in order to settle into another, temporary or permanently, crossing the state border for this. It is divided in legal and illegal migration forms. Illegal migration has been determined by the present developed society and deals with those persons who, not being able to find in their own country a place of work which would ensure the minimum decent standard of living, are forced by circumstances to migrate without legal forms to other states. Unfortunately, these persons become victims of the migrant traffickers, being observed at world level that the illegal form of migration has entered into the organised crime activities domain. The criminal organizations, through illegal migration, have as final objective individuals' exploitation. In the present society, at global level, illegal migration represents for the criminal groups a money-making business from where they obtain very large amounts of money following to abusing those persons found in desperate situations wanting to migrate in order to have a better life⁴.

Europe has been confronted in the last years with an extreme spread of the migratory phenomenon, in all its forms. A favouring factor of this phenomenon, on the European continent, is the reality that a policy of encouraging the free movement of persons has been lead at E.U. level, besides the free trade, free movement of goods and capitals and labour force, for a better evolution of the common market. On world level, the globalization and internationalised markets have determined an increase in the migratory phenomenon.

The migration is determined by economic realities such as poverty, famine, unemployment, as well as by demographic factors, the population of the states under development where there is a high degree of childbirth, being oriented towards states with low level of childbirth and with a high degree of industrialization, turning to legal or illegal ways of migration for achieving it. It is also influenced by political factors, as the areas with

³ O. Gălățeanu, op.cit.; C. Popescu, *The world on movement. Legal and managerial aspects on migration*, ProUniversitaria Publishing House, Bucharest 2006, p.87

⁴ O. Gălățeanu, op.cit

totalitarian regimes determine a large part of the population, which considers being in danger, to migrate to countries where they might enjoy the security and stability which they need.

The illegal migration is favoured on one hand by the uncertainty focus points coming from economic, political, social shortcomings existing in underdeveloped countries and in those in progress of development, leading undoubtedly to the intensification of the migration phenomenon from those territories with problems towards developed countries, taking many times the form of illegal migration. On the other hand, illegal migration is favoured by the existence and continuity of some confrontations of racial, religious or ethnic nature. According to the analyses performed by specialists, illegal migration will continue to remain at high levels, it will even increase, having as origin states those without a well developed economy and those which, through internal political problems and conflicts, will determine the migration of their citizens who will have thus the possibility of fulfilment at social, economic and cultural level. This way, the market administrated by the criminal organizations having as occupation this migration form will operate.

2. Illegal migration - a form of manifestation of organised crime

Illegal slaves' trafficking is included among the most archaic crimes as proven forms of organised crime. It was underlined in the doctrine⁵ that at world level, the criminal organizations from Europe, Asia, U.S.A., have resorted to the crime which brings large profits in the society's actual evolution level, involving the migrants trafficking, besides guns, human trafficking, smuggled products, drugs, prostitution and gambling. The globalization of human rights, trade and other social domains had occurred in the last decade of the 20th century, reality which generated two finalities: one consisted in the removal of the restrictions existing between national, international and regional and the second in the mixture of those political, social and economic problems in such a way that it has become impossible to differentiate them. In this last direction, the globalization has enlarged also in what concerns the crimes. Accordingly, the crime occurred in the supra-state, extra-continental plan, its characteristic being oriented to certain domains supported by globalization, among which there are: migrants trafficking, human trafficking (along with illegal drugs, arms, nuclear materials' trafficking, prostitution, paedophilia, terrorism, money laundering, theft and smuggling with expensive vehicles, kidnapping of persons with blackmail purpose, corruption at the level of multinational companies, etc.).

⁵ I. Suceavă, F. Coman, *Crime and international organizations*, Romcartsim Publishing House, Bucharest 1997, p. 34

In the beginning, illegal migrations had been motivated by the intent of those in poor countries or territories in conflict to go to the West with a much higher standard of living. Later on, the objectives of these migrations have combined with the organised crime purposes. Accordingly, step by step, illegal migration has represented a high profit business for the international interlopers which have in view, besides obtaining immediate profits, the creation of some organizations of authors of those crimes specific to organised crime, such as drugs trafficking, international thefts, dirty money laundering, smuggling, robberies, prostitution, crimes at order, etc., in order to obtain their own interests. Illegal or underground migration had been monitored in the beginning of the 20th century by organizations of mafia type. With the purpose of multiplying their own profits, they had been interested in associating this type of crime with those of drugs trafficking, of money laundering, of illegal labour, of prostitution and of begging.

Practically, the amplitude of the illegal migration phenomenon has generated also the development of those mafia networks with a well established organization and with many registered offices in the immigrants' origin states, as well as with working points in the states where they are transited. It was observed, for sure, that illegal migration, respectively the migrants smuggling is extremely profitable, being used at present also for drugs trafficking, money laundering in casinos, arms trafficking and prostitution. The earnings coming from the above have lead to the development of some persons and their inclusion in powerful trafficking organizations with a well established structure. These have persons specialised in the entire area of services required for illegal migration, both for the states of destination and for the transit ones, such as those for: illegal border-crossing, means necessary for transport, accommodation and services related to supporting the migrants in any situations that might occur during the illegal migration period. Such organizations have formed manoeuvre bases in a series of states found on the main routes. These routes are known as being: Calcutta, Karachi, Columbia, Damascus, Accra, Moscow, Kiev, Odessa and Chisinau⁶. These very well structured mafia type organizations have an international character, having as members the citizens from many states, such as Ukraine, Russia, Belarus, Republic of Moldova, Slovakia, Poland, Turkey, Serbia – at the European continent level – as well as from migrants' origin states. In order to give an example regarding the extremely well established organization of these trafficking networks at international level, we mention this organised criminal group which had performed underground transports of migrants, especially from Syria and Iraq in

⁶ I. Dascălu, G.Țical, *Course on fighting against organised crime*, vol.1 and 2, Academica Publishing House, Bucharest, 2011

the period January – April 2015. This group had a very complex organization, on three levels, in constant criminal contact, and its coordinators in a first stage dealt with hunting and transporting the runaways from Syria or Iraq to Turkey, forming groups of migrants in Istanbul and Bulgaria, so that later on to start trafficking them in states like Austria, Germany, France, Italy, Norway, Finland, Sweden. In what concerns the constituency of this group, it consisted in Turkish citizens (group's organizers and leaders), Romanian citizens (with the role of taking over the migrants who entered illegally in Romania, of guaranteeing temporary accommodation and then of embarking them in the transport means sent by the Turkish organizers) and Bulgarian citizens. The main operating method was represented by introducing the migrants illegally through the southern border of Romania, by using transport means for goods or persons and through a boat of average size, used for crossing fraudulently the maritime border of the Black Sea and then their removal from our country, again fraudulently, through the Romanian – Hungarian border, on board of some road trains. According to the statement of Romania's Directorate for the Investigation of Organized Crime and Terrorism (DIICOT), the group has obtained important profits from this illegal migrant trafficking with minimum investments, collecting approximately 5,000 euro for trafficking one single migrant. From the pieces of evidence obtained in the case under trial at the competent court of law, it has resulted that in the period mentioned above, the members of the network had been trafficking around 150 migrants. On the date of September 7th, 2015, 16 members of the group had been sent to trial by the prosecutors of the Directorate for the Investigation of Organized Crime and Terrorism⁷.

In what concerns the large gains obtained from trafficking migrants, UN statistics have highlighted that the profits resulting from international human trafficking, which includes also illegal migration – besides children, beggars, disabled persons trafficking and international promotion of prostitution – from the beginning of the 20th century up to present, have exceeded with almost 50% the gains from international traffic with stolen vehicles and with 25% the ones resulting from drugs trafficking⁸. The activities of the specialised traffickers groups consist especially in hunting actions, followed by transport activities, accommodation and then migrants' fraudulent crossing the state borders. There have been identified five main stages covered in their activity by the organised groups specialised in illegal migration. A first

⁷www.juridice.ro/399057/diicot-traffic-de-migranti-tentativa-la-traffic-de-migranti-constituire-a-unui-grup-infractional-organizat-contrabanda-calificata-nerespectarea-regimului-armelor-si-munitiilor-trimitere-in-judecat.html/10.09.2015

⁸ S. Frangulea, *Migration phenomenon and human trafficking*, www.arduph.ro

stage is represented by drawing in and choosing those persons desiring to emigrate and which have at disposal the money claimed by the traffickers. The second stage consists of transporting the respective people to the transit states, by using personal study, tourism, commercial activities or transit travels. Usually, airway transport means are used. The third stage consists in forming migrants groups and their accommodation on a determined period in the transit states, at the same time with preparing the false identification documents for them. The fourth stage consists of establishing the travel routes, the means necessary for transport, and the ways of illegal entering into the other states for achieving the respective illegal action. Finally, the fifth stage has been found to be the crossing through the other transit states, entering and establishing in the destination state⁹.

The following four modalities have been found as being used by the members of the migration networks in their activity: the first is represented by obtaining entry or transit visa for personal interest with the help of corrupt officials from the embassies of the states of interest for the migrants. After reaching their destination, they will stay here illegally. The second is represented by analysing the way the border control bodies' operate and sometimes, the corruption of some persons working in this capacity in order to diminish as much as possible the risk for the desired fraudulent crossing. The third consists in creating some guide groups and the fourth consists in guides turning to violent conduct in order to facilitate the running for the migrants.

It is obvious the fact that the criminal groups perfected in migrants trafficking have the capacity to adapt extremely fast to the changes which occur and to the authorities deeds, representing an increased risk for breaking through the borders. As methods of operation, they turn to: using false documents, transport of migrants in trucks or within some containers on the roads, using maritime transport, illegal entering into a state and then using forged passports (by replacement of persons) for exiting from the respective state with the purpose of travelling to the states pursued as destination, for example EU member states. In what concerns the forgeries and the illegal usage of identification documents for obtaining authentic travel documents, the forgers develop new techniques in order to cover the biometric verifications. Accordingly, they make possible the illegal crossing of the frontier and at the same time, put at risk the internal security of the states through the immigrants who do not have documents and who can take false identities¹⁰. Unfortunately, in spite of the

⁹ A.Stoica, op.cit., p.144

¹⁰ A. Stoica, op.cit., p.151

policies applied by the authorities, the operation methods of the illegal migration specialised groups prove high professionalism, guaranteeing to the migrants against payment, in an organised manner, that they will enter into the states from the Western Europe. For obtaining the estimated success in their criminal actions, the members of this network have organised support points on the routes the migrants are using for transit¹¹.

3. Risks generated by illegal migration and the measures necessary for fighting it

In connection to illegal migration, it has been observed the existence of a relatively new phenomenon represented by illegal transit migration, individualised through the illegal character and through the intervention of criminal organizations in the human trafficking. At EU level, the transit migration from Central and Eastern Europe is materialised through an increasing number of illegal migrants turning to transiting these regions to the western states which are more evolved from economic point of view. They turn to such solutions, although they fulfil the necessary conditions and they could formulate legal requests for asylum¹².

In Europe, the first rank destination countries of illegal migrants from Eastern Europe are the same as for the other migrants, respectively: Italy, Spain, France, Belgium, England and the northern countries, which, due to the permissive legislation in the demographic growth problem, as well as to the social facilities offered to those establishing a family and having many children, have become more and more attractive. For travelling to the destination countries, the routes Yugoslavia – Italy – France – Spain or Hungary – Austria – Italy – France – Spain have been mainly used in the last years, as compared to the previous period when most emigrants were guided through Hungary – Czech Republic – Austria – Germany or Hungary – Poland – Germany. Eastern Europe is attractive for the migrants from different countries of the African and Asian continents, for the criminals wanted by Interpol, who are part of terrorist groups and of criminal organizations or for the persons from cross-border criminality area¹³. It was observed that at Europe level, for the traffic of migrants from the eastern part of the continent, the members of the network turn to ways such as: legal departure as tourist, illegal standing on the territory of a state and then entering illegally on the territory of the states where the entry visa is a must. For the trafficking of migrants from EU third states, as for example for the citizens from former soviet territories or for the

¹¹ G. Chirilă, *Illegal migration or how security risks are imported*, www.intelligence.sri.ro, October 30th, 2016

¹² O. Gălăţeanu, op.cit

¹³ S. Frangulea, *Migration phenomenon and human trafficking*, www.arduph.ro

Chinese people, they turn to entering / exiting illegally by using bypass routes of the borders, hidden in various transport means, by using false passports, entering illegally / departing illegally. For Russian, Moldavian or Ukrainian migrants' trafficking, they turn to using false visas, invitations or passports¹⁴.

Out of the report issued in the year 2016 by Europol together with Interpol, entitled "Migrant Smuggling Networks", it results that a big part of the illegal migrants found on EU territory had been transported by the members of the illegal migration networks, these criminal structures obtaining for this illegal transport of persons funds estimated to an approximate value between 5 and 6 billion US\$¹⁵.

In the report published by FRONTEX in March 2017 on the analysis of the risk related to the migration phenomenon for the year 2016 at EU level, funded on the activities related to the border verifications on different forms of cross-border criminality and illegal crossing of the border, it is made a presentation of the most important directions for the year 2016, based on a number of six indicators of illegal migration used by FRAN Risks network, which are:

1. IBC – detection of illegal border-crossing
2. EDC- detection of fraudulent documents usage
3. FAC- detection of persons facilitating illegal crossing
4. RET- effective returns
5. REF- refusal of entry
6. ILL- detection of persons staying illegally in the member states¹⁶

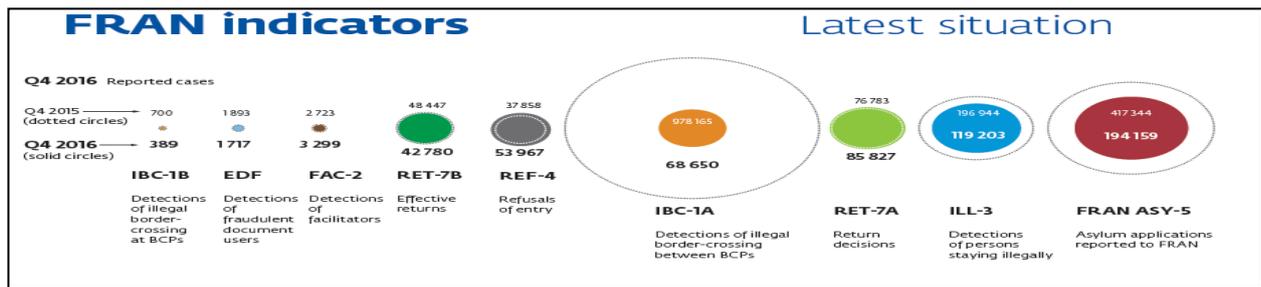
Out of this report, it can be observed an increase in the year 2016 as compared to the year 2015 in the refusal of entry, in the effective returns and in the identification of persons facilitating the illegal entries' indicators, at the same time with a decrease in the illegal border-crossing, in the detection of persons staying illegally and in fraudulent documents usage's indicators, according to figure 1.

¹⁴ idem

¹⁵ G. Chirilă, *Illegal migration or how security risks are imported*, www.intelligence.sri.ro, October 30th, 2016

¹⁶ www.frontex.europa.eu

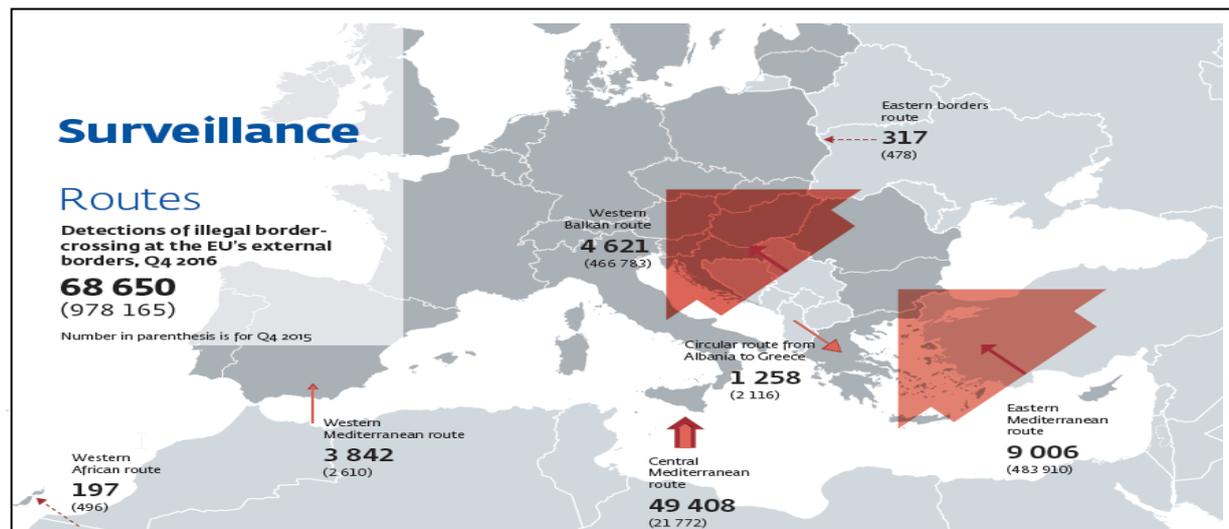
Figure 1



Source: www.FRONTEx.europa.eu

At the same time, from the map with the monitoring of the routes where illegal EU external border-crossing have been found in the year 2016, published in the same report, it can be observed that an important growth has been recorded in two out of the seven routes for illegal migration, namely on Central Mediterranean route and on Eastern Mediterranean route, as it can be observed in the figure below.

Figure 2



Source: www.FRONTEx.europa.eu

According to the estimation performed by the Organization for Economic Cooperation and Development (O.E.C.D), 90% of the clandestine immigrants arriving yearly in EU member states, illegally cross the borders with the support of criminal organizations.

In what concerns the effects which illegal migration can provoke, it was estimated that at least in what security is concerned, it might generate the exploitation of those ways of illegal migration and the introduction on the European territory of some terrorist structures and of supporters of some extremist-terrorist ideologies which advance prohibited, extremist ideas of advising to breach the legal provisions. Also, it might be possible the occurrence of

violence towards the state authorities – local or national – and even between the migrants who are accommodated in the specific centres from the transit and destination states. Starting from these estimations, it was appreciated that practicing some peaceful, merciful policies towards illegal migrants might bring to those more permissive states serious complications internally which, on one hand, can degenerate in extreme situations, in social riots or ethnic discriminations; this is following to an increase in own citizens' discontentment towards migrants who represent a competition considered by them as disloyal and which restricts their natural access to internal labour market. On the other hand, due to their joining to the members of some criminal groups and to performing illicit deeds such as drugs trafficking, tax evasion or undeclared labour, illegal migrants affect the normal development in a state based on the rule of law. It is also appreciated that illegal migrants represent a real danger through the fact that they can promote different radical or terrorist ideologies which might instigate to violent actions against the missions of some western states and mostly, of those states with military contribution in the origin territories of the migrants¹⁷.

It is estimated at present that the risks of illegal migration will reach to an alarming level for the developed EU member states, due to some aspects such as: economical imbalances existing at the level of EU states, increasing criminality and diminishing the population's safety and security, extension of organised crime groups' actions from East to West, maintaining the tension state of political, religious or ethnical nature from areas like Oriental Africa and Near East. All these concerning aspects have determined the EU member states to find harmonization measures of their fight for the removal or diminishing of illegal migration and of adopting some ways for achieving this jointly, as alone they cannot cope with cross-border criminality. The following are included among these measures¹⁸:

1. Putting to practice some anti-migration policies expressed through subordinating the visa policy to security state interests. The European Commission even gave recommendations according to which: - each member state should develop its own national migration control strategy; - more attention should be paid to borders control and to illegal migration, to illegal transport of migrants and to human trafficking situations and to establish sanctions; - also, a coherent policy must be issued for drawing in the labour force; - adopting some simple procedures of fighting against undeclared work and to improve the case of female migrants,

¹⁷ G. Chirilă, *Illegal migration or how security risks are imported*, www.intelligence.sri.ro, October 30th, 2016

¹⁸ O. Gălăţeanu, *op.cit*

2. Urgent return of foreigners who entered illegally in a state or who did not receive asylum,

3. Expulsion of emigrants in the origin country, on the expense of the Government of the state taking this measure and their return to the country whose borders have been fraudulently crossed in the displacement to western countries, based on the principle of returning in the first safe country of those requesting asylum,

4. Consolidation of the collaboration with the transit and origin states,

5. Turning to international information exchange in the domain, adapting to this sense many Framework Decisions at EU level¹⁹,

6. Applying international criminal sanctions to human traffickers²⁰,

7. Imposing the obligation of transport agencies to adopt own targets for fighting against illegal migration.

EU member states, being aware of the impossibility to deal with this serious and accentuated phenomenon of cross-border criminality, have concluded bilateral protocols and agreements with EU member states and non-EU states, for fighting more efficiently against it. For example, Romania has concluded agreements and cooperation protocols for fighting against organised crime at the level of the state structures with competency in this matter, within the judiciary cooperation in criminal area, with many states such as: Turkey, Italy, The Netherlands and Belgium.²¹

4. Conclusions

Illegal migrants' trafficking represents one of the strongest manifestations of cross-border criminality, with obvious effects for the victims of trafficking and with consequences

¹⁹ As: Council Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, with 19.12.2006 as deadline for its transposition into the national legislations of the member states; Council Framework Decision 2008/841/JHA of the 24th of October 2008 on the fight against organized crime with 24.11.2008 as deadline for its transposition into the national legislations of the member states; the European Convention on the Suppression of Terrorism, entered into force on 04.08.1978; Council of Europe Convention on Action against Trafficking in Human Beings, in force since 1.02.2008.

²⁰ To this sense it was adopted also the Council Framework Decision 2002/629/JHA of 19th of July 2002 on the fight against trafficking in human beings considered a serious form of breach of the fundamental rights of the individual and its dignity.

²¹With Turkey in 2011, between the Ministry of Justice of The Republic of Turkey and DIICOT Romania (Romania's Directorate for the Investigation of Organized Crime and Terrorism), with Italy in 2012 between DIICOT and National Anti-Mafia Directorate of Italy), with the Netherlands in 2013 between the General Prosecutor's Office and DIICOT, with Belgium in 2008 between the General Prosecutor's Office and DIICOT according to www.diiicot.ro

hard to estimate on a long term. It can endanger the social-economic life of the states, their peace and safety through the disturbance of the demographic, ethnic and cultural balance, through impacting on the labour market incapable to absorb a larger number of persons able to work and thus, through generating an increase in the number of individuals inclined to criminal acts. This situation will generate a disturbance in maintaining the public order at states level.

Illegal migration represents a manifestation of organised crime which by extension and by more and more ingenious and perfected development methods, has direct effects towards the economic, social and security domains of the migrants' transit countries, as well as towards their destination countries.

In the present society where the state borders are limits, unfortunately, only for the states' authorities in putting to application their own criminal legislations, but not also for criminals and criminal groups which are more and more organised and specialised in various criminal activities including migrants trafficking, it is necessary to achieve an international collaboration by finding favouring legal instruments, as well as turning to, as a form of this collaboration, reciprocal legal assistance between states in the fight against organised crime. At European level, EU member states have become aware they are not able to cope with this phenomenon by themselves, reason for which they embraced any truly useful forms of cooperation between them, but also with third states, for fighting against this plague.

Considering the state of the human society at world level, we consider it is necessary to continue the preoccupations for identifying some common solutions for preventing illegal migration and for punishing those which have as purpose and succeed many times, unfortunately, to obtain high profits from migrants' exploitation. We believe that these preoccupations must be an integrant part of the policy of the states, but they should exist at the level of institutions with actual competencies in tracking and sanctioning those committing such crimes and who are members of some criminal organizations which activate in illegal migration area. The same increased attention must be granted, we believe, to the international collaboration for fighting against these serious phenomena for the entire human society, at world level. In our opinion, the collaboration between these institutions is maybe more important than the political perspective on the phenomenon and with much swifter results, this being desired in the end. It is absolutely necessary and of top priority the effort for the existence of an international cooperation and research with the purpose of modernizing the concrete methods and techniques of identification of persons involved in such illegal

migration networks and which are constantly “contemporary” to the novelties regarding the methods and techniques of committing the crimes of this type, making thus harder the activity of those who are confronted day by day with such reprehensible deeds and with their combating.

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