

Cross-Border Co-operation / Söderköping Process

**2004 SÖDERKÖPING PROCESS CLUSTER MEETINGS:**

**Meeting of the Northern Cluster,  
Minsk, Belarus, 9–10 September 2004**

**Meeting of the Central and Southern Cluster,  
Budapest, Hungary, 28–29 October 2004**



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## FOREWORD

This publication is a compilation of the minutes and presentations of the meetings of the Northern Cluster and the Central and Southern Cluster countries of the Söderköping process, which took place in 2004. The meetings served as a follow-up to recent EU enlargement and updated the asylum, migration and border guard officials and representatives of NGOs as well as international organisations on the developments that had taken place in the Eastern and Central European countries in this respect.

The meetings of the Northern Cluster and Central and Southern Cluster countries, when compared to previous events held within the Söderköping process, took a new focus. The participating countries made an attempt to look into possible ways of sharing with Ukraine, Moldova and Belarus, the experience gained by the newly acceded EU Member States and the candidate country with aligning their migration legislation and practices with the EU Acquis in the process of accession. And this approach will further be developed and deepened, allowing the participating countries to take initiative in identifying the issues of concern and lead the process of finding appropriate solutions.

The ideas and suggestions expressed by the participants are being followed-up by the Cross-Border Co-operation/Söderköping Process Secretariat and will be presented at the Senior Level Review Meeting in May 2005, in the interests of formulating specific steps that can be taken by the participating countries – aimed at transposing specific EU standards and legal norms into the legislation of Belarus, Ukraine and Moldova on asylum, migration and border management.

**Cross-Border Co-operation / Söderköping Process Secretariat**

## **PART I. MEETING OF THE NORTHERN CLUSTER** ***Minsk, Belarus, 9-10 September 2004***

### **EXECUTIVE SUMMARY**

#### **Background**

On 9-10 September 2004, the European Commission (EC), the Swedish Migration Board (SMB), the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM) with the support of the Cross-Border Co-operation/Söderköping process (CBCP) Secretariat convened a meeting of the Northern cluster countries of the Söderköping Process in Minsk, Belarus. Asylum, migration, border guard officials and representatives of non-governmental organisations (NGOs) from Belarus, Estonia, Latvia, Lithuania, Poland and Ukraine, as well as representatives of international organisations participated in the meeting. The co-chairs were the SMB, IOM and UNHCR.

#### **Purpose of the Meeting**

The meeting aimed to:

- analyse consequences of the establishment of the new EU Eastern border;
- provide an update on the most recent developments in the EU asylum and migration legislation;
- collect ideas for future co-operation within the Söderköping process and consider proposals for joint actions at the operational level.

#### **Opening Remarks**

**Mr. Sergey Matus, Deputy Head, Division for Migration, Refugees and Asylum, Department for Citizenship and Migration, Ministry of Interior of Belarus, Mr. Bernhard Bogensperger, Attache, Delegation of the European Commission to Ukraine, Moldova and Belarus, Mr. Göran Larsson, Head of Department, Swedish Migration Board, Mr. Guy Ouellet, Regional Representative, UNHCR Regional Representation for Ukraine, Moldova and Belarus, and Mr. Andreas Halbach, Regional Representative, IOM Vienna, welcomed the participants.**

In his opening remarks, Mr. Sergey Matus stressed the fact that Belarus was chosen as a venue for the Northern cluster meeting, and that this in turn represents an 'act of trust' to Belarus.

Mr. Bogensperger noted that the Northern cluster meeting is 'historic' in the discourse of the enlarged EU. He stressed that the EU enlargement aims to reinforce the EU and partner countries. The European Neighbourhood Policy is an instrument by virtue of which such benefits of enlargement as strengthening stability, security, and well-being of all concerned are shared. Asylum and migration issues make an important part of them. In the context of the Söderköping process, the principle of joint ownership should be observed, as the EU aims to commit to certain objectives and actions to bring countries closer in certain priority fields in order to avoid new dividing lines.

Mr. Larsson noted that the Northern cluster meeting represents a new phase in the Söderköping process which reflects a more concrete and practical approach to cross-border co-operation.

Mr. Ouellet welcomed the participants and congratulated the delegates of Poland, Lithuania, Latvia and Estonia with EU accession. He stressed the importance of understanding the reality of the new border and the fact that neighbouring countries face new challenges. In this context, one of the key elements of the Söderköping process is the transfer of experience from the recently acceded EU Member States to Ukraine, Belarus and Moldova.

Mr. Halbach provided an overview of the Söderköping process and the evolution of alternative forms of co-operation, which exert a particular impact on the Newly Independent States (NIS).

## **Presentations**

**An update on the most recent developments in the Söderköping process and the activities of the CBCP Secretariat since the last Senior Level Review Meeting** (17 October 2003) was presented by **Ms. Myroslava Korenevych**, CBCP Secretariat.

The Secretariat was actively promoting the process through its information activities, which included briefings for embassies and international organisations, the quarterly newsletter and other publications aimed at collecting and streamlining the relevant information and creating a “database” of the Söderköping process. Currently, the Secretariat is creating a website. The Secretariat has also been maintaining a network of experts and has carried out certain research activities.

To ensure the continuation of the Söderköping process, a contract between the EC and the SMB was signed on 26 May 2004 with the total funding of EURO 997,500. Under the new EC project, the SMB is an implementing agency, and UNHCR and IOM are project partners. The project covers the period from 1 May 2004 till 31 October 2005.

The project aims at facilitating co-operation between Belarus, Moldova and Ukraine and neighbouring Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and Slovakia to make the Western NIS less attractive as a region of transit migration and increase their capacity to develop into safe countries of asylum.

The activities planned within the project in 2004-2005 include cluster meetings and a senior level review meeting; two thematic workshops; briefings for embassies and international organisations; research and public information activities. Through them, the Söderköping process will assist the countries in improving their asylum, migration and border management with full observance of international refugee and human rights law, and will make the co-operation between the participating countries and organisations more efficient.

**Mr. Gaspar Bergman**, Head of the CBCP Secretariat, provided **an update on the normative and institutional developments in the legislation of the Northern cluster countries**.

In several of these countries, developments and amendments to the normative systems have been paralleled by a similar development of enforcement and implementation schemes.

**In Belarus**, the Lower Chamber of Parliament passed the first reading on amendments to the Law “On legal status of foreigners and stateless persons in Belarus” in April 2004 aiming at more stringent control over foreigners, including border control and in-country supervision. A temporary accommodation centre for asylum seekers was opened at the “Minsk” National Airport in March 2004; a network of such centers is planned to be set up by UNHCR in 2004-2005 to further include the regions of Brest and Gomel. In accordance with the Presidential Edict “On Some Measures of Improvement of the System of Agencies and Interior Authorities of the Republic of Belarus” of 30 December 2003, the Department for Migration and regional migration services are being transferred from the Ministry of Labour and Social Protection to the Ministry of Interior. The new department will deal with migration, citizenship and refugee issues.

**In Ukraine**, several laws have been drafted. The draft Law on the Legalisation of Certain Categories of Foreigners and Stateless Persons, Who Are Illegally Staying in Ukraine provides criteria and mechanisms to legalise the stay of certain types of individuals. The draft Law on Introduction of Amendments to the Refugee Law aims at replacing the 3-5 working day deadlines for admission of asylum applications. Two draft Laws – on Temporary Humanitarian Protection of Foreigners and Stateless Persons and on Granting Temporary Asylum in Ukraine to Foreigners and Stateless Persons – are currently scrutinised by the government. On 17 June 2004, came into force a Law on the Introduction of Amendments to Certain Legislative Acts of Ukraine on Crossing of the State Border, under which criminal liability for illegal border crossing was abolished, while administrative charges for the same offence, as well as its attempt were increased. As to the migration management structures, starting 1 January 2005 the 27 Regional Migration Services of Ukraine will become bodies of the State Committee, financed by the state budget.

**In Latvia**, amendments to Asylum Law were adopted in the first reading. They concerned mostly the EU Acquis on asylum. After joining the EU, the Office of Citizenship and Migration Affairs has new functions including the implementation of the Dublin Regulation. The structure of the State Border Guard Service has been changed to include the reorganisation of the immigration services. Personnel are being moved from what is now an internal EU border to Latvia's external borders. An expert service has been created to guarantee qualified experts for the provision of consultations in the investigation of border incidents and to take part in operative and procedural actions.

**In Estonia**, legislative developments concern mainly the EURODAC fingerprint data base, DublinNet and the exchange of information. The amendments to the respective national legislation are expected in September 2004, after parliament resumes its work.

**In Lithuania**, in the process of harmonisation with the EU Acquis on asylum and migration, the Law on the Legal Status of Aliens was adopted and entered into force on 29 April 2004. While an additional cessation clause has been abolished in the new law, the family reunification and detention provisions remain problematic. In April 2004, parliament ratified the Dublin Convention.

**In Poland**, a number of legislative acts came into force on 1 May 2004. An Act on Social Assistance of 12 March 2004 provides a person with refugee status with a possibility to apply for integration assistance within 14 days after being granted such status. An Act on Principles and Conditions of the Entry and Stay in the Territory of the Republic of Poland by Citizens of Member States of the European Union as well as Members of Their Family of 27 July 2002 regulates terms of entry and stay in Poland for EU citizens in regard to common policy of the Member States. An Act on Changing the Act on Census and Identity Cards of 16 April 2004 regulates the conditions of registration in the territory of Poland for aliens having authorisation to stay or being citizens of EU Member States. Two Council of Europe conventions relating to refugees – the European Agreement on the Abolition of Visas for Refugees of 20 April 1959, and the European Agreement on Transfer of Responsibility for Refugees of 16 September 1980 – were signed in May 2004. The formal procedure of their ratification is under way.

**The most recent developments in EU policies and practices on asylum and migration** were presented by **Ms. Annabelle Roig**, Liaison Officer, UNHCR Representation for Belgium.

1. The most recent developments in **the EU migration policy** concern:
  - 1.1. The establishment of the European Agency for the Management of Operational Co-operation at the External Borders by 1 January 2005;
  - 1.2. The European Constitutional Treaty, adopted in June 2004 and pending ratification by national parliaments, which enshrines the concept of an “integrated system of external border management” and the common immigration policy;
  - 1.3. EU Return Policy, in particular the Commission Communication of June 2004 on a common readmission and return policy and the June 2004 Council decision to establish a special financial instrument for the return of “illegal” third country nationals (yet pending the approval of the European Parliament);
  - 1.4. EU Readmission Agreements and readmission clauses in co-operation agreements;
  - 1.5. AENEAS Programme that succeeds the B7-667 budget line, with the total funding of EURO 250 million for 2004-2008. Call for proposals will be released in fall 2004 and spring 2005.
2. Issued in May 2004, **the European Neighbourhood Policy** (ENP) confirms and reinforces the aims and the strategy of the 2003 “Wider Europe” policy. It covers 14 countries along the external EU borders: 3 Western NIS and 11 Mediterranean countries. Russia is not directly concerned by the ENP. The policy objectives will be achieved through a jointly elaborated Action Plans, which will set up a number of priority areas, including Justice and Home Affairs issues, such as management of borders and population movements, migration and asylum, visa policies, fight against organised crime, etc. A new financial instrument for implementing this policy will be created as of 2007 and will place emphasis on cross-border co-operation along the EU external borders.



3. **EU Immigration Policy developments** include:

- 3.1. The EC July 2004 Communication on the study of the relationship between legal and illegal immigration;
- 3.2. Policy on integration of migrants;
- 3.3. Legal instruments, such as Directive on the Right to Family Reunification (September 2003); Directive on Long Term Resident Status (November 2003); Directive on the Right of the EU citizens and their family members to move and reside freely within the EU (March 2004); Directive on the short term residence permit for victims of trafficking who co-operate with the authorities (April 2004); draft instruments on legal admission for economic purposes, on study and vocational training (including volunteering), and on unpaid activities;
- 3.4. Set out in the European Constitutional Treaty, common immigration policy that entails the conditions of entry and residence in the EU; the definitions of rights of third country nationals residing legally in a Member State, illegal migration, unauthorised residence, including removal and repatriation; and combating trafficking in persons.

4. **EU Asylum Policy:**

- 4.1. First phase under the Amsterdam Treaty: (Dublin) Regulation on determining state responsibility (February 2003); Directive on minimum standards for reception conditions of asylum seekers (October 2003); Directive on minimum standards for the qualification of refugees and beneficiaries of subsidiary protection (April 2004); political agreement on minimum standards for asylum procedures (March 2004); Directive on common regime for Temporary Protection (July 2001); Decision on the European Refugee Fund (June 2004);
- 4.2. The Common European Asylum System (CEAS) comprises 2004 Communications on the assessment of the Tampere programme and future orientations and on resettlement and enhancing protection capacity in regions of origin. The next phase of the CEAS will consist of monitoring of the transposition of the mentioned instruments into national legislation and their implementation.

**UNHCR initiatives related to “Convention Plus” and the three prongs** were presented by **Ms. Annabelle Roig**, UNHCR Representation for Belgium.

**UNHCR Convention Plus** addresses the crises of protection and, based in the 1951 Convention and outcome of the Global Consultations and Agenda for Protection, mobilises multilateral commitments. The tools developed through Convention Plus are special agreements with states – of generic or specific nature. The generic agreements tackle three priority challenges: the strategic use of resettlement as a durable solution; more effective use of development aid; and clarification of states’ responsibilities in the event of secondary movements of refugees and asylum seekers. The situation-specific agreements address a particular refugee situation (mass influx situation, protracted situations, repatriation movements, etc.). The work on generic agreements is currently led by five “facilitating states”: Canada on resettlement, Denmark and Japan on targeting of development assistance, and South Africa and Switzerland on secondary movements. A Forum meets twice a year.

In the context of a dialog with EU Member States, in June 2003 UNHCR presented three proposals: **Domestic Prong; Regional Prong; and Revised EU Prong**. The Domestic Prong covers pre-screening procedure, reinforcement of national asylum systems, removal to EU reception/processing centre for certain cases, return to first asylum countries with “effective protection”, and return of people under Special Agreements. The Regional Prong includes strengthened protection capacity in host countries, comprehensive durable solution arrangements, special agreements for specific caseloads (Convention Plus), and additional development assistance. The EU Prong aims to encourage EU Member States to address the phenomenon of mixed movements of asylum seekers and economic migrants by joint processing of presumed manifestly-unfounded claims from selected non-refugee producing countries of origin. While these proposals are expected to lead to the reduction in smuggling, irregular and secondary movements, increased resources for bone fide refugees and host countries, facilitate and reduce cost of repatriation, etc., they will also bring along some operational realities, host country and community perspectives, and funding questions.

The presentation on “**Ukraine’s Irregular Migrants – Their Reception and Return**” was delivered by **Mr. Chris Petch**, Operations Officer, IOM Mission in Ukraine. IOM’s strategy to address the persisting problem of increase in irregular migration looks to strengthening migration management capacity through a number of programmes.

IOM approaches the Capacity Building for Migration Management Programme (CBMMP) using a model of Migration Management that illustrates the interdependence of a number of different elements. This model breaks down the function of Migration Management into three distinct but inter-related components: the Framework Component (Policy, Legislation, Regulations and Procedures), the Management Component (National Passport, National Visa, Official Documents of Identity), and the Control Component (Intelligence, Monitoring and Detection, Inspection, Response). A cross-cutting theme is the protection of human rights. The IOM Programme of Action in this area includes comparison of the compliance of effective Ukrainian legislation with the existing international standards, as well as transposition of international best practices into Ukrainian legislation and procedures accompanied by appropriate training of relevant staff.

To address the reception aspects of Irregular Migrants, the IOM Programme of Action plans to refurbish existing buildings/infrastructure to provide temporary accommodation facilities for some irregular migrants currently held in detention by both the State Border Guard Service and the Ministry of Interior. An advice centre will be set up to address the needs and rights of irregular migrants in relation to access to relevant language interpretation, advice on legal, asylum process and procedural issues, and contact with family members. This programme will parallel a series of assessment studies on relevant international best practices. In addition, a health centre will be established in each accommodation centre along with the building guidelines and providing training to the staff.

The voluntary return of irregular migrants elements of this project have been operated in close collaboration with UNHCR, and future programmes are expected to follow this line. To complement the government’s efforts in this area, a pilot programme will be designed to address international best practices and to form the basis for a sustainable government-operated and -managed return system.

Due to time constraints, **the discussion on implications of EU enlargement and recent EU policy and legislative developments in the asylum, migration and border management fields in the Northern cluster countries**, planned for working groups, took place at the plenary.

**In Latvia**, there were few legislative developments, and most changes concerned the implementation of the Dublin Regulation and the EURODAC. There is no increase in the number of asylum seekers related to the implementation of Dublin II. The accession as such did not effect the co-operation with the neighbouring countries – either inside or outside the EU.

**In Poland**, 6,278 persons applied for refugee status since the introduction of visas with the neighbouring countries. The number of asylum seekers from Chechnya increased several times in the three months of this year, and the situation with them may become critical if a political solution for Russia is not found.

**In Belarus**, there are no changes in migration or illegal migration flows related to the EU enlargement – either quantitative or qualitative. The government takes steps to improve migration management: Migration Department has been established at the Ministry of Interior; measures on introduction of a more effective mechanism of denial of entry to Belarus for certain categories of foreigners are being taken; a database of individuals whose entrance is undesirable is being set up; a new version of the law on aliens and stateless persons has been drafted and is pending with parliament.

**In Ukraine**, there is no increase in the number of illegal migrants transiting through the country. However, composition has changed, with a 20 time increase of illegal migrants from Chechnya and Georgia.

**In Estonia**, there are no changes. Migration and border guard structures are undergoing re-organisation related to EU requirements and introduction of the EURODAC and the DubliNet. Besides, the reception capacities are being reinforced. Another important development is the exchange of all identification documents, both for citizens and aliens.

*In Lithuania*, there are certain legislative changes in the field of asylum. On 29 April 2004, a Law on Aliens was adopted comprising two separate laws – on aliens and on refugees. Under the new law, there is one procedure for granting asylum. The procedure of work on the Dublin Regulations has been drafted. The departments in charge of implementation of the Dublin Regulations and the EURODAC have been established. Up to now, there were no cases of readmission of asylum seekers from the EU countries in Lithuania. On 6 September 2004, implementation of a TACIS twinning project “The Assistance to the Legal and Administrative Reforms in Ukraine in the Sphere of Migration and Refugees’ Protection According to the Norms and Standards of the EU” started, with Austria and Lithuania as co-donors. The project encompasses five components: EU and EU Member States practice and standards; Analyses of Ukrainian legislation and legal and interinstitutional practice in the field of asylum; Training of officials and civil servants of Ukraine in the field of asylum; Preparation of recommendations and guidelines; and Presentation of the project and awareness-raising for asylum policy.

**The EU Action Plan for Ukraine** was presented by **Mr. Bernhard Bogensperger**, Attache, Delegation of the EC to Ukraine, Moldova and Belarus. The EU Action Plan on Justice and Home Affairs for Ukraine of 10 December 2001 encompasses the following areas of co-operation: migration and asylum; border management and visa; organised crime; terrorism; judicial co-operation; law-enforcement co-operation; and judiciary, rule of law, good governance.

The Migration and Asylum chapter envisages approximation of Ukrainian legislation to EU norms and standards; development of an efficient migration management system; assessment of the scale of irregular migration to and through Ukraine; and improvement of the co-operation on the readmission of irregular migrants.

The Border Management chapter includes development of a system of efficient and comprehensive border management; transformation of the Border Guard Troops towards a law-enforcement agency; intensification of cross-border co-operation; and creation of secure travel documents and visas.

In addition to ratification and implementation of international instruments, efforts against money laundering, and fight against trafficking in drugs, etc., the Organised Crime chapter foresees combating trafficking in human beings and smuggling of irregular migrants.

The implementation of the EU Action Plan is based on the workplan (Scoreboard). The Justice and Home Affairs Sub-committee carries out the monitoring and evaluation of implementation. The Action Plan will be reviewed in 2005.

**Ukraine’s experience with the implementation of the EU Action Plan in the field of border management** was presented by **Mr. A. Fedoseev**, Chief of Section, Administration of the State Border Guard Service of Ukraine. For one and a half years of functioning as a law-enforcement body, the Border Guard Service has faced the problem of illegal migrants and their expulsion. The legislative work in this area is being carried out to bring the existing legislation up to EU standards. Starting this year, the criminal liability for illegal crossing of the border was replaced with administrative liability. Within the programme of combating illegal migration, a project on a national concept of combating illegal migration until 2007 has been drafted and is pending endorsement. The project will include a set of measures to be undertaken within the next three years. Together with the State Committee for Nationalities and Migration the Border Guard Service has developed a joint procedure for handing over applications for asylum. A number of new legislative acts have been adopted and the existing ones have been amended to intensify liability of natural persons for facilitation of illegal migration.

One of the most complicated issues is the identification of undocumented illegal migrants. In this context, a comprehensive analysis was carried out and ways of addressing these issues were identified. 99 percent of illegal migrants arrive through Russia. Therefore, Ukraine approached Russia with a request to assist the former with identification of such aliens. The feedback is still awaited.

A single registration system has been created jointly with the Ministry of Interior, which is being filled now.

## **PART I. MEETING OF THE NORTHERN CLUSTER, Minsk, Belarus, 9-10 September 2004**

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A certificate for return is being introduced for illegal migrants whose identification has been impossible in the course of 6 months. Meetings are being held with the Ministry of Foreign Affairs and embassies. It is hoped that the document will come into force by the end of the year, and the return of illegal migrants to countries of their origin will start. It is suggested to provide them with return tickets with a view to their returning back to Ukraine for further work if they happen not to be nationals of the country they claimed before.

To fulfill its commitments in the field of fingerprint database, a pilot project was implemented by the Chop border guard brigade where the EURODAC fingerprinting equipment and database had been installed. The project brought positive results. The State Border Guard Service plans to provide each border check point with such equipment and create the EURODAC by the end of the next year.

In the field of staff training, an assessment of the border guard curriculum will take place in Khmelnytsky academy and pilot courses will be developed jointly with international organisations.

The implementation of the Action Plan has made an impact on Ukraine's bilateral co-operation, the example of which is a recently concluded protocol with the Estonian Border Guard Service. The Action Plan is one of the main, most practical documents that allow moving to concrete actions.

**Update on EU funding opportunities, in particular for cross-border initiatives** was made by **Mr. Bernhard Bogensperger**, Delegation of the EC to Ukraine, Moldova and Belarus. There are three budget lines for TACIS countries. (1) Subdivided into regional and national programmes, TACIS is the largest programme, which follows multi-annual strategy. Indicative programmes provide future areas of co-operation, within which concrete projects are identified. However, regional and national programmes have limited possibilities, and the number of organisations participating in tenders is restricted. The TACIS Institution Building Partnership Programme is relevant for projects involving regional and local authorities. (2) B7-667 has been replaced with AENEAS programme with the objective of promoting co-operation in the field of Justice and Home Affairs, including migration, asylum and border management. The next calls for proposals will be released in November 2004 and in spring 2005. (3) A separate budget line exists for conferences and seminars.

As of 2007, a new budget line under the European Neighbourhood Instrument will complement assistance provided under the existing financial instruments or their successors, and will focus specifically on cross-border co-operation and related activities.

### **Working groups**

Active discussions on registration systems and procedures and on future co-operation and joint actions within the Söderköping process took place in four working groups.

#### ***Working Group 1. Registration systems and procedures: existing systems of individual registration: alignment with EU requirements; transferring experience to Belarus and Ukraine.***

- Existing registration systems in the Baltic States and Poland with a focus on any differences between illegal migration and asylum, registration of undocumented persons and participation of NGOs in this initial process:
  - *Lithuania*. All aliens are registered. Those seeking asylum at the border are transferred to the migration department for processing, as no asylum decisions are taken at the border. Registration data on illegal migrants is shared with police. Fingerprinting is done for all cases. The EURODAC is in effect. NGOs are present during this phase to provide legal counselling. For undocumented cases, court takes a decision on the case. If undocumented migrants are illegal, embassies are contacted. However, no information is shared with embassies should they seek asylum.
  - *Latvia*. The registration procedure is similar to the one of Lithuania. Like Lithuania, it has in place a more controlled border process affecting non-Baltic/EU citizens. The database is now

- fully operational; fingerprints are taken from all illegal migrants and asylum seekers. Those undocumented or illegal migrants who refuse to return to their home country are detained. There is the same procedure regarding undocumented migrants as in Lithuania. It allows for 3-10 days identifying of the undocumented migrant.
- *Estonia*. No major changes since 1 May as the registration system had already been updated to meet EU standards. There is no registration of aliens coming from EU Member States or Switzerland. Updates concerned visa application forms, and the system of border control and data exchange, especially with Finland. The Ministry of Interior takes fingerprints. Scanners have been installed at major border crossings. As for asylum seekers, the border guards conduct the first interview at the borders.
- *Poland*. The registration is supervised by the Ministry of Interior. There is a central database in the central office for all residence, asylum, humanitarian and illegal migrant cases. Illegal migrants are fingerprinted and identified by the police, with the registration carried out upon their identification. A special team dealing with identification of illegal migrants was set up within the department. The EURODAC is operational. Since 1 May 2004, there were no major changes. Undocumented migrants are detained. After a year of detention, if still not identified, the undocumented migrants are normally released by court. Some 80-100 thousand aliens are estimated to be in the country, illegally or unregistered. There is an amnesty in place to facilitate their registration. However, only a few hundred have done so.
- Existing registration systems in Ukraine and Belarus – gaps and needs to be addressed:
  - *Ukraine*. While all aliens are registered in a database, there are gaps in the system and improvements are needed. Ukraine is still seen as a country of transit for both legal and illegal migrants.
  - *Belarus*. The Migration Department of the Ministry of Labour and Social Protection used to have an internal registration system. Recently the Department was transferred to the Ministry of Interior. The registration system for asylum seekers and illegal migrants is identical. The Ministry takes a final decision on refugee status. The procedure for undocumented migrants can last for up to 2 months. There is a need for improving and upgrading the system.
- Improvements made in the new EU Member States in the field of individual registration vis-a-vis registration systems in Ukraine and Belarus:
  - Belarus and Ukraine expressed their willingness to learn Poland's experience with dealing with certain undocumented cases.
  - Involvement of NGOs in the registration process with a view to provide legal counselling was highlighted. This is still lacking in Belarus.
  - Electronic fingerprinting systems in the Baltic States and Poland are much more advanced comparing to the paper forms in Ukraine and Belarus.
  - Data protection issues could not be discounted as a need for Ukraine and Belarus.

***Working Group 2. Registration systems and procedures: sharing of data between asylum and migration related authorities – existing procedures in the new EU Member States and data protection issues; transferring experience to Belarus and Ukraine.***

- Sharing of data:
  - *The Latvian* representative gave a presentation on their EC supported project to create a centralised database for migration data, merging several existing databases. This work used the complete population registration database, compiled with Denmark in the 1990s, as a starting point. The SMB is providing technical expertise and Greece is providing administrative and other support activities. Once merged by April 2005, this data will be available to all national migration agencies. The police-managed database on criminals, which involves biometrics, is kept separately.
  - *The Lithuanian* representative gave a brief presentation on their PHARE funded project, assisted by Austria, to build an alien's database. This database consists of six blocks covering visa system, residence permits, refugee data, citizenship, illegal migrants, and black list (aliens prohibited to enter Lithuania). In addition, there is a database of interpreters who

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- can translate from/to various languages. The plan is to combine and inter-relate the separate databases by 2005<sup>1</sup>. Databases can be shared with government agencies, i.e. consulates, embassies, and border guards. In addition, access to the Schengen visa system is possible.
  - *The Polish* representative gave a briefing on their migration databases. There are a number of databases that are compatible to each other. These hold data on illegal and legal migrants and asylum seekers, prohibited foreigners, foreigners staying in Poland and those involved in criminal activities.
  - *The Belarusian* representative gave a briefing on the status of their work on a simple migration database that is being developed with support from the SMB. The SMB noted that migration information systems and database projects, such as these, are very expensive and need to be carefully planned.
- Data protection:
    - The SMB stressed the importance of data protection issues when exchanging data between agencies.
    - *Latvia* has followed the EU legislation and conventions on data protection and has amended national legislation to address this particular issue. Legislation must also be revised if personal data is stored on a large database.
    - *Lithuania* is abiding by the Dublin I and II Regulations when sharing data with other countries and international agencies, such as the Interpol and the Europol.
  - Use of biometrics:
    - *All the countries* represented are currently discussing the issue of the use of biometrics in migration documents and databases. To date, no definite decisions have been taken.
    - *Belarus* reported that a proposed use of biometric had been rejected. It did not conform to the EU Human Rights.
  - Transferring experience to Belarus and Ukraine:
    - Unfortunately there was no Ukrainian representation. Due to time constraints, the briefing on the current state of the Belarusian-SMB database project and the discussion of the transfer of experience to Belarus and Ukraine were foreshortened.

***Working Group 3. Ideas and proposals for future co-operation and joint actions within the Söderköping process, including more active involvement of NGOs in the field of migration and border management.***

The participants agreed that the Catalogue of Ideas for Joint Actions remained relevant for the Söderköping process and should be further detailed into concrete activities.

- Case study and exchange of experience:
  - Case studies on very specific issues could be arranged for Ukraine, Belarus and Moldova and further presented to the wider Söderköping process group to look for possible actions. The themes for such case studies could include: detention centres; reception centres; experience of the new EU Member States with standards and procedures currently implemented there; expulsion of illegal migrants; judicial practice in the field of illegal migration.
  - A project within the Söderköping process on evaluation of smuggling routes and follow-up activities could be established. These follow-up activities could include publication of the study and networking visits to see the situation in the neighbouring countries.
  - More detailed information on the experience of the Baltic countries, in particular with the Baltic Committee on Migration and Border Management issues, exchange of smuggling-related information, and migration-related analyses carried out at the Lithuanian aliens registration centre, is required. It could be later presented to the Söderköping process to
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<sup>1</sup> Lithuanian representative offered to present the progress of this project at a Söderköping meeting in 2005.

- consider its relevance for Ukraine, Belarus and Moldova and possible wider groups of countries within the process.
- Information sharing:
  - Specific areas in which countries wish to share information need to be identified, especially on illegal migration issues, and focal points need to be designated in each country for sharing information on specific topics and for verifying data.
  - The Secretariat could be used as a mechanism for information sharing.
  - A network of experts could be sub-divided into smaller, thematic groups for exchange of thematic-specific information.
  - A website currently developed by the Secretariat could also be a good instrument of information sharing, especially when interactive tool is introduced for all the countries to take active part in filling it with the information.
  - An information exchange centre, similar to the one at the Polish-Lithuanian border, could be established at the Polish-Ukrainian border.
- Joint operations:
  - A risk-analysis sub-group could be set up to follow up on certain issues (e.g. latest techniques of forging identification documents, smuggling and trafficking routes, apprehension at particular check-points) and suggest some joint operations based on an outcome of such an analysis.
  - While joint operations have been taken place at bilateral level between Belarus and its neighbouring countries, a possibility of carrying out such operations in the whole Söderköping process region could be looked into.
- Border guard training:
  - A comparative study could be carried out as to the relevance of the European Border Guard Core Curriculum for Belarus. Similar study is being currently done in Ukraine.

***Working Group 4. Ideas and proposals for future co-operation and joint actions within the Söderköping process, including more active involvement of NGOs in the field of asylum.***

The participants reiterated that the Catalogue of Ideas for Joint Actions was a good 'starting point' in terms of further formulating a strategy for 'joint ownership'.

- Exchange of experience:
  - Study visit for migration authorities from Belarus and Ukraine to Lithuania could be organised. Lithuania would be open to providing logistical and other support in this regard in the interests of furthering dialogue as well as the transfer of experience.
- Information sharing:
  - There is a special need for Belarus to have various documents and legislation from other countries translated into Russian as such documents are rarely provided in Russian.
  - The participants agreed to propose and develop initiatives through the Secretariat.
- Networking/focal points:
  - The participants indicated that they would be able to mandate certain individuals in their respective agencies and organisations to dedicate time to the Söderköping process.
  - A catalogue of contact details of various border management, migration and asylum authorities in the countries involved in the Söderköping process is needed to maintain operational co-operation (as proposed by Poland). Such a catalogue could contain phone numbers and structural charts of various authorities which would otherwise not be as familiar with the structures in other countries.

## **Conclusion**

Summing up the outcome of the meeting, Mr. Andreas Halbach, IOM, noted that the meeting saw useful information exchange and reinforced the main ideas presented at the previous meetings. Exchange of data and training are always on the agenda.

Mr. Göran Larsson, the SMB, underlined that one of the main issues discussed was more extensive information sharing. This requires more active individuals from the participating countries to serve as focal points for providing responses to inquiries and updates and for participating in discussions. The on-going joint operations could become a good basis for other activities, e.g. meetings of smaller groups on very specific issues.

Mr. Bernhard Borensperger, the EC, emphasised that with the proposals to become more operational the process was on the right track. To initiate this approach, a statistical envelope will be suggested to the participants to be filled in and returned to the Secretariat as a first step in making the website more informative. He also noted the added value of NGOs getting involved in the process, and expressed gratitude to the Government of Belarus for hosting the meeting.

Mr. Guy Ouellet, UNHCR, thanked the UNHCR Representation for Belarus and the CBCP Secretariat for organising the meeting.



## **SUGGESTIONS FOR FOLLOW-UP ACTIVITIES**

### **Exchange of Experience**

1. Exchange of experience in the form of providing comprehensive information and organising study visits/seminars on the existing in the new EU Member States standards and procedures related to:
  - 1.1. detention centres;
  - 1.2. reception centres;
  - 1.3. expulsion of illegal migrants;
  - 1.4. dealing with undocumented migrants;
  - 1.5. forged documents;
  - 1.6. data protection in the context of comprehensive systems of individual registration;
  - 1.7. judicial practice in the field of illegal migration.

#### *Implementation:*

- After this and the next cluster meeting, the Secretariat will approach the migration and border guard authorities in Ukraine, Belarus and Moldova to identify the priorities among the aforementioned themes.
  - Based on the outcome, the Secretariat will approach other participating countries (those where the relevant experience is available) with a request to provide it with sufficient information on the existing experience and possible suggestions as to hosting a study visit/seminar.
  - The results will be presented to the authorities of Ukraine, Belarus and Moldova in a form of a paper or comparative overview of existing standards and practices, if applicable, with a view to jointly elaborate plans for exchange of experience through study visits/seminars, providing there is funding available (in this respect, two Baltic countries have declared their willingness – to host a seminar on expulsion in Estonia next year and to organise a study visit for migration authorities from Belarus and Ukraine to Lithuania).
  - Those issues that will remain uncovered during the implementation period of the current project due to time and/or funding constraints, could be further elaborated to take shape of concrete activities/small projects to be presented to the Senior Level Review Meeting in April next year for endorsement and carrying out within the next project.
2. More detailed information on the Baltic countries' experience is needed on:
    - 2.1. the Baltic Committee on Migration and Border Management issues;
    - 2.2. activities of the Lithuanian aliens registration centre in the field of exchange of smuggling-related information and carrying out migration-related analyses.

#### *Implementation:*

- The Secretariat will approach the Baltic countries with a request to provide it with comprehensive information on the Baltic Committee (Estonia) and on the activities of the aliens registration centre (Lithuania).
- The Secretariat will present the provided information to the migration and border guard authorities in Ukraine, Belarus and Moldova with a view to share information on good practices existing in the region and to seek their opinion as to the relevance of replicating this experience for them.
- Based on the outcome of the initial discussions, the Secretariat may approach the relevant authorities in Estonia and Lithuania as to their willingness and readiness to share their experience.
- If the idea is supported by the participating countries, the Secretariat will develop two small projects/activities to take place within the Söderköping process and will bring it up to the Senior Level Review Meeting for endorsement and further implementation.

Activities of the information exchange centre at the Polish-Lithuanian border needs to be looked into as an example of bilateral activities that could be replicated at, e.g. Polish-Ukrainian border (as suggested by Poland) and offered to other participating countries.

*Implementation:*

- The Secretariat will approach Polish authorities with a request to provide it with exhaustive information on the set up and activities of such a centre.
- The Secretariat will present the information to the respective Ukrainian authorities with a view to seek their opinion as to the relevance of such an initiative for Ukraine.
- Providing the outcome is positive, the Secretariat will facilitate communication between Polish and Ukrainian colleagues on the matter, as actual set up of the centre will go beyond the Secretariat's mandate and capacities.

### **Information Sharing**

1. Identification of specific areas for information sharing and designation of focal points.

*Implementation:*

- The Secretariat will approach the participating countries with a request to provide it with a list of areas/issues that need more extensive information sharing.
  - The Secretariat will also request the participating countries either to confirm the availability of the focal points designated before or to designate other officials to be responsible for sharing information on specific topic and for verifying, if needed.
  - Based on the outcome, the Secretariat will review the existing list of focal points (network of experts) to make it more thematic-specific or will form thematic discussion groups.
  - The Secretariat shall remain a useful mechanism for exchange of information and should be utilised by the participating countries as such.
  - With the launching of a website by the end of October this year, the Secretariat should look into possibilities of making it interactive to allow the participating countries to make full use of it as an information-sharing mechanism.
  - The effectiveness of the suggested scheme can be later assessed by the participating countries and suggestions to improvements presented to the Senior Level Review Meeting for endorsement.
2. A catalogue of the agencies participating in the Söderköping process, including their structures, focal points and contact details.

*Implementation:*

- The Secretariat will approach the participating countries with a request to provide it with a brief overview of their activities, their organisational charts, names and contact details of the officials within each sub-division and department with a brief description of their main areas of responsibilities.
- Based on the information obtained, the Secretariat will prepare a draft reference book.
- The draft book will be sent to all those who provided the information earlier for clearance.
- After publication, the reference book will be distributed to all the participants and focal points of the process.
- A similar book in the electronic format will also be placed on the website.

### **Joint Operations**

1. Setting up of a risk analyses sub-group on certain issues, e.g. latest techniques of forging documents, smuggling and trafficking routes, apprehension at particular check-points with a view to suggest some joint operations based on the outcome of the analyses.

*Implementation:*

- The Secretariat will approach the countries with a request to provide it with their positions as to the relevance of such an idea, possible priority topics for such a risk-analyses and

readiness to mandate certain individuals in their respective agencies to dedicate time to work in such a group.

- The Secretariat will also request the participating countries to share with it their experience with those joint operations that already take place between the neighbouring countries.
- Based on the outcome, the Secretariat will be able to elaborate some suggestions for setting up risk-analyses sub-groups within the Söderköping process and present it to the Senior Level Review Meeting for endorsement.

## **AGENDA**

### **9 September, Thursday**

- 08:30-9:00** Registration of participants
- 09:00-9:40** Opening remarks  
*Mr. Bernhard Bogensperger, Attache, Delegation of the European Commission to Ukraine, Moldova and Belarus*  
*Mr. Göran Larsson, Head of Department, Swedish Migration Board*  
*Mr. Guy Ouellet, Regional Representative, UNHCR Regional Representation for Ukraine, Moldova and Belarus*  
*Mr. Andreas Halbach, Regional Representative, IOM Vienna*
- 09:40-10:00** Update on the most recent developments in the Söderköping process and the activities of the CBCP Secretariat since the last Senior Level Review Meeting (17 October 2003 till present)  
*Ms. Myroslava Korenevych, Senior Programme Assistant, CBCP Secretariat*
- 10:00-10:20** Update on the normative and institutional developments in the legislation of the Northern cluster countries  
*Mr. Gaspar Bergman, Head of the CBCP Secretariat*
- 10:20-10:40** Coffee break
- 10:40-11:00** Presentation on the most recent developments in EU asylum/migration law and EU policy documents  
*Ms. Annabelle Roig, Liaison Officer, UNHCR Representation in Belgium*
- 11:00-11:20** Presentation of UNHCR's "Revised EU Prong Proposal"  
*Ms. Annabelle Roig, Liaison Officer, UNHCR Representation in Belgium*
- 11:20-11:50** Presentation on "Ukraine's Irregular Migrants – Their Reception and Return"  
*Mr. Chris Petch, Operations Officer, IOM Mission in Ukraine*
- 11:50-12:40** Discussion in Working Groups
- Implications of EU enlargement and recent EU policy and legislative developments –**
- for asylum management in the Northern cluster states  
*Facilitated by Mr. Ilija Todorovic, Representative, UNHCR Representation in Belarus*
  - for migration and border management in the Northern cluster states  
*Facilitated by Mr. Jeff Labovitz, Chief of IOM Mission in Ukraine*
- 12:40-13:00** Reports from Working Groups
- 13:00-14:30** Lunch
- 14:30-14:50** Presentation of the EU Action Plan for Ukraine  
*Mr. Bernhard Bogensperger, Attache, Delegation of the European Commission to Ukraine, Moldova and Belarus*

**14:50-15:20** Ukraine's experience with the implementation of the EU Action Plan in the field of asylum, migration and border management  
*State Committee for Nationalities and Migration of Ukraine  
State Border Guard Service of Ukraine*

**15:20-17:00** Discussion in Working Groups

**Registration systems and procedures:**

- Existing systems of individual registration – alignment with EU requirements; transferring experience to Belarus and Ukraine  
*Facilitated by Mr. Ilija Todorovic, Representative, UNHCR Representation in Belarus*
- Sharing of registration data between asylum- and migration-related authorities – existing procedures in the EU member states and data protection issues; transferring experience to Belarus and Ukraine.  
*Facilitated by Mr. Chris Petch, Operations Officer, IOM Mission in Ukraine*

**17:00-17:20** Reports from Working Groups. Panel discussion

**17:20-17:30** Summing up of the First Day

**10 September, Friday**

**09:30-09:50** Update on EU funding opportunities, in particular for cross-border co-operation initiatives  
*Mr. Bernhard Bogensperger, Attache, Delegation of the European Commission to Ukraine, Moldova and Belarus*

**09:50-11:00** Discussion in Working Groups

**Ideas and proposals for future co-operation and joint actions within the Söderköping process, including more active involvement of NGOs –**

- in the field of migration and border management  
*Facilitated by Mr. Jeff Labovitz, Chief of IOM Mission in Ukraine*
- in the field of asylum  
*Facilitated by Mr. Gaspar Bergman, Head of the CBCP Secretariat*

**11:00-11:20** Coffee break

**11:20-11:40** Reports from Working Groups

**11:40-12:30** Panel discussion on practical recommendations on improving cross-border co-operation and on follow-up events  
*Facilitated by the Chair*

**12:30-13:00** Summing up and closing remarks

## **LIST OF PARTICIPANTS**

### ***BELORUSIAN DELEGATION***

Mr. Alexei Begun	First Deputy Head, Department for Citizenship and Migration
Mr. Eugeniy Kremko	Head of Division for Migration, Refugees and Asylum, Department for Citizenship and Migration
Mr. Sergey Matus	Deputy Head of Division for Migration, Refugees and Asylum, Department for Citizenship and Migration
Mr. Anatoliy Chirak	Head of International Treaty Directorate, State Committee of Border Troops
Mr. Andrey Agarodnik	Head of Operative Administration Service, State Committee of Border Troops
Ms. Elena Kupchina	Head of Department for Humanitarian Co-operation, Ministry of Foreign Affairs
Ms. Galina Butovskaya	Head of Division, Department for Humanitarian Co-operation, Ministry of Foreign Affairs
Mr. Vladimir Kravchenko	Manager of Refugee Counselling Centre, "Belorussian Movement of Medical Workers"
Mr. Anton Romanovsky	Belorussian Red Cross
Ms. Galina Komarovskaya	Attorney at Law, Minsk City Bar Association

### ***ESTONIAN DELEGATION***

Ms. Katrin Savomagi	Head of Foreign Relations and European Integration Department, Citizenship and Migration Board
Mr. Toomas Malleus	Chief of Border Control Section of Frontier Department, Board of Border Guard
Mr. Raivo Kiis	Estonian Red Cross

### ***LATVIAN DELEGATION***

Ms. Baiba Bieza	Head of Refugee Affairs Department, Directorate for Refugees and Migration
Mr. Ilmars Pastors	Chief Inspector of Asylum Affairs and Analytical Unit, Immigration Board of State Border Guard Central Board

### ***LITHUANIAN DELEGATION***

Mr. Janas Vidickas	Deputy Director of Migration Department, Ministry of Interior
Ms. Ramune Kazakauskiene	Chief Specialist of International Co-operation and European Integration Board, State Border Guard Service

**PART I. MEETING OF THE NORTHERN CLUSTER,  
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Ms. Migle Cirbaite                      Attorney at Law, Co-ordinator of the Legal Assistance to Refugees Project, Lithuanian Red Cross

***POLISH DELEGATION***

Mr. Wieslav Adamczyk                Main Specialist, Department for European Integration and International Co-operation, Office for Repatriation and Aliens

Mr. Woiciech Woloch                 Commander of the Border Checkpoint in Terespol, Border Guard

Mr. Bartolomiej Tokarz              Helsinki Foundation for Human Rights

***UKRAINIAN DELEGATION***

Mr. Andriy Fedoseev                 Chief of Section, State Border Guard Service Administration

Ms. Kateryna Tarasova                Chernihiv Public Committee for Human Rights Protection

***EUROPEAN COMMISSION***

Mr. Bernhard Bogensperger         Attache, Delegation of the European Commission to Ukraine, Moldova and Belarus

Mr. Joachim Lehmann                 Head of the Tacis Branch Office, Delegation of the European Commission to Belarus

***INTERNATIONAL ORGANIZATION FOR MIGRATION***

Mr. Andreas Halbach                 Regional Representative, IOM Vienna

Ms. Tatiana Hadjiemmanuel         EU Liaison and Project Development Officer, IOM Brussels

Mr. Jeff Labovitz                     Chief of IOM Mission in Ukraine

Mr. Alexander Kapirovsky            Chief of IOM Mission in Belarus

Mr. Chris Petch                     Operations Officer, IOM Mission in Ukraine

Ms. Tamara Babiuk                  Associate Expert, Technical Cooperation Centre, IOM Vienna

***SWEDISH MIGRATION BOARD***

Mr. Göran Larsson                  Head of Department

Mr. Oscar Ekblad                    Expert

***UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES***

Mr. Guy Ouellet                     Regional Representative, UNHCR Regional Representation for Ukraine, Moldova and Belarus

Mr. Ilija Todorovic                 Representative, UNHCR Representation in Belarus

Mr. Ivan Saleyeu                    Associate Protection Officer, UNHCR Representation in Belarus

Ms. Annabelle Roig                 Liaison Officer, European Institutions Unit, UNHCR Representation in Belgium

***CROSS-BORDER CO-OPERATION PROCESS SECRETARIAT***

Mr. Gaspar Bergman	Head of CBCP Secretariat
Ms. Myroslava Korenevych	Senior Programme Assistant



## **PART II. MEETING OF THE CENTRAL AND SOUTHERN CLUSTER Budapest, Hungary, 28-29 October 2004**

### **EXECUTIVE SUMMARY**

#### **Background**

On 28-29 October 2004, the European Commission (EC), the Swedish Migration Board (SMB), the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM) with the support of the Cross-Border Co-operation/Söderköping Process (CBCP) Secretariat convened a meeting of the Central and Southern cluster countries of the Söderköping process in Budapest, Hungary. Asylum, migration, border guard officials and representatives of non-governmental organisations (NGOs) from Hungary, Moldova, Romania, Slovakia, and Ukraine, as well as representatives of international organisations participated in the meeting. The co-chairs were the SMB, IOM and UNHCR.

#### **Purpose of the Meeting**

The meeting aimed to:

- analyse the consequences of the establishment of the new EU Eastern border;
- provide an update on the most recent developments in the EU asylum and migration legislation;
- collect ideas for future co-operation within the Söderköping process and consider proposals for joint actions at the operational level.

#### **Opening Remarks**

**Mr Eduardo Yrezabal, Deputy Representative, UNHCR Representation in Hungary, Mr. Attila Kiss, Deputy Director, Hungarian Office of Immigration and Nationality, Mr. Göran Larsson, Project Manager, Swedish Migration Board, Mr. Guy Ouellet, Regional Representative, UNHCR Regional Representation for Ukraine, Moldova and Belarus, Mr. Claus Folden, Coordinator, Technical Co-operation Centre, IOM Vienna, and Ms. Tina Szabados, IOM Mission in Hungary,** welcomed the participants.

Mr. Yrezabal thanked the Hungarian Office of Immigration and Nationality for co-organising the meeting. He underlined that in the new format of the meeting, with Hungary and Slovakia as EU Member States and Romania as a candidate country, a fair responsibility-sharing mechanism should be identified within the EU to assist the countries along the border.

Mr. Kiss noted that the process was seen as one, which had helped develop trust and co-operation among officials and which had identified gaps. Advantages of the process include its openness to everyone, involvement of the countries located along the EU external border, and a possibility to discuss practical issues.

Mr. Larsson thanked Hungary for hosting the meeting and emphasised that the Söderköping process has moved to a new phase where more concrete results would be needed.

Mr. Ouellet thanked the Hungarian Government for hosting the meeting and stressed that one of the main characteristics of the Söderköping process was the informality of its meetings with no binding or financial obligations on the states. Of the most important developments of the process are several agreements which have been concluded between the participating countries.

## **PART II. MEETING OF THE CENTRAL AND SOUTHERN CLUSTER** ***Budapest, Hungary, 28-29 October 2004***

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Mr. Folden thanked the hosts, the CBCP Secretariat and the EC for organising the meeting. He noted that the process had developed a lot since its inception in 2001, with many issues being discussed and exchange of information on-going on various tendencies. In this context, it is important that the participating countries share the ownership of the process.

Ms. Szabados noted that a participatory approach was important for the Söderköping process, and the Catalogue of Ideas for Joint Actions could serve as an example of such inter-active participation, which in turn, should be followed in the future as well.

### **Presentations**

**An update on the most recent developments in the Söderköping process and the activities of the CBCP Secretariat since the last Senior Level Review Meeting (17 October 2003) was presented by Ms. Myroslava Korenevych, External Relations Expert, CBCP Secretariat.**

The Secretariat was actively promoting the process through its information activities, which included briefings for embassies and international organisations, the quarterly newsletter and other publications aimed at collecting and streamlining the relevant information and creating a “database” of the Söderköping process. Currently, the Secretariat is creating a website. The Secretariat has also been maintaining a network of experts and has carried out certain research activities.

To ensure the continuation of the Söderköping process, a contract between the EC and the SMB was signed on 26 May 2004 with the total funding of EURO 997,500. Under the new EC project, the SMB is an implementing agency, and UNHCR and IOM are project partners. The project covers the period from 1 May 2004 till 31 October 2005.

The project aims at facilitating co-operation between Belarus, Moldova and Ukraine and neighbouring Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and Slovakia to make the Western NIS less attractive as a region of transit migration and increase their capacity to develop into safe countries of asylum.

The activities planned within the project in 2004-2005 include cluster meetings and a senior level review meeting; two thematic workshops; briefings for embassies and international organisations; research and public information activities. Through them, the Söderköping process will assist the countries in improving their asylum, migration and border management with full observance of international refugee and human rights law, and will make the co-operation between the participating countries and organisations more efficient.

**Ms. Myroslava Korenevych, CBCP Secretariat, provided an update on the normative and institutional developments in the legislation of the Central and Southern cluster countries.**

### ***Legislative developments***

In preparation for EU-accession, the Parliament of Hungary adopted Act number XXIX of 2004 “*On the amendment, repeal of certain laws and determination of certain provisions relating to Hungary’s accession to the European Union*” which entered into force on 1 May 2004. The Act contains significant amendments to the Aliens Act and to the Asylum Act. Pertinent to *the Asylum Act*, major changes concerned the asylum procedure, the competence of the refugee authority over expulsion of illegal aliens, the applicability of the non-refoulement provision, temporary protection, access of asylum seekers to the labour market and restricted right to refugees to vote in local elections and local referenda.

In Moldova, a *legislative initiative* was signed on 7 October 2004 by the Chairman of the Parliamentary Commission on Human Rights and a group of Members of Parliament *to amend the Law on the Status of Refugees* with a view to introduce complementary forms of protection and align some existing provisions with the norms of international law.

In Romania, a *National Strategy on Migration* was drafted by the governmental experts, international organisations (UNHCR and IOM) and NGOs active in the field of asylum and migration. The objective of this document is to establish a unitary policy in the field of migration, asylum and social integration of aliens, in order to harmonise the domestic legal framework with the international law and the EU Acquis.

In September 2004, the Government of Slovakia approved *amendments to the Refugee Law*. The amended Law provides for locations where asylum seekers can apply for asylum; stipulates timeframes within which an asylum seeker is read his/her rights and obligations throughout the asylum-granting procedure; defines the individuals and institutions authorised to have access to asylum procedure documentation and information; entitles the asylum seeker to seek employment within the labour market unless a decision on his or her application is made within one year; and provides that government authorities are entitled to have the age of a minor seeking asylum 'examined' should 'doubts' arise as to the actual age and the age declared. The amendments shall take effect 1 February 2005.

A number of legislative developments took place in Ukraine. The major of them include a State Border Guard Service's (SBGS) *Instruction on Procedure for Detention of Persons, Apprehended by SBGS Bodies for Violation of the Legislation on the State Border of Ukraine and for Suspicion of Commitment of Crime* (approved on 30 June and came into effect on 25 July 2004); a joint State Committee for Nationalities and Migration (SCNM) and SBGS *Instruction on Procedures for Hand-over of Asylum Applications and Explanations on Illegal Crossing of the State Border* (approved on 9 July and came into effect on 13 August 2004); a Cabinet of Ministers' *Resolution on Introduction of Amendments to the Procedure for Granting Refugees Financial Aid and Pensions* of 13 July 2004; submission of a *draft Law on Granting Temporary Asylum in Ukraine to Foreigners and Stateless Persons* for the Cabinet of Ministers' consideration; a joint SCNM, SBGS, Ministry of Interior and Security Service *Instruction on Procedures of Transfer, Reception and Release of Persons in Detention Centres for Foreigners and Stateless Persons* (drafted in August); adoption by the Parliamentary Human Rights Committee a *draft Law on Introduction of Amendments to the Refugee Law*.

### **Administrative developments**

In Moldova, the second stage of rehabilitation of *the Reception Centre for asylum seekers* was finalised. Opened on 6 October 2003, the centre with envisaged accommodating capacity of 120 persons is still under construction. The completion is expected in March 2005.

In Romania, in addition to a *Reception Centre for Asylum Seekers* opened in Timisoara in February 2004, another Reception Centre for Asylum Seekers with the funding of EURO 750,000 from PHARE programme and EURO 300,000 from the Romanian Government, was opened in Galati (South-Eastern border) in May 2004. The Centre has accommodation capacity of 250 persons. Both centres are managed by the National Refugee Office of the Ministry of Administration and Interior.

A PHARE Twinning Covenant "*Upgrading Romanian Border Police capability to fight against trans-border trafficking of drugs and human beings*" between the Ministry of Administration and Interior of Romania and the Federal Ministry of Interior of Germany in consortium with the Ministry of Interior of Spain was launched in March 2004. The total funding is EURO 800,000 with the project duration of 18 months. The project aims at harmonising the national legislation with the EU Acquis and increasing the Border Police's capacity to strengthen the borders.

The EU funded TACIS Project "*Assistance to Legal and Administrative Reforms in Ukraine in the Sphere of Migration and Refugees' Protection According to the Norms and Standards of the European Union*" was launched in Ukraine in September 2004. The one-year project is carried out by the Austrian Ludwig Boltzmann Institute of Human Rights and the Migration Department of the Ministry of Interior of Lithuania for the benefit of the State Committee of Ukraine for Nationalities and Migration. A project plan of actions is focused on capacity building and aims to support Ukrainian officials working in the field of asylum.

**The most recent developments in EU policies and practices on asylum and migration** were presented by **Ms. Annabelle Roig**, Liaison Officer, UNHCR Representation in Belgium.

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3. The most recent developments in **the EU migration policy** concern:
  - 3.1. The 24 October 2004 JHA Council decision on the establishment of the European Agency for the Management of Operational Co-operation at the External Borders by 1 May 2005;
  - 3.2. The draft Dutch Presidency's multi-annual JHA programme presented at the 24 October JHA Council and to be adopted at the European Council on 5 November 2004. The programme is focused more on security rather than asylum;
  - 3.3. The European Constitutional Treaty, adopted in June 2004 and pending ratification by national parliaments, which enshrines the concept of an "integrated system of external border management" and the common immigration policy;
  - 3.4. EU Return Policy, in particular the Commission Communication of June 2004 on a common readmission and return policy and the June 2004 Council decision to establish a special financial instrument for the return of "illegal" third country nationals (yet pending the approval of the European Parliament);
  - 3.5. EU Readmission Agreements and readmission clauses in co-operation agreements;
  - 3.6. AENEAS Programme that succeeds the B7-667 budget line, with the total funding of Euro 250 million for 2004-2008. Call for proposals will be released in fall 2004 and spring 2005.
  
4. Issued in May 2004, **the European Neighbourhood Policy (ENP)** confirms and reinforces the aims and the strategy of the 2003 "Wider Europe" policy. It covers 14 countries along the external EU borders: 3 Western NIS and 11 Mediterranean countries. Russia is not directly concerned by the ENP. The policy objectives will be achieved through a jointly elaborated Action Plans, which will set up a number of priority areas, including Justice and Home Affairs issues, such as management of borders and population movements, migration and asylum, visa policies, fight against organised crime, etc. A new financial instrument for implementing this policy will be created as of 2007 and will place emphasis on cross-border co-operation along the EU external borders.
  
5. **EU Immigration Policy developments** include:
  - 5.1. The EC July 2004 Communication on the study of the relationship between legal and illegal immigration;
  - 5.2. Policy on integration of migrants;
  - 5.3. Legal instruments, such as Directive on the Right to Family Reunification (September 2003); Directive on Long Term Resident Status (November 2003); Directive on the Right of the EU citizens and their family members to move and reside freely within the EU (March 2004); Directive on the short term residence permit for victims of trafficking who co-operate with the authorities (April 2004); draft instruments on legal admission for economic purposes, on study and vocational training (including volunteering), and on unpaid activities;
  - 5.4. Set out in the European Constitutional Treaty, common immigration policy that entails the conditions of entry and residence in the EU; the definitions of rights of third country nationals residing legally in a Member State, illegal migration, unauthorised residence, including removal and repatriation; and combating trafficking in persons.
  
6. **EU Asylum Policy:**
  - 6.1. First phase under the Amsterdam Treaty: (Dublin) Regulation on determining state responsibility (February 2003); Directive on minimum standards for reception conditions of asylum seekers (October 2003); Directive on minimum standards for the qualification of refugees and beneficiaries of subsidiary protection (April 2004); political agreement on minimum standards for asylum procedures (March 2004); Directive on common regime for Temporary Protection (July 2001); Decision on the European Refugee Fund (June 2004);
  - 6.2. The Common European Asylum System (CEAS) comprises 2004 Communications on the assessment of the Tampere programme and future orientations and on resettlement and enhancing protection capacity in regions of origin. The next phase of the CEAS will consist of monitoring of the transposition of the mentioned instruments into national legislation and their implementation.

**UNHCR initiatives related to "Convention Plus" and the three prongs** were presented by **Ms. Annabelle Roig**, UNHCR Representation for Belgium.

**UNHCR Convention Plus** addresses the crises of protection and, based in the 1951 Convention and outcome of the Global Consultations and Agenda for Protection, mobilises multilateral commitments. The tools developed through Convention Plus are special agreements with states – of generic or specific nature. The generic agreements tackle three priority challenges: the strategic use of resettlement as a durable solution; more effective use of development aid; and clarification of states responsibilities in the event of secondary movements of refugees and asylum seekers. The situation-specific agreements address a particular refugee situation (mass influx situation, protracted situations, repatriation movements, etc.). The work on generic agreements is currently led by five “facilitating states”: Canada on resettlement, Denmark and Japan on the targeting of development assistance, and South Africa and Switzerland on secondary movements. A Forum meets twice a year.

In the context of a dialog with EU Member States, in June 2003 UNHCR presented three proposals: **Domestic Prong; Regional Prong; and Revised EU Prong**. The Domestic Prong covers pre-screening procedure, reinforcement of national asylum systems, removal to EU reception/processing centre for certain cases, return to first asylum countries with “effective protection”, and return of people under Special Agreements. The Regional Prong includes strengthened protection capacity in host countries, comprehensive durable solution arrangements, special agreements for specific caseloads (Convention Plus), and additional development assistance. The EU Prong aims to encourage EU Member States to address the phenomenon of mixed movements of asylum seekers and economic migrants by joint processing of presumed manifestly-unfounded claims from selected non-refugee producing countries of origin. While these proposals are expected to lead to the reduction in smuggling, irregular and secondary movements, increased resources for bone fide refugees and host countries, and facilitate and reduce cost of repatriation, etc., they will also bring along some operational realities, host country and community perspectives, and funding questions.

**Ms. Tatiana Hadjiemmanuel**, EU Liaison and Project Development Officer, IOM Brussels, delivered a **presentation on Europe and the New Neighbourhood: “Labour Migration and Integration: policies, trends and best practices”**. The presentation covered the development of EU integration policy formulation since the Amsterdam Treaty, in May 1999 and till July 2004 when the First Annual Report on Migration and Integration was released; analysis and data on migration trends and the contribution of net migration to EU’s population growth; trends in EU Member States’ policies on integration; needs for migrants in labour market; EU financial instruments – contribution to integration; labour migration trends in Ukraine, Moldova and Belarus according to IOM research findings.

In accordance with the principles and priorities set out in the European Councils in Thessaloniki, Seville, Laeken and Tampere, a balanced approach to migration management is a top political priority for the EU, whereby countering irregular migration should be poised with the development of legal migration and the application of common standards to the reception and integration of legal immigrants. The November 2004 European Council confirmed the validity and relevance of the Lisbon Strategy, set in motion in March 2000 and aimed at enhancing European economies competitiveness through a balanced socio-economic strategy. The ENP<sup>2</sup> communication endorses measures both for legal and irregular migration by encouraging Member States and new neighbouring countries to put in place mechanisms that allow workers to move from one territory to another. The Hague Programme acknowledges the urgent need to counter irregular migration and the need for the development of legal migration as an important factor in enhancing the knowledge-based economy in Europe, in advancing economic development and advancing partnerships with third countries, and thus contributing to the implementation of the Lisbon Strategy.

The ageing of the European population and its consequences for EU labour markets and pension schemes are leading governments to adopt a new approach towards migration, now seen as a possible solution for shortages in the workforce and advancing economic development. Yet, a very negative public attitude towards migration calls for consistent immigration and integration policies at the local, regional, national and EU level, especially with respect to equal opportunities given to third-country nationals and their descendants in order to avoid isolation. In the next decade necessary admission procedures should be promptly envisaged by Member States, capable of responding to fluctuating demands for migrant labour in the EU’s labour market. Successful labour migration policy will depend upon the existence of

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<sup>2</sup> COM(2003) 104, 11 March 2003

open recruitment policies, the provision of mechanisms for a successful socio-economic integration of migrants into the receiving country on the one hand (the promotion of the rights and civil liberties of labour migrants, and their civic duties) and for their successful reintegration into their countries of origin on the other hand.

Recognising integration as a necessary part of a comprehensive immigration strategy, the 1999 European Council in Tampere found a new willingness to co-operate in developing that strategy, addressing integration under the heading of fair treatment of third-country nationals. Though primary responsibility for integration lies at national and local levels, EU goals in relation to immigration, economic growth and social cohesion require a focus on integration. Effective integration policies for legally residing third-country nationals are essential for guaranteeing stability and cohesion in societies. While developing a coherent European framework on integration, current national integration policies and initiatives within the EU should be taken into consideration.

Immigrant integration is generating much debate across the enlarged EU. Managing integration well starts with the recognition that immigrants are capable of making strong long-term contributions to the communities they enter. European countries all adhere to human rights standards and share values such as equality, anti-discrimination, solidarity, openness, participation and tolerance. The Commission's First Annual Report on Immigration and Integration demonstrates that in all Member States access to the labour market as well as language skills and a sufficient level of education constitute the most important objectives for securing successful integration.

**The discussion of implications of EU enlargement and recent EU policy and legislative developments for asylum, migration and border management in the Central and Southern Cluster countries took place in the plenary.**

**Hungary** reported that its asylum procedure had been changed. A Dublin Co-ordination Unit has been set up in the Office of Immigration and Nationality (OIN) and readmission agreements have been signed with all the neighbouring countries. Readmission requests are related mostly to visas – legal entry and illegal departure from the country. The number of actual readmissions was claimed to be low by the OIN, which was contested by the Hungarian Helsinki Committee. There is a major decline in asylum claims, and an increase in secondary movements. Illegal migration is observed mostly on the internal border. Hungary reported that it does not have any Chechen asylum seekers, but rather asylum seekers from elsewhere in the region as from Georgia.

**Slovakia** noted a 40 percent increase of illegal migrants detected at the Ukrainian-Slovak border. A Dublin centre was set up and became operational on 2 May 2004 thanks to a specific PHARE project with the participation of a resident expert from the Netherlands.

**Romania** reported that a Dublin unit had been set up as of 1 May 2004. Preparations for introduction of the EURODAC have started. Generally, there is a decrease in asylum applications (400 applications this year compared to over 1,000 in 2003), with no more than 450 applications expected by the end of 2004. Most of illegal migrants have been detected with forged documents. The asylum seekers registered in 2004 did not have identification documents with themselves and, before submitting an application for asylum, were legal in the country.

**In Ukraine**, over 25,000 illegal migrants were detained in 2004, 9,000 were deported voluntarily, about 1,500 – forcefully. Due to financial constraints, detention facilities remain the biggest problem. The signing of the Ukraine-EU readmission agreement has been delayed pending the signature of readmission agreements with Belarus and the Russian Federation.

**In Moldova**, there have been a number of legislative, administrative and technical developments within the last year targeted at improving migration and border management. Among the problems the country is facing is a lack of reception facilities, insufficient staff, and problems with registration. Given the fact that there is no single policy on labour migration within the EU, Moldova is expected to face problems related to readmission in 2007. There is a need for a fair burden-sharing mechanism in this context.

**Mr. Oluseyi Bajulaiye**, Deputy Director, Bureau for Europe, UNHCR HQ, briefed the participants on **the sub-regional meeting of UNHCR representatives on Russian citizens of Chechen origin seeking asylum in Europe**. The purpose of the meeting was to review some key thematic issues in the field of asylum and migration in the sub-region, namely in Hungary, Slovakia, the Czech Republic, Poland, Romania, Bulgaria, Ukraine, Moldova, and Belarus. Discussions focused on co-operation with NGOs and on how UNHCR could strengthen its partnership with them in the sub-region.

Regarding the issue of minority groups (Roma), UNHCR is currently reviewing its position to come up with a strategic policy. Among other issues, UNHCR's contribution to the EU multi-annual programme, registration and challenges of EURODAC, as well as local integration were discussed. Another issue discussed is related to Chechen asylum seekers. For UNHCR, they are the biggest caseload as asylum seekers in Europe and will remain so in view of the protracted situation in Chechnya. UNHCR is in a process of issuing updated protection guidelines on Chechen asylum seekers, which will be shared with governments. The key points of the guidelines include refugee recognition, individual determination, other forms of protection in the event of non-recognition, non-discrimination, registration and documentation, respect for family unity, and access to accommodation, education, UNHCR, etc.

**The panel discussion on asylum seekers from the Russian Federation in the context of the situation in the Chechen Republic and possible ways of addressing their situation within the framework of the Söderköping process** that followed the briefing showed that the issue of Chechen asylum seekers was relevant for the Central and Southern cluster countries, namely for Moldova, Slovakia and Ukraine. Most of Chechen migrants do not see these countries as destination points but rather a location from which to move further. Given the security concerns related to asylum seekers from the Chechen Republic, UNHCR noted that there should be better ways of dealing with this caseload. An attempt to address this will be made with the drafted protection guidelines.

During **the panel discussion of the cross-border co-operation initiatives on-going between the countries of the Central and Southern cluster** the participants briefed on the current co-operation initiatives in the region.

Within the framework of Memorandums of Understanding signed between **Hungary** and Romania/Slovakia, exchange of information and statistics and various training events take place. Hungary is committed to establishing similar co-operation with Ukraine and is willing to provide technical support to the Zakarpattya region, as previously discussed with NEEKA.

Bilateral and trilateral co-operation is maintained between **Moldova** and Romania/Ukraine. There are initiatives on co-operation between the Moldovan and Romanian border guards in the border areas and on bringing the legislation in line with EU standards.

Intense co-operation is on-going in the field of asylum and border management between **Romania** and Hungary, Serbia, Moldova, Ukraine. Several meetings at the senior and expert levels took place with Moldovan counterparts to share experience in the field of asylum. Romanian NGOs are willing to intensify co-operation with the neighbouring countries.

**Slovakia** has well-established co-operation with Hungary, Poland and Austria. The country has contact points with Austria; there are plans to develop contact points with all the neighbouring countries along the border. Recently, a joint operation took place on the Slovak-Ukrainian border; Slovakia also organised field trainings for Ukrainian counterparts and is ready to further develop its co-operation with Ukraine. As a follow-up to last year's meeting in Chisinau, Moldovan counterparts visited the Migration Office in Bratislava. The Slovak and Ukrainian NGOs enjoy good, but informal co-operation. However, external support is needed to give this co-operation a more formal dimension. Ukrainian colleagues were invited to visit Slovakia to introduce to them the legislation and reception facilities (November 2004), and a leaflet about the Slovak asylum system will be published in Ukrainian.

The **Ukrainian**, Hungarian and Slovak NGOs enjoy good co-operation. Jointly with the Hungarian colleagues NEEKA facilitated a visit of border guards from the region to Hungary to learn their experience with centres for illegal migrants and accommodation facilities for asylum seekers and refugees. Within this project, a leaflet about refugees, illegal migrants and procedures was published in several languages. Exchange of information takes place between migration services and border guards.

**Summing up**, the information sharing between the countries is improving; remaining problems need to be addressed at the legislative level; countries continue to face financial constraints; and NGOs' involvement proved to be an important element of cross-border co-operation.

### **Working groups**

Active discussions on registration systems and procedures and on future co-operation and joint actions within the Söderköping process took place in four working groups.

#### ***Working Group 1. Registration systems and procedures: existing systems on individual registration – alignment with EU requirements in the new EU Member States and candidate states; transferring experience to Moldova and Ukraine.***

The participants were briefed on the RSUB's initiative on registration, statistics and mapping (Budapest, 18-20 October 2004) and on the initiative of the Salzburg Forum to open up the EURODAC system for criminal investigations.

- ***Existing systems:***
  - *In Moldova*, applications filed with the Refugee Office are registered in an electronic system. The system is not up to date, with a wide range of shortcomings. The National Border Guards and the National Police maintain their own registration systems. A single, central registration system available to all concerned agencies is needed.
  - *In Romania*, an IC's file contains an asylum application, a scanned photo, and fingerprints (stored in the national AFIS database). Access to the asylum seeker's individual file, in an electronic format, is provided to the Authority for Aliens. National Police and Border Guards can have access to the individual files upon request. All authorities who have access to this database are registered as personal data operators and are subject to the law.
  - *In Hungary*, border guards are responsible for initial registration and taking of fingerprints if they apprehend an asylum seeker. An application along with the fingerprints is forwarded to the Office of Immigration and Nationality that runs a database of asylum seekers and shares it with border guards. Protection of data should be regulated by a law/act, not a ministerial decree or a lower legal tool.
  - *In Slovakia*, both the National Border Guards and the Migration Office have their own, incompatible databases. The Border Guards are in charge of initial registration. While the Migration Office is currently taking fingerprints and photos, this responsibility will be transferred to the Border Guards in January 2005. Each reception centre has access to the registration system "Refugee".
  - *In Ukraine*, the government has a registration system which will, in the long run, incorporate EURODAC requirements. For the time being Ukraine will maintain and keep its most complex system, which is not compatible with any other database.
- ***Recommendations:***
  - To achieve tangible results in the field of registration, a participant from Romania suggested that a thematic workshop on this issue could take place within the Söderköping process, whereby Hungary, Romania and Slovakia could share their experience with Moldova and Ukraine.
  - Each state is to decide what kind of information is needed by what authority and to give authorisation for access by law to ensure proper data protection.

#### ***Working Group 2. Registration systems and procedures: sharing of registration data between asylum- and migration-related authorities – existing procedures in the new EU Member States and candidate states and data protection issues; transferring experience to Moldova and Ukraine.***

- ***Existing procedures:***
  - *In Slovakia*, the EURODAC, a police database and the "Refugee" system are in use. Exchange of information with other countries is carried out within the cross-border co-



operation framework at monthly fora and upon request. There is a need to intensify this kind of information exchange, especially with Ukraine.

- *In Romania*, there is a database on asylum seekers, to which the Authority for Aliens have direct access too. Exchange of information between the agencies involved is based on official Protocols of Co-operation, with respect to Law no. 677/2001 on protection and use of individual data. Presently, efforts are made for the creation of a unique database in the field of aliens, refugees and visas issued by Romania.
- *In Ukraine*, the State Committee for Nationalities and Migration (SCNM) is responsible for registration of asylum seekers and a respective database and other concerned agencies with information on asylum seekers upon request. A question of joint use of this database by the SCNM, the State Border Guard Service and the Ministry of Interior (MOI) is currently under consideration. MOI keeps its database on aliens providing information to other agencies upon request. An IOM programme on exchange of information between the agencies involved, which is currently implemented, is expected to speed up this process.
- *In Moldova*, the main task is to create a single database on aliens, as the MOI, border guards and the Migration Department have separate databases. The Migration Department has an agreement with border guards on information protection and exchange every 10 days.
- *In Hungary*, there is a national registration system together the EURODAC. The national system is similar to the Slovak and Romanian ones.
- **Gaps in information systems and procedures:**
  - Timely access to data;
  - Creation of integrated database;
  - Selection of types of data that should be protected;
  - Lack of certain types of information and procedures for filling them in.
- **Recommendations:**
  - With different systems used by the countries and different levels of technical development, the Secretariat could collect information on best practices of sharing and re-distributing of information.

***Working Group 3. Ideas and proposals for future co-operation and joint actions within the Söderköping process, including more active involvement of NGOs, in the field of asylum.***

The participants were briefed on the RSUB's recent endeavour to develop shared rules of conduct in the context of border monitoring (Trakai Forum). The countries also exchanged their experiences with dealing with abuse of asylum systems.

- **Involvement of NGOs:**
  - *The Hungarian Helsinki Committee (HHC)* noted that NGOs' experience in the field of co-operation and state support varied from country to country.
  - *In Slovakia*, there is excellent co-operation between the authorities and NGOs. The government has a formal co-operation agreement with the Slovak Helsinki Committee with EU funding on providing legal assistance, as well as with the Slovak Humanitarian Council for the involvement of social workers in the centres.
- **Future co-operation:**
  - *Romania* suggested, in addition to national centres, to create a sub-regional training centre, not necessarily within the framework of the Söderköping process. There is a need for harmonisation of local registration systems, perhaps by transposing successful Slovak/Romanian/Hungarian experiences and setting up a model for other countries. A fund to facilitate exchange visits needs to be established within the Söderköping process.
  - *Slovakia* has had a COI unit for 2 years and offered study visits for Moldovan and Ukrainian experts.
  - *Moldova*, as an example of good practice, offered its experience with signing Memorandums of Understanding with NGOs to achieve sustainable co-operation in the context of decrease of donors' support. Training of judiciary in the framework of multilateral co-operation is a

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priority for Moldova, which would like to have international experts coming for a period of 2-3 months.

- *Hungary* offered information exchange in the field of reception of asylum seekers, reception facilities, including a meeting of directors of reception facilities and their supervisors (NGOs should also be invited to participate in such an activity); its experience with regular meetings of heads of COI units, including those of NGOs; and training in the field of interviewing techniques.
- **Recommendations:**
  - Admissibility procedures need to be studied as a potential tool to prevent abuse of asylum systems;
  - Pre-procedural counselling might be efficient in preventing abuse of the asylum regime; the counselling must be proper and transparent; NGOs do have a role in this, which could also contribute to solve the problem of legal limbo situation of those rejected asylum seekers who are not returnable;
  - Guidelines should articulate how to combat the abuse of the system based on experiences of Hungary, Slovakia and Romania, which would be helpful for Moldova and Ukraine;
  - Country of origin information in the context of RSD: Slovakia offered study visits; a regional documentation and information centre should be established; the services of the Vienna based ACCORD should be made available for Ukraine and Moldova free of charge;
  - Regional meeting of managers and their supervisors of refugee reception facilities should be organised to share experience and lessons learnt;
  - Study visits and exchange of experts should be put into place (1-3 months), including coaching, on-job training in Moldova and Ukraine; to facilitate such exchanges a fund should be established;
  - Co-operation with NGOs: ways of regulating/institutionalising co-operation between governments and NGOs (Memorandums of Understanding, etc.) should be looked into; the Slovak model could serve as an example of good practice.

***Working Group 4. Ideas and proposals for future co-operation and joint actions within the Söderköping process, including more active involvement of NGOs, in the field of migration and border management.***

- **NGOs' involvement:**
  - All the countries acknowledged the NGOs' role in monitoring and ensuring transparency of functioning of governmental agencies. A scope and areas of co-operation between NGOs and governmental agencies could be specified by virtue of written agreements. There should be funds allocated by governments for NGOs. NGOs need to be included into projects run by authorities.
  - Cross-border co-operation among NGOs themselves need to be intensified to set up a mechanism of exchange of information on various groups of migrants.
- **Future co-operation:**
  - The Söderköping process should take a more thematic and practical approach.
  - The themes within the process could include a more in-depth discussion of labour migration issues, migrant information centres, and detention centres.
  - Practical aspects of the process could focus on search for some financial, logistical and technical assistance for Ukraine and Moldova, and implementing partners could be Hungary, Romania and Slovakia.
- **Recommendations:**
  - There should be specific sessions for NGOs, at which they could discuss such issues, as cross-border co-operation among NGOs, border monitoring practices and experiences, national legislative frameworks with a view to empower NGOs, NGOs' assistance to governmental agencies, and make respective suggestions to their governments.

- NGOs should get clear ideas from their governments as to what is expected from them and how NGOs could improve their “services”.

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- Common criteria of co-operation among NGOs and authorities should be worked out.
- The Secretariat could make an evaluation of best practices in some countries where government funds NGOs and bring to further discussion within the Söderköping process.
- Should cross-border issues arise, they could be brought up to the Secretariat to see how they can be assisted and to facilitate their tackling.
- Sub-regional thematic groups are needed within the process, as well as study visits and training.
- There is a need for a session on labour migration issues and how they could be tackled within the Söderköping process.

### **Conclusion**

Summing up the outcome of the meeting, Mr. Göran Larsson, the SMB, underlined that international co-operation among law-enforcement agencies is important, especially in the context of cross-border co-operation.

Mr. Guy Ouellet, UNHCR, noted the openness of the meeting and more active NGO participation comparing to previous meetings held within the last two years. It would be good to have a special NGO working group within the Söderköping process. An NGO element could improve international co-operation existing between the countries. Smaller meetings at local level could also be beneficial to bring participants to practical decisions.

Mr. Claus Folden, IOM, thanked the Government of Hungary and the CBCP Secretariat for organising the meeting and the participants for active discussions.

## **SUGGESTIONS FOR FOLLOW-UP ACTIVITIES**

### **Exchange of Experience**

1. Exchange of experience in the form of organising thematic workshops and study visits/on-job training on the existing in the new EU Member States and the candidate country standards and procedures related to:
  - 1.1. reception of asylum seekers and reception facilities;
  - 1.2. detention centers;
  - 1.3. admissibility procedures and pre-procedural counselling as a potential tool to prevent abuse of asylum systems;
  - 1.4. systems of individual registration: timely access to data; creation and use of an integrated database; data protection in the context of shared registration systems (types of data to be protected);
  - 1.5. country of origin information (COI) in the context of RSD procedure;
  - 1.6. border monitoring;
  - 1.7. judicial practice in the framework of multilateral co-operation;
  - 1.8. migrant information centres;
  - 1.9. labour migration.

#### *Implementation:*

- The Secretariat will approach the asylum, migration and border guard authorities in Ukraine, Moldova and Belarus to identify the priorities among the aforementioned themes.
  - Based on the outcome, the Secretariat will approach other participating countries (those where the relevant experience is available) with a request to provide it with sufficient information on the existing experience and possible suggestions as to hosting a study visit/thematic workshop or sending a team of experts to one of the countries to provide on-job training.
  - The results will be presented to the authorities of Ukraine, Moldova and Belarus in a form of a paper or comparative overview of existing standards and practices, if applicable, with a view to jointly elaborate plans for exchange of experience through study visits/thematic workshops/on-job training, providing there is funding available (Slovakia offered study visits for Moldovan and Ukrainian experts on COI issues; Hungary offered its experience in the field of reception of asylum seekers, including COI and interviewing techniques).
  - Those issues that will remain uncovered during the implementation period of the current project due to time and/or funding constrains could be further elaborated to take shape of concrete activities/small projects to be presented to the Senior Level Review Meeting in April next year for endorsement and carrying out within the next project.
2. More detailed information on the new EU Member States and the candidate country experience with setting up registration systems in line with EU requirements is needed with a view to work out a harmonised approach to the sharing of data among the Söderköping process countries.

#### *Implementation:*

- The Secretariat will approach the Söderköping process countries with a request to provide it with detailed information on their existing registration systems, practices of sharing and redistributing information, legislative frameworks for ensuring proper data protection.
- An overview of good practices available in the region will be presented to the participating countries with a view to identify the remaining gaps in Ukraine, Moldova and Belarus and see where the relevant expertise is available.
- Based on the outcome, the Secretariat may approach the relevant authorities as to their willingness and readiness to share their expertise.

- If the idea is supported by the participating countries, the Secretariat will develop some small activities within the Söderköping process and will bring it up to the Senior Level Review Meeting for endorsement and further implementation.

3. Co-operation among authorities and NGOs needs to be looked into.

*Implementation:*

- The Secretariat will approach the Söderköping process countries with a request to provide it with detailed information on how co-operation among authorities and NGOs in the field of asylum, migration and border management is regulated/institutionalised (Memorandums of Understanding, special agreements, etc.) and how governments support NGOs active in this field. The authorities will also be asked to share their expectations from NGOs.
- An overview of good practices available in the region will be presented to the participating countries.
- Based on the outcome of this paper, the Secretariat could suggest some successful schemes of co-operation with the civil society and will bring to the attention of NGOs what role is expected from them. The decision on looking into common criteria for co-operation among authorities and NGOs and on regulating/institutionalising this kind of co-operation remains, however, at each country's discretion.

### **Information Sharing**

1. Though there was a suggestion made to extend ACCORD services to Ukraine, Moldova and Belarus, its services remain paid. A regional COI centre could be launched, however this activity would require external funding. With each country having national COI resources, a COI network could be set up to intensify sharing information in this field.

*Implementation:*

- The Secretariat will approach the participating countries with a request to provide it with detailed information on set up of COI units and a focal point/s, including contact details and specific areas of expertise, who could serve as a COI expert within the Söderköping process.
- Based on the outcome, the Secretariat will set up a thematic, COI, group within its network of experts.
- The list of COI focal points will be shared with all countries and will be placed on the website (for registered users).
- The Secretariat will also make a suggestion as to having a meeting of this expert group within the next project implementation period.

### **Future Co-Operation Within The Söderköping Process**

1. The participating countries suggested that the Söderköping process should:
  - 1.1. have a more thematic approach;
  - 1.2. have specific sessions for NGOs;
  - 1.3. have a fund established to allow for study visits and exchange of experts.

*Implementation:*

- Based on the countries' priorities the Secretariat will make respective suggestion for the next project period. The new EU Member States will, however, be expected to contribute to organising and funding such activities, as study visits and exchange of experts.

## **AGENDA**

- 08:30-9:00** Registration of participants
- 09:00-9:40** Opening remarks  
*Mr. Eduardo Yrezabal, Deputy Representative, UNHCR Representation in Hungary*  
*Mr. Attila Kiss, Deputy Director, Hungarian Office of Immigration and Nationality*  
*Mr. Göran Larsson, Project Manager, Swedish Migration Board*  
*Mr. Guy Ouellet, Regional Representative, UNHCR Regional Representation for Ukraine, Moldova and Belarus*  
*Mr. Claus Folden, Coordinator, Technical Cooperation Centre, IOM Vienna*
- 09:40-09:50** Update on the most recent developments in the Söderköping process and the activities of the CBCP Secretariat since the last Senior Level Review Meeting (17 October 2003 till present)  
*Ms. Myroslava Korenevych, External Relations Expert, CBCP Secretariat*
- 09:50-10:10** Update on the normative and institutional developments in the legislation of the Central and Southern cluster countries  
*Ms. Myroslava Korenevych, External Relations Expert, CBCP Secretariat*
- 10:10-10:40** The most recent developments in the EU policies and practices on asylum and migration  
*Ms. Annabelle Roig, Liaison Officer, UNHCR Representation in Belgium*
- 10:40-11:00** Coffee break
- 11:00-11:40** UNHCR initiatives related to “Convention Plus” and the three prongs  
*Ms. Annabelle Roig, Liaison Officer, UNHCR Representation in Belgium*
- 11:40-12:00** Europe and the New Neighbourhood “Labour Migration and Integration: policies, trends and best practices”  
*Ms. Tatiana Hadjiemmanuel, EU Liaison and Project Development Officer, IOM Brussels*
- 12:00-13:00** Panel discussion on implications of EU enlargement and recent EU policy and legislative developments for asylum, migration and border management in the Central and Southern cluster countries:
- Changes related to the implementation of the Dublin II Regulation and the functioning of the Eurodac;
  - Quantitative and qualitative changes in flows of migrants;
  - Effect of the EU accession of Hungary and Slovakia on co-operation with the neighbouring countries.
- Facilitated by the Chair*
- 13:00-14:30** Lunch
- 14:30-14:50** Briefing on the sub-regional meeting of UNHCR representatives on Russian citizens of Chechen origin seeking asylum in Europe  
*Mr. Oluseyi Bajulaiye, Deputy Director, Bureau for Europe, UNHCR HQ*

**PART II. MEETING OF THE CENTRAL AND SOUTHERN CLUSTER**  
*Budapest, Hungary, 28-29 October 2004*

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**14:50-16:00** Panel discussion on asylum seekers from the Russian Federation in the context of the situation in Chechnya and possible ways of addressing their situation within the framework of the Söderköping process  
*Facilitated by the Chair*

**16:00-16:20** Coffee break

**16:20-17:20** Discussion in Working Groups

**Registration systems and procedures:**

- Existing systems of individual registration – alignment with EU requirements in the new EU Member States and candidate states; transferring experience to Moldova and Ukraine

*Facilitated by Mr. Pierfrancesco Maria Natta, Representative, UNHCR Representation in Slovakia*

- Sharing of registration data between asylum- and migration-related authorities – existing procedures in the new EU Member States and candidate states and data protection issues; transferring experience to Moldova and Ukraine.

*Facilitated by Ms. Tamara Babiuk, Associate Expert, Technical Cooperation Centre, IOM Vienna*

**17:20-17:40** Reports from Working Groups. Panel discussion

**17:40-18:00** Summing up of the First Day

**29 October, Friday**

**09:00-10:00** Panel discussion on the cross-border co-operation initiatives on-going between the countries of the Central and Southern cluster

- Hungary- Moldova-Romania;
- Hungary-Romania-Slovakia-Ukraine;
- Moldova-Romania;
- Slovakia-Ukraine.

*Facilitated by the Chair*

**10:00-11:00** Discussion in Working Groups

**Ideas and proposals for future co-operation and joint actions within the Söderköping process, including more active involvement of NGOs –**

- in the field of asylum management  
*Facilitated by Mr. Veerapong Vogvarotai, Representative, UNHCR Representation in Romania*
- in the field of migration and border management  
*Facilitated by Mr. Jeff Labovitz, Chief of IOM Mission in Ukraine*

**11:20-11:40** Reports from Working Groups

**11:40-12:40** Panel discussion on practical recommendations on improving cross-border co-operation and on follow-up events  
*Facilitated by the Chair*

**12:40-13:00** Summing up and closing remarks

## **LIST OF PARTICIPANTS**

### ***HUNGARIAN DELEGATION***

Mr. Attila Kiss	Deputy Director, Office of Immigration and Nationality
Ms. Ágnes Garamvölgyi	Head of Refugee Directorate, Office of Immigration and Nationality
Mr. József Seres	Director, Office of Immigration and Nationality, Debrecen
Mr. Laszlo Balazs	Head of Aliens Policing Department, Border Guards HQ
Mr. Peter Tajok	Senior Officer, Border Guards HQ
Ms. Nora Jakubovich	Deputy Head of Department, Office of EU Integration, Ministry of Interior
Mr. Eva Kamaras	Legal Expert, Office of EU Integration, Ministry of Interior
Mr. Ferenc Koszeg	Director, Hungarian Helsinki Committee
Mr. Attila Tari	Co-ordinator of the network of lawyers, Hungarian Helsinki Committee

### ***MOLDOVAN DELEGATION***

Ms. Olga Poalelungi	Director of Department of Migration
Ms. Ecaterina Silvestru	Director of Main Directorate for Refugees, Department of Migration
Mr. Eugen Osmochescu	President of the Council for Refugees, Tutor at the NGO Legal Clinic

### ***ROMANIAN DELEGATION***

Mr. Raducu Catalin Burlacu	Head of Dublin Unit, National Refugee Office, Ministry of Administration and Interior
Mr. Dan Mocioi	Principal Inspector, Directorate for Combating Cross-Border Crime, General Inspectorate of Border Police
Mr. Niculae Carcu	President, Romanian National Council for Refugees

### ***SLOVAK DELEGATION***

Mr. Ivan Slezak	Head of Procedure Department, Migration Office, Ministry of Interior
Ms. Olga Simorova	Deputy Director of Bureau for Border and Aliens Police, Presidium of Police Force
Mr. Hamid Omed	Legal Counsellor, "Society of Goodwill"

### ***UKRAINIAN DELEGATION***

Mr. Serhiy Radutny	Deputy Director of State Department for Citizenship, Immigration and Registration, Ministry of Interior
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**PART II. MEETING OF THE CENTRAL AND SOUTHERN CLUSTER**  
*Budapest, Hungary, 28-29 October 2004*

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Mr. Albert Pirchak                      Director, International Foundation for Health and Environment  
Protection "Region Karpat" (NEEKA)

***INTERNATIONAL ORGANIZATION FOR MIGRATION***

Ms. Tatiana Hadjiemmanuel      EU Liaison and Project Development Officer, IOM Brussels

Ms. Tina Szabados                      IOM Mission in Hungary

Ms. Monika Lazar                        IOM Mission in Hungary

Mr. Allan Freedman                    Acting Chief of IOM Mission in Moldova

Mr. Jeff Labovitz                        Chief of IOM Mission in Ukraine

Mr. Claus Folden                        Coordinator, Technical Cooperation Centre, IOM Vienna

Ms. Tamara Babiuk                      Associate Expert, Technical Cooperation Centre, IOM Vienna

***SWEDISH MIGRATION BOARD***

Mr. Göran Larsson                      Project Manager

Mr. Peter Jakstrand                      Asylum Expert

***UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES***

Mr. Oluseyi Bajulaiye                Deputy Director, Bureau for Europe, UNHCR HQ

Mr. Eduardo Yrezabal                Deputy Representative, UNHCR Representation in Hungary

Mr. Jean-Claude Forget               Senior Regional Co-ordinator for Protection Issues/Head of Regional  
Support Unit in Budapest

Ms. Agnes Ambrus                      Legal Officer, UNHCR Representation in Hungary

Mr. Wojciech Trojan                    Regional Training Officer, Regional Support Unit in Budapest

Mr. Lars Jonsson                        Representative, UNHCR Representation in Moldova

Mr. Marcel Colun                        Associate Protection Officer, UNHCR Representation in Moldova

Mr. Veerapong Vogvarotai            Representative, UNHCR Representation in Romania

Mr. Pierfrancesco Maria Natta      Representative, UNHCR Representation in Slovakia

Mr. Guy Ouellet                        Regional Representative, UNHCR Regional Representation for  
Ukraine, Moldova and Belarus

Ms. Annabelle Roig                      Liaison Officer, European Institutions Unit, UNHCR Representation for  
Belgium

***CROSS-BORDER CO-OPERATION/SÖDERKÖPING PROCESS SECRETARIAT***

Ms. Myroslava Korenevych          External Relations Expert

***OBSERVERS***

Ms. Ann-Charlotte Nygard

Programme Manager, International Centre for Migration Policy  
Development

## PART III. PRESENTATIONS

### UPDATE ON THE MOST RECENT DEVELOPMENTS IN THE SÖDERKÖPING PROCESS AND THE ACTIVITIES OF THE CBCP SECRETARIAT SINCE THE LAST SENIOR LEVEL REVIEW MEETING

*Myroslava Korenevych, External Relations Expert,  
Cross-Border Co-operation Process Secretariat*

Below is a brief update of the developments that have taken place in the Söderköping process since the last Senior Level Review Meeting (17 October 2003) and of the activities of the Secretariat.

During this period, the Secretariat was actively promoting the process through its **information activities**.

Jointly with the project partners, the Secretariat held briefings for embassies and international organisations in Kyiv and a briefing for Ukrainian governmental and non-governmental organisations. The briefings aimed at both informing about the Secretariat's activities and at getting more support from the participating countries and EU Member States to the process activities. Starting this year, such briefings will take place in each country hosting a Söderköping process event.

The Secretariat continued to publish its newsletter to keep all the participants updated on the developments within the project, in the countries and in the EU. In this respect, we would like to encourage you to become more active in providing the Secretariat with updates on developments in your countries to make the newsletter a true source of sharing information.

The Secretariat has also published "The Inventory of the Söderköping Process" and "The Söderköping Process Country Profiles". Together with the compilations of materials of the meetings held in 2003, these publications represent the next step in creating an own "database" of the Söderköping process.

To speed up the information exchange, the Secretariat is currently creating a website which will contain all the information related to the process and the Secretariat. It is expected that the website will be launched in November this year. The link will be provided to all the participants of the process.

To establish a good communication mechanism within the process, the Secretariat created and has been maintaining **the network of experts**. The experts have been regularly provided with updates on the EU funding and training opportunities and information materials the Secretariat felt important to be further disseminated. In this respect, we would like to thank experts from Estonia, Hungary, Latvia, and Poland who, in response to our inquiry, provided us with information about refugee integration schemes in their countries. We would like to report back to you that this information became a basis for negotiations of amendments to be introduced to the respective regulation in Ukraine.

In response to the needs and inquiries expressed by the participants at the meetings last year, the Secretariat carried out certain **research activities**.

These included "Solutions for persons who are not in need of international protection, but cannot be returned due to practical or other reasons", and "Complementary Protection: Legislation and Practices of Selected countries". Both papers were translated into Russian and distributed to the network of experts.

Some other studies were prepared for the Steering Committee.

To support the process of developing the complementary protection legislation and mechanisms in Ukraine, and to encourage similar developments in Belarus and Moldova, a **conference** on "Complementary Forms of Protection" was held jointly by the Secretariat, UNHCR and the Council of Europe in March this year.

### PART III. PRESENTATIONS

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Now, a few words about the next stage of the process. A contract between the European Commission (EC) and the Swedish Migration Board (SMB) was signed on 26 May 2004 with the total funding of EURO 997,500. Under the new EC project, the SMB is an implementing agency, and the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) are project partners. The project covers the period from 1 May 2004 till 31 October 2005.

**The objective of the project is** to facilitate co-operation between Belarus, Moldova and Ukraine and neighbouring Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and Slovakia to make the Western NIS less attractive as a region of transit migration and increase their capacity to develop into safe countries of asylum.

In 2004-2005 there will be:

- Meetings for Northern cluster and for Central and Southern cluster countries and a senior level review meeting;
- Two thematic workshops on asylum, migration and border management;
- Briefings for embassies and international organisations;
- Legal research activities to address inquiries of the participating countries on specific issues in the asylum, migration and border management field;
- The Secretariat will continue its public information activities, such as publishing the quarterly newsletter, compilations of meetings' and trainings' materials, maintaining the network of experts and the website.

We hope that through these activities, the Söderköping process will assist the countries in improving their asylum, migration and border management with full observance of international refugee and human rights law, and will make the co-operation between the participating countries and organisations more efficient.

## UPDATE ON THE NORMATIVE AND INSTITUTIONAL DEVELOPMENTS IN THE LEGISLATION OF THE NORTHERN CLUSTER COUNTRIES

*Gaspar Bergman, Head,  
Cross-Border Co-operation Process Secretariat*

I would like to take this opportunity to provide you with an overview of the most recent developments in the legislation of Ukraine, Belarus, Poland, Estonia, Lithuania and Latvia in the area of asylum and migration.

As you may observe, in several of these jurisdictions, developments and amendments to the normative systems, have been paralleled by a similar development of enforcement and implementation schemes.

### **Belarus**

The Lower Chamber of Parliament passed the first reading on amendments to the Law "On legal status of foreigners and stateless persons in Belarus" in April 2004. The amendments stipulate visa denial, introduction of migration cards at the border, deportation for minor administrative offences, expulsion for incorrect border crossing, an appeal procedure against authorities' decisions, and creation of a foreigners' registration database. The introduction of migration cards will, inter alia, represent a preliminary stage before abolishing the current foreigners' registration practice in police departments and hotels. The new law, if adopted, aims at more stringent control over foreigners, including border control and in-country supervision.

In Belarus, a temporary accommodation centre for asylum seekers was opened at the "Minsk" National Airport in March 2004. It can lodge up to 12 people and will accommodate asylum seekers who arrive at the "Minsk" National Airport and the Minsk-1 airport. The centre was established with UNHCR assistance and is the second accommodation centre of its kind. A network of such centers is planned to be set up by UNHCR in 2004-2005 to further include the regions of Brest and Gomel. The required funding of will be provided through the EU TACIS programme.

In accordance with the Presidential Edict "On Some Measures of Improvement of the System of Agencies and Interior Authorities of the Republic of Belarus" of 30 December 2003, the Department for Migration and regional migration services are being transferred from the Ministry of Labour and Social Protection to the Ministry of Interior. The new department will deal with migration, citizenship and refugee issues. A Decree adopting Regulations on the Department for Citizenship and Migration, thus formalising its existence and authority, was signed by the President on 4 June 2004.

### **Ukraine**

The draft Law on the Legalisation of Certain Categories of Foreigners and Stateless Persons, Who Are Illegally Staying in Ukraine provides criteria and mechanisms to legalise the stay of certain types of individuals.

The draft Law on Introduction of Amendments to the Refugee Law aims at replacing the 3-5 working day deadlines for admission of asylum applications.

The draft Law on Temporary Humanitarian Protection of Foreigners and Stateless Persons plans to introduce certain forms of complementary protection. As an alternative, the Ministry of Justice drafted a Law on Granting Temporary Asylum in Ukraine to Foreigners and Stateless Persons. Both drafts are currently scrutinised by the government.

## **PART III. PRESENTATIONS**

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In June, the State Border Guard Service (jointly with the State Committee for Nationalities and Migration) drafted an Instruction on Procedures for the Reception and Handing Over of Asylum Applications and Explanations on Illegal Crossing of the State Border; and an Instruction on Procedures for the Detention of Persons, Apprehended by State Border Guard Service Bodies for Violation of the Legislation on the State Border of Ukraine. While the first draft regulates the transfer of asylum applications from border guards to migration services, the second one covers the access of migration services, UNHCR and NGOs to asylum seekers, and the applicants' transportation to migration services by border guards.

Pertaining to border management, a Law on the Introduction of Amendments to Certain Legislative Acts of Ukraine on Crossing of the State Border came into force on 17 June 2004. These amendments concerned Art. 331 of the Criminal Code and Art. 204-1 of the Code for Administrative Offences. Criminal liability for illegal border crossing was abolished, while administrative charges for the same offence, as well as its attempt were increased. Exemptions for asylum seekers remained unchanged, only, however, if they submitted their applications for refugee status within 3 working days of illegal entry.

Migration management structures in Ukraine will be strengthened. On 27 May 2004, the Cabinet of Ministers approved a proposal of the State Committee for Nationalities and Migration. Starting 1 January 2005, the 27 Regional Migration Services of Ukraine will become bodies of the State Committee, financed by the state budget. Plans include a total capacity of 150 staff, a very welcome and necessary increase of human resources.

Within the first stage of the Sumy Border Management: Provision of Border Patrol Vehicles Project, financed by the EC for the benefit of the State Border Guard Service of Ukraine, the Sumy border guards received 94 vehicles, 350 various radio stations and computer equipment from the EU on 13 July 2004.

### **Latvia**

Amendments to Asylum Law in Latvia were adopted in the first reading. They concerned mostly asylum Acquis.

The Dublin Regulation (Council Regulation (EC) No 343/2003 dated 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining the asylum application lodged in one of the Member States by third country national) is binding for Latvia since 1 May 2004.

More simplified requirement for entry and obtaining of residence permits for EU citizens.

The Office of Citizenship and Migration Affairs has new functions after joining the EU including implementation of the Dublin Regulation.

The structure of the State border guard has been changed to include the reorganisation of the immigration services. Several departments have been liquidated and several border control points have been re-qualified from category I to category II. Personnel are being moved from what is now an internal EU border to Latvia's external borders.

An expert service has been created to guarantee qualified experts for the provision of consultations in the investigation of border incidents and to take part in operative and procedural actions.

### **Estonia**

Legislative developments concern mainly the EURODAC fingerprint data base, DubliNet and the exchange of information. The amendments to the respective national legislation are expected in September 2004, after parliament resumes its work.

### **Lithuania**

In the process of harmonisation with the EU Acquis on asylum and migration in Lithuania, the Law on the Legal Status of Aliens was adopted and entered into force on 29 April 2004. While an additional cessation clause has been abolished in the new law, the family reunification and detention provisions remain problematic.

On April 2004, the Parliament of Lithuania ratified the Dublin Convention

### **Poland**

An Act on Social Assistance of 12 March 2004 provides a person with refugee status with a possibility to apply for integration assistance within 14 days after being granted such status.

An Act on Principles and Conditions of the Entry and Stay in the Territory of the Republic of Poland by Citizens of Member States of the European Union as well as Members of Their Family of 27 July 2002 regulates terms of entry and stay in Poland for EU citizens in regard to common policy of the Member States.

An Act on Changing the Act on Census and Identity Cards of 16 April 2004 regulates the conditions of registration in the territory of Poland for aliens having authorisation to stay or being citizens of EU Member States.

In May 2004, Poland signed two Council of Europe conventions relating to refugees – the European Agreement on the Abolition of Visas for Refugees of 20 April 1959, and the European Agreement on Transfer of Responsibility for Refugees of 16 September 1980. The formal procedure of their ratification is under way.

**LEGISLATIVE AND ADMINISTRATIVE DEVELOPMENTS  
IN THE CENTRAL AND SOUTHERN CLUSTER COUNTRIES  
OF THE SÖDERKÖPING PROCESS**

**From October 2003 till Present**

*Gaspar Bergman, Myroslava Korenevych,  
Cross-Border Co-operation Process Secretariat*

The current presentation is based on the country reports provided to the Secretariat prior to this meeting. It provides a brief overview of major legislative and administrative developments in the Central and Southern clusters of the Söderköping process. The Secretariat would like to use this opportunity to thank the countries and UNHCR country offices for their active participation and informative contributions.

**LEGISLATIVE DEVELOPMENTS**

**Hungary**

In preparation for EU-accession, parliament adopted Act number XXIX of 2004 "*On the amendment, repeal of certain laws and determination of certain provisions relating to Hungary's accession to the European Union*" which entered into force on 1 May 2004. The Act contains significant amendments to the Aliens Act and to the Asylum Act.

Pertinent to *the Asylum Act*, major changes concerned the asylum procedure. A 'four stage' procedure has been reduced to two instances – the Office for Immigration and Nationality(OIN) refugee authority as the first instance to adjudicate asylum application, and the Metropolitan Court in Budapest as the judicial instance, now obliged to hear each asylum applicant in person.

The competence of the refugee authority over expulsion of illegal aliens is now restricted, whereby it is only entitled to initiate such expulsion upon the 'negative decision' on the asylum application becomes binding i.e. if judicial review fails or is not requested by the applicant.

The OIN is now obliged to adopt decisions on the applicability of the non-refoulement provision in the in-merit part of its decision on rejecting or revoking refugee status or temporary protection.

The provisions of Council Directive 2001/55/EC of 20 July 2001 on the minimum standards for giving temporary protection in the event of a mass influx of displaced persons were 'transposed' in the amended Asylum Act.

Of other amendments – asylum seekers now have access to the labour market according to the general rules applicable to foreigners one year from the submission of an asylum application. During the first year of the asylum procedure, asylum seekers may only work in the reception centre. Also, the amendments provide for restricted right to refugees to vote in local elections and local referenda.

The amended *Aliens Act*, contrary to the previous provisions, has excluded administrative remedies against the decision on ordering alien policing expulsion, however judicial review of the expulsion order may be requested by the district courts. The court is now obliged to consider the request for review in a litigious procedure and has to hold a hearing with the presence of the foreigner.

A special procedure for judicial review of alien policing detention has been created, thus shifting the review of alien policing detention from the competence of criminal courts to other branches of the judiciary, of civil or administrative nature.



Detained foreigners who do not understand Hungarian and are not in a position to authorise a legal representative shall be entitled to have an ad hoc guardian appointed to their case by the court.

Unaccompanied minors are entitled to a permit to stay for humanitarian reasons even when the legal conditions of stay are not met.

In general, there is still no legal remedy against the rejection of a visa application neither through public administration nor through the judiciary. However the right to judicial remedies against the decision rejecting an application for a residence visa has been introduced.

The amendments also provide for an opportunity for foreigners who had arrived in Hungary prior to 1 May 2003 and who do not meet the criteria for lawful stay to regularise their status in Hungary. The so-called amnesty provisions allow such individuals to apply for a residence permit if they are able to verify their personal data and contingent upon their meeting other requirements provided for in the Aliens Act.

### **Moldova**

In November 2003, the Parliament adopted *the Law on Amendments to and Completion of Certain Legislative Acts*. This Law modifies a series of normative acts on refugee documents, such as the Law on the State Border of the Republic of Moldova (dated 17 May 1994), Law on Entrance to and Exit from the Republic of Moldova, Law on Identity Papers within the National Passport System, and Law on Acts of Civil Status.

The Regulation on granting financial assistance to refugees was sanctioned by the 31 December 2003 Governmental Decree.

The Regulation on the procedure of determining and granting refugee status is still to be examined by the government.

The Governmental Decision "*On the Activity of the Main Directorate for Refugees and the Creation of the Accommodation Centre for Asylum Seekers and Refugees*" has been recently adopted.

A *legislative initiative* was signed on 7 October 2004 by the Chairman of the Parliamentary Commission on Human Rights and a group of Members of Parliament *to amend the Law on the Status of Refugees* with a view to introducing complementary forms of protection and aligning some existing provisions with the norms of international law. The proposed amendment, put forward by UNHCR in close co-operation with the Parliamentary Commission on Human Rights, Migration Department and Main Directorate for Refugees, concerned introduction of humanitarian protection as a form of complementary protection and adjustment of the provisions on additional exclusion and cancellation clauses which go beyond the 1951 Convention.

### **Romania**

On 31 January 2004, the government passed *the Ordinance 43/2004, whereby amendments to the Refugee law were introduced*. Under the Ordinance (subsequently approved as Law 176/2004), the refugee definition and cessation clauses have been put in line with the 1951 Geneva Convention, persons who fled due to generalised violence in their country of origin have been included in the definition of the subsidiary form of protection, and monthly allowances for asylum seekers have been increased.

On the same date, the government passed *the Ordinance 44/2004 for social integration of persons granted a form of protection in Romania*. The ordinance (subsequently approved as Law 185/2004) has brought persons with conditioned humanitarian protection on equal footing with refugees as regards accommodation, financial allowance, education, and work permits. It also provides for integration programmes for refugees and persons with humanitarian protection.

*A National Strategy on Migration* was drafted by the experts of the Ministry of Administration and Interior, the Ministry of Foreign Affairs, the Ministry of Labour, Social Security and Family – the Office for Labour Force Migration, in consultation with representatives from other governmental institutions, international organisations (UNHCR, IOM) and NGOs active in the field of asylum and migration. The objective of this

### PART III. PRESENTATIONS

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document is to establish a unitary policy in the field of migration, asylum and social integration of aliens, in order to harmonise the domestic legal framework with the international law and the EU Acquis. It will be implemented by virtue of the "Action Plan for Implementing the National Strategy on Migration", which will establish the activities and the responsibilities for each ministry/institution with competences in the field.

#### **Slovakia**

*The Act No. 48/2002 Collection of Laws on the Stay of Foreigners* has been amended by the Aliens Act No 606/2003. It has introduced detention terms for asylum seekers caught in the action of leaving the country illegally. In addition, the tolerated stay status has been extended to two new categories of beneficiaries: separated children and persons in pre-trial detention.

In September 2004, the government approved *amendments to the Refugee Law*. The amended Law provides for locations where asylum seekers can apply for asylum; stipulates timeframes within which an asylum seeker is read his/her rights and obligations throughout the asylum granting procedure; defines the individuals and institutions authorised to have access to asylum procedure documentation and information; entitles the asylum seeker to seek employment within the labour market unless a decision on his/her application is made within one year; and provides that government authorities are entitled to have the age of a minor seeking asylum 'examined' should 'doubts' arise as to the actual age and the age declared. The amendments shall take effect as of 1 February 2005.

#### **Ukraine**

On 23 October 2003, the State Committee for Nationalities and Migration (SCNM) introduced *amendments to its asylum procedure instruction*. These amendments should improve comprehensive registration and documentation of asylum seekers by the Regional Migration Services.

In January 2004, the SCNM drafted a *Law on the Legalisation of Certain Categories of Foreigners and Stateless Persons, Who Are Illegally Staying in Ukraine*. The draft provides criteria and mechanisms to legalise the stay of persons who (a) legally entered Ukraine but lost legal grounds for further stay, and (b) illegally entered Ukraine with the intention of acquiring refugee status, were rejected in accordance with the Refugee Law procedure but are still in need of (humanitarian) protection.

Since June 2004, the SCNM implements its Procedure for Exchange of the Old Specimen of the Internal Refugee Certificates into the New Ones and issues Refugee (Convention) Travel Documents.

In July, the Ministry of Justice submitted to the Cabinet of Ministers draft Law on Granting Temporary Asylum in Ukraine to Foreigners and Stateless Persons, which plans to introduce complementary forms of protection in Ukraine.

To increase integration possibilities for recognised refugees, on 25 February 2004, the Cabinet of Ministers adopted a *Plan of Actions on Facilitation Refugee Integration into Ukrainian Society*. The Plan foresees to improve national legislation, undertake practical measures, and promote international co-operation. Accordingly, the Cabinet of Ministers adopted a *Resolution on Introduction of Amendments to the Procedure for Granting Refugees Financial Aid and Pensions*, while a *Resolution on Procedure for Education of Refugees and Asylum Seekers Admitted into the refugee status determination procedure in Ukraine* is pending. Each ministry involved is tasked with implementing practical measures, such as refugee accommodation and adaptation issues, internal and travel documents, employment and social benefits, etc.

Recognised refugees have now been included as beneficiaries in a *Law on Social Assistance to Persons, Which Have No Right for Pension and Invalids*, adopted by parliament on 18 May 2004. The Law will come into power on 1 January 2005.

On 18 November 2003, *the Law of Ukraine on the Legal Status of Aliens* was amended, stipulating that foreigners who illegally stay in the territory of Ukraine, can be detained for the period necessary to prepare their deportation, nevertheless no longer than for 6 months.

On 20 November 2003, the President signed a *Law on Introduction of Amendments to the Code of Ukraine on Administrative Offences*. The Law increases punishment for the violation of rules of enrolment of foreigners at educational institutions, for helping them to illegally register, for illegally issuing documents for residence or education, for illegal employment, as well as for issuing other services in violation of the rules of sojourn in or transit. Administrative punishments are also introduced for the illegal transportation of foreigners and for equipping transport means with hiding places for irregular migrants. The law also greatly increases fines for foreigners' irregular stay or transit, irregular work, lack of residency registration as well as lack of departure before expiry of stay permit. Exemptions for asylum seekers remained unchanged (valid for 3-5 working days after entry).

On 1 December 2003, the Ministry of Interior (MOI) adopted an *Instruction on the Procedure for Extension of Term of Sojourn in Ukraine of Foreigners and Stateless Persons*, which substituted a previous instruction, dated 1999. According to the new instruction, refugees and asylum seekers would be registered with MOI bodies merely on the basis of requests by Migration Services that would mention their actual residence. The order came into effect on 18 December 2003.

On 4 January 2004, the President signed the *Law on Freedom of Movement and Free Choice of Place of Residence in Ukraine*, which Parliament had adopted on 11 December 2003. The Law introduces a new registration system to replace the old *propiska* system that had been ruled unconstitutional. According to the Law, citizens of Ukraine as well as foreigners and stateless persons who are legally present in Ukraine are guaranteed freedom of movement, free choice of place of residence on its territory, with the exception of restrictions established by law. The Law entered into force on 15 January 2004.

Pertaining to border management, on 12 May 2004 the President signed a *Law on Ratification of the Agreement between Ukraine and Romania on Ukrainian-Romanian State Border Regime, and Co-operation and Mutual Assistance in Border Issues*. The agreement, signed on 17 June 2003, will enter into force after the exchange of ratification instruments in Bucharest.

A *Law on the Introduction of Amendments to Certain Legislative Acts of Ukraine on Crossing of the State Border* came into force on 17 June 2004. These amendments concerned Art. 331 of the Criminal Code and Art. 204-1 of the Code for Administrative Offences. Criminal liability for illegal border crossing was abolished, while administrative charges for the same offence, as well as its attempt were increased. Exemptions for asylum seekers remained unchanged, only, however, if they submitted their applications for refugee status within 3 working days of illegal entry.

### **ADMINISTRATIVE DEVELOPMENTS**

#### **Moldova**

The second stage of rehabilitation of the Reception Centre for asylum seekers was finalised. Opened on 6 October 2003, the center with envisaged accommodating capacity of 120 persons is still under construction. The completion is expected in March 2005.

#### **Romania**

A Reception Centre for Asylum Seekers was opened in Timisoara (Western border) in February 2004 as the first step to decentralisation of asylum system in Romania. The centre was established under the PHARE programme with the funding of EURO 600.000 from PHARE programme and EUR 300.000 from the Romanian Government. It has an accommodation capacity of 250 persons. Another reception Centre for Asylum Seekers with the funding of EURO 750.000 from PHARE program and EURO 300.000 from the Romanian Government, was opened in Galati (South-Eastern border) in May 2004. The Centre has accommodation capacity of 250 persons. Both centres are managed by the National Refugee Office of the Ministry of Administration and Interior.

A PHARE Twinning Covenant "Upgrading the Romanian Border Police capability to fight against trans-border trafficking of drugs and human beings" between the Ministry of Administration and Interior of Romania and the Federal Ministry of Interior of Germany in consortium with the Ministry of Interior of Spain was launched in March 2004. The total funding is EURO 800.000 with the project duration of 18 months. The project aims at harmonising the national legislation with the EU Acquis and increasing the

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Border Police's capacity to strengthen the borders. The activities envisaged by the project include seminars/training sessions, workshops, study visits, working groups, and monitoring activities.

The Authority for Aliens was established in June 2004 acting as a specialised institution, subordinated to the Ministry of Administration and Interior, with competences given by law, regarding the regime of aliens in Romania, combating their illegal stay, as well as the record of aliens who have been granted the right of stay in Romania.

#### **Slovakia**

A new centre was opened in March 2004 in Liptovský Vlachy (central Slovakia) to expand the reception/accommodation facilities. In total, there are now 6 centres with the accommodation capacity of 1,600 people.

The Task Force on the assessment of the asylum system in the Slovak Republic, co-ordinated by UNHCR and with the participation of the Ministry of Interior, the Ministry of Labour, the EC Delegation, IOM, the US and the Netherlands embassies and four NGOs completed its works in May 2004. A final Report with recommendations for improving the system was presented in June at the Committee for Human Rights of the Slovak Parliament. The latter recommended unanimously the Ministry of Interior to utilize it for the elaboration of a new asylum policy.

A PHARE Twinning Light Project "Improving the administrative structure in the field of migration and asylum in the light of the Slovak Republic's EU membership" between the Slovak Migration Office and the Swedish Migration Board started in September 2004. The project has endorsed the work of the Task Force and aims to provide a concrete proposal for the re-organisation of the existing administrative structures and to draft a new reception strategy.

#### **Ukraine**

Migration management structures in Ukraine will be strengthened. On 27 May 2004, the Cabinet of Ministers approved a proposal of the State Committee for Nationalities and Migration (SCNM). Starting 1 January 2005, the 27 Regional Migration Services of Ukraine will become bodies of the State Committee, financed by the state budget. Plans include a total capacity of 150 staff.

In follow-up, the SCNM issued a Regulation on Migration Service Directorates (Units) in the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol that came into power on 9 September 2004.

## THE MOST RECENT DEVELOPMENTS IN THE EU POLICIES AND PRACTICES ON ASYLUM AND MIGRATION

Summary of presentations made in Minsk, September 2004,  
and Budapest, October 2004

*Annabelle Roig*  
*Liaison Officer with the EU institutions,*  
*UNHCR Regional Representation in Belgium*

The starting point for the presentation of the latest developments of European policies and practices on asylum and migration is the CBCP Senior Level Review Meeting in Söderköping, Sweden, organised on 15-17 October 2003.

The presentation consists of four parts. In the first part, an update of the European Union's (EU) policy on control of illegal immigration is presented. The second part focuses on the European Neighbourhood Policy, followed by the EU's policy on legal migration in the third part. The latest developments on the EU's asylum policy are subject of the fourth and last part of the presentation.

### **I – Illegal Immigration**

At constitutional, policy and legislative levels, developments have been realised with regard to immigration.

#### *Border management*

The Constitutional Treaty adopted in July 2004 and yet to be ratified by all Member States, includes the concept of an “*integrated system of external border management*”. In the wording of this constitutional provision this integrated system is needed “*for enhancing co-operation at both legislative and operational level, with the possibility of creating common border-guard units to support action by national authorities*”. The Council recently decided to set up a European Agency for the management of operational co-operation at the external borders to be formally established by 1 May 2005, without a policy role. The Agency will assist the co-ordination of Member States actions in the implementation of return measures and will be responsible for matters such as training of border guards and risk analysis.

#### *Return policy*

The EU has been developing a return policy since 2002, the elements of which have been elaborated in a series of policy papers. In 2002 the Commission issued a Green Paper<sup>3</sup> and a Communication<sup>4</sup> on a community return policy for illegal residents, including some return action plans. The most concrete is an action plan on return to Afghanistan. The latter has not yet been very successful mostly due to the fact that return from neighbouring countries has been considered as a priority by the international community. In July 2004, another Communication was issued on a common readmission and return policy<sup>5</sup>.

#### *Adoption of EC legislation*

Besides a variety of policy documents, a few legislative developments have to be mentioned. The EU has adopted a Directive<sup>6</sup> on mutual assistance for return of illegal third country nationals by air and two

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<sup>3</sup> GREEN PAPER on a community return policy on illegal residents of 10 April 2002, COM (2002) 175final

<sup>4</sup> COMMUNICATION of the Commission to the Council and the European Parliament on a community return policy on illegal residents of 10 April 2002, COM (2002)564(01)

<sup>5</sup> This Communication of July 2004 is not a public document.

<sup>6</sup> COUNCIL DIRECTIVE 2003/110/EC of 25 November on assistance in cases of transit for the purposes of removal by air, OJ L321 of 6 December 2003, p.6

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Decisions<sup>7</sup> on joint charter flights and on sharing the costs for expulsion carried out by one Member State at the request of another. On the table is also a proposal for a return budget line, conceived as preparatory action towards establishing a Return Fund. EURO 30 million have been proposed to finance joint return actions in the period 2005-2006. This proposed budget will finance voluntary as well as forced returns. However, the proposal has to be approved by the European Parliament, which insists to have first a Directive on return standards, before agreeing to fund return operations. However, such a Directive on common return procedures and standards does not seem to be a high priority. In the coming months, it is expected that the Commission will propose a draft directive on minimum standards for returns.

### *Relations with third countries*

The EU immigration policy should deal with the increasing need for closer dialogue and co-operation with transit countries and countries of origin. UNHCR considers that an important element for consideration is the impact that large scale returns may have on the stability and development of a country. Member States want to see more scope for effective return, and expect that better results can be achieved if they work together as a Union in negotiations with third countries. Therefore they have decided a more comprehensive approach is needed. In planning further work on EU readmission agreements, Member States will set priorities on the basis of specific criteria, such as the immigration pressure and regional considerations.

The issue of migration has increasingly been integrated in EU's relationships with third countries. Co-operation agreements with third countries now include or will include a clause concerning readmission and migration, as is the case of the Cotonou Agreement with 77 African, Caribbean and Pacific countries. With regard to the readmission of third country nationals residing without authorisation in the Union, article 168 of the Constitutional Treaty establishes EU's competence to conclude agreements with third countries. Currently the EU is in active negotiations for Readmission Agreements with Russia, Ukraine and Pakistan as well as with China, Algeria, Morocco and Turkey. Readmission agreements have already been concluded with Hong Kong, Macao, Sri Lanka and Albania. Since the European Council of June 2002 in Seville, insertion of readmission and migration clauses is required for all future EU bilateral agreements.

Following preparatory actions for initiatives with third countries in the area of asylum and migration under the budget line B 7667, the European Parliament adopted on 18 March 2004 the new EC Migration Programme, also referred to as the 'AENEAS Programme'.<sup>8</sup> This Regulation was agreed upon by co-decision procedure. The budget of the AENEAS Programme for the period 2004-2008 is set at EURO 250 million. The objective of the Programme is to provide technical and financial aid to third countries in order to promote more efficient management of migration flows in all their dimensions. The Programme focuses mainly on the countries involved in negotiations on Readmission Agreements and those concerned by the European Neighbourhood Policy. A characteristic of the AENEAS Programme is its balanced approach between combating illegal migration, promoting legal migration and protection concerns. Calls for proposals are expected in the fall 2004 and spring 2005.

## **II – European Neighbourhood Policy (ENP)**

The Neighbourhood Policy of the European Union concerns countries along the EU's external borders, ten Mediterranean countries (Morocco, Algeria, Libya, Egypt, Syria, Lebanon, Israel, Jordan, Palestinian Authority, and Tunisia) and the Western Newly Independent States (Moldova, Belarus and Ukraine). The European Commission published two important policy documents. In May 2003, the Commission presented the 'Wider Europe' policy paper<sup>9</sup>, which was a year later complemented by another Communication entitled the 'EU New Neighbourhood Policy' (ENP). In this latter document, the

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<sup>7</sup> COUNCIL DECISION of 6 November 2003 on the shared organisation of joint flights for removals, from the territory of two or more Member States, of third-country nationals who are subject of individual removal orders, OJ L261 of 6 August 2004, p.28; COUNCIL DECISION of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals, OJ L60 27 February 2004, p. 55

<sup>8</sup> REGULATION (EC) of the European Parliament and the Council of 10 March 2004 establishing a Programme for Financial and Technical Assistance to Third Countries in the Areas of Migration and Asylum (AENEAS), OJ L 80 of 18 March 2004, p. 1.

<sup>9</sup> COMMUNICATION from the Commission to the European Council and the European Parliament, Wider Europe-Neighbourhood: A new framework for the Relations with our Eastern and Southern Neighbours, COM (2003)104final

Commission confirms and reinforces the aims and strategy of the 2003 'Wider Europe' policy, seeking to extend the socio-economic, prosperity and peace-related benefits of the EU's recent enlargement to its immediate neighbours. Inter alia, the Communication lays out the following objectives: to give new impetus to co-operation with the EU's neighbours following enlargement and to reinforce the EU's contribution to promoting the settlement of regional conflicts.

It has to be underlined that the ENP is not to be interpreted as a first step towards EU membership. In June 2004, the Council extended the ENP to the South Caucasus countries, Armenia, Georgia and Azerbaijan.

The first step towards putting in place this policy has been to draft and adopt a progress report on each of the countries concerned by the ENP. Therein the Commission assesses the situation in each country concerned by the ENP. Progress Reports have been issued in 2004 for Ukraine, Moldova, Israel, Morocco, Jordan, Tunisia and Palestinian Authority. Progress reports are of a factual and descriptive nature, rather than critical and serve as basis for the joint elaboration of Action Plans.

Action Plans contain commitments to specific actions to promote common values (such as respect for democracy, human and minority rights and the rule of law) and to certain objectives in the common foreign and security policy area and commitments to actions which will bring partner countries closer to the EU in a number of priority fields. Priority actions have to be set up, with a timetable, on political dialogue and reform, trading facilities, energy, transport, information society, transport, environment, social policy and people-to-people contact. Differentiation can be made between key priorities in a limited range of fields which need to be addressed as particularly high priorities, and others. One of these priorities is closer collaboration in Justice and Home Affairs issues. This collaboration includes management of border and population movements, migration and asylum, visa policies and the fight against organised crime.

The Action Plans and the progress made will be monitored in the bodies established under the Partnership and Co-operation Agreements (PCA's) or Association Agreements. Ultimately, bilateral agreements will become 'European Neighbourhood Agreements'.

To implement the ENP, the Commission proposed the creation of a new financial instrument. This instrument will become effective as of 2007 and will place emphasis on cross-border co-operation along the EU's external borders. A draft regulation was issued recently on 14 October 2004.

### *Russia*

Russia is not directly concerned by the European Neighbourhood Policy. Since 1997, the country's relation with the EU is governed by a Partnership and Co-operation Agreement and the joint decisions made at the EU-Russia summit in Saint-Petersburg of May 2004. There, both parties agreed on the creation of four "common spaces" concerning the economy, freedom, security and justice (FSJ), external security and research and education, including cultural aspects. At the next bilateral summit, the EU and Russia want to agree on how to further develop these four common spaces and will elaborate road maps in order to achieve this goal. By creating these common spaces, closer co-operation between the EU and Russia will be envisaged in the search for solutions to common problems and cross-border issues, such as the fight against terrorism, illegal immigration and organised crime.

### **III – Legal Immigration**

In July 2004, the Commission issued a Communication on the study on the relationship between legal and illegal migration.<sup>10</sup>

#### *Integration of migrants*

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<sup>10</sup> COMMUNICATION from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Study on the links between legal and illegal migration, COM (2004) 412 final.

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A *vigorous integration policy* was called for by the Tampere European Council in October 1999. The integration policy should aim at “*granting legally resident third country nationals rights and obligations comparable to those of EU citizens*”. Since then, widespread concerns about security and the need for social cohesion renewed the debate on strategies to ensure the integration of migrants. The Commission issued a Communication on Integration, Immigration and Employment in June 2003, in response to the Tampere conclusions.<sup>11</sup> The first annual report was issued in June 2004.

The Commission established in 2003 a network of national contact points on integration which meets twice a year and regularly exchanges information. Together with the NGO Migration Policy Group, the Commission issued in mid-November 2004 a handbook of best practices, which was adopted during a ministerial meeting on Integration on 10 November 2004.

Integration is also an important element of the new multi-annual plan in the area of Justice and Home Affairs presented by the Dutch Presidency and adopted on 5 November at the European Council under the name ‘The Hague Programme’.<sup>12</sup> The Commission has also developed a financing, entitled the INTI Programme, which provides funding to all actors for integration projects for an amount of EURO 4 million in 2003 and EURO 6 million in 2004. The EQUAL Fund is another Community budget line which also provides funding for integration of migrants and asylum seekers.

#### *Legal immigration: adoption of EC legislation*

On the legislative level, a few Directives have been adopted. The first is a Directive on Family Reunification adopted in November 2003.<sup>13</sup> This instrument has, however, been challenged by the European Parliament in front of the European Court of Justice for non-compliance with certain norms of international law, in particular with regard to the Convention of the Rights of the Child. A second Directive was adopted, on Long Term Residence Status for Third Country Nationals, in November 2003.<sup>14</sup> Refugees are excluded from the scope of the Directive. A specific instrument will specifically deal with this issue for refugees and subsidiary protection beneficiaries, which should include the transfer of protection responsibilities when the refugee / long term resident moves to settle in another Member State. A third Directive deals with the rights of EU citizens and their family members to move and reside freely within the European Union, which was adopted in March 2004.<sup>15</sup> Fourth, a Directive concerning short term residence status which can be offered to victims of trafficking who cooperate with the authorities in criminal prosecutions was adopted in April 2004.<sup>16</sup>

Draft Directives were issued and are subject of intensive discussion in the Council on the subjects of entry for researchers, for workers undertaking unpaid activities and for students and vocational training. A Draft Directive which created great divergence among Member States is the one on entry for economic purposes. In particular, Germany does not agree that the EU would regulate access to national labour markets. The Constitutional Treaty has a provision stating that EU measures will be adopted on:

- the conditions of entry and residence in the EU;
- the definitions of rights of third country nationals residing legally in a Member State;
- illegal migration, unauthorised residence, including removal and repatriation;
- combating trafficking in persons.

However, in practice Member States will retain the right to determine the volume of admission of third country nationals coming in order to seek work.

As a conclusion of the third part of the presentation, it can be mentioned that the main innovation of the EU’s immigration policy concerns third country nationals who reside legally in a Member State. According to the Constitutional Treaty, the EU will be able to add value to national integration measures by adopting

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<sup>11</sup> COMMUNICATION from the Commission to the Council, the European Parliament, the European Social and Economic Committee and the Committee of the Regions, on immigration, integration and employment of 3 June 2003, COM(2003), 336 final

<sup>12</sup> The multi annual programme is annexed to the Conclusions of the European Council on general affairs 4-5 November 2004.

<sup>13</sup> COUNCIL DIRECTIVE 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251 of 3 October 2003, p.12

<sup>14</sup> COUNCIL DIRECTIVE 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents, OJ of 23 January 2004, p.44

<sup>15</sup> DIRECTIVE 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the EU and their families to freely move and reside within the territory of the EU, OJ L 229 of 26 June 2004, p.35

<sup>16</sup> COUNCIL DIRECTIVE 2004/81/EC of 29 April 2004 on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been subject of an action to facilitate illegal immigration who co-operate with the competent authorities, OJ L 261 06 August 2004, p. 19



incentive and supporting measures, with the exclusion of any harmonisation of national laws and regulations.

#### IV – EU Asylum Policy Developments

The first phase of the common asylum system covered the period from the entry into force of the Amsterdam Treaty, i.e. 1 May 1999 until 1 May 2005. The EU claims to have met its deadline of 1 May by having adopted the five building blocks of the Amsterdam Treaty. Indeed, the Council adopted a Decision setting out the European Refugee Fund<sup>17</sup> in 2000, adopted a Directive<sup>18</sup> on a temporary protection regime in July 2001 and established criteria and mechanisms for determining Member States' responsibility for the examination of asylum applications through a Regulation adopted in February 2003.<sup>19</sup> These initiatives were followed by the adoption of a Directive<sup>20</sup> on minimum standards for the reception of asylum seekers in 2003 and a Directive<sup>21</sup> on the qualification of refugees and beneficiaries of subsidiary forms of protection in April 2004. Finally, the fifth building block concerns minimum standards for asylum procedures on which a political agreement was reached in April 2004. This draft Directive however is to be formally adopted only after the European Parliament will have issued a new opinion on the latest text. In the second phase of the harmonisation process starting from 1 January 2005, it will be important to look at the transposition and implementation of the adopted instruments at national level. The Commission has to evaluate the first phase legal instruments by 2007.

In June 2004, the Commission issued three important Communications. First, it issued an assessment of the first phase of the Common European Asylum System as a qualified success, and presented the new elements for the second phase. The Commission also issued a Communication on Durable Solutions (on resettlement and enhancing protection in the regions of origin) and on a Single Asylum Procedure.

On 5 November 2004, the European Council adopted a multi-annual Programme on Justice and Home Affairs (the 'Hague Programme'), including on migration and asylum matters. The issues at stake for asylum are: agreement on evaluation of the first phase instruments by 2007, with the second phase concluded by 2010 with the full establishment of the common European Asylum System; studies on joint processing of claims; commitments to practical co-operation among Member States, and the establishment of appropriate structures for co-operation on asylum, as a first step towards the creation of an European Asylum System. Issues related to the external dimension of European refugee policy will also be closely followed by UNHCR.

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<sup>17</sup> COUNCIL DECISION 200/596/EC of 28 September 2000 establishing a European Refugee Fund, *OJ* L252 of 6 October 2000, p.12

<sup>18</sup> COUNCIL DIRECTIVE 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promotion a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, *OJ* L 212 of 7 August 2001, p.12

<sup>19</sup> COUNCIL REGULATION (EC) Nr 434/2003 of 18 February 2003 establishing criteria and mechanisms for determining the Member State responsible for the examining an asylum application lodged in one of the Member States by a third country national, *OJ* L50 of 25 February 2003, p. 1

<sup>20</sup> COUNCIL DIRECTIVE 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, *OJ* L31 of 6 February 2003, p. 18

<sup>21</sup> COUNCIL DIRECTIVE 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, *OJ* L304 of 30 September 2004, p.12

### UKRAINE'S IRREGULAR MIGRANTS – RECEPTION AND RETURN

*Chris Petch, Operations Officer, IOM Mission in Ukraine*

This presentation looked at the specific aspects of Reception and Return by presenting IOM Ukraine's current and proposed initiatives in this area.

The global increase in irregular migration is having an increasing impact on the fabric of Ukraine and other CIS countries in the region and on their capacity to manage their transition to new socio-economic structures in a steady and stable way. Independence of Ukraine in 1991 has been followed by a greater openness of Ukrainian society to the outside world, and liberalisation of procedures governing entry and exit by citizens and foreigners. The present period of change and transition has made the region vulnerable to irregular movement of migrants and, increasingly, to the organised trafficking of migrants to the countries of Western Europe and to North America. Socio-economic conditions in many of the countries of Africa and Asia are leading to a significant increase in irregular migration from these regions through Ukraine.

Data presented showed an increase in apprehended migrants at the border, but a decrease in those apprehended inside the country. In comparison, for the period January–June 2004, the State Border Guard Service of Ukraine (SBGS) has apprehended more than 3,800 irregular migrants (this is an increase compared to the same period in 2003). The overall impression is that there will be more rather than less apprehended irregular migrants to manage, especially as the relevant authorities improve their detection efficiency.

To address this growing problem within the region, and specifically within Ukraine, a number of documented strategies have been produced. Each one addresses in one way or another the problem of irregular migration at a regional or local level. Lead agencies have been designated for the various aspects of addressing migration, including trafficking and smuggling. One such agency, the State Committee of Ukraine for Nationalities and Migration (SCNM) has been given the task of providing accommodation for the apprehended irregular migrants that are currently accommodated by Ministry of Interior (MOI) and SBGS units. Alongside these strategies, IOM's strategy looks to strengthening migration management capacity through a number of programmes, ongoing and planned.

IOM approaches the Capacity Building for Migration Management Program using a model of Migration Management that illustrates the interdependence of a number of different elements. This model breaks down the function of Migration Management into three distinct but inter-related components. The components consist of the Framework Component, the Management Component and the Control Component. Each of these components can be further broken out into a number of distinct elements. The elements that make up the Framework Component are Policy, Legislation, Regulations and Procedures. The elements that make up the Manage Component are National Passport, National Visa, Official Documents of Identity. The elements that make up the Control Component are Intelligence, Monitoring and Detection, Inspection, Response.

A cross-cutting theme that runs through all these aspects is that of the protection of human rights. The rights of all humans are fundamentally derived from the Universal Declaration of Human Rights. There are a number of conventions that address the specific rights of migrants, including irregular migrants. These are currently being researched to identify those specific references to irregular migrants. Within Ukraine, the legal framework for the protection of human rights is established by the Constitution which sets out the full range of social, economic, political and personal rights and freedoms. In cases where there is an inconsistency between domestic legislation and international treaties to which Ukraine is a party, the provisions of the international treaty will apply.

The existing International standards and conventions will need to be compared to existing Ukrainian legislation to ensure that these fully comply. In addition there will be exchange of expert information

between Ukraine and a suitably selected country, one that has recently carried out a similar transition to Ukraine, to gather best practices information and ensure that it is embedded into Ukrainian legislation and procedures. For effective migration management and to ensure that the legislation is properly addressed in operational practices, there is a need to ensure that the procedures that are produced, as a result of the best practices assessments, are allowed to be reflected into the relevant operational procedures. This effort will be accompanied by appropriate training of Ukrainian government officials and staff directly involved in the procedures of detention (including administering health care) and return.

As part of the situation analysis a site visit to the detention center in Lviv was conducted by an IOM team earlier this year. The majority of the migrants are from Asia; Pakistan, Afghanistan, China and post-soviet CIS countries. There is no separate funding for the detention of the migrants. This is of particular concern to the Ukrainian authorities. The conditions are cramped and access to sanitation and hygiene facilities is limited. Food has to be shared from the centre's staff rations. No medical care is easily available for the migrants. There is clearly a pressing need for improved conditions for these apprehended migrants. The Government of Ukraine has prepared plans to address this situation and is very interested in international assistance to ensure that all issues and concerns are considered and that any short fall in funding for the amount of accommodation facilities required is met by international donors. Indeed, the SCNM has already started some initial work on this matter.

There is a requirement to provide temporary accommodation facilities for some 1,200 irregular migrants currently held in detention by both SBGS and Mol. The programme plans to refurbish existing buildings on each site that were previously used for accommodation blocks, wash rooms, kitchen and dining halls and health centres. This will entail a tendering process to select a contractor to carry out the work. The work will refurbish the existing infrastructure and provide appropriate furnishings and fittings to allow the centres to operate appropriately. In addition, a suitable building will be refurbished as an advice centre that will address the needs and rights of irregular migrants in relation to:

- access to relevant language interpretation and translation;
- access to legal advice;
- access to advice of asylum process and procedures;
- contact with family members.

These centres will utilise the information on International Best Practices from a series of assessment studies that will be carried out in parallel to this refurbishment programme. In this way, the researched best practices will be imbedded into the continued operation of the centres. The centres will initially be run by NGOs with the view to handing over the operation of them to the Government of Ukraine.

Addressing the health concerns of irregular migrants remains a challenge for the Ukrainian authorities. The Ukrainian authorities will need support and assistance to provide basic health interventions and access to services using culturally appropriate and gender sensitive mechanisms. IOM has been requested by the Ukrainian Ministry of Health to provide capacity building and assistance in the delivery of health care services to irregular migrants in the country. The Border Guard medical authorities have likewise expressed the need for updated health information and education on noteworthy communicable diseases with public health risks which may be prevalent in countries where most of the irregular migrants are coming from.

Irregular migrants are particularly exposed to contracting or transmitting diseases, in particular TB and HIV/AIDS. Improving health care services, strengthening of information, surveillance and referral systems, capacity building and changes in health education and promotion, developing prevention strategies are among key areas that will be covered by the project through the establishment of a health centre in each accommodation centre and building guidelines and providing training.

The sites for these accommodation centres have already been identified by the Government of Ukraine in two locations. The government signed a decree in December 2003 that transferred ownership of two former military sites to the SCNM for the purpose of establishing temporary accommodation centres for migrants apprehended at the borders of Ukraine (by SBGS) and within Ukraine (by Mol). One in North Ukraine, near Chernihiv, and one in Western Ukraine, near Lutsk in Volyn Region in North-Western Ukraine.

It is envisaged that each will have a catchment area within which apprehended migrants will be transferred to the accommodation centres. The transferring process for these migrants will also be

### PART III. PRESENTATIONS

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reviewed in light of international standards and best practices and amendments proposed as required. Certainly, the review process and decision making process that precedes any transfer will be reviewed as currently this is carried out by the prosecutor's office and a juridical review should be incorporated into the procedure.

The SCNM has already identified a sum of money from 2004 budget for starting the refurbishment programme; this work will look at water, heating and security aspects, not covered by the intended IOM managed programme. This initial work is planned to be completed by the end of 2004, and it is hoped to begin the remaining refurbishment activities during 2005.

The project intends to draw on the experience and expertise of those agencies and countries that have already developed such facilities or who have refurbished similar establishments, e.g. Swedsh Migration Board's work in the Baltics and UNHCR's work with asylum accommodation centres in Ukraine and Belarus.

The project will be phased so that refurbishment work will not begin until a series of preconditions have been met. These preconditions include:

- setting up and operation of an inter-ministerial committee that work in migration management activities;
- relevant international best practices and standards researched fully;
- legal code or instructions for the legal status of apprehended migrants, based upon international standards, submitted for approval;
- legal code and Ukraine standards for the accommodation centres, based upon international standards, drafted and approved;
- state budget line present for continued operation of accommodation centres;
- guarantee for continued availability of site for sole use by accommodation centres;
- guarantee that approved NGOs are offered free access to accommodation centres.

For the voluntary return of irregular migrants element of this project, IOM has a great deal of experience operating voluntary return programmes, both globally and also from Ukraine. Recently these programmes have been operated in close collaboration with UNHCR, and future programmes are expected to follow this line. The priority for returns will be for those migrants that have not been offered asylum and that cannot fund their own return, or that the Government of Ukraine cannot fund.

The Government of Ukraine has both funds and an existing process for returning migrants, however, there is a need for these funds to be increased for the following years. These programmes will not be replaced by any IOM managed process. Instead, it is expected that a pilot programme, designed to address international best practices and that offers a voluntary application, will form the basis for a sustainable Government of Ukraine operated and managed return system.

To offer an idea of the scale of the current return process, in the first six months of this year (2004), border protection units of the SBGS voluntarily deported 1,853 persons. However, this pilot programme will look to returning some 150 migrants to countries of origin.

The return programme will offer services such as assistance with travel documentation, for migrants that do not have easy access to consular facilities within Ukraine, medical health checks prior to departure, especially addressing the concerns of transmittable diseases, travel ticketing and reception arrangements and assistance, where assessed as required.

Alongside this process, will be access to language interpreters to ease the process for those migrants that do not have a working knowledge of local languages.

At present, there is the possibility to fund the return of stranded Sri Lankans and IOM has begun discussions with UNHCR to begin this process. In addition, we have recently heard that the Swiss will be funding an Assisted Voluntary Return programme with IOM in the immediate future.

**UKRAINE'S EXPERIENCE  
WITH THE IMPLEMENTATION OF THE EU ACTION PLAN  
IN THE FIELD OF BORDER MANAGEMENT IN 2004**

*Andriy Fedoseev, Chief of Section,  
Administration of State Border Guard Service of Ukraine*

**I. In the field of improving the national normative and legal base:**

- Art. 331 of the Criminal Code of Ukraine has been decriminalised (criminal liability of individuals, in particular aliens, for illegal crossing of the state border has been abolished);
- Normative acts were developed and entered into force with regard to stipulating the procedure for the detention of aliens-offenders at the border guard bodies; the procedure for taking a decision on expulsion and for expulsion of aliens-offenders from Ukraine; the procedure for the reception and handing over of asylum applications to the Migration Services of Ukraine; the procedure for handing over of violators to the bodies of the Ministry of Interior of Ukraine or their reception by the bodies of the State Border Guard Service.

**II. In the field of border management system and identification of the detained aliens:**

- Joint counselling centres have been set up at the border with Poland and Hungary. The opening of a similar center is planned at the border with Romania.
- A pilot project was implemented by the Chop border guard brigade (Zakarpattya Region) where the 'Investigator' equipment, analogues to the EURODAC, had been installed. The system allows to take fingerprints and check all violators of the Ukrainian legislation on the state border as well as those individuals who approached the State Border Guard bodies with an application for asylum. Based on the positive results of the pilot project, the State Border Guard Service has taken a decision and planned to equip with this system all the border check points in 2005.
- A pilot project in the usage of the "Verifier" biometric control system at the passport control of the "Kyiv" border check point is on-going.
- A single state automatic registration system on entrance of foreign citizens into Ukraine, their stay in and departure from the country has been created.
- A system of electronic exchange of information and filling it in with data on apprehended foreign citizens has been created within the State Border Guard Service of Ukraine.

**III. In the field of international co-operation:**

- A international project has been launched jointly with the NGO "Caritas-Austria" with the participation of the charitable fund "NEEKA" on providing legal and other assistance to asylum seekers who stay in the temporary detention centre for apprehended aliens in Pavshyno (Zakarpattya Region). As the outcome of the project, the conditions of detention of aliens have been considerably improved, they have been provided with access to telephone communication with their families, and the provision of humanitarian assistance and food has been set up.
- A project on providing assistance to apprehended aliens-asylum seekers with establishing contacts, family re-unification and return to their home countries has been launched jointly with the Ukrainian representation of the International Federation of the Red Cross.

**SUMMARY OF THE TACIS PROJECT KI 03-13**  
**“THE ASSISTANCE TO THE LEGAL AND ADMINISTRATIVE REFORMS IN**  
**UKRAINE IN THE SPHERE OF MIGRATION AND REFUGEES’ PROTECTION**  
**ACCORDING TO THE NORMS AND STANDARDS OF THE EUROPEAN UNION”**

*Janas Vidickas, Deputy Director of Migration Department,  
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In December 2003, an Austrian/Lithuanian project proposal – answering the project fiche published by the State Committee for Nationalities and Migration – has received the invitation by the EU delegation to negotiate the Grant Contract for the EU funded TACIS Key Institutions project on “The Assistance to the Legal and Administrative Reforms in Ukraine in the Sphere of Migration and Refugees’ Protection According to the Norms and Standards of the European Union”.

The partners of this project are the State Committee for Nationalities and Migration, as the beneficiary institution on one side and the Austrian Ludwig Boltzmann Institute of Human Rights, as leading partner together with the Migration Department under the Lithuanian Ministry of Interior, as junior partner.

Created in 1991, the TACIS programme is the European Community’s main instrument for co-operation with the countries of Eastern Europe, the Caucasus and Central Asia. The programme, consisting mainly of technical assistance, is currently based on Council regulation No. 99/2000, which sets out the objectives of promoting the transition to a market economy and reinforcing democracy and the rule of law in the partner countries.

TACIS Key Institutions Programmes aim to accelerate the process of administrative reform and to facilitate the design and implementation of public policies based on the experience and practices of public policies of the EU Member States.

The working programme here is focused on supporting Ukrainian officials in the field of asylum with dealing in their day to day work. Therefore Austrian and Lithuanian officials exchange their experience with their specific Ukrainian counterparts. Both, Austrian and Lithuanian officials face similar problems in their day-to-day work like their Ukrainian counterparts. The knowledge gained from experience will be shared with Ukrainian counterparts and possible solutions will be discussed in a series of seminars and workshops, with a specific focus on European best practice in the field of asylum.

The programme of the project has been negotiated in detail between the three project partners and further with the EC Delegation in Kyiv. The project has been finally signed by all parties in September 2004 and will last for one year.

The main target group will be officials involved in the asylum procedure in Ukraine. This refers to the specially authorised body, the State Committee for Nationalities and Migration, being the beneficiary institution, as well as local Migration Services in and outside of Kyiv. Trainings and seminars therefore will be also conducted outside of Kyiv in order to facilitate the participation of a larger number of officials. For specific trainings, where the topic is not directly or solely falling into the responsibility of the beneficiary institution (e.g. detention, deportation, integration), officials from responsible institutions will be further involved.

The project is divided in 5 components. The main elements of the project are the following:

***Component 1. EU and EU Member State Practice and Standards***

This Component aims to present the European and international standards in the field of migration and refugees’ protection. It is also focused to introduce specific solutions and practice of EU Member States in the field of asylum. Questions of European Law in the area of refugee protection as well as questions of international refugee law and human rights will form the main parts of this part.

The above mentioned questions will be discussed during seminars where it is the aim to co-ordinate the specific topics according to the needs and interests of Ukrainian partners. This component also includes study trips to Austria and Lithuania for a better understanding of the practice in these two countries.

### ***Component 2. Analysis of Ukrainian legislation and legal and inter-institutional practice in the field of asylum***

In this part of the project the main focus lies upon legal questions of migration and refugees' protection. It is the aim to review the main Ukrainian legal acts on their compliancy with European and international standards. Additionally draft laws and laws (by-laws) that are currently prepared by the State Committee will be reviewed and discussed. Recommendations thereof will be formulated with a focus on practicability and European and international standards.

It is also an aim of this component to review and discuss the practical implementation of the laws as well as the co-ordination of inter-institutional co-operation, as responsibilities in the field of asylum are divided on different authorities.

### ***Component 3. Training of officials and civil servants of Ukraine in the field of asylum***

Under this component it is planned to hold several workshops and seminars to issues of interest for Ukrainian officials involved in the asylum procedure in Ukraine. The Component is divided into pre-procedural issues, procedural issues and post-procedural issues. To each topic experts from Ukraine will have the possibility to share their experience with their Austrian and Lithuanian counterparts. It is the aim to consider local differences when preparing the seminars.

### ***Component 4 Preparation of Recommendations and Guidelines***

The task of this Component is to collect and compile information and results that were gained during the project and to prepare a working tool for institutions dealing with asylum issues and related questions. This working tool should provide the practitioner with additional information needed in their daily work. The guidebook should be seen as a variable and "growing" compilation of information concerning asylum issues and can therefore be amended and restructured according to the needs of the practitioners identified when using the guide book.

Specific objectives:

1. Ukrainian officials get familiar with the EU institutions and EU policy in the field of asylum. EU legal acts are presented and explained. International refugee law is discussed with Ukrainian officials as well as human rights related issues in the context of asylum and migration policy.
2. The Ukrainian Refugee Law as well as further related acts are analysed and reviewed with regard to their compliance with EU and international standards in the field of asylum. If seen necessary, recommendations are given.
3. The Ukrainian administrative practice on asylum matters is analysed and reviewed; administrative practices that are not in line with EU or international standards are identified, and recommendations on harmonisation are made. Additionally, recommendations are prepared and discussed to streamline the internal working procedures and to clear up responsibilities.
4. Experts of the Ukrainian authorities (both from central institutions and local services) responsible for the implementation of asylum issues and staff of NGOs supporting asylum seekers are offered training courses. If seen necessary, recommendations are drafted and discussed.
5. A guidebook on the asylum procedure containing comprehensive information on asylum law which is based on the analysis of the Ukrainian laws and European/Member States' case law is prepared and published. It will provide guidelines for the practical implementation of the law according to the needs of Ukrainian officials.

During an initial conference the project is presented to a wider public. The project results will be presented in a final meeting at the end of the project.

## ANNEX I. CONVENTION PLUS AT A GLANCE

*Convention Plus Unit, UNHCR HQ*

### What is Convention Plus?

Convention Plus is an international effort initiated and co-ordinated by the Office of the United Nations High Commissioner for Refugees (UNHCR). Its aim is to improve refugee protection worldwide and to facilitate the resolution of refugee problems through multilateral special agreements. This will be achieved through a process of discussion and negotiation with States and other partners of UNHCR to mobilise support and bring about firmer commitments.

### Why new tools for refugee protection and durable solutions?

The 1951 Convention and its 1967 Protocol define the responsibilities of States toward refugees. These instruments remain the cornerstone of the international refugee protection regime.

Despite their continued relevance, the Convention and the Protocol cannot address all the pressing issues pertaining to refugee protection in today's changing world. These include how durable solutions for refugees can be pursued more effectively and how the responsibility for admitting and protecting refugees can best be shared.

For this reason, the United Nations High Commissioner for Refugees launched the "Convention Plus" process. The "Plus" will be "a number of special agreements aimed at managing the refugee challenges of today and tomorrow in a spirit of international co-operation."

### What are the tools being developed through Convention Plus?

In the past, UNHCR has frequently been a party to special agreements with States. Such agreements have generally focused on operational arrangements with Governments, often in relation to a particular group of refugees or a specific situation. Most of these agreements have concerned voluntary repatriation operations. Using this experience, the Convention Plus process will broaden the application of special agreements and increase the level of State and other stakeholder involvement.

### On what areas will these agreements focus?

UNHCR will pursue **generic** multilateral agreements to tackle three priority challenges:

- the strategic use of **resettlement** as a tool of protection, a durable solution and a tangible form of burden-sharing;
- more effective **targeting of development assistance** to support durable solutions for refugees, whether in countries of asylum or upon return home; and
- clarification of the responsibilities of States in the event of **irregular secondary movements** of refugees and asylum seekers, that is, when refugees and asylum seekers move, in an irregular manner, from an initial country of refuge to another country.

These generic agreements will set out shared understandings and commitments which can be relied upon and incorporated into situation-specific multilateral agreements designed to resolve a particular refugee situation. The Convention Plus effort will also promote and support the development of these agreements.

### How will multilateral special agreements be developed?

The Convention Plus process is chaired by the High Commissioner and co-chaired by Director of UNHCR's Department of International Protection. They guide the work of the Convention Plus Unit, which is based at UNHCR's Headquarters in Geneva. The Unit is responsible for working with States to develop the generic agreements. It will also provide advice and assistance within UNHCR for the formulation of situation-specific special agreements.



The work on generic agreements is currently led by five “facilitating” States: Canada on resettlement, Denmark and Japan on the targeting of development assistance, and South Africa and Switzerland on irregular secondary movements. Their role, in collaboration with UNHCR, is to lead the process of crafting special agreements. Each facilitating State co-ordinates discussions and deliberations with a group of other interested States, and ensures that non-governmental organisations have ample opportunity to provide their views.

The development of situation-specific special agreements is led by UNHCR’s Regional Bureaux, with support from the Convention Plus Unit.

### **Who else will be involved?**

Twice a year the High Commissioner will convene a Forum, open to member states of UNHCR’s Executive Committee (ExCom) and observers of its Standing Committee. The High Commissioner may also invite others who can make a positive contribution to the Forum.

The meetings of the Forum will focus on the progress made in the different Convention Plus strands. ExCom will receive regular updates on the progress of the Convention Plus process and the work of the Forum.

### **What is the role of UNHCR’s country offices?**

Convention Plus is an organisation-wide effort. While many of the discussions will by necessity take place in Geneva, input and support from UNHCR staff in field locations is essential to encourage active State participation. It is at the field level that the majority of advocacy and liaison work will need to be pursued.

### **Where do we stand as of 15 October 2004?**

#### ***Resettlement***

The Core Group on the Strategic Use of Resettlement reached agreement on the “Multilateral Framework of Understandings on Resettlement” [MFU] in June 2004. It was subsequently given broader support by the Forum when it met on 1 October 2004. In its General Conclusion on International Protection, adopted on 8 October 2004, UNHCR’s Executive Committee welcomed the MFU and encouraged interested States, UNHCR and other relevant partners to make full use of it. The consultations in the Core Group that led to the final version of the Multilateral Framework were characterised by a frank and constructive atmosphere. NGOs made a number of important contributions to the text.

The purpose of the Multilateral Framework is to guide parties to situation-specific multilateral agreements in designing comprehensive arrangements, involving multilateral resettlement operations, to address the protection and durable solutions needs of refugees. The text of the Multilateral Framework is contained in document FORUM/2004/6 and can be found on the Convention Plus website (<http://www.unhcr.ch/convention-plus>).

The next step is to put the Multilateral Framework into practice and planning to this effect is in progress.

#### ***Irregular secondary movements***

The Core Group for this strand continues its work along two mutually supportive tracks. It analyses the reasons for onward movements and how to best address them in a future multilateral framework of understandings, predicated on principles of burden and responsibility sharing. In tandem, the Core Group commissioned a survey on movements of Somali refugees and asylum-seekers in selected countries to inform its deliberations.

After the first open meeting of interested States and stakeholders on 16 December 2003, a Core group was constituted and subsequently two meetings were held. During these meetings two UNHCR’s background documents, entitled “Issues Paper on Addressing Irregular Secondary Movements” and

“Basic Propositions on Irregular Secondary Movements”<sup>22</sup> including the comments received from the Core Group were discussed. During the meeting of 20 September 2004, a number of shared understandings on possible building blocks of a multilateral framework begun to emerge. In the deliberations of the Core Group the notions of burden and responsibility sharing were identified as key principles that should guide the work of the Group. Therefore, as a next step, a meeting will be scheduled for 24 November 2004 to further discuss these notions, including the underlying human rights principles, how to operationalise these notions, as well as regional experiences in this respect.

Work on the the survey of the scope and causes of movements of Somali refugees and asylum seekers, as well as State responses thereto, is moving forward thanks to funding commitments from a number of States. The first preliminary findings of surveys in Switzerland, Kenya, Yemen, The Netherlands and South Africa are expected to be available in the first quarter of 2005. Subject to further funding, surveys will be carried out in other countries, including Ethiopia, Djibouti, Italy and Egypt.

### ***Targeting development assistance***

In April and June 2004, Denmark and Japan convened meetings of key development aid donors in Geneva, with a view to involving gradually in a Core Group a number of development aid recipients that are also major refugee-hosting countries or countries of origin. In the June meeting it was agreed to focus efforts initially on two specific refugee situations. In early October 2004 a focus group meeting was held on the targeting of development aid for Sudanese refugees and their host communities in northern Uganda. Donors, UN agencies and NGOs participated in the meeting, in which the Government of Uganda presented its Self-Reliance/ Development Assistance for Refugee Hosting Areas strategy. This strategy will be finalised by the Government, with UNHCR’s assistance, and an appeal for funding will be launched in Kampala later in the year.

Likewise, Japan will host a meeting of interested States shortly in order to discuss and prepare a plan for Somali refugees and their host communities in Ethiopia, as well as support for sustainable return of other groups of refugees to northern Somalia.

Beyond these discussions on targeting development assistance in specific situations, UNHCR prepared a draft “Issues Paper on Targeting of Development Assistance”, identifying issues relating to the targeting of development assistance in a Convention Plus context and outlining possible elements for a framework of understandings. Since the successful targeting of development assistance also requires the involvement and commitment of a range of actors, the issues paper was, as a first step, presented in a meeting with United Nations agencies, the World Bank, the OECD Development Assistance Committee (DAC), major aid donors and NGOs, hosted by Denmark in Geneva on 22 September 2004.

### ***High Commissioner’s Forum***

The third meeting of the High Commissioner’s Forum took place on 1 October 2004 in Geneva, just prior to the 55<sup>th</sup> session of ExCom. In addition to a progress report on Convention Plus and the “Multilateral Framework of Understandings on Resettlement”, UNHCR’s Africa Bureau presented an information note on preparatory activities for the comprehensive plan of action for Somali refugees. The Convention Plus Unit also submitted a paper entitled “Making comprehensive approaches to resolving refugee problems more systematic”, which outlines a new procedure to analyse, assess and develop comprehensive plans of action to resolve refugee situations, particularly those that are protracted.

During the course of the meeting, delegations voiced their appreciation for the ongoing work on Convention Plus and the goal to define further multilateral frameworks on the two outstanding strands. Further, the fundamental relationship between each of the strands, which will become evident through the development of comprehensive approaches, was reaffirmed.

All documents submitted to the third meeting of the High Commissioner’ Forum, as well as the annotated order of business, the High Commissioner’s and other personalities’ statements, and the Chairman’s Summary of the meeting, are available on the Convention Plus page of UNHCR’s public website (<http://www.unhcr.ch/convention-plus>).

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<sup>22</sup> Both documents are available on UNHCR’s website (<http://www.unhcr.ch/convention-plus>).

***Other initiatives***

Convention Plus is also involved in a number of projects in specific countries that engage host States, donor countries and other international and national partners in implementing strategies to expand opportunities for durable solutions. Afghanistan Plus, the Preparatory Project for the Somali CPA, and multilateral strengthening protection capacity initiatives are tangible manifestations of the Agenda for Protection in action and the value of a Convention Plus approach.

## **ANNEX II. MINUTES OF THE MEETING OF THE ADMINISTRATION OF THE STATE BORDER GUARD SERVICE OF UKRAINE AND THE STATE BORDER GUARD OF THE REPUBLIC OF ESTONIA**

Negotiations were held between the delegations of the Administration of the State Border Guard Service of Ukraine and the State Border Guard Department of the Republic of Estonia (hereinafter referred to as the "Parties") on 13 August 2004 in the city of Kyiv.

The Delegation of the Administration of the State Border Guard Service of Ukraine was headed by the Chairman of the State Border Guard Service of Ukraine, General-Corporal Mykola Lytvyn.

The Delegation of the State Border Guard of the Republic of Estonia was headed by the General Director of the State Border Guard of the Republic of Estonia, General-Major Harri Hein.

### **In the course of the meeting the following issues were discussed:**

1. Issues pertaining to the situation on the state borders and measures taken in order to counter-act illegal migration and other forms of trans-border crime.
2. The state of reforming the State Border Guard Service of Ukraine.
3. Evaluation of the state of bilateral co-operation and definition of the main directions of development of bilateral co-operation on border issues.

#### **The first issue:**

The Parties informed each other of the state of counter-action to illegal migration, contraband, and other illegal activity on the border, highlighting that illegal migration was a serious problem for the EU Member States as well as neighbouring European countries.

The Parties discussed the main ways and directions of co-operation in the area of combating irregular migration and other illegal activities on the border.

The Parties came to a conclusion as to the necessity to continue and further develop co-operation in counteracting terrorism, illegal migration, contraband and other forms of trans-border crime.

#### **The second issue:**

The Ukrainian Party informed the Estonian Party of the state and perspectives of reforming the State Border Guard Service of Ukraine and the main directions and achievements in the area of international co-operation.

The Estonian Party took note of the information provided into consideration.

Having considered this issue the Ukrainian Party came to a conclusion as to the necessity of studying the experience of the Estonian border guard body with integration into the EU law enforcement system.

#### **The third issue:**

The Parties positively evaluated the development of bilateral co-operation carried out on the basis of the Protocol of Co-operation between the State Committee for Protection of the Border of Ukraine and the Border Guard of the Republic of Estonia signed on 8 December 1998 in the city of Tallinn, having highlighted that this process had taken on new meaning in the situation of Ukraine's direct neighbourhood to the EU, and Estonia's membership in the EU.

The Parties underlined the importance of exchange of information and of co-operation between border guard operative bodies in the interests state border protection and exchange of experience in training personnel, and agreed to carry out mutual visits of experts for the exchange of experience of carrying out operative activities aimed at state border protection.

The Parties agreed to organise the exchange of experience between the teaching staff of the educational sub-divisions and institutions of border guard bodies of the Parties.

The Estonian Party proposed to prepare a draft inter-institutional Protocol on the training of K9 specialists on the basis of the educational border guard detachment in the city of Bolshie Mosti of the Lviv Region and to provide it to the Ukrainian Party for review.

The Parties came to the opinion of the necessity to establish co-operation between the sub-divisions of the border guard bodies of Ukraine and the Republic of Estonia, which focus on the examination and expertise of passport documents of citizens who have violated the legislation on state borders of the state Parties as well as the exchange of information on new types of passports and visas of various countries of the world.

The Parties agreed that the next meeting of heads of border guard bodies will be organised in 2005 in the Republic of Estonia.

The meeting was held in a friendly and constructive atmosphere.

The Minutes were drafted in two copies, in Russian.

City of Kyiv

13 August 2004

For and on behalf of the Administration of the  
State Border Guard Service of Ukraine

For and on behalf of the State Border Guard of the  
Republic of Estonia

[SIGNATURE]

[SIGNATURE]

Mykola Lytvyn

Harri Hein

### **ANNEX III. SUMMARY OF THE CROSS-REGIONAL CO-OPERATION PROJECT BETWEEN UKRAINIAN, HUNGARIAN AND SLOVAK ORGANISATIONS INVOLVED IN REFUGEE PROTECTION**

*Albert Pirchak, Director, NEEKA*

The main goal of this project is to establish co-operation between Ukrainian, Hungarian and Slovak migration authorities and NGOs involved in refugee protection as well as to secure asylum seekers access to refugee status determination procedure at the main border crossing points of the above mentioned countries.

In September–October 2004, it is planned to conduct two study visits of the Ukrainian Migration/Border Guard Services and NGO representatives to Hungary/Debrecen and Slovakia/Koshice. During the visits the Ukrainian delegation would study experience of the neighbouring partners in providing asylum seekers with access to Refugee Status Determination Procedure as well as their legal representation by NGOs at migration authorities. Particular focus will be on asylum seekers accommodation centres, legal and social counselling standards and treatment. The abovementioned activities should strengthen the regional asylum network, establish regular exchange of information between actors and improve border monitoring mechanism. In the future, co-operation between partners would be continued through the joint border missions and roundtables on refugee issues.

It is planned that during October-beginning of November 2004, 1,500 leaflets on national asylum procedures, including addresses/telephone numbers of local Migration Services and NGOs involved in refugee protection would be printed and available to asylum seekers. Out from them, 500 leaflets in Ukrainian and English languages would be available at Ukrainian-Hungarian border crossing points Tisa/Chop (200 copies), and Luzhanka (100 copies) and Ukrainian-Slovak crossing point Uzhgorod (200 copies). At the same time 500 leaflets in Hungarian and English would be available at Hungarian-Ukrainian border crossing points Zahony (300 copies) and Borobas (200 copies) while 500 leaflets in Slovak and English at Slovak-Ukrainian crossing point Vishne Nemecke.

In addition to national migration authorities the following NGOs would be involved in the project: the International Foundation for Health and Environment Protection “Region Karpat (NEEKA), the Hungarian Helsinki Committee, Menedek, and the Slovak Goodwill Society.