

Sadowski, 'Capacity building in a field of migration: the cases of Moldova and Georgia',
[2012] 1 *Web JCLI*
<http://webjcli.ncl.ac.uk/2012/issue1/sadowski1.html>

Capacity building in a field of migration: the cases of Moldova and Georgia

Piotr Sadowski

Master of Arts in Law (Nicolaus Copernicus University, Torun, Poland)
Bachelor of Arts in Law (University of Abertay, Scotland)
Ph.D. candidate at Faculty of Law and Administration, Nicolaus Copernicus University,
Torun, Poland.

migration_research@wp.pl

The views expressed in this article are those of the author and do not necessarily represent the views of, and should not be attributed to, any other entities and institutions. The author wishes to thank all the persons who supported him during this research.

Summary

This article concentrates upon an impact of readmission agreements between the EU and Moldova and between the EU and Georgia. It underlines the technical nature of these agreements and presents their role in safeguarding rights of returned migrants.

It cannot be argued that without adequate support imposing higher standards with respect to returns and readmission cannot be achieved by the migration services in Moldova and in Georgia. However, the question arises whether the EU and EU Member States are doing enough in order to help Moldova and Georgia in strengthening capacity building of migration services in those countries. Examples of actions that were taken, have been taken and are being taken in those countries are provided. Special attention is paid to projects implemented under EU Mobility Partnership Agreements in order to verify the usability of this tool in developing migration management systems.

Contents

Introduction

Definition of a term 'capacity building'

Needs for capacity building in case of Moldova and Georgia

Examples of actions taken

Conclusion

Bibliography

Introduction

The current migration situation in Mediterranean region has shown that migration patterns may change rapidly. The great and constantly growing number of migrants who are determined to cross the European Union borders and the risk that they are exposed to during their travel has attracted the attention of practitioners, law-makers, researchers and the media.

Providing support for Mediterranean region is a priority issue for policymakers. Amongst others, public officials who are responsible for controlling borders, those who are processing asylum applications, those who are processing residency permit applications as well as those who are drafting legislation (hereinafter collectively called ‘migration services representatives’) should be knowledgeable about efficient management of so called ‘mixed migration flows’. As these kind of flows comprise asylum seekers, economic migrants, and unauthorized migrants they cannot be addressed by representatives of one government department only. For this reason professional interagency co-operation has to be ensured as well.

History has shown that Mediterranean is not the only region where political changes may have an impact on the migration situation. This was the case when the Soviet Union collapsed, and when wars in Balkans occurred. Therefore, support for Eastern and South-Eastern Regions neighboring the EU in capacity building of migration services should be constantly provided.

Definition of a term ‘capacity building’

The term ‘capacity building,’ as outlined in ‘Glossary on Migration’ by International Organization for Migration (International Organization for Migration, 2004), refers to

Building capacity of governments and civil society through strengthening their knowledge, skills and attitudes. Capacity building can take the form of substantive direct project design and implementation with a partner government, or in other circumstances can take the form of facilitating a bilateral or multilateral agenda for dialogue development put in place by concerned authorities. In all cases, capacity building aims to build towards generally acceptable benchmarks of management practices.

A slightly modified version of this definition can be found in a newer edition of ‘Glossary on Migration’ (International Organization for Migration, 2011a) where training is mentioned as one of tools of supporting capacity building. In the field of migration the term ‘capacity building’ refers to a process of strengthening knowledge and developing best practices of, amongst others, public officials who are working in a field of migration. Bilateral and/or multilateral projects are a popular measure to put this into practice as they provide a flexible tool for implementation.

Working on projects starts with identification of the needs of a requesting state. Then, an agenda with a list of actions, monitoring benchmarks, and evaluation methodology is prepared. In case of smaller projects a final evaluation is sufficient whereas in bigger ones (e.g. those initiatives that have a lot of actions envisaged in their action plans and those that are implemented over a longer time) a mid-term evaluation should be considered as a useful tool. Obviously, actions foreseen in action plans must also be reflected in projects' budgets. In case of projects implemented by EU Member States a co-funding from the European Commission is frequently used.

Projects aiming at capacity building of migration services frequently have a three-fold nature. If this is the case, a project begins with actions that are addressed at government officials who prepare drafts of legislation on migration related issues (hereinafter: 'law-makers') in order to provide them with a sound knowledge of e.g. the EU legal system, specific EU laws on migration, and with a review of the said legislation. Secondly, law implementing institutions' representatives participate in workshops and seminars that provide them with an opportunity to exchange views and best practices in applying new rules and regulations. An exchange of the worst practices may also have an added value for participants as such knowledge may help them avoid mistakes that their colleagues have already made. Finally, projects aiming at strengthening capacity building should provide beneficiaries with a direct technical support so that standards that are introduced by law-makers may be applied in practice.

Needs for capacity building in case of Moldova and Georgia

An examination of the needs of Republic of Moldova (hereinafter: 'Moldova') and Georgia for capacity building in a field of migration can be made from both the EU perspective and from the countries perspectives.

From the EU perspective (bearing in mind that this article concentrates upon migration management and on return and readmission issues) it is worth underlining that the EU institutions and EU Member States believe in sharing responsibilities for migration management between the EU Member States and other countries that cooperate with them (this is exemplified by requirements imposed on states that joined the EU in 2004; see Geddes, 2003, pp. 181-183). To ensure that this is a workable collaboration both parties have to be equipped with a sound knowledge of procedures and best practices that have to be respected. This applies especially to matters relating to the human rights of migrants.

It is not an aim of this article to scrutinize available frameworks for collaboration between the EU and Moldova or between the EU and Georgia. Nevertheless, in order to ensure clarity some general remarks are necessary (for more information about the evolution of frameworks for co-operation see Pełczyńska-Nałęcz, 2011, pp. 30-35).

Although co-operation on migration between the EU and Moldova and Georgia was fostered when Partnership and Cooperation Agreement (PCA) were concluded (the PCA with Moldova was signed in 1994 and entered into force in 1998 whereas the PCA with Georgia was signed in 1996 and entered into force in 1999) one has to remember that migration was not a core element of these agreements as they laid down the fundamentals for furthering general co-operation. Thus, instruments available under European Neighborhood Policy mechanism were welcomed as they provided new tools for specific fields of collaboration, including co-operation on migration (see Eisle and Wiesbrock, 2011; for more information on the history of the EU external dimension of migration see Bosh and Haddad, 2007, pp. 5-17).

Nevertheless, co-operation with Moldova and Georgia has also to be viewed in a broader context. At present it is the Global Approach to Migration that is the main EU tool for co-operation with third party countries on migration-related issues. It provides a coherent policy that addresses three main aspects of migration: fighting illegal migration, promotion of legal migration possibilities (including promotion of circular migration), and strengthening positive effects of a nexus between migration and development. At first the Global Approach to Migration's geographical scope was limited to Africa and the Mediterranean (Presidency Conclusions, 2005) but in 2007 it was extended to Eastern and South-Eastern regions neighboring the EU (including the Caucasus countries) as was foreseen in a Communication from the Commission, "Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union" (European Commission, 2007). In the Communication a reference to strengthening asylum capacities is also made. For a history of development of the Global Approach to Migration see Collet, (2007). It is since then that keeping a thematic and geographical balance are seen as essential elements of this framework¹. In order to ensure practical implementation of actions taken under this mechanism selected third party countries are invited to negotiate and conclude Mobility Partnerships (for more information about Mobility Partnerships see Parkes, 2009; Weinar, 2011 p. 9; Carrera and Hernández i Sagrera, 2009, pp. 11-18; Duszczuk, 2010/2011, pp. 100-101). Currently these flexible and tailored offers on migration related issues (prepared after negotiations when the main needs of both parties to the agreement are being specified) have been accepted in 2008 by Cape Verde and Moldova (see Kunz and Lavenex and Ponizzon, 2011, pp. 190-191), and in 2009 by Georgia.

Participation of EU Member States in this mechanism is voluntary and thus not all of the Member States are parties to Mobility Partnerships (European Commission, 2007). The EU Parties to an agreement with Moldova are: Bulgaria, Cyprus, the Czech Republic, France, Germany, Greece, Hungary, Italy, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia, and Sweden. The EU Parties to an agreement with Georgia are: Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Romania, Sweden, the Netherlands, and the UK. In both cases EU agencies are included as well.

Some authors complain about the non-binding nature of Mobility Partnerships (see Hernández i Sagrera, 2011; compare with Koutrakos, 2011, p. 165). However, even after the entry into force of the Treaty of Lisbon in December 2009 the EU does not have competences in all issues covered by Mobility Partnerships. Thus, to ensure coherency with policies that are within the EU Member States' competences or within so called 'shared competences' these instruments must be of a non-binding nature.

The Eastern Partnership is another important initiative on, among others, migration-related issues. It is directed solely at Eastern and South-Eastern Partners of the EU (e.g. Moldova and Georgia). It was presented by the foreign minister of Poland with assistance from Sweden at a the EU's General Affairs and External Relations Council in Brussels on 26 May 2008 (Council of the European Union, 2008) and inaugurated in Prague on 7 May 2009 (Council of the European Union, 2009). The European Council of 19/20 June 2008 invited the Commission to prepare a proposal for 'Eastern Partnership' (Presidency Conclusions, 2008a)

¹ The Global Approach to Migration is currently being reviewed (as at November 2011). A Communication by the Commission is expected to be issued in 2011 (point 5 of European Commission, 2011b).

and the Extraordinary European Council of 1 September 2008 asked for fostering of this process (Presidency Conclusions, 2008b). As a result, a Communication from the Commission to the European Parliament and the Council on Eastern Partnership (European Commission, 2008) was prepared (see Popielawska, 2009; Twelfth Report, 2008). Although migration is not mentioned expressly as a flagship initiative of Eastern Partnership (point 4.3 of the European Commission, 2008) it is referred to in point 3.3 as a priority area. Under the aegis of the Eastern Partnership 'Mobility and Security' partnerships which concentrate upon 'fighting illegal migration, upgrading the asylum systems to EU standards, setting up integrated border management structures aligned to the EU acquis' should be prepared under Mobility Partnership agreements. For the purpose of this article it is important to quote that 'Visa facilitation agreements would be accompanied by readmission agreements and, where necessary, by technical assistance under overall assistance budgets to help partners meet the obligations stemming from these agreements' as specified in point 3.3 of the Communication on Eastern Partnership (European Commission, 2008).

While addressing Moldova's and Georgia's involvement in actions aiming at strengthening their migration services' capacities it is important to refer to a geographic location of those countries and to their political ambitions (see First report, 2010-11, p. 364 and Parkes, 2009, pp. 342-343). With regard to return and readmission policies it has to be underlined that Moldova and Georgia are mainly countries of origin and countries of transit.

The first case refers to the liability of those countries to readmit those of their citizens who stay without authorization on EU Member States' territory. As, generally speaking, citizens of Moldova and Georgia need to have a visa or a residence permit in order to stay within EU Member States' security of official documents that are issued by administration of Moldova and Georgia has to be ensured and databases that provide a possibility to verify if documents in question are authentic ones are well-maintained. The liability to readmit citizens arises also in case of illegal border crossing (including in cases when false or falsified visas, passports or residence permits are used).

Secondly, some migrants may overstay their visa or residence permit. Such violation may also be made by nationals of other countries who have used Moldova or Georgia as a transit country on their travel to the EU. Thus, controlling illegal migration is a duty of border police as well as of diplomatic posts. Nonetheless Moldova and Georgia have a limited ability to control cases where their citizens overstay their visas or residence permits.

Thirdly, since Romania acceded to the EU in 2007, the Romanian-Moldovan border became an external border of the EU that exposes Moldova to bigger illegal migration pressure as a transit country. The same applies to Georgia that has an external border with the EU via Black Sea.

When referring to policies that have already been implemented in Moldova and Georgia it has to be said that those countries are interested in strengthening capacities of their migration services to continue facilitation of co-operation with the EU². They would like to foster

² A history of co-operation between the European Union and Moldova can be found in Wróbel, 2004, pp. 60-72. For more details see European Neighbourhood Policy action plans (European Commission, 2011c): EU-Moldova Action Plan and EU-Georgia Action Plan. In an introductory part of these documents it is underlined

dialogue about visas as development of a visa facilitated regime is among their political aims (for the current situation see Risteska, 2011). However, for the EU a sine qua non requirement in this respect is proper migration management (for more information on the EU measures concerning EU return policy and frameworks of supporting voluntary returns and assisted voluntary returns see Sadowski, 2011a and Sadowski, 2010; for a general outlook on readmission agreements see Council of Europe Parliamentary Assembly, 2010). This explains why projects addressing directly or indirectly returns and readmission issues are implemented in the said countries.

To bring new legislation into action training for law-applying institutions' representatives (hereinafter: 'caseworkers') has to be provided to ensure that a theoretical knowledge on international standards can be properly applied in practice (as outlined in points C 76 and C 102 of Council of Europe Parliamentary Assembly, 2010). This is of the utmost importance as not all of the circumstances that appear in practice can be described specifically enough in rules and regulations. Firstly, in their work caseworkers are faced with a variety of cases concerning different aspects of migration. Secondly, cases are frequently of an interdepartmental nature (e.g. when issuing a residence permit for a third country citizen who is a parent of a child of a citizen of a country that issues the said permit collaboration with civil registrars is essential), and, finally, one can always find gaps in an existing legislation. To proceed with such cases caseworkers have to have an insight into knowledge about best practices in their field. An exchange of experiences that have been gained by caseworkers can be beneficial not only for other caseworkers but also for law-makers.

When looking at gaps in the law what cannot pass unnoticed is the process of negotiating EU measures in a field of migration and asylum. Due to the complicated nature of EU legislation these laws are more likely to lack clarity than national ones (for more information on an impact of a decision making process and on an importance of a position of judicial reviews on clarity of EU law and on interpretation of EU law see Sadowski, 2011b). For countries that are not EU Member States (which is the case for Moldova and Georgia) it is an even bigger challenge as their representatives do not participate in negotiation of the EU regulations which they are expected to meet (e.g. EU standards on data protection that have to be respected while examining cases of return of unauthorized migrants) and this is why they are not familiar with the history of discussions, a useful guide for law-makers and caseworkers.

Finally, technical assistance should also be provided for project beneficiaries. It can include strengthening the infrastructure of migration services or developing IT systems, among others. Examples of the former support include improving conditions in reception and detention centers by, for example, modernizing buildings and providing adequate equipment. The latter refers to strengthening IT infrastructure as incorporation of new technologies is nowadays seen as a prerequisite for an efficient migration management. Thus, well-designed and well-managed IT systems and databases, including civil registers and registers of documents that have been issued for foreigners (e.g. visas and residence permits) are of the essence. Such systems support implementation of a migration policy as sound migration strategies cannot be prepared without reliable statistical data that can be derived from these systems.

The three-fold nature of capacity building projects can be found in the implementation of

that a European Neighbourhood Policy Action Plan is 'a political document laying out the strategic objectives of the cooperation between (...) [the country concerned] and the EU'.

readmission agreements that were signed by the EU with governments of Moldova and Georgia³. There is a need for organizing the practical training of those of government officials who apply these rules so that they can support law-makers in drafting regulations. Moreover, law-makers should be provided with examples of how like agreements have already been implemented for example by EU Member States and/or by other countries that had signed like agreements. Thus, the value of the support provided by EU Member States' experts, academics and non-governmental organizations in a proper application of new rules is essential. Networks of experts are an excellent tool to ensure this goal is met as they facilitate an exchange of views and experiences as well as best practices in a field.

As Moldova and Georgia are mainly countries of origin and countries of transit implementation of modern IT systems should lead to strengthening registers like civil registers as well as registers in which information about residence permits and visas issued to other country's nationals who stay or pass through their territory are stored. This is of the utmost importance in the case of a readmission agreement when the identity of a person that is to be readmitted has to be confirmed. It is only then, when the person that is subject to readmission procedure may be readmitted, if other requirements are met (Coleman, 2009, pp. 33-34).

It should be underlined that readmission agreements foster the process of readmission procedures but they do not impose any new obligations on Parties to those agreements. This is due to the fact that a responsibility to readmit citizens is the outcome of a generally recognized international obligation that is imposed on every state and thus, it exists even without readmission agreements. This has been set out in Article 12.4 of the UN International Covenant on Civil and Political Rights and in Article 3 Paragraph 2 of the Protocol No. 4 to the European Convention on Human Rights, amongst others. However, in order to facilitate the process of confirming potential returnees' identity the said liability has been set out in Article 2 of readmission agreements between the EC and Moldova and between the EC and Georgia. Moreover, in Article 3 of those agreements a reference to the process of readmission of third country nationals who either hold or at the time of entry held a valid visa or residence permit issued by the countries concerned or who illegally and directly entered the territory of EU Member States from countries concerned after having stayed on, or travelled through, the territory of the latter is made (for more on responsibility of a state to readmit third country citizens in Coleman, 2009, pp. 41-45). This regulation confirms that Parties to readmission agreements believe that migration may be managed by well-prepared migration services (a concept of methodological nationalism). On a basis of reciprocity similar responsibilities to the above-mentioned ones arise for EU Member States.

When analyzing Moldovan and Georgian positions concerning return and readmission it is important to note that EU migration policy is said to concentrate strongly on return and readmission issues and that 'it is doubtful whether the negotiated policy plans are equally beneficial for the neighboring countries and the individual migrants' (Eisle and Wiesbrock, 2011; compare with Coleman, 2009, pp. 38-40). Critics say that access to the labour market of some of the EU Member States and visa facilitation are not a sufficient pay-offs for the

³ Moldova concluded agreements before Georgia. This was also due to the fact that Moldova started negotiations on joining EU Mobility Partnership before Georgia. Readmission agreements of 2007 (in case of Moldova) and of 2011 (in case of Georgia) are respective: Agreement between the European Community and the Republic of Moldova on the readmission of persons residing without authorisation, Official Journal of the European Union, L 334/149 of 19.12.2007 and Agreement between the European Community and Georgia on the readmission of persons residing without authorisation, Official Journal of the European Union, L 52/47 of 25.02.2011.

conclusion and implementation of readmission agreements (Eisle and Wiesbrock, 2011 and Tugui, 2011; compare with Parkes, 2009, pp. 334-335).⁴

Although it is not an aim of this article to scrutinize readmission agreements, a common misunderstanding of their nature has to be addressed (for more details see Point C. II of the Council of Europe Parliamentary Assembly, 2010). Firstly, the liability to readmit persons who are not nationals of the contracting Parties can be seen in international law. This is due to the fact that a state has a right to specify who may be present on its territory, although this rule is not an absolute one as it does not apply to persons who need international protection. What follows is that a state has a responsibility for its territory and for all the persons who stay within this territory (Coleman, 2009, p. 301). The mere fact that, in the absence of readmission agreement, it is harder to impose a duty on a transit country to readmit such persons does not mean that such a liability does not exist. The only difference between readmitting a citizen of a contracting Party and readmitting a person who does not have a citizenship of a contracting Party is a duty to ensure that in case of the later transfer there will be no 'chain removal'. This explains why strengthening capacities of migration services of contracting Parties, especially in determining the need to provide international protection, is so important.

Secondly, readmission agreements concentrate on the final stage of a process of fighting illegal migration. They are used only when an unauthorized migrant has been presented to migration service. Thus, readmission agreements do not create any new legal measures in the field of detecting the illegal overstay of foreigners. The scope of application of those agreements is limited to enforcement of a return decision. They are used for a sole purpose of facilitation of readmission procedures and they should be interpreted as a guide that specifies procedures and deadlines that have to be met in order to readmit the unauthorized migrants (see point A. 2. of Council of Europe Parliamentary Assembly, 2010).

It should also be noted that the Council of Europe has not voted against readmission agreements per se. Nevertheless, the Council of Europe's Parliamentary Assembly shares its concerns on the 'chain-refoulement' issues that may lead to sending a citizen of a non-contracting Party to a country where there is no possibility to efficiently submit an asylum application. However, this should not be the case in the readmission agreements concluded by the EU and Moldova and Georgia. Capacity building in the field of asylum has been strengthened in those countries in this aspect by, for example, developing country of origin information units. Moreover, all readmission agreements that were concluded by the European Community are monitored in order to identify possible breaches of human rights (for proposals of extending monitoring see point 4.1 of European Commission, 2011a and point C 75 of Council of Europe Parliamentary Assembly, 2010).

Finally, in the case of EU Member States, voluntary returns should be preferred instead of readmission as set out in a Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Official Journal of the European Union, L

⁴ By way of example, Poland introduced access to its labour market for citizens of neighboring countries and countries that have concluded Mobility Partnerships. Thus, Polish rules on circular migration apply to citizens of Moldova and Georgia (compare with Hernández i Sagrera, 2011 where the Polish scheme is not mentioned) as specified in *Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 30 sierpnia 2006 r. w sprawie wykonywania pracy przez cudzoziemców bez konieczności uzyskania zezwolenia na pracę* (Polish Journal of Laws of 2006 No 156, item 1116 with later amendments).

348/98 of 24.12.2008; for more information on the EU policy on returns and readmission see Sadowski, 2011a).

To conclude, in Moldova and in Georgia approximation of national laws to the EU standards should be achieved (bearing in mind those countries' policies), adequate technical equipment should be made available and, of the utmost importance, caseworkers have to be equipped with an in-depth knowledge on human rights standards to make readmission procedures workable ones. It is only then, when visa dialogue can be continued to be strengthened. However, it has to be underlined that both countries should be provided with a support in this field as undertaking such efforts goes beyond technical and financial resources of individual countries.

Examples of actions taken

To show the need to address the three-fold nature of the process of strengthening capacity building of migration services in Moldova and Georgia a brief example of projects that are currently implemented and those that have already been implemented will be given. As this topic is under-researched it is difficult to provide a comprehensive analysis of an impact of Mobility Partnerships on Moldova or Georgia.⁵ Thus, although there are many initiatives in which representatives of those countries participate in (a detailed list of actions that Partners of the Mobility Partnerships have intended to implement can be found in 'Joint Declaration on a Mobility Partnership between the European Union and the Republic of Moldova' and in 'Joint Declaration on a Mobility Partnership between the European Union and Georgia – Addendum to "I/A" Item Note') only those ones that are concerned solely with Moldova or Georgia, which have a publicly available description, and which concentrate upon return and readmission issues will be analysed.

To provide an overview of multilateral measures it is sufficient to say that they include projects which are implemented simultaneously in Moldova and Georgia and those ones that are implemented in other countries as well. The former refers to, among others, initiatives that are currently applied by International Center for Migration Policy Development. Examples of such measures include a project 'Building training and analytical capacities on migration in Moldova and Georgia' (International Centre for Migration Policy Development, 2011b). It aims at streamlining co-operation between academic institutions and governmental bodies in Moldova and Georgia. On the other hand there are initiatives like 'Budapest Process' (International Centre for Migration Policy Development, 2011a; for implications of its informal character on EU integration see Geiger, 2008, pp. 58-59) that is a consultative forum that promotes sound migration management systems (participating EU Member States are: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the UK) and 'Building

⁵ International Centre for Migration Policy Development (ICMPD) stated in an e-mail of 17th October 2010 that 'there was so far no request from Academic side for any information about (...) projects [:] Supporting the Implementation of the EC visa facilitation and readmission agreements in Moldova and Georgia (...) and Building training and analytical capacities on migration in Moldova and Georgia (GovAc) (...) [but] given the fact that GovAc itself has a strong Academic component (...) [it] was presented mostly to the Academics at AWR Annual Conference in Netherlands (21-23rd of September)'.

Migration Partnerships' (International Centre for Migration Policy Development, 2011a; among its aims a key one is assisting implementation of migration partnerships in beneficiary countries, leading EU Member States are: the Czech Republic, Hungary, Poland, Romania, and Slovak Republic) that are perfect examples of actions that provide support not only for Moldova and Georgia but also for other beneficiaries.

In case of undertakings addressed solely at Moldova extended migration profile aiming at strengthening capacities of migration services in preparing migration policies should be mentioned. It differs from other Migration Profiles as this profile is prepared by Moldovan authorities with a support from international organizations. This project concentrates upon development of sustainable migration knowledge that can be used while creating new regulations concerning migration (see Conference Recommendations from International Conference held on 24-25th January 2011 in Chisinau and Morari, 2011).

The project 'Strengthening Capacities and Cooperation in the Identification of Forged and Falsified Travel Documents at the Moldova-Romania Border' is an example of a caseworker's oriented initiative. The initiative is addressed at fighting illegal migration by providing experts with a possibility of exchanging best practices about detecting forged and falsified documents as well as enhancing interagency co-operation (including with international ones) in this field (Ministry of Foreign Affairs and European Integration Republic of Moldova, 2011a, p. 5). The project effects are multiplied thanks to the use of a train-the-trainers module (International Centre for Migration Policy Development, 2011a and Ambasada Republicii Cehe v Kišiněvė, 2011).

Projects which have involved providing direct technical support were also implemented in Moldova. They concentrated upon development of facilities for migrants (see development of Migrants Accommodation Center in Moldova as described by International Organization for Migration, 2011b) as well as on providing direct support for Moldovan Border Guard Service. An example of the latter is the 'Enhancing Border Control Management Programme' project. Thanks to this initiative 80 vehicles were bought as well as '70 sets of modern equipment (...) used to undertake passenger control at the border five times faster' (UNDP, 2005).

In case of Georgia a project 'Support Reintegration of Georgian Returning Migrants and the Implementation of the EU-Georgia Readmission Agreement' is worth mentioning. It addresses, among others, a need to strengthen Georgian administration capacities in legal and policy development. Thus, it concentrates upon sharing knowledge and best practices of implementation of reintegration policies that support sustainability of returnees as well as on providing migrants with a reliable information on possibilities of legal migration to the EU and risks connected with illegal migration (Informed Migration, 2011 as well as Kunz and Lavenex and Ponizzon, 2011, p. 196).

The project 'Strengthening reception and detention capacities of migration services of Georgia' is an example of a bilateral Polish-Georgian initiative addressing a need to exchange knowledge and best practices related to border management and management of mixed migration flows. During a study visit in Poland practical experiences concerning 'migrant reception on Polish borders and the means to identify migrants aimed at determining their migration status (e.g. establishing if foreigners need international protection)' (Nowakowska and Kończak, 2010, p. 42) were shared, among others.

Finally, the project 'Support to the Authorities of Georgia for the Implementation of the

Readmission Agreement with the European Union' can be seen as an example of an initiative of the International Organization for Migration and Belgium, the Czech Republic, The Netherlands, and Poland that addresses the need to strengthen Georgian IT systems. Thanks to this project software will be developed and hardware will be bought to provide a possibility to extend an offer of services that Georgian diplomatic posts may provide (International Organization for Migration, 2011c). As training of public is also foreseen among project's actions it may be said that this project refers both to a development of practical knowledge of experts and to providing technical assistance.

Conclusion

When determining if Mobility Partnership is an adequate tool for practical co-operation with Moldova and Georgia one has to answer two key questions:

1. Why did those countries sign Mobility Partnership agreements?
2. Have those countries benefited from Mobility Partnerships agreements?

With reference to the first question, Moldova and Georgia concluded Mobility Partnership agreements because they wanted to foster co-operation with the EU in the field of migration management (see point 3.3.4 of European Commission, 2008). To achieve this goal a proper implementation of readmission agreements has to be ensured first. The political will to support this process exists in both countries. As Mobility Partnerships concentrate solely on co-operation about migration they meet this requirement to a far greater extent than general co-operation agreements (for example Partnership and Cooperation Agreements, PCA) in which migration is only one of the topics.

Moreover, Mobility Partnerships provide a comprehensive policy tool as they address all aspects of migration. Some authors complain that there is no balance between those components and not enough attention is being paid to circular migration (Hernández i Sagrera, 2009). However, Mobility Partnerships do not preclude the use of other frameworks for co-operation. Thus, enhanced collaboration is possible for example with the use of bilateral agreements between EU Member States and Moldova and Georgia.

Referring to the question of has Moldova and Georgia benefited from Mobility Partnerships it has to be underlined that producing an analysis of an impact of these agreements is not an easy task as a common list of projects that have already been implemented is not available (Eisle and Wiesbrock, 2011). Only the Moldovan (Ministry of Foreign Affairs and European Integration of the Republic of Moldova, 2011b) authorities are publishing their partial versions of the said lists with brief description of projects that have already been implemented. Nevertheless, from this research it follows that the mere fact that these reports are available as well as the number of initiatives that have been enlisted suggest that projects addressing all aspects of migration have been put into practice in both countries. It also proves that coordination of co-operation with the EU is perceived in Moldova and Georgia as a crucial element for ensuring efficiency of actions taken under the aegis of Mobility Partnerships. This is one of the biggest advantages of this framework as in order to adhere to the pace of implementation of actions and the scope of actions for beneficiaries' the active participation of Moldovan and Georgian authorities in negotiating the most relevant actions which are to be implemented and in securing adequate human resources for this purpose is essential. The variety of initiatives that have already been implemented proves that the above-mentioned flexibility, which has its foundations in a non-binding nature of Mobility

Partnerships, proved to be successful. Moreover, this attitude makes it possible for experts to continue co-operation irrespective of political changes.

If asking whether more actions could be taken under the aegis of Mobility Partnerships it has to be remembered that the civil administration in Moldova and in Georgia is not as numerous as the joint one in all of the EU Member States, parties to these agreements. Bearing this in mind it can be said that the number of projects (for example in 2011 in Moldova 23 initiatives have been implemented, 47 projects have been under implementation and 10 new initiatives have been considered to be launched) is adequate.

EU institutions and EU Member States decided to continue to provide support for migration services in these countries. This was addressed in The Stockholm Programme that lays down fundamentals for current and future undertakings of the EU. It goes without saying that this is of an utmost importance as an entry into force of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) and Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) also brought new challenges. In times when little experience is available best practices that already have been gained are of the greatest value. This is true for development of legislation that is in-line with the said measures and in the case of practical implementation of these rules.

Finally, it is important to remember that Moldova promotes Mobility Partnership as an effective tool for co-operation between the EU and non-EU countries (see Ministry of Foreign Affairs and European Integration Republic of Moldova, 2011a and Hernández i Sagrera, 2011, p. 3). It would be unreasonable to think that if the said Partnership was perceived by Moldova as a failure it would recommend Georgia conclude a like agreement.

Bibliography

Agreement between the European Community and the Republic of Moldova on the readmission of persons residing without authorisation, Official Journal of the European Union, L 334/149 of 19.12.2007.

Agreement between the European Community and Georgia on the readmission of persons residing without authorisation, Official Journal of the European Union, L 52/47 of 25.02.2011
Ambasada Republicii Cehe v Kišiněvė (2011) 'Spolupráce v oblasti identifikace padělaných cestovních dokumentů na moldavsko-rumunské hranici'. Available at
«http://www.mzv.cz/chisinau/cz/cesko_moldavske_vztahy/rozvojova_pomoc/mnohostranne_projekty/index.html».

Bosh, P. and Haddad, E. (2007) 'Migration and asylum: an integral part of the EU's external policies.', 3(11) Forum natolińskie.

Carrera, S. and Hernández i Sagrera, R. (2009) 'The Externalisation of the EU's Labour Immigration Policy Towards Mobility or Insecurity Partnerships?', 321/October CEPS Working Document.

Coleman, N. (2009) 'European readmission policy: third country interests and refugee rights.' (Boston: Martinus Nijhoff Publishers).

Collet, E. (2007) 'The «Global Approach to Migration»: rhetoric or reality?', November European Policy Center Policy Brief.

Conference Recommendations from International Conference held on 24-25th January 2011 in Chisinau, Moldova – ‘The Eastern Partners’ contribution to the Stockholm Programme: Synergies to improve mobility and strengthen security’. Available at <http://www.paneuropa.ro/doc/EasternPartnerscontributiontoStockholm%20Programme_%20recommendations.pdf>.

Council of Europe Parliamentary Assembly (2010) ‘Readmission agreements: a mechanism for returning irregular migrants.’, Doc. 12168 of 17 March 2010.

Council of the European Union (2008) ‘EU's General Affairs and External Relations Council in Brussels on 26 May 2008’, 9868/08 (Presse 141). Available at <http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/100674.pdf>.

Council of the European Union (2009) ‘Joint Declaration of the Prague Eastern Partnership Summit, Prague, 7 May 2009’, 8435/09 (Presse 78). Available at <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/107589.pdf>.

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Official Journal of the European Union, L 348/98 of 24.12.2008).

Duszczyk, M. (2010/2011) ‘Polityka imigracyjna Unii Europejskiej oraz swobodny przepływ pracowników - ewaluacja i terażniejszość’ (Warszawa: Oficyna Wydawnicza ASPRA-JR).

Eisle, K. and Wiesbrock, A. (2011) ‘Enhancing Mobility in the European Neighborhood Policy? The Cases of Moldova and Georgia.’, 36 Review of Central and East European Law.

European Commission (2007) ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union’, COM(2007) 247 final.

European Commission (2008) ‘Communication from the Commission to the European Parliament and the Council on Eastern Partnership’, COM (2008) 823 final.

European Commission (2011a) ‘Communication from the Commission to the European Parliament and the Council on Evaluation of EU Readmission Agreements’, COM(2011) 76 final.

European Commission (2011b) ‘Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on migration’, COM (2011) 248 final.

European Commission (2011c). Available at <http://ec.europa.eu/world/enp/documents_en.htm>.

First report (2010-11), First report of European Scrutiny Committee and Cash, W.: documents considered by the Committee on 8 September 2010, including the following recommendations for debate, the Cotonou Agreement; a twelve-point EU action plan in support of the MDGS; European security and defence policy: EULEX Kosovo; draft Budget 2011; terrorist finance tracking program; financial assistance for member states; economic policy co-ordination; Europe 2020 strategy: integrated guidelines; European citizens' initiative, report, together with formal minutes, Session 2010-11, HC 428i.

Geddes, A. (2003) ‘The politics of migration and immigration in Europe’ (London: Sage Publications, reprinted in 2005).

Geiger, M (2008) ‘Managing Migration for an Enlarging Europe – Inter-Governmental Organizations and the Governance of Migration Flows’, in Silași, G. and Simina, O. (edit.) ‘Migration, Mobility and Human Rights at the Eastern Border of the European Union – Space of Freedom and Security’ (Timișoara : Editura Universității de Vest).

Hernández i Sagrera, R. (2009) ‘Assessing the Mobility Partnerships between the EU and Moldova and Georgia’, EaPCommunity. Available at

«<http://www.easternpartnership.org/publication/mobility-and-migration/2011-08-23/assessing-mobility-partnerships-between-eu-and-moldova>».

Hernández i Sagrera, R. (2011) 'Moldova: Pioneering Justice and Home Affairs Cooperation with the EU in the Eastern Partnership?', Moldova's Foreign Policy Statewatch, Institute for Development and Social Initiatives 'Viitorul'.

Informed Migration (2011). Available at
«<http://www.informedmigration.ge/en/index.php?tig>».

International Centre for Migration Policy Development (2011a). Available at
«www.icmpd.org».

International Centre for Migration Policy Development (2011b) 'Building training and analytical capacities on migration in Moldova and Georgia' (GovAc). Available at
«http://research.icmpd.org/fileadmin/Research-Website/GOVAC/Project_info.pdf».

International Organization for Migration (2004) 'International Migration Law; Glossary on Migration' (Geneva: International Organization for Migration).

International Organization for Migration (2011a) 'International Migration Law N°25 - Glossary on Migration', 2nd ed. (Geneva: International Organization for Migration).

International Organization for Migration (2011b) 'Better Conditions for Irregular Migrants in Moldova.', IOM Press Note. Available at «<http://www.iom.md/index.php/en/media-kit/174-better-conditions-for-irregular-migrants-in-moldova>».

International Organization for Migration (2011c) 'IOM and Georgian government host first coordination meeting of readmission project.' Available at «www.iom.ge».

'Joint Declaration on a Mobility Partnership between the European Union and the Republic of Moldova'. Available at «<http://www.iom.md/index.php/en/programs/migration-development/mobility-partnership>».

'Joint Declaration on a Mobility Partnership between the European Union and Georgia – Addendum to "I/A" Item Note.', Doc. st16396/09. Available at
«<http://register.consilium.europa.eu>».

Koutrakos, P. (ed.)(2011) 'European Foreign Policy: Legal and Political Perspectives' (Cheltenham, UK; Northampton, USA: Edward Elgar Publishing Limited).

Kunz, R. and Lavenex, S. and Ponizzon, M. (ed.)(2011) 'Multilayered Migration Governance' (New York: Taylor & Francis).

Ministry of Foreign Affairs and European Integration Republic of Moldova (2011a) 'Mobility Partnership Information Newsletter, Edition No 2 - May 2010'. Available at
«www.mfa.gov.md/img/docs/bi_mp_nr2_en.pdf».

Ministry of Foreign Affairs and European Integration of the Republic of Moldova (2011b). Available at «www.mfa.gov.md/img/docs/scoreboard.xls».

Morari, D. (2011) 'Data and Research for more evidence-based policy making. Extended Migration Profile: Moldova', presentation made in New York, 30 June 2011. Available from
<http://www.gfmd.org/en/migration-profiles.html>.

Nowakowska, M. and Kończak, L. (eds)(2010) 'Georgian-Polish Development Co-Operation 2008-2010' (Tbilisi: Embassy Of The Republic Of Poland In Georgia).

Office of the State Minister of Georgia on European and Euro-Atlantic Integration (2011) 'Georgia's Progress Report on Implementation of the ENP Action Plan.'. Available at
«http://eugbc.net/files/4_227_558948_Georgia%E2%80%99sProgressReportonImplementationoftheENPAP-H12011.pdf».

Parkes, R. (2009) 'EU Mobility Partnerships: A Model of Policy Coordination?', 11 European Journal of Migration and Law.

Pełczyńska-Nałęcz, K. (2011) 'Integracja czy Imitacje? UE wobec wschodnich sąsiadów.', 36 OSW Studies, Warsaw.

Popielawska, J. (2009) 'W jakim towarzystwie? Partnerstwo Wschodnie na tle innych inicjatyw UE na wschodzie.', 5(37) *Analizy natolińskie*.

Presidency Conclusions (2005), Presidency Conclusions on the Global Approach to Migration: Priority actions focusing on Africa and the Mediterranean, European Council, Brussels, 15-16 December 2005.

Presidency Conclusions (2008a), Brussels European Council 19–20 June 2008. Available at [«http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/101346.pdf»](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/101346.pdf).

Presidency Conclusions (2008b), Brussels Extraordinary European Council 1 September 2008. Available at [«http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/102545.pdf»](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/102545.pdf).

Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (Official Journal of the European Union, L 105/1 of 13.4.2006).

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (Official Journal of the European Union, L 243/1 of 15.9.2009).

Risteska, M. (2011) 'Eastern neighbors join the race for visa-free travel to the EU, a research performed under a project «Paving the Road towards Visa-free Travel between the Eastern Partnership countries and the EU» implemented by Policy Association for an Open Society (PASOS), 2 March 2011', summary and country rapports including ones on Moldova and Georgia available at [«www.novisa.eu»](http://www.novisa.eu).

Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 30 sierpnia 2006 r. w sprawie wykonywania pracy przez cudzoziemców bez konieczności uzyskania zezwolenia na pracę (Polish Journal of Laws of 2006 No 156, item 1116 with later amendments).

Sadowski, P. (2010) 'Akcje regularyzacyjne w Wielkiej Brytanii i w Polsce', 1(15) *Materiały Robocze, Centrum Europejskie-Natolin*.

Sadowski, P. (2011a) 'Dobrowolne powroty i regularyzacje jako mechanizmy komplementarne wobec wydeleń nieautoryzowanych cudzoziemców.', 1/2011 *Przegląd Prawa Europejskiego i Międzynarodowego* (to be published in 2011).

Sadowski, P. (2011b) 'Wpływ poszerzenia kompetencji Trybunał Sprawiedliwości Unii Europejskiej na rozwój europejskiej polityki migracyjnej.', paper presented at a conference 'Role of Tribunals and Doctrine in International Law', Warsaw, 11th-12th April [to be published by the end of 2011].

Twelfth Report (2008) 'The EU Eastern Partnership, House of Commons European Scrutiny Committee, FCO (30248) (30249)', Session 2008-09. Available at [«http://www.publications.parliament.uk/pa/cm200809/cmselect/cmeuleg/19-xi/19xi07.htm»](http://www.publications.parliament.uk/pa/cm200809/cmselect/cmeuleg/19-xi/19xi07.htm).

Țugui, E. (2011) 'Republic of Moldova and the future of Eastern Partnership: Warsaw Summit perspectives', *Moldova's Foreign Policy Statewatch, Institute for Development and Social Initiatives 'Viitorul'*.

UNDP (2005). Press Release of 19th May 2005 – 'Moldovan Border Guards Will Increase Their Mobility On The Border.'. Available at [«http://www.undp.md/border/ENG/main.html»](http://www.undp.md/border/ENG/main.html).

Weinar, A. (2011) 'Improving EU and US Immigration Systems' Capacity for Responding to Global Challenges: Learning from experiences, EU-US Immigration Systems 2011/02', Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute.

Wróbel, J. (2004) 'The European Union and Moldova.', 3 *OSW Studies*.