THE ORGANISATION OF ASYLUM AND MIGRATION POLICIES IN

BULGARIA

1. INTRODUCTION: PURPOSE AND METHODOLOGY FOLLOWED

The present study covers the period from the establishment of the Migration Directorate in 2004 to the present moment. For the purpose of this study the following documents have been explored and resumed:


For the purpose of the present study relevant information has been obtained from the following government bodies and non-government organizations: Ministry of Interior, State Agency for Refugees, Ministry of Labor and Social Policy, International Organization for Migration.

Managing migration and assuring stability are of best interest of all Member States of the European Union and represent integral part of the European community.

Bulgarian migratory policy is aimed at respecting human rights and fundamental freedoms in accordance with international and European standards to support the optimal balance between:

- Control of illegal migration;
- Free movement of people.

Global and strategic objectives of the migration policy include:

- Development and promotion of legal migration;
- Increasing the internal and border security, observing Bulgaria's responsibilities as an external EU border;
- Respect of human rights and integration of legal migrants;
International co-operation and execution of international agreements in the field of migration;

To achieve specified targets the following measures have been undertaken:

- Harmonization of Bulgarian legislation with the Acquis communautaire;
- Formation and improvement of the administrative capacity;
- Establishment of the European practices and standards for management and regulation of migration flows;
- Adoption of the international agreements in the field of migration and human rights, concerning fight against terrorism and all the actions in connection with this matter;
- Implementation of consistent policies in the field of prevention and fight against illegal migration and development of visa issuance procedures;
- Improvement of border protection and strengthening the border control;
- Promotion of the conclusion of interstate readmission agreements;
- Implementation of asylum policy in accordance with the international standards and European community best practices;
- Consistent policy relating to respect of human rights and freedoms, non discrimination, tolerance and social integration of all human beings including legally staying foreigners and refugees with granted statute.

2. OVERVIEW OF ORGANISATION OF POLITICAL, LEGISLATIVE AND INSTITUTIONAL FRAMEWORK IN BULGARIA

Migration Directorate within the Ministry of Interior exercises the administrative control over the residence of third country nationals in the Republic of Bulgaria. It is in charge of issuance residence permits, enforcement of measures with regard to foreign nationals, removal of illegally staying foreign nationals, activities related to coordination, information and analysis, and specialized facilities for temporary accommodation of illegally staying foreign nationals with imposed coercive administrative measures. Migration Directorate carries out informational and practical cooperation with other services within the Ministry as well as other state authorities related to the administrative control over foreigners. Migration Directorate also
cooperates with public bodies, governmental, non-governmental and international organizations. Its activities are regulated by the Law for the Foreigners in the Republic of Bulgaria.

Among the main Migration Directorate activities is the construction and management of closed-detention centers. The 1st center was opened in March 2006 for detention of illegally staying foreigners with imposed compulsory measures.

The State Agency for Refugees, with the Council of Ministers is the single central refugee authority, responsible for implementation of the State policy in the area of asylum and refugees. It examines all asylum applications and provides public assistance to asylum seekers and refugees in Bulgaria. The agency has its seat in Sofia with territorial units throughout the country. The territorial units of the State Agency for Refugees are transit centres, registration-and-reception centres and an integration centre.

The General Directorate “Border Police” is responsible for border control. It functions according to the provisions in the Law on the Ministry of Interior.

The Ministry of Labour and Social Policy proposes and implements measures for regulation of labor migration and for protection of the national labour market.

The Employment Agency, under the Ministry of Labour and Social Policy issues work permits at the request of employers in consideration of the local labour market situation. The total number of foreign nationals working for a particular employer cannot exceed 10 per cents of the employees who are Bulgarian nationals or recognized refugees. It also provides mediation services to Bulgarian citizens seeking job abroad.

The State Agency for Child Protection, with the cooperation of ministries is responsible for the development of State policy for child protection as well as national and regional child protection programmes and their implementation. It is involved in the implementation of the National Action Plan against Commercial Sexual Exploitation of Children (in cooperation with UNICEF) and the National Programme for Prevention and Counteaction to Trafficking Human Beings and Protection of the Victims 2005, where it is responsible for media training, awareness raising campaigns, development of the National Child Hotline, coordination mechanism for referral management of
unaccompanied Bulgarian children returned from abroad, and development of measures for limiting Internet usage for recruiting potential victims of trafficking.

Other important migration actors within the country are the international actors such as:

**The Bulgarian Red Cross (BRC)** has been involved in refugee assistance and protection since 1993. The Refugee-Migrant Service (RMS) of BRC was established in 1997 as a separate administrative and operative body within the National Committee. The RMS has branches in the BRC regional committees in the cities of Haskovo, Sliven, Burgas, Blagoevgrad and Vidin. The RMS is committed to facilitating refugee integration, preventing the isolation of migrants, and promoting tolerance for migrants and refugees in the Bulgarian society.

**The International Labour Organization (ILO)** assists Bulgaria through its Decent Work Country (DWC) Programme. The priorities for 2006-2007 of the DWC Programme in Bulgaria are employment and labour market policies that meet national needs and comply with EU standards; improved social protection policies, including better working environment for vulnerable groups; strengthened representation, services, and influence of the social partners; improved social dialogue at all levels; and new judiciary mechanisms for the settlement of labour disputes.

Bulgaria became a member of the **International Organization for Migration (IOM)** in 1994 and an official agreement for cooperation between Bulgaria and IOM was signed and ratified by the Bulgarian parliament in year 2000. Since then, IOM Bulgaria has actively supported the government in addressing the challenges of migration and has assisted over 750 vulnerable migrants of different categories.

IOM Sofia maintains six regional, walk-in Information Consultancy Centers, operating in Burgas, Plovdiv, Ruse, Sofia, Vidin, and Sliven (where a pilot Information Social Support Centre for the Roman community was also established). The Information Consultancy Centers provide support to potential migrants and victims of trafficking and act as agents for trafficking awareness-raising campaigns, thereby increasing the outreach of IOM Bulgaria prevention activities.
The United Nations in Bulgaria is a significant partner of the Bulgarian government in addressing migration issues. It carries out its mandate through its various offices.

3. DEVELOPMENT OF ASYLUM AND MIGRATION SYSTEMS

The migration is incessant phenomenon going along with the communities development and its influence upon current condition of the Earth is still an object of scientific studies, political discusses and economic realities. The migration represents the dynamic factor responsible for the political map of today of all continents.

In the beginning of 21st century the concept of migration had a long time ago lost the sense that had possessed at the time when civil wars determined human travels toward countries with developed economies, affirmative democracy and high living standards.

- Political factors – in the first half of the 90s political instability and insufficient confidence in the democratic potential used to be factors for emigration behavior, especially among the young peoples, despite the democratization of society. At present the political factor has been replaced by social and economic motivation.

- Social and economic factors – this motivation includes the pursuit of a full personal expression, professional realization, and better job remuneration, and it has a serious impact on the majority of the people willing to migrate and stay longer abroad. High unemployment rate used to be another economic factor which influenced emigration tendencies but with its gradual decrease to the level of 6.9% at the beginning of 2008, the influence of this factor has been minimized. Generally, the lower standard of living is one of the strongest factors stimulating emigration abroad.

- Psychological factor – changes in the system of values, which are very dynamic in the present conditions, also have a serious impact on emigration. The new values determine new trends - in these conditions successful professional realization dominates as a motive for emigration.
Illegal migration is an objectively determined process of movement of people from countries, which are in difficult economic situation or in a situation of conflict to economically developed states with functioning democracy and high living standard.

The migration originates from the contradiction between material, political and/or the disability and unwillingness of the person, the group, the ethnical community to survive or to adjust the factors of this environment.

Today in almost reunited Europe representing a space of freedom, security and justice, the sense of migration is finding optimum balance between freedom of movement of people and severe control of illegal migration.

At present the migration policy of Republic of Bulgaria represents an important element of Bulgarian policy of integration in Europe, with a final goal - joining the Schengen area.

Management of the migration policy is the key element leading to an integral, coordinated and systematic approach for identification of the potential criminal risk sources.

The Roadmap for Bulgaria, Chapter 24: “Co-operation in the field of justice and home affair”, states that Bulgaria should focus further efforts on substantially strengthening the capacity of its judiciary and law enforcement agencies and improving co-operation between the different agencies. Particular attention should be paid to the bodies in charge of the fight against fraud, corruption, money laundering, Shengen, co-operation of police activities.

In November 2003 the Parliament of Republic of Bulgaria adopted amendments to the Law on the Ministry of Interior (promulgated in State Gazette, Volume 103). According to that Act the Migration Directorate has been created within the Ministry of Interior as a specialized body responsible for the administrative control over the residence of foreigners in Republic of Bulgaria at national level.

The staff structure of the Migration Directorate functions at 3 levels. At regional level, in each of the 28 administrative district centers there is a Migration Regional Unit. Additionally, in some major towns - centers of tourism or of other importance, there are responsible migration officers in the relevant Police Stations.

Among the main Migration Directorate activities is the construction and management of closed - detention accommodation centers. The 1st temporary accommodation center was opened in March 2006 in Sofia, near by the Sofia
International Airport. In this center the illegally staying foreigners with imposed compulsory administrative measures – removal from Republic of Bulgaria are detained until the obstacles to the execution of the respective coercive measure drop off.

The Centre has the capacity to accommodate up to 400 persons. Individual interviews are carried out aiming at voluntary return. 190 foreigners were temporarily accommodated in the Centre in 2006 and 671 in 2007. At the moment 132 persons are accommodated in the Centre. At present psychologists and interviewers work with the accommodated foreigners in the Centre.

In 2007 the preparation activities regarding the creation of a second Temporary Accommodation Centre for Third Country Nationals in Lyubimetz situated near the Bulgarian-Turkish border has started with capacity of 350 persons. The centre is expected to start functioning as per date of Bulgaria’s joining the Schengen area.

The main reasons for illegally staying foreigners in Bulgaria are: illegal border crossing, expiry of residence or long-term residence permits and applications for asylum finally and conclusively denied.

Due to the measures undertaken by the migration officers, the number of the imposed compulsory administrative measures has increased. During the past 2 years, migration officers have achieved significant results in prevention of illegal migration on the national territory.

Coercive administrative measures were applied to 1770 foreigners for 2007 which is 45.6% increase compared 2006. The prevailing groups of foreigners, subject to such measures, came from Iraq, Moldova and Turkey. Compared to the data for 2006 this number is increased by 554 which is an increase by 45.6%.
Increasing the administrative capacity is a priority for Migration Directorate. In April 2006, a project under PHARE Programme was implemented. The project partner was Belgium migration service. The successful implementation of the project resulted in elaboration of Manual for procedures of Migration Directorate. The Manual made with common efforts of the Belgium experts and Bulgarian colleagues contains comparative analysis, specific proposals and recommendations in their specific area of activity and proved to be very useful for the Migration Directorate staff. The Manual was distributed throughout the organization and serve as a training handbook. A comparative analysis of the legislation in Bulgaria and the member states regarding the structures responsible for administrative control of foreigners was conducted within the project.

As a result of its activities, the Migration Directorate is a well situated structure within the Ministry of interior and among the other state authorities. The Directorate effectively interacts with the relevant European structures.

At determination the dynamics of migration background are outlined the following trends:

- The increase of passenger flow through the borders of the Republic of Bulgaria;
- Confirmation and consolidation of the observed tendency for increasing the number of European union citizens permanently settled in the country;
- Relatively decrease in the number of issued permissions for long-term stay to third country nationals with a view to optimize the work of all governmental institutions, competent in managing migration in the Republic of Bulgaria;

- Stable indices in analysis of the statistic database about the compulsory administrative measures imposed in 2005, 2006, 2007 till present 2008 are a proof of a developed efficient mechanisms for control over foreigners’ residence in the country;

The full membership of the Republic of Bulgaria in the European Union imposed new, higher requirements about the method of analysis of migration situation with regard to:

- Collecting and assuming the statistical data about the migration processes in the country;
- Observation of migration processes;
- Assessment and analysis of current migration situation;
- Evaluation of the dynamics of the migration situation in the country based on collected and analyzed information;
- The impact that the migration situation exercise or may exercise on social labor balance in the state or in other member states in European union;
- Assignment and evaluation of possible risks that could raise certain tendencies in dynamics of migration situation in our country as well as regarding the national security such as the collective security within the framework of European Union.

The Authorities, competent in the field of migration, took concrete actions in connection with the execution of legislative changes, institutional strengthening and increasing of administrative capacity through the governmental control over the residence of foreigners in the country and the fight against illegal migration.

The Republic of Bulgaria ratified the 1951 Convention Relating to the Status of Refugees and its Protocol in 1993. Prior to December 1, when a new Law on Asylum and Refugees was enacted, the 1999 Law on Refugees governed Bulgaria’s asylum procedure. In 2002 the National Assembly adopted the new Law on Asylum and Refugees (LAR). It was amended and supplemented in 2007.
The State Agency for Refugees (SAR) has the following responsibilities:

- Receives and registers applications for asylum and issues documents within the refugee procedure;
- Interviews asylum-seekers, examines asylum applications and makes first instance decisions;
- Provides subsistence allowance and accommodation for asylum-seekers;
- Assists asylum-seekers with medical insurance and primary medical care;
- Organises Bulgarian language courses and vocational training;
- Ensures appointment of legal representation of separated children and facilitates appointment of guardians for separated children in need of protection.
- Operates two registration-and-reception centres and a special centre for integration of asylum-seekers and aliens with granted protection.

4. ORGANISATION OF POLICY

In 2007 the Law for Entering, Residing and Leaving the Republic of Bulgaria of European Union Citizens and Members of their Families was adopted. This law is in full compliance with Directive 2004/38/EU. The most important point in the law is the differentiation between the legal regime for EU citizens and this for third country nationals whose stay in the country is regulated by the Law for the Foreigners in the Republic of Bulgaria. The basic principle underlying in the Law is the establishment of register regime for the stay in the country of EU citizens and the members of their families who are EU citizens too.

Among the most essential amendments is the establishment of a regime concerning the recognition of a decision for expulsion in the Republic of Bulgaria of third country nationals that is made by a competent authority of a member state; the explicit provisions of the judicial appeal of the warrants for expulsion, as well as creation of legal guarantees for effective execution of the right of protection of foreigners in an independent institution, in accordance with the provision of article 13 of European Convention for Protection of human rights and fundamental freedoms.

The formation and implementation of the migration policy of Bulgaria should be bound to the national interest of the country and should be compliant both with the respective commitments in this sphere arising from the full rights EU membership and with the new global and regional trends and established international standards. The connection of the Bulgarian immigration policy to the EU policy and practices arises from the commitments of Bulgaria, undertaken under the Accession Treaty to the EU, from the regulations and directives, practices, and initiatives in this field.

The adoption of Acquis communautaire in the field of Justice and Home Affairs and especially in the field of migration is an important part of the overall EU accession process. The specific geographical position of Republic of Bulgaria and its recent accession in EU implies migration flow increase.

This prerequisite led to amendments in migration related legislation according to EU requirements. The priority is: transposition of EU standards and practices for managing migration, conducting a consistent policy for prevention and combating illegal migration, reinforce border security and control. The overall process requires Republic of Bulgaria to be an active partner in the general process of managing migration.

Migration situation in Republic of Bulgaria is determined both by external influences and by the state purposeful policy conducted in this field.

Bulgaria is irreversibly transforming into a state accepting immigrants. This is a result of the good economic indexes, low percent of unemployment, good business possibilities available in the country. Bulgarian migration policy should be applied within the light of negative population growth and development of economics.

The efficient attraction of foreigners of Bulgarian origin, in first place, is a matter of national interest. Legislative initiatives should be undertaken in this direction.
to improve the possibilities for settlement, education and/or labor in Bulgaria. These
people represent an important group and adequate politics, addressed to them will
contribute to establish strong connections with them and increase the possibility for
their permanent settlement in the country, for they represent an integral group of people
due to their origin and they will enter Bulgarian society without problems connected to
language, traditions and culture. The Bulgarian people and the Bulgarian communities
generate an estimated potential – economical, financial, labor, intellectual, educational,
demographic. Gaining control over their possibilities within the framework of
contiguous governmental policy has an exceptional benefit concerning internal policy,
economics, demography and culture.

Bulgaria is already suffering the lack of labour force in different branches. The
applicable balance in migration policy will definitely conduct to economic revival.

The Republic of Bulgaria recognizes the complex characteristics of migration
and integration of migrants. The acceptance of economic migrants is inseparable from
the general measures for integration of migrants, on one side and on the other side the
measures against illegal migration.

4.1 Asylum and Migration

During the last years the migration processes are intensifying and augmenting
with newly emerging stream of people moving from east to west. Considering these
characteristics elaboration and application of long term strategies for counteraction
against illegal migration emerges as a priority in many countries politics. The purpose
of those strategies is the fight against the basic reasons for illegal migration, to adjust
measures for control over the entry and residence of foreigners in accordance with the
European legislation, as well as to coordinate the policies regarding the foreigners
seeking and receiving asylum. The objectives of these programs and standards are
focused on activities concerning protection, education, increasing knowledge about
human rights and encouraging responsible employees to inform themselves about the
integration of refugees.

Integration of refugees is inseparable part of Bulgarian national policy in
connection with the execution of engagements under the terms of the Convention of
Geneva from 1951. This represents a multilateral and complex process with legal,
economic, social and cultural aspects. The process includes the freedom of movement, the access to education, the relief funds, health services and labour market.

In view of enhancing the efficiency of the fight against illegal migration it is necessary to continue the process of accordance of the structures acting in the field of migration with EU standards; to widen bilateral operational co-operation with the police structures of the EU Member States and with neighbor countries; to further develop at regional level the collaboration with the competent state bodies and organizations for better regulation of migration flows; to improve police co-operation with interested states in solving specific cases related to the prevention and the detection of criminal activity concerning human smuggling and trafficking.

The order and conditions, pursuant to which the foreigners can enter, stay and leave the Republic of Bulgaria, are set by the Law on Foreigners in the Republic of Bulgaria. Foreigner in the sense of this law shall be any person who is not a Bulgarian citizen or is not a citizen of another Member State of the European Union, of a state, party to the Agreement on European Economic Area and of the Swiss Confederation.

4.1.1 Entry Procedures

4.1.1.1 Asylum

The Law on Asylum and Refugees stipulates that any alien may apply for protection in the Republic of Bulgaria and foresees the possibility of applying for asylum before an official of the State Agency for Refugees or any other State authority. The asylum seeker during the procedure (RSDP) enjoy the living standards appropriate for persons seeking protection - accommodation, sustenance, social assistance, health insurance, medical care, psychological support. Persons in the procedure are informed about their rights and obligations in the territory of the Republic of Bulgaria as well about the responsibilities in cases of non-observance.

The special protection that the Republic of Bulgaria provides to aliens under LAR includes asylum, refugee status, humanitarian status and temporary protection.
4.1.1.2 Migration

In compliance with the “Law for Entering, Residing and Leaving the Republic of Bulgaria of European Union Citizens and Members of Their Families” every citizen of the community has the right to stay in the country for a term up to three months without any formalities. If there is an intention for a prolonged or permanent residence in Bulgaria, these citizens have to register themselves before the competent institutions of the “Migration Directorate” within the General Directorate “Security Police”, and they have to receive a permit for long-term residence or for a permanent residence. The EU citizens and their family members obtain a certificate for residing either for 1 year or for 5 years. It is by the virtue of Council Directive 2004/38/EO which has been transposed into the national legislation.

Republic of Bulgaria applies fully the community right for free movement of workers, and in particular, the first six articles of the Regulation 1612/68. This means that work permits are not required for the citizens of EU, of European Economic Area (EEA) and of the Swiss Confederation. Bulgaria respectively ensures the access to registration for this category of people in the Labour Office Directorates.

A foreigner – third country national may enter the Republic of Bulgaria if he or she holds a regular foreign-travel document or another substitute document issued, as well as a visa if required. No visas shall be required where this is foreseen in Regulation (EC) № 539/2001 of the Council, in an international agreement or in an act of the Council of Ministers. No visa shall be required also when the foreigner holds a long-term or permanent residence card for the Republic of Bulgaria and the grounds for its issuing have not become defunct.

A foreigner who is a member of the family of a Bulgarian citizen may enter the territory of the Republic of Bulgaria with a passport and a visa, if required. The visa shall be issued under terms and procedures specified by the Council of Ministers without paying any charges for processing the documents and issuing the visa.

No visa shall be required when a foreigner who is a member of the family of a Bulgarian citizen holds a residence card of a member of the family of a European Union citizen issued in the Republic of Bulgaria if the grounds for its issuing have nor become
defunct or in another European Union member-state if he/she accompanies or joins the Bulgarian citizen.

The visa shall be a permit to enter and reside, to transit through the territory of the Republic of Bulgaria or for air transit.

The type of visa shall be determined by the purpose for which it is issued. The types of visas are:

1. air transit visa (type “A” visa);
2. transit visa (type “B” visa);
3. short-term residence visa (type “C” visa);
4. long-term residence visa (type “D” visa);

The visa shall be issued in the form of a uniform visa sticker according to a European Union sample and shall be valid only with the standard foreign travel document or another substituting document in which or with which it is placed.

The visa sticker shall be placed in a standard passport or another foreign travel document recognized by the Republic of Bulgaria. When a foreigner holds a standard foreign travel document or another substituting document which is not recognized by the Republic of Bulgaria the visa sticker shall be placed on a uniform visa form according to a European Union sample approved by the Council of Ministers.

Visas shall be issued by the diplomatic and consular missions of the Republic of Bulgaria. The Republic of Bulgaria and another member-state of the European Union may conclude a bilateral agreement on representation for accepting applications and for issuing visas.

Upon entry into the Republic of Bulgaria, a foreigner shall declare the purpose of the visit thereof and shall state in writing the residence address thereof in Bulgaria, completing a registration card in a standard form endorsed by the Minister of Interior. Any foreigners, who are accredited as members of foreign diplomatic missions, consular posts and trade representations, shall register at the Ministry of Foreign Affairs. Any foreigners, who transit the territory of the Republic of Bulgaria shall not complete registration cards.
4.1.2 Admission Conditions

4.1.2.1 Asylum

Any alien may request to be granted protection in the Republic of Bulgaria in accordance with the provisions of the Law on asylum and Refugees. An alien who has entered the Republic of Bulgaria to seek protection or who has been granted protection may not be returned to the territory of a country where his/her life or freedom is threatened due to his/her race, religion, nationality, membership of a specific social group or political opinion and/or belief, or where he/she faces a threat of torture or other forms of cruel, inhuman or degrading treatment or punishment.

Aliens who are seeking or have been granted protection in the Republic of Bulgaria have the rights and obligations provided for in this Act and have civil, administrative penalty and criminal liability under the procedure and conditions applicable to Bulgarian nationals.

The powers under LAR are exercised by officials of the State Agency for Refugees. They establish all the facts and circumstances relevant to the procedure for granting refugee status or humanitarian status and shall assist aliens who have applied for acquiring such status.

All applicants, except minors, are determined first under an accelerated procedure and receive a decision within three days of their application. The State Agency for Refugees (SAR) may refuse their application as manifestly unfounded or admit them into the general procedure. The authorities do not process the applications of unaccompanied minors in the accelerated procedure. The new law guarantees legal aid to applicants at all stages of the procedure. Rejected asylum seekers may appeal negative decisions. Submitting an appeal suspends deportation proceedings.

4.1.2.2 Migration

Issuing of a visa and entry into Bulgaria shall be refused to any foreigner where:
- by the acts thereof, the said foreigner has jeopardized or may jeopardize the interests of the Bulgarian State, or if there is reason to believe that the said foreigner acts against national security;

- the said foreigner has, by his or her actions, discredited the Bulgarian State or damaged the prestige and dignity of the Bulgarian people;

- there is reason to believe that the said foreigner is a member of a criminal group or organization, or that he or she engages in terrorist activities, smuggling and illicit transactions in arms, explosives, ammunition, strategic raw materials, dual-use items and technologies, as well as in illicit trafficking in narcotic drugs and psychotropic substances and precursors, and in raw materials for the manufacture thereof;

- there is reason to believe that the said foreigner engages in human trade and illicit bringing of persons into Bulgaria and taking persons into other States;

- the said foreigner has been expelled from the Republic of Bulgaria less than ten years before and has failed to refund the expenses incurred by the State on the said expulsion within six months;

- the said foreigner has committed a premeditated criminal offence within the territory of the Republic of Bulgaria which, according to Bulgarian legislation, is punishable by more than three years' deprivation of liberty;

- the said foreigner has attempted to enter or transit Bulgaria using false or forged documents, visa or residence permit;

- it may be presumed that the said foreigner will spread a grave communicable disease, or suffers from a disease which, according to the criteria of the Ministry of Health or of the World Health Organization, poses a risk to public health, or does not hold a vaccination certificate, or arrives from an area with a complicated epidemic or epizootic situation;

- the said foreigner does not possess guaranteed subsistence and the compulsory insurances required for the duration of residence in Bulgaria and financial means to cover the costs of his or her return;

- the said foreigner has, during a previous entry and residence, systematically violated the border crossing, passport and visa, exchange-control or customs regulations of the Republic of Bulgaria;

- the said foreigner has, during a previous residence, violated the labour or tax legislation of Bulgaria;
- the said foreigner does not possess visas or tickets for the countries next on his or her route;
- a coercive administrative measure has been imposed on the person barring him or her from entry into Bulgaria, and the said measure is still in effect;
- the said foreigner has been included in the data base of undesirable foreigners in Bulgaria, maintained by the Ministry of Interior and by the Ministry of Foreign Affairs;
- the said foreigner is applying for an entry visa on a document certifying that he or she is leaving definitively the territory of another State wherein he or she has theretofore resided.
- the said foreigner is applying for a visa with an invalid foreign travel document or a substituting document.
- A visa shall furthermore be refused to any foreigner who fails to submit the requisite documents, determined by an act of the Council of Ministers, certifying the grounds thereof for entry into Bulgaria.

A foreigner may be refused the issuing of a visa or entry into the country where:
- there is reason to believe that the said foreigner wishes to enter Bulgaria in order to commit a criminal offence or a violation of public order;
- the said foreigner has, during a previous residence in Bulgaria, committed a violation of public order;
- the entry thereof into Bulgaria may prejudice the relations of the Republic of Bulgaria with another State;
- there is reason to believe that the purpose of the entry is to reside in Bulgaria as an immigrant without holding an express permit for this;
- there is reason to believe that the purpose of the entry thereof is to use Bulgaria as a transit point for subsequent migration to a third State;
- during a previous residence in Bulgaria, the said foreigner has been a beneficiary of state social assistance;
- the said foreigner is not in a position to rationalize truthfully the declared purpose of the trip;
- the said foreigner is subject to an effective penalty decree imposing a fine according to the procedure established by this Act, and the said fine has not been paid.
- the said foreigner has not sufficient resources to ensure his/her subsistence in compliance with the length and the conditions of his/her residence in the Republic of Bulgaria, neither for returning to the state of his/her original residence nor for transiting through the Republic of Bulgaria.

- the said foreigner has presented a document with false contents or has stated untruthful information.

A foreigner may not enter and reside in the Republic of Bulgaria on the sole grounds of possessing a visa. A foreigner who has been refused entry shall be given by the border control authorities a uniform form according to European Union sample in which the reasons for refusing entry to the territory of the country shall be recorded. The border control authorities and the services for administrative control of foreigners may cancel an issued visa, reduce the number of entries allowed and the duration of residence in case of non-compliance with the provisions herein and under a procedure determined by the Council of Ministers. The Ministry of Foreign Affairs and the diplomatic missions and consular posts may cancel a visa as issued, reduce the number of entries allowed and the duration of residence in case of non-compliance with the provisions herein and according to a procedure established by an act of the Council of Ministers.

Any foreigner who enters the Republic of Bulgaria or who transits the country, depending on the purpose of the travel, must be in possession of:

- a standard foreign travel document or another substituting document as well as a visa if required;

- sufficient financial means to ensure his/her subsistence according to the length and conditions of the residence in the Republic of Bulgaria as well as to return in the state of his/her permanent residence or to pass through the Republic of Bulgaria;

- medical insurance and other insurances;

- sample invitation if required;

- any other documents proving the purpose of the journey.

The amount of the financial means referred above, the minimal insurance sums mentioned above and the documents required shall be determined by an act of the Council of Ministers.
The Minister of Interior, the Minister of Foreign Affairs, the Chairperson of the State Agency for National Security, or officials authorized thereby may periodically include foreigners in the data base of undesirable foreigners in Bulgaria, if the grounds for refusal exist.

4.1.3 Legal Residence

4.1.3.1 Asylum

For the duration of the procedure the alien is entitled:
1. to remain on the territory of the Republic of Bulgaria;
2. to receive shelter and food;
3. to receive social welfare allowance according to the procedure and in the amount applicable to Bulgarian nationals;
4. to receive health care, access to medical help and gratuitous medical services according to requirements and procedures applicable to Bulgarian nationals;
5. to receive psychological support;
6. to receive a registration card;
7. to receive a translator or interpreter.

The aliens in the Republic of Bulgaria who have been granted asylum or refugee status have equal rights and obligations. They are entitled to the rights and obligations of a Bulgarian national, except for the right to vote and to be elected, to take positions in the public administration for which Bulgarian citizenship is required, the right to join the Bulgarian army and other restrictions established by law. Humanitarian status endows its beneficiary with the rights and obligations of any alien holding a permanent residence permit in Bulgaria. No restrictions are allowed with respect to the rights or privileges of aliens seeking or granted protection in the Republic of Bulgaria, based on race, nationality, ethnic origin, sex, descent, religion, education, convictions, political affiliation, personal and social status or property status. Recognised refugees and persons granted humanitarian status are also issued with an ID and travel
documents. The foreign travel certificate gives the holder thereof the right to leave and enter the Republic of Bulgaria within the term of its validity.

4.1.3.2 Migration

Foreigners shall reside in the Republic of Bulgaria on the grounds of:
- a visa issued;
- international treaties on visa-free entry clearance or on relaxed visa requirements;
- a permit granted by the foreigners administrative control services, after a written statement on behalf of the State Agency for National Security.

In respect of any foreigners who enjoy diplomatic and consular immunity, the permission for residence shall be granted by the Ministry of Foreign Affairs.

Foreigners shall reside in the Republic of Bulgaria on a short-term and on a long-term basis.

**Short-term** residence shall be of a duration not exceeding ninety days, reckoned from the date of entry into Bulgaria. This duration may be extended by the foreigners administrative control services for humanitarian reasons.

**Long-term** residence shall be:
- for **long-term stay**: of an authorized duration not exceeding one year;
- for **permanent stay**: of an indefinite authorized duration.

The timeframes mentioned above do not apply to foreigners who have been granted protection under the Asylum and Refugees Act.

A **long-term residence permit** may be granted to foreigners who possess a visa and:
- wish to work under a contract of employment after obtaining a permit from the authorities of the Ministry of Labour and Social Policy;
- engage in commercial activities in Bulgaria according to the statutory procedure and at least ten job positions for Bulgarian citizens have been opened as a result of the said activities, unless otherwise agreed in an international treaty which has been ratified, promulgated and entered into force for the Republic of Bulgaria. The
requirement for opening of at least ten job positions for Bulgarian citizens shall not apply to citizens of any Member State of the European Union, as well as to citizens of any other State participating in the European Economic Area.

- have been admitted for full-time study at licensed educational establishments;
- are foreign specialists residing in Bulgaria by virtue of international treaties whereto the Republic of Bulgaria is a party;
- have grounds to be permitted permanent residence, or have contracted a marriage with a foreigner - permanent resident in Bulgaria;
- are representatives of non-resident commercial corporations registered at the Bulgarian Chamber of Commerce and Industry;
- are financially self-supporting parents of a foreigner - permanent residents in Bulgaria or of a Bulgarian citizen;
- have been admitted for long-term treatment to a medical-treatment facility and possess means to pay for such treatment and to subsist;
- are foreign mass-media correspondents who are accredited to the Republic of Bulgaria;
- possess a pension entitlement and means to subsist in Bulgaria;
- carry out activities under the Investment Promotion Act;
- are members of the family of a foreigner who has been granted a long-term residence permit;
- are the parents of a foreigner or are de facto cohabitees of a foreigner who has been granted a long-term residence permit;
- wish to work on a freelance basis after obtaining a permit from the authorities of the Ministry of Labour and Social Policy;
- wish to perform non-profit activities after obtaining a permission from the Ministry of Justice under terms and according to a procedure established by an ordinance of the Minister of Justice in consultation with the Minister of Interior and with the Chairperson of the State Agency for National Security.
- have been granted a special protection status according to the Combating Trafficking in Human Beings Act;
- are members of the family of a Bulgarian citizen;
The foreigners applying for a long-term residence permits must be provided with housing, subsistence, compulsory insurance and social insurance according to the legislation of the Republic of Bulgaria.

Any foreigner, who wishes to reside for a long term within the territory of the Republic of Bulgaria for the purpose of working on a freelance basis, may receive a long-residence visa or a long-term residence permit, provided that such a foreigner satisfies the statutory requirements for entry into and residence in Bulgaria and presents the following documents to the diplomatic missions or consular posts or to the foreigners administrative control services, as the case may be:

1. an application completed in a standard form;
2. a permit for work on a freelance basis.

The permits for work on a freelance basis shall be issued by the authorities of the Ministry of Labour and Social Policy.

A long-term residence permit may also be issued to foreigners in possession of visas who work as researchers under an exchange agreement with a research organization whose seat is in the Republic of Bulgaria in relation to research projects, provided that the said organization is registered on the list of research organizations in the sense of Council Directive 2005/71/EC on the specific procedure for admitting third-country nationals for the purposes of scientific research.

A **permanent residence** permit may be granted to foreigners:
- of Bulgarian nationality;
- five years after contracting a marriage with a Bulgarian citizen or with a foreigner permanent resident in Bulgaria;
- minor or underage children of a foreigner permanent resident in Bulgaria, who have not married;
- parents of a Bulgarian citizen, where they provide the said citizen with the child support due under the law, or in cases of affiliation or adoption, after the lapse of three years since the affiliation or adoption;
- who have resided within Bulgarian territory on a legal ground without interruption during the preceding five years;
- who have invested in Bulgaria more than USD 500,000 according to the statutory procedure;
- who are not persons of Bulgarian descent born within the territory of the Republic of Bulgaria, have lost the Bulgarian citizenship thereof under emigration agreements or at their own will, and wish to settle lastingly within the territory of Bulgaria;
- who entered, resided, or were born within the territory of the Republic of Bulgaria prior to the 27th day of December 1998, and whose parent has contracted a civil marriage with a Bulgarian citizen.
- members of the family of a Bulgarian citizen if they have resided without interruption on the territory of the Republic of Bulgaria in the last five years.

Permit to stay in the Republic of Bulgaria, where the requirements of the Law for the Foreigners are not met, shall be granted also foreigners, to whom according to the Law for the Asylum and the Refugees have been:

1. granted asylum or refugee status, as well as the members of their families – for a period of 5 years;
2. granted humanitarian status, as well as the members of their families – for a period of three years;
3. granted temporary protection – for the period of protection.

Any foreigners, who have entered Bulgaria on a certain ground, shall be refused extension of the duration of residence on another ground, with the exception of cases when this is required by the national interest and under force majeure.

The duration of residence of foreigners may not be extended beyond a point in time antedating by six months the expiry of the term of validity of the national foreign-travel documents.

In the case of insignificant exceeding of time-limits set for legal stay, the voluntary appearance of the foreigner before the services for administrative control and the declaration of wish for voluntary leave of the country, the foreigner is warned in a proper manner and is given new time-limit for stay, which is written down in his document for travelling abroad.

In other cases, the illegally residing foreigner can be found:
- during routine check-ups by the Ministry of the Interior bodies;
- through searching into the automated information databases and finding that the foreigner has not left the territory of the Republic of Bulgaria in the legally set time-limits;
- during checks conducted by officials of regional units “Migration” at the Regional Directorates of MoI and Sofia Directorate of MoI, who have found declaration of untrue data by foreigners, wishing to legalize their residence in the Republic of Bulgaria. Examples of such infringements are marriages of convenience, false permanent addresses, lack of conditions for residence, etc.

4.1.4. Access to the Labour Market

4.1.4.1 Asylum

An alien is entitled to have access to the labour market if the procedure for has not been finalized within one year upon submission of the status application for reasons beyond his/her control. Refugees and individuals granted humanitarian status have the right to work, to vocational training, social assistance, education, health insurance, psychological assistance.

Individuals with granted refugee status have the right to work under equal conditions with Bulgarian citizens. The refugees have the right to register at the Employment Offices and to equal access with Bulgarian citizens to the offered services. Their labour relations are regulated by the effective labour legislation in the country.

4.1.4.2 Migration

The global redistribution of workforce is an irreversible process which should be managed wisely in the interest of the countries of origin and destination, as well as of the migrants themselves. Conversely, ineffective management of immigration processes

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might lead to the expansion of the grey economy, to accumulation of tension in the receiving societies, to humiliation and exploitation of illegal immigrants.

Republic of Bulgaria applies fully the community right for the free movement of workers, and in particular, the first six articles of the Regulation 1612/68. This means that work permits are not required for the citizens of EU, of European Economic Area (EEA) and of the Swiss Confederation. Bulgaria respectively ensures the access to registration for this category of people in the Labour Office Directorates.

Hague’s Programme, adopted by the Council on November 4-5, 2004, stresses the necessity of an open debate on the questions of the economic immigration at the level of EU. This debate, together with the best practices existing in the Member States, and in compliance with the implementation of the Lisbon Strategy was the basis for the preparation of a “plan for the policy on legal migration, including the procedures on acceptance, providing the possibility to react adequately to the diverse search of the workers-migrants at the labour market”.

The Ordinance for the conditions and the order of issuing, refusal and revoking work permits of foreigners in the Republic of Bulgaria settles:

- the conditions and the order of issuing, extending, refusal and revoking work permits of foreigners in the Republic of Bulgaria;
- the cases of exemption from issuance of work permits of foreigners in the Republic of Bulgaria;
- the admissible total duration of employment.

The ordinance shall apply to persons, who are not nationals of a Member State of the European Union, or of a state – party to the Agreement on the European Economic Area or of Confederation Switzerland, who have right of free movement by virtue of international agreements concluded with the European Union.

Not required shall be work permits for foreigners who:
- have permit for a permanent stay in the Republic of Bulgaria or have equal rights provided by a granted right of asylum, recognised refugee or humanitarian status;
- have been hired or sent to work by virtue of an international agreement party to which is the Republic of Bulgaria, when the exemption from the obligation of having work permit has been stipulated by the agreement;
- have been sent to the country by virtue of inter-governmental agreements and programmes for legal, financial, expert, humanitarian and other aid to Bulgarian institutions with whom they do not have legal terms of employment;

- are managers of trade companies or of a branch of a foreign legal entity;

- are members of managing boards and boards of directors of trade companies, inasmuch as they do not work under legal terms of employment;

- are representatives of foreign trade companies registered in the Bulgarian Chamber of Commerce and Industry;

- are accredited as members of foreign diplomatic, consular and trade representations, as well as of representations of international organisations in the Republic of Bulgaria;

- are officially accredited in the Ministry of Foreign Affairs of the Republic of Bulgaria correspondents of foreign mass media;

- while keeping their permanent stay abroad they are participants in scientific, cultural or sport events of public importance, if their activity in the Republic of Bulgaria does not exceed 3 months;

- apply for a refugee status, for a right to asylum or for humanitarian status - for work organised by the centres established by the State Agency for the Refugees at the Council of Ministers;

- are members of families of EU nationals, of a state – party to the Agreement on the European Economic Area or of Confederation Switzerland, who have right of free movement by virtue of international agreements concluded with the European Union; till obtaining permit for permanent stay in the Republic of Bulgaria the employment shall be declared by the employer at directorate "Employment bureau" within a period of 7 days from their commencement of work;

- have been accepted as research scholars for the purposes of conducting a research scientific project under an agreement for reception with research scientific organisation within the meaning of Art. 2, letter "c" of Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research – for the period of the duration of the project;

- are members of a family of Bulgarian citizens, who are also nationals of third countries, till obtaining permit for permanent stay in the Republic of Bulgaria the employment shall be declared as by the employer at directorate "Employment bureau" within a period of 7 days from their commencement of work.
Carried out, without work permit, can only be a short-term employment in the cases registered by directorate "Employment bureau" by the employer within 3 days from the beginning of the employment of:

- foreign students in the Republic of Bulgaria for employment within a period of:
  - 20 hours weekly during the academic year, and
  - during the vacations officially announced by the respective higher school;

- foreign students in Bulgarian higher schools for employment of up to 6 months within one year in connection with their educational practice directly related to the subject of their studies;

- students in foreign higher schools for employment of up to 6 months in connection with their educational practice directly related to the subject of their studies, whereas the exchange shall be within the frames of an international exchange programme realized by a youth or student's organization coordinated in advance with the Ministry of Labour and Social Policy regarding the number and the concrete positions for the foreign students;

- students in foreign higher schools and vocational schools for up to 3 months during one calendar year according to an international exchange carried out through the Agency for Employment;

A foreigner, commissioned to the Republic of Bulgaria by his foreign employer for a term up to 3 months within 12 months can fulfill concrete tasks without permit for work on the basis of one time registration in the Agency for Employment in the following cases:

- implementing of mounting and guarantee repair of machines and facilities, supplied from abroad;

- training in servicing or approval of ordered facilities, machines or other things;

- passing of training course within an export contracts for supply or of a license contract;

A foreigner, commissioned by a foreign employer for fulfillment of concrete tasks, connected with the control and the coordination for the fulfillment of contract for tourist services between a foreign tour-operator and Bulgarian tour-operator or hotel keeper, may work without work permit for term up to 6 months within 12 months on the basis of one time registration in the Agency for Employment.
The registration in cases a foreigner is commissioned shall be implemented before the beginning of the employment and the entering of the foreigner on the territory of the country except in the cases, provided in international agreement, to which the Republic of Bulgaria is a party.

Work permit shall be withdrawn by a decision of the executive director of the Agency for Employment when:

- it is established that untrue data have been presented for the issuance of the work permit (in that case the Ministry of Interior and the Ministry of Foreign Affairs shall be informed);

- the control bodies of the Ministry of Labour and Social Policy establish that the employment of the foreigner does not correspond to the position, place of work, employer/person accepting commissioned foreigner as indicated in the permit; (in that case the Ministry of Interior and the Ministry of Foreign Affairs shall be informed);

- the permit for stay of the foreigner in the country has not been issued or has been revoked by the order of the Law for the Foreigners in the Republic of Bulgaria.

A decision for issuance of work permit shall be revoked when the fee for the issuance of the permit has not been paid within one month from receipt of the notification.

In case of a termination of the legal terms of employment of the foreigner or of the commission ahead of term within the frames of providing services the employer or the person who has accepted the foreigner shall inform in writing the Agency for Employment within 3 days from the date of termination of the employment and shall return the work permit which shall be subject to revoking. Informed about the revoked work permit shall be the Ministry of Interior and the Ministry of Foreign Affairs.

Work permit shall be issued to a foreigner having specialised knowledge, skill and professional experience necessary for the respective job or occupation, by observing art. 71 of the Law for Encouraging the Employment (LEE).

Work permit for hiring a foreigner under legal terms of employment can be issued according to the condition, the development and the public interests on the market of labour if:
- the local employer has presented evidence that he has actively sought, for a period not less than 15 days, within the frames of the market of labour, the necessary specialist, including in Directorate "Employment bureau" of the Agency for employment, as well as through announcements in the national and local mass media;

- the foreigner has a vocational secondary education, higher degree of education and/or specific professional qualification and experience corresponding to the objective requirements for the respective occupation/job and the carried out activity;

- there are no Bulgarian or foreigners permanently staying in the Republic of Bulgaria or such with equal rights according to art. 70, para 3 of LEE having the required profession, specialty and/or qualification, including such having no ability of timely training of personnel needed by the employer, which fact has been established upon a study of the market of labour, complied with the objective requirements for occupying the position and the specifics of the activity. The assessment of the fulfillment of these conditions shall be implemented by the Agency for employment.

Besides the conditions described above work permit can be issued to:

- foreigners whose employment on the territory of the country ensue from the fulfillment of international agreements party to which is the Republic of Bulgaria;

- a superior managing personnel of a foreign legal entity, established on the territory of the Republic of Bulgaria, at hiring under the conditions of internal corporate transfer;

- specialists of foreign legal entity, established on the territory of the Republic of Bulgaria, who have special knowledge for mastering production technologies, equipment and techniques of management, at hiring under the conditions of internal corporate transfer and upon proven education – qualification degree, corresponding to the position;

- guest lecturers, lecturers and teachers in Bulgarian higher and secondary schools by a decision of, respectively, the academic councils of the higher schools and of the regional inspectorates of the Ministry of Education and Science;

- commissioned employees of a foreign company in connection with the coordination of the activity and/or the realisation of projects for improvement of the activity of a company or branch established by it on the territory of the Republic of Bulgaria;
- specialists of foreign companies, in connection with a contracted assembly, start and repair of imported equipment, introduction of special technologies, know-how, application of specialised and unique equipment;
- persons who keep their usual stay abroad are sent by their foreign employer for:
  - training in the servicing or receiving ordered equipment, machines or other objects;
  - passing the course of training under an export contract for supply or a license contract;
- athletes and coaches in professional sport clubs upon a confirmed interest by the Bulgarian national sport federations and unions in their hiring for their special personal qualities and high degree of professional knowledge and skills;
- persons of Bulgarian origin, being proved according to the established procedure, with regards to their hiring on a position, for which they have the respective education and/or professional qualification and experience;
- employees of foreign tour operators, who have been commissioned on the territory of the Republic of Bulgaria with objective control and co-ordination of the fulfillment of concluded contract with Bulgarian tour operator or hotel keeper under the law of tourism;
- participants in circus performances and ballet-dancers, who have proved their professional capability.

The Minister of Labour and Social Policy can, in case of a proven expediency, including encouragement of investments in the Republic of Bulgaria, permit the issuance of work permits in individual cases. Where necessary, he shall require the opinion of the competent ministries, administrative bodies, unions of artists, sport federations and unions, the bodies of the local independent government, organizations of the employers, of the workers and employees.

Refused shall be the issuance or extension of a work permit when:
- the provisions of LEE have not been complied with;
- the requirements of the ordinance have not been observed;
- the foreigner has been sanctioned for illegal work during a preceding 5-year period or, according to the presented documents, he has worked illegally in the Republic of Bulgaria during a previous stay and/or by the moment of filing the request;
- the employer/the person receiving for work a commissioned foreigner has been sanctioned during a preceding two-year period for using the work of a foreigner without work permit;

- the employer, during the last 3 months, at his initiative has discharge Bulgarian citizens, foreigners permanently staying in the Republic of Bulgaria or foreigners with rights equal to them according to art. 70, para 3 of LEE who could be hired for the position for which the hiring of a foreigner is requested;

- the requirement established by other normative acts regarding the practising of the definite profession by a foreigner in the country have not been met;

- grounds according to the refusal provisions in the Law for the foreigners in the Republic of Bulgaria are present.

Work permit shall be issued for the period for which employment contract is offered to the foreigner or the latter is sent on a business trip, but for not longer than one year.

When the foreigner is staying as a member of a family of a foreigner who has been granted a long-term residence permit the work permit shall be issued for the term of the permitted stay.

An issued work permit can be extended for a period of up to 12 months if there are grounds for the initial issuance of the permit and there was no interruption of the employment. The working permit of an employee sent on a business trip may be extended as an exception in case the activity for which he/she has been sent requires the initially announced duration to be exceeded due to force majeure circumstances.

With regards to the persons under legal terms of employment in the Republic of Bulgaria the total duration of the work permit and its extension cannot exceed 3 years.

Extended for a period longer than 3 years of employment can be the work permits of:

- supreme management personnel of companies and branches of foreign companies established on the territory of the Republic of Bulgaria;
- teachers and lecturers in secondary and higher schools;
- professional athletes and coaches of professional sport clubs;
Upon termination of the employment and after reaching the maximum admissible term, a new work permit may be issued upon at least one month interruption between the expired and the required new initial term of employment.

4.1.5 Return

4.1.5.1 Asylum

The provisions of the Aliens in the Republic of Bulgaria Act apply to any alien with respect to whom there is an in force decision for status refusal, termination or withdrawal of status, or whose procedure has been discontinued. The State Agency for Refugees notifies in writing the Ministry of Interior of the decision.

4.1.5.2 Migration

The integrity of the migration policy depends on the policy for return of the third country nationals who do not have the right and reasons to stay in the country. This policy should be transparent, effective, fair, and humane. The return policy and programmes cover both regular and illegal immigrants and assist their secure return to the countries of origin, respecting their human rights and dignity.

Optimum results can be achieved, if the return policy is combined with effective management systems of borders and asylum, as well as with appropriate mechanisms for legal admission and integration.

The return policy is an important factor to reduce illegal immigration, which sends a clear message to other potential immigrants from the respective countries of origin.

Return can be forced and voluntary. The effective return policy depends on giving preference to voluntary return as a first opportunity.

If this is impossible, forced removal should be applied in compliance with the international humanitarian standards.

In comparison to forced removal, voluntary return:
✓ Reduces the risk of violation of human rights,
✓ Preserves human dignity,
✓ Financially it is much more effective and quicker procedure.

The development and implementation of a voluntary return procedure from Bulgaria for third country nationals will benefit the country. Such programmes are implemented in all EU Member States. This will stimulate the improvement of the effectiveness of the migration management system and illegal immigration counteraction. For this purpose, the European Return Fund will start its operation on priorities in Bulgaria.

The implementation of voluntary return programmes includes:

- Partnership with international and nongovernmental organizations with a view to provision of legal, logistical support for the deportation and reintegration,
- As well as provision of reliable information for the informed choice of the migrant in the early stage of the migration process.

According to the regulations in the LFRB, each foreigner shall be obligated to leave Bulgaria upon or before expiry of the authorized duration of stay thereof.

Any foreigner residing on a short-term basis whereof the foreign-travel document has been replaced by a new one may leave Bulgaria after notifying the foreigners administrative control services of the said replacement, save as otherwise provided for in an international treaty whereto the Republic of Bulgaria is a party.

Any foreigner who holds a long-term residence permit may leave and re-enter Bulgaria without a visa until expiry of the authorized duration of residence.

Any foreigner who holds a permanent residence permit may leave and re-enter Bulgaria without a visa.

Foreigners may exit the Republic of Bulgaria through the places designated therefor on the grounds of foreign-travel documents and other substitute documents entitling the said foreigners to leave Bulgaria.

A foreigner may not leave Bulgaria if a coercive administrative measure barring exit has been imposed thereagainst.

By imposing the compulsory administrative measure shall be withdrawn the right of stay of the foreigner in the Republic of Bulgaria.
Forcible escort to the border of the Republic of Bulgaria shall be imposed where:
- the foreigner is unable to certify the entry thereof into Bulgaria according to the statutory procedure;
- the foreigner fails to leave Bulgaria upon or before expiry of the authorized duration of residence thereof, or within seven days after being notified of a refusal to extend the said duration;
- it is established that the foreigner has entered into Bulgaria and resides therein under a counterfeit or forged foreign-travel document or on a substitute document.

Expulsion of a foreigner shall be imposed where the presence thereof in Bulgaria poses a serious risk to national security or to public order. The entitlement of the foreigner to reside in the Republic of Bulgaria shall be forfeited and a bar to entering the Republic of Bulgaria shall be imposed concurrently with the imposition of the expulsion.

A foreigner residing on the territory of the Republic of Bulgaria to whom an expulsion decision has been issued by the competent authorities of another European Union member-state shall also be expelled.

The number of the executed administrative measures ("compulsory taking to the border" and "expulsion") is the following:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>211</td>
</tr>
<tr>
<td>2007</td>
<td>324</td>
</tr>
<tr>
<td>November 2008</td>
<td>247</td>
</tr>
</tbody>
</table>

The orders for imposing compulsory administrative measures can be appealed under the conditions and by the order of the Administrative Procedure Code.

A bar to leave the Republic of Bulgaria shall be imposed on a foreigner who:
- has been convicted by an effective sentence and has not served the custodial sentence as imposed;
- incurs obligations exceeding BGN 5,000 to Bulgarian legal or natural persons, and the said obligations have been established by a judicial procedure and are not duly secured;
- incurs liquid and exigible obligations to the State to an amount exceeding BGN 5,000, or is member of the supervisory or management bodies of legal persons which incur liquid and exigible obligations to the State to an amount exceeding BGN 5,000, unless due security has been furnished.

The same measures shall furthermore be imposed in respect of foreigners holding Bulgarian citizenship as well.

A foreigner who has not attained the age of 18 years and who holds Bulgarian citizenship as well shall be barred from leaving the Republic of Bulgaria where one of the parents of the said foreigner is a Bulgarian citizen and has not granted written consent to the travel of the said foreigner abroad.

Coercive administrative measures shall be imposed by an order of the Chairperson of the State Agency for National Security and the Directors of National Services, the Directors of Chief Directorates and the Director of the Migration Directorate of the Ministry of Interior.

The orders whereby the entitlement to residence in the Republic of Bulgaria is withdrawn shall prescribe a time limit for leaving Bulgaria, upon the expiry of which the foreigner shall be deported from Bulgaria.

The orders imposing coercive administrative measures shall be executed by the foreigners administrative control services or by the border control authorities, as the case may be, upon their coming into effect, unless the authority who issued the order has admitted anticipatory execution.

The following shall be subject to immediate execution:
1. any orders whereby the entitlement to residence in the Republic of Bulgaria is forfeited.
2. any orders imposing a bar to entering the Republic of Bulgaria
3. any expulsion orders.

Where there are obstacles to a foreigner leaving Bulgaria immediately or to entering another country, any such foreigner shall be obligated by an order issued by the authority who issued the order imposing the coercive administrative measure to report daily at the police service exercising jurisdiction over the place of residence thereof, until the lapse of the said obstacles.
The authority who has issued an order on forcible escort to the border of the Republic of Bulgaria or an expulsion order may, at his or her own discretion, coercively place the foreigner in a special accommodation until the lapse of the obstacles to the execution of the coercive administrative measure.

Special centers for temporary accommodation of foreigners under order for forcible escort to the border of the Republic of Bulgaria or under an expulsion order shall be established within the Migration Directorate.

Foreigners shall be placed at such special accommodation centers on the basis of a coercive accommodation order issued by competent officials of the Ministry of Interior or by the State Agency for National Security, and any such order shall expressly state the need of such placement and the legal ground.

The procedure for temporary accommodation of foreigners in such special accommodation centers, as well as the organization and operation thereof, shall be regulated by an ordinance of the Minister of Interior.

No foreigner under a coercive administrative measure of expulsion shall be expelled to a country where the life and freedom thereof are jeopardized and the said foreigner is endangered by persecution, torture, or inhuman or degrading treatment.

4.2 Links with other Policy Areas

The migration policy is related to policies of other sectors as: public health, education, commerce, demographics, ecology, transport, anti-poverty and safe working conditions etc., and requires measures cohesion as well as inter-institutional collaboration aiming at compatibility and effectiveness.

The successful management and regulation of immigration processes is an important tool for development in a currently globalizing world economy. This fact raises the issue of the migration and the integration of immigrants as a key point at a national, regional, and global level.

The global redistribution of workforce is an irreversible process which should be managed wisely in the interest of the countries of origin and destination, as well as of the migrants themselves. Conversely, ineffective management of immigration processes might lead to the expansion of the grey economy, to accumulation of tension in the receiving societies, to humiliation and exploitation of illegal immigrants.
The formation and implementation of the migration policy of Bulgaria should be bound to the national interest of the country and should be compliant both with the respective commitments in this sphere arising from the full rights EU membership and with the new global and regional trends and established international standards. The connection of the Bulgarian immigration policy to the EU policy and practices arises from the commitments of Bulgaria, undertaken under the Accession Treaty to the EU, from the regulations and directives, practices, and initiatives in this field.

The current migration situation in Bulgaria has the characteristic features typical of the EU Member States acceded from Southern Europe, which had turned soon from countries of emigration into countries attracting immigrants.

In the last years Bulgaria has slowly but steadily acquired features of transformation from a country of origin and a transit country to a host country.

The character of immigration situation in the Republic of Bulgaria has changed as a result of the democratic changes, the enlargement of the European Union to the East, as well as the economic and cultural globalization of the contemporary world. Unlike the period before 1989, when Bulgaria had a very limited immigration profile, it participates fully in the migration processes at a European and global level after the democratic changes. Bulgaria makes no exception of the global tendencies for an increased mobility of population due to the rapid technological development, accessible transport, and communications.

The Bulgarian immigration policy is applied in support of economic development. The national interest on this issue requires active efforts to attract foreign citizens of Bulgarian origin in the first place. Legislative initiatives are to be adopted in this direction in order to improve the opportunities for their settlement, education, or labour in Bulgaria.

The labor and immigration policy in Bulgaria is in compliance with the common policy of the Community. It is conformed to the specialties conditioned by Bulgaria’s situation as an external border of EU. Bulgaria protects its labor market by normal standards and the limitations imposed are harmonized with the common EU practice.
5. ANALYSIS OF ASYLUM AND MIGRATION SYSTEMS

Following the accession of the Republic of Bulgaria to the EU, the country became attractive destination for third and citizens of “risky” countries not only as a transit country but also as a possibility for permanent stay of these citizens.

The main factors determining migration flows remain the poor economic development of the countries of origin, the geographic position of the Republic of Bulgaria and the possibility to find a job at the labour market in the developed EU countries.

With regard to the increasing number of third-country nationals, entering the Republic of Bulgaria, it is necessary that mechanisms for control and regulation of legal migration be developed as well as those for the return of illegally staying foreigners to the country of origin. The main task is the prevention of the illegal migration. The potential illegal immigrants look for legal ways for entering Bulgaria and consequently breach the local legislation.

The specifics of the geographical position of Bulgaria predetermine the existence of a variety legal and illegal migration flows. A stable trend in the increase in the number of the illegally staying foreigners in the Republic of Bulgaria has been formed.

**Asia - Europe**

In the direction Asia – Europe the Republic of Bulgaria’s border with Republic of Turkey is the most vulnerable. Citizens of the Republic of Iraq, Pakistan, the Islamic Republic of Afghanistan, Palestine, the Republic of Lebanon and the Syrian Arab Republic seek refugee status under the Law for the Asylum and the Refugees. In most of these cases Republic of Bulgaria is a transit country and the final aim is the countries of Central and Western Europe.

**Africa - Europe**

Entering the territory of Republic of Bulgaria is predominantly legal and occurs most often after the expiry of the stay period, determined by the law. In those cases foreigners either stay in the country or take actions for illegal moving in the direction of Republic of Bulgaria through the Republic of Serbia to the countries of Central and Western Europe.
Republic of Moldova- Republic of Bulgaria- Greece

In the period 2006 - 2008 groups of 10- 20 citizens of Republic of Moldova who had entered legally the territory of Republic of Bulgaria through the Republic of Romania, made some occasional attempts to reach their final aim- entering the territory of Greece.

Main features that describe the migration situation in the past few years are:

- increased flow of people going out of the borders of Republic of Bulgaria;
- steady growth of the long term stay permits issued;
- on the one hand there is a tendency towards the increase in the number of citizens of member states who stay longer in the Republic of Bulgaria while on the other, the number of the same category of people coming from third countries remains the same;
- resulting from the elaborated effective control mechanisms concerning the stay of foreigners in Bulgaria, there is an increased number of the coercive administrative measures imposed.

The legislation regarding the control over the migration processes in the Republic of Bulgaria determines the allocation of duties and responsibilities among the different administrations, involved in observing the residence of foreigners. The Migration Directorate – Ministry of Interior, the Consular Relations Directorate – Ministry of Foreign Affairs, the Directorate “Bulgarian Citizenship”- Ministry of Justice, the National Employment Agency – Ministry of Labour and Social Policy and the State Agency for Refugees are the state bodies authorized, according to their functions, to regulate the migration processes on the territory of the country, starting from the Bulgarian representations abroad. The high extent of coherence and unidirectivity in the actions of these bodies is conditioned by their common goal. The lack of unity in the actions or the ambition of certain bodies to be the sole manager of migration processes could lead to insufficient determination, unsatisfactory definition and implementation of the migration policy of Bulgarian government. With regard to this, in 2008 the co-operation between the relevant state organizations was further strengthened. Significant efforts were made in order to improve the administrative
capacity of the bodies for migration control. The implementation of the European
d pract ices and standards for management of the migration processes was further
developed in Bulgaria.

Migration Directorate at Ministry of Interior is maintaining close cooperation
with the State Agency for Refugees at the Council of Ministers (SAR) in the Republic
of Bulgaria. The Agency is the competent authority which processes
complaints/requests logged by foreigners on humanitarian or refugee status and informs
Migration Directorate for the decision taken by the Agency on each of the
complaints/requests.

In compliance with Regulation (EO) 343/2003 a Decree for the responsibility
and coordination of the State authorities of the Republic of Bulgaria was adopted. The
Decree treats the interaction between MoI (Border Police, Migration Directorate,
Research Institute for Forensic Science and Criminology) and State Agency for the
Refugees at Council of Ministers, performing joint actions and information exchange
while performing their functions for the implementation of the Regulation.

In cases when SAR establishes that a foreigner logged a request for status in
the Republic of Bulgaria and the same request was logged in other Member State,
procedures for identifying the competent Member State which will proceed the request.
SAR elaborates laissez-passer and provides the necessary information to the Migration
Directorate at MoI for organizing the foreigner’s transfer. SAR informs the accepting
Member State for the place, date and time of the foreigner’s arrival at MS’s territory.

When the foreigner is on the territory of other Member State and the Republic
of Bulgaria is the competent country to process the request for the foreigner’s status,
officials of SAR perform the necessary checks on the person. After Migration
Directorate receives the necessary information by SAR, the Directorate takes the control
upon the foreigner at the respective Border Crossing Point of the Republic of Bulgaria.

In case of rejection of the request, SAR informs the Migration Directorate for
its negative decision came into force. Migration Directorate performs all procedures
following the rejection on expulsion of the foreigner.

In 2007 Agreements between MoI, in particular between Migration Directorate
and the Bulgarian Helsinki Committee, Bulgarian Red Cross, Caritas Bulgaria and
Assistance Centre for Torture Survivors – ACET were signed. The Parties under these Agreements had stated their readiness for partnership, cooperation and coordination of the efforts and resources for performing joint actions; support the migration policy as a part of the European policy in the migration area for following the objectives and for fair treatment of the third country nationals, as well as for improved management of the migration flows. The aim is to strengthen the interaction for implementing activities on humanitarian support, consulting and voluntary return to the countries of origin or third safe country.

The analysis of the migration processes in the country reveals the following problems:

Being an external border of the EU Bulgaria will keep on experiencing constantly growing migration pressure through the coming years.

The model of the other EU member-states shows that a need has emerged to urgently develop and apply a successful integration program, consistent with the citizens’ rights as well as with the Bulgarian traditions and values.

Prognoses for the dynamics of the migration processes in Bulgaria

• In economic aspect – it is expected that the dynamics of the migration processes will affect the area of labor and social assistance.

• Following the full membership of Bulgaria into the EU a significant increase in the number of asylum seekers is expected in the coming years.

• Significant increase in the number of EU citizens with long-term staying residence permits.

• As an external border of the EU Bulgaria will suffer a constantly growing migration pressure through the coming years.

The Bulgarian accession to the Community calls for updating of the mechanism for control and regulation of migration in the country. The accession raises the necessity of developing a long-term strategy for management of migration processes, in connection with the economic and national security.

With a view to improvement of the efficiency in migration management it is necessary to continue the process of harmonizing the migration related structures with
the EU standards, to extend the cooperation with the corresponding EU structures, to intensify at the regional level the interaction between the relevant state institutions and the organizations concerned with the migration flows. The more successful collaboration with the countries concerned in solving of certain cases while exercising administrative control over residence conditions of third country nationals, preventing illegal migration and trafficking in human beings, guarding of the state border.