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REPORT FROM THE COMMISSION TO THE COUNCIL

EXEMPTION OF ROMANIAN CITIZENS FROM VISA REQUIREMENT

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INTRODUCTION

On 15 March 2001 the Council adopted a Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Council Regulation (EC) No 539/2001 of 15 March 2001, OJ L 81, 21.3 2001, p. 1). According to Article 8(2) of the Regulation, Romania is on the list of countries whose nationals are exempted from the visa obligation. However this exemption will not enter into force until the Council has decided so at a later stage on the basis of a report from the Commission.

The Council has invited the Commission to submit not later than 30 June 2001 such a report, indicating what commitments Romania is prepared to take on illegal immigration and illegal residence including the repatriation of persons from Romania who are illegally resident in Member States of the European Union. The report should be accompanied by any useful recommendations.

In order to reach a position on the commitments of the Romanian government at the earliest possible date, a first report was requested by the Council from the Commission before 30 January 2001. The Commission submitted this to the Council in the form of a Communication (COM(2001)61 final). It was based most notably on information produced by the Romanian authorities on 15 January 2001 in response to a request made by the Commission on 18 December 2000.

The Romanian government has submitted a contribution to the Commission on 7 May 2001 in which it identified the key objectives of a strategy to address the various shortcomings (legal, administrative and practical) that had been pointed out as being relevant in the context of visa exemption. The contribution included a "Visa Action Plan" with the view to providing Romania with a road map for the implementation of the various actions which had been identified as necessary to reach the objectives set out in the strategy. The Commission keeps all the documentation received from Romania available to Member States.

The purpose of the present report from the Commission is to give an account of the achievements Romania has reached so far and of the commitments it has taken. The value of the achievements and the reliability of the commitments will be assessed, bearing in mind that the key point is relevance of specifically identified actions with respect to visa exemption for Romanian citizens when entering the EU Member States. This should avoid any confusion with the coverage and purpose of screening procedures, evaluation missions and action plans that are relevant for Romania as a candidate country in the pre-accession context. The conclusion of this assessment will include the recommendations the Council has asked the Commission to present.

In Article 8(2) of Regulation (EC) No 539/2001, the key elements for a visa waiver are clearly indicated. A positive decision for Romania depends mainly on the undertakings it is prepared to enter into on illegal immigration and repatriation from the Member States of illegal residents coming from Romania.

The present report will deal with these key elements. As far as illegal immigration is concerned a distinction needs to be made between measures aimed to prevent illegal immigration from third country citizens transiting through Romania and measures aimed at curbing down illegal immigration of Romanian nationals to the Member States.

1. ROMANIA AS A TRANSIT COUNTRY FOR THIRD COUNTRY NATIONALS

1.1. Borders controls carried out by Romanian authorities on entry, transit and exit

1.1.1. Legal provisions

Two Emergency Ordinances (i.e. Government decisions having the force of law), one on the Romanian State Border and the other on the Border Police, are in a final stage of approval. The former contains general provisions on the regime of the state borders and aims at harmonising Romanian legislation in the field of border control to similar legislation in the Member States. The ordinance on the Border Police provides for a new organisational structure and contains provisions on the competencies of border policemen and the framework for co-operation with other institutions.

Romania has a series of bilateral agreements with neighbouring countries on co-operation and mutual assistance between border authorities, also covering the fight against organised crime, corruption, illegal drug trafficking and trafficking in persons¹.

1.1.2. Institution building, technical equipment and investment programmes

The main institution responsible for the management of the borders is the Border Police, a structure subordinated to the Ministry of Interior. The total staff of the Border Police is currently 23,000, both professionals and conscripts. An ongoing reform process for the period 2000 - 2004 aims at reorganising and modernising the Romanian Border Police. This reform consists of several elements:

- a) Simplification of the hierarchical structure (one regional level of command has already been abolished and the number of Regional Directorates has been decreased to one for each land border and one for the Black Sea) and reallocation of personnel (20 % of the personnel at central command levels have been transferred to operational tasks and another 10 % will be transferred in a near future);
- b) 'Professionalisation' of the police, i.e. the progressive replacement of conscripts with professional staff, which started in March 2000 and will be completed by the end of 2002. A number of 2,151 people hired on a contractual basis will be deployed for guard and surveillance activities at the green border. Of these, 740 have already been posted at the Eastern and Northern border;

¹ From 1990 to date, Romania has concluded 9 co-operation agreements with Ukraine, 4 with Moldova, 8 with Bulgaria and 8 with Hungary. In addition, negotiations are ongoing to update and develop the previous agreements with all the above-mentioned countries, as well as with the Federal Republic of Yugoslavia.

- c) New methodologies for training Border Police personnel. For this purpose, three regional training centres have been set up², by reconverting conscripts instruction centres into training institutes for professional border policemen. Furthermore, a twinning project with Spain financed by Phare, which started to be implemented in April 2001, will provide assistance with development of a modern training strategy and reform of the programmes of the training centres for different categories of the border police staff.

Several measures have been taken to fight corruption. Following the entry into force of the new law on fighting corruption (May 2000), a specialised service, the General Internal Protection Directorate, has been set up within the Ministry of Interior. This new structure is one of the results of a recently developed anti-corruption strategy for the Ministry of Interior and its subordinated bodies. One of the tasks of this new structure is to carry out preventive and ad hoc inspections in all Border Police structures. Since January 2001, this service - whose staff is selected on the basis of professional probity - carries out controls primarily at management and general inspectorate level. In special cases, controls and inspections can be made also at lower levels. Suspected persons are immediately suspended and brought before courts. Another measure envisaged is the introduction of incentives based on good professional performance. From 1 January 2001 to 15 March 2001, 68 officials in the Border Police have been punished for failure to fulfil their duties properly, corruption or violation of working provisions.

As regards infrastructures, the Romanian Border Police have benefited from an increasing financial support both from the Government budget and from EU programmes. Priority has been given to the Northeast border to Moldova and South Ukraine for provision of patrol vehicles, patrol boats, all-weather uniforms, body armour, night surveillance and communications equipment. Six border crossing points (Giurgiu, Petea, Albita, Bors, Nadlac, all located on main European transport corridors, as well as the main international airport Otopeni) are equipped with video spectral devices for detecting forgeries in travel documents.

To make controls of travel documents and visas more effective, a co-operation protocol has been signed on 23.05.2001 between the General Inspectorate of Border Police and the national airline (TAROM). It provides for special training programmes offered by the Border Police for the airline staff on the detection of false or forged documents. This Protocol covers TAROM staff operating at Amman, Damascus, Istanbul, Cairo and Tripoli airports. The agents of the company check the validity of passengers travel documents at the embarkment in the plane, preventing the entry in Romania of persons with false or forged documents.

There is also regular exchange of data with German and French liaison officers in Romania on the criminal networks trafficking blank passports and visas stolen from Schengen countries.

1.1.3. Statistics and general trends

Romania's borders have a total length of 3,146.7 kilometres, of which 1,074.5 km are land borders, 941.6 km river borders, 883.2 km fluvial borders and 147.4 km

² The three centres are located in Carei, Giurgiu and Sighet.

maritime borders. There are 10 international airports. The main international airport is the Otopeni Bucharest Airport.

Romania is a transit country for illegal immigration towards EU Member States. In the period 1998-2000, 10,524 foreign citizens were forbidden to exit Romania. Of these, 2,333 had as their destination EU Member States. Most of them were from Afghanistan, Iraq, Iran, Pakistan, Turkey and China. The reasons for preventing onward travel were irregularities in travel documents, non-observance of the legal norms concerning the customs regime, the use of false or forged passports and of false or forged visas. In the first three months of 2001, 4,009 foreigners were prohibited to exit (as compared to 3,145 in the first quarter of 2000).

As regards entry, since 1998 around 40,000 foreigners per year have been denied entry in Romania. It is estimated that another 40,000 cross the border illegally with the purpose of ultimately reaching the EU. In the first quarter of 2001, 16,715 foreigners were prohibited to enter Romania, as compared to 10,900 in the first three months of 2000. The most common entry point is the border with Moldova.

1.1.4. Commitments

The draft emergency ordinances on the Romanian State Borders and on the organisation and functioning of the Romanian Border Police are due to be adopted by the government at the latest by 30 June 2001. By the same deadline the government will adopt methodological norms for the application of the afore-mentioned legislation.

Co-operation agreements on border management with EU Member States will be discussed (in a first phase: with Austria, France and Germany). Negotiations for improving existing agreements with neighbouring countries are ongoing.

As far as the reform of the Border Police is concerned, 3,063 sergeants have already been contracted to replace conscripts and a full professionalisation is due to be completed by the end of 2002. The exchange process will continue with the replacement of 1,657 conscripts by 663 contracted sergeants by 30 June 2001 and 1,686 conscripts by 674 sergeants by 30 October 2001. In 2002, 5,000 conscripts will be replaced by 2,000 sergeants. In total, 16,000 conscripts will be replaced by 6,400 sergeants.

By 30 June 2001 a further 10 % of the administrative staff of the General Inspectorate of the Border Police is to be transferred to operative work.

On the basis of the Ministry of Interior Programme for preventing and fighting corruption, the General Inspectorate of the Border Police is expected to adopt its own plan of a permanent character for combating corruption by 30 June 2001. Before the end of 2001 a permanently opened telephone "green line" will be established at the General Inspectorate of the Border Police, where messages of persons having problems when crossing the borders will be taken.

A review of the entire training strategy of the Border Police is due to be presented by 30 June 2001.

A strategy for integrated border management will be worked out in co-operation with other bodies with competence at the borders. A pilot project is at present carried out

and the strategy will be further developed with the support of a Phare-funded twinning project which will be implemented in the period October 2001 - November 2002.

Additional financial resources will be constantly provided by the Romanian authorities in the current and following years in order to improve and modernise the equipment of the border police.

1.2. Romanian visa policy

1.2.1. Legal provisions

The list of countries whose citizens need a visa to enter Romania contains 156 countries, while nationals of 35 countries, including the EU Member States, are exempted from the visa requirement. Under Romanian legislation, particularly strict conditions for obtaining visas are applicable to citizens of 86 countries with high migration tendencies. These conditions and criteria are specified both in the 'methodological norms' implementing the new Aliens Law n° 123/2001 (*infra*, § 1.4.1) and in common instructions, agreed by the Ministry of Foreign Affairs, the Ministry of Interior and the Ministry of Labour on 30 April 2001. For 75 of these countries, applicants for Romanian visas need to have a certified invitation and a bank guarantee at the disposal of Romanian authorities to be used in case of repatriation. Citizens from Armenia, Azerbaijan, Belarus, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Turkmenistan, Tajikistan and Uzbekistan are obliged to have a certified invitation but do not need a bank guarantee.

Since April 1998, the obligation to have an airport transit visa has been introduced for citizens from Afghanistan, Ethiopia, India, Ghana, Iran, Iraq, Nigeria, Somalia, Sri Lanka, Democratic Republic of Congo, Pakistan and Bangladesh.

Seven countries which are on the EU list of countries whose nationals need a visa³ – Russia, Ukraine, Moldova, Bosnia-Herzegovina, Federal Republic of Yugoslavia, FYROM and Turkey - are currently on the Romanian list of countries whose nationals do not need a visa for entering Romania. Moldovan citizens may now enter Romania with a simple identity card. From 1st July 2001 they will be obliged to have a passport to enter Romania.

1.2.2. Institution building, technical equipment and investment programmes

Since January 2001, visas can as a main rule be obtained only from Romanian diplomatic missions and consular offices abroad. Visas can be obtained at border posts only in exceptional cases.

Romanian diplomatic missions and consular offices issue visas only to nationals of the accrediting country and after consulting the list of persons who are forbidden to enter Romania. This list is available at the Ministry of Foreign Affairs and the Ministry of Interior as well as at border posts.

All visa applications are sent from the diplomatic or consular missions to the National Visa Centre recently set up within the Consular Relations Directorate of the

³ See Annex I of Council Regulation (EC) n° 539/2001.

Ministry of Foreign Affairs, which takes the final decision on the issuing of a visa. The applications from nationals of countries with high migration tendencies are also sent, for a further check, to the Directorate for Aliens and Migration Issues of the Ministry of Interior.

A project concerning a computerised system for on-line processing of visa applications, partially financed under the Phare 2000 border programme, has been designed. It will connect the central authorities responsible for issuing visas (the Ministry of Foreign Affairs and the Ministry of Interior) with diplomatic and consular missions as well as border posts. The project will cover, in an initial phase, 4 diplomatic missions and consular missions in EU countries (Austria, Germany, Italy and the Netherlands) and 6 missions in countries with high migratory tendencies (Pakistan, China, Jordan, Iraq, India and Ukraine).

1.2.3. Commitments

The obligation to have a passport when entering Romania will become operational for nationals of the Republic of Moldova starting from 1st July 2001.

The introduction of the visa requirement for nationals of Bosnia-Herzegovina, Federal Republic of Yugoslavia, FYROM and Turkey will be considered by the Romanian authorities in connection with the development of the relations between the EU and those countries, and if appropriate, Romania will introduce a visa requirement.

The Romanian authorities intend to conclude the negotiations both with the Russian Federation and Ukraine of agreements to introduce compulsory visa regimes for the nationals of both these states before the end of 2001. In case a bilateral agreement cannot be reached within this time-limit, Romania will introduce the visa requirement unilaterally.

1.3. Romanian travel documents and identity documents

1.3.1. Legal provisions

On 19 April 2001, the Romanian Government adopted Decision Nr. 460 on the introduction of a new type of passport, which has more security features than the present passports. This Decision lays down the legal framework for producing the new model of Romanian passport. According to it, the Secretariat of the Government is in charge of this task through the "Administration of State Protocol Patrimony". This Government owned agency has already launched on 30 May 2001 the international tendering procedure foreseen by the Government Decision in order to select a single supplier that will ensure:

- Manufacturing and delivery of a first batch of 1,000,000 regular blank passports of the new Romanian model;
- Delivery of equipment necessary for the issuing and optical reading of the new type of passport;
- Delivery of printing equipment, technologies, raw materials and other material necessary for the manufacture of the new type of passport in Romania when the first batch of 1,000,000 blank documents will be used up.

Approximately 4,000,000 Romanian tourist passports are currently in circulation and the passports have a validity time of five years. Passports are individual, but children under 14 years old are usually registered in the passport of their parents. The replacement of the old passports with the new model is expected to start in the second half of 2001. According to the Government Decision mentioned above, the new model of Romanian passport will be issued after the existing stock, which is quite small, has been used up (the amount of old type remaining blank documents represents the running stock for about 2 months issuance). Old passports will be gradually withdrawn and replaced by new ones. The Government Decision also provides that the validity of old model passports shall not be extended after the new model has started being issued. A fee has to be paid when a passport is being issued. The total cost to be paid is about USD 15.50.

It may also be relevant to mention that the Romanian authorities intend to use the security features of the new type of passport for issuing travel documents to refugees on the basis of the Geneva Convention and travel documents to stateless persons on the basis of the New York Convention. According to available figures, the number of holders of these categories of travel documents could hardly exceed 2,000 people.

1.3.2. Institution building and practice of security measures

At present, passports are issued via a decentralised computerised system at county level (41 centres). The central authority responsible for issuing passports is the Passport Directorate of the Ministry of Interior. Diplomatic missions and consular offices are only allowed to issue “consular passports” to Romanian citizens that, due to the loss, theft or expiry of their passport, have an immediate need for a valid travel document. This kind of passport is issued after checking that the applicant is a Romanian citizen, and is only valid for going back to Romania. It does not allow the holder to leave Romania or to travel abroad. In case the passport of a Romanian citizen, travelling abroad, is stolen or lost, that person must report to the Romanian consular office or diplomatic mission in the country where he stays.

The fees collected for issued passports are checked against the number of issued passports. This procedure ensures at central level a double check of blank documents used by local agencies for issuing purposes. Moreover, the Programme for preventing and combating corruption within the Ministry of Interior is applicable also within the Passport Directorate.

Blank passports are stored in the Passport Directorate headquarters, from where they are sent to the county offices via the internal mailing system of the Ministry of Interior. Blank passports are recorded in a database, classified by series. This database also contains the reference of all issued passports in validity, as well as an alert pointing out lost or stolen passports. This database is available online to the General Inspectorate of Border Police and to the Ministry of Foreign Affairs. There is also a local database in every county where passports are issued.

Romanian visa stickers are manufactured on the basis of high security standards (i.e., special ink and laser components) and special security measures have been taken concerning their storage. A new type of visa stickers, which fulfils EU-requirements, will be introduced in 2002.

Romanian citizens are provided with identity cards. Although this document is not recognised for travelling abroad, it may be useful in certain circumstances for the national authorities of EU Member States. An example of one such situation could be the verification of the citizenship of Romanians with a view to possible repatriation when found illegally residing on the territory of Member States. Romanian identity cards are issued by the Person Data Recording County Offices, on the basis of an application form and of official documents (e.g., birth certificates), proving their name, marital status, Romanian citizenship, domicile and if appropriate the military status of the applicant. There are no blank Romanian identity cards, due to the fact that they are made with a computerised technique, using as raw material a special pliant paper, and plastic thin paper for lamination. Provisional identity cards also exist and can be issued for 1, 3 or 6 months or maximum 1 year; they are typed in special printing units, on water-marked paper, using security elements, by series, and their record is kept both on series and issuing units.

In case of theft or loss, the holder of a Romanian passport or identity card must report to the nearest police station. In case of passports, the information is published in the Official Journal. In case of loss of identity card, the holder is fined before being issued a new one.

1.3.3. Commitments

In the second half of 2001 the exchange of the present type of passports with a new type with additional security features will start.

A new type of visa sticker which fulfils EU requirements will be introduced in 2002.

1.4. Romanian legislation on immigration and asylum

1.4.1. Legal provisions

A new Aliens Law (n°123/2001) entered into force on 3 May 2001, establishing the conditions for entry and stay in Romania as well as the regime of expulsions. On 9 May 2001, the Government adopted the 'methodological norms' to implement the above-mentioned law. These norms contain detailed provisions specifying the procedures for applying the law as regards checking of documents, issuing visas, granting residence right and expelling aliens.

Illegal entry and stay in Romania is considered an offence. The expulsion of foreigners not complying with the conditions for entry and stay (i.e., illegal entry, expiry of the visa and existence of indications that the person in question is a threat for national security, public health, public order, human rights and freedoms) is ordered by the Ministry of Interior and carried out by its territorial bodies. An expulsion visa is applied on the illegal alien's travel documents. In addition, the travel document will have a special stamp banning the alien from entering Romania for a period of 6 months to 5 years. In case the alien is declared a threat for national security, public order, public health, human rights and freedoms, the Ministry has the possibility of declaring the foreigner 'undesirable' for a determined period. Expulsion can also be decided in cases where the foreigner has committed a crime. In such cases the expulsion is decided by a court, and it is specified that it does not apply towards those countries where the life of the foreigner can be in danger. Until

the expulsion becomes effective, illegal immigrants and rejected asylum seekers may be kept in closed accommodation centres.

The new legislation also increases the sanctions to carriers responsible for bringing to Romania aliens not fulfilling the conditions concerning the possession of travel documents and visas. At the same time, carriers are compelled to support the costs for taking the alien back to the embarkment place or to another place where the alien agrees to and is accepted. They also have to financially support the alien's accommodation and other eventual costs. Romania has signed the Chicago Convention on air transport which provides for carrier's liability in the case of undocumented passengers.

Recently adopted legislation has also tightened the conditions for obtaining work permits in Romania. A necessary pre-condition is the possession of a work visa (i.e., persons having a student visa are therefore no longer allowed to obtain a work permit).

Concerning asylum-seekers and refugees, amendments made in August 2000 to the Refugee Law of 1996 introduced new concepts in Romanian legislation on asylum in order to align it with the EU acquis, such as 'manifestly unfounded applications', 'safe third country', 'country of origin', 'accelerated procedures'. The 'non-refoulement' is in principle guaranteed and the standards of assistance provided to asylum seekers have generally improved. The body responsible for dealing with asylum applications is the National Office for Refugees, whose decisions can be appealed against before a court of law. For the time being, the legal provisions concerning asylum seekers and refugees are already in force on the basis of an Ordinance. The legal procedures for a final approval by the Parliament are still pending.

1.4.2. Practice of the institutions involved in the procedures

A task force for combating illegal trafficking in human beings has been set up in 2000 in the framework of the Regional Centre for Combating Trans-Border Crime. Romania is also a signatory of the UN Convention against Trans-National Organised Crime and its Protocols.

On 12 December 2000, the President of Romania approved a memorandum concerning "The preparation and the start of negotiations for concluding a co-operation agreement between Romania and Europol". It establishes the mandate for negotiation, as well as the criteria to fill in the questionnaire sent by Europol to the candidate countries, in order to start co-operation. Once the agreement is concluded, Romania intends to start an exchange of liaison officers with Europol.

On 15 February 2001, the General Inspectorate of Border Police and the National Refugee Office concluded a Protocol on joint controls of passengers at flight disembarkment, providing for a thorough control of those persons coming from destinations with "high migration potential". Illegal travellers are immediately re-embarked and returned to the state they come from, while persons applying for refugee status will receive support from the National Office for Refugees. It has to be pointed out here that representatives of the UNHCR in Romania and NGO's dealing with asylum seekers and refugees express increasing concern at the strengthened

border controls and speedy non admission procedures they regard as likely to affect the right of asylum.

Following the new legislation, measures have been developed to ensure minimum standards of reception for all asylum seekers during the whole procedure. As far as recognised refugees are concerned, they have a right to nine months of public financial support. Additional support is provided for particular categories of refugees, such as unaccompanied minors, elderly people, and single women with children. Refugees basically enjoy the same rights as Romanian citizens including the right to work. A national programme, run jointly with the UNHCR and NGOs, aims at facilitating the social integration of recognised refugees, by providing language courses, vocational training and social counselling. The Romanian authorities are committed to further improve their co-operation with NGOs, both in providing advice to asylum seekers on their rights and obligations and in continuing to provide public financial support to applicants pending the examination of their case.

The National Office for Refugees has a modern accommodation centre for asylum seekers located in Bucharest with a capacity of 250 places. A new additional accommodation centre (with 500 places) will be set up in Bucharest by the end of 2001 specifically for unaccompanied minors, single women and women with children. It is also envisaged to set up two other reception centres in the eastern and western parts of Romania.

1.4.3. Statistics and general trends

In 1998 2,830 foreigners have been expelled for not complying with the conditions of entry and stay in Romania. This number increased in 1999 to 3,431 aliens, but then decreased to 2,498 in 2000. The number of aliens expelled in the period January-May 2001 is 465, which might indicate a further decrease in the number of expulsions for the whole year 2001.

Statistics on aliens who have been denied entry into and exit from the Romanian territory are provided, *supra*, § 1.1.3.

According to the Romanian authorities, the number of people applying for asylum in Romania has decreased from 1,667 in 1999 to 1,366 in 2000. However, 706 asylum seekers applied during the period January-May 2001, which might indicate an upward trend for the year 2001. Asylum seekers in Romania come mainly from Afghanistan, Bangladesh, India, Iran, Iraq and Pakistan. Most of the applicants (95%) apply for asylum as soon as they enter the country. Only few requests are received at Otopeni Airport or by foreigners after they have been caught for entering illegally.

1.4.4. Commitment

A Government Decision on refugee integration will be adopted and subsequently enforced before the end of 2001.

2. ILLEGAL EMIGRATION OF ROMANIAN NATIONALS TO THE MEMBER STATES

2.1. Border controls carried out by Romanian authorities on Romanian citizens leaving their country

2.1.1. Legal provisions

Romanians caught while illegally trying to emigrate towards EU Member States or returned on the basis of readmission agreements can be punished with the suspension of the right to use their passport for a period of 3 to 12 months according to the Government Order n° 65/1997 as modified by Law n°216/1998. An appeal is possible within 30 days to a higher authority and later to an administrative court. The General Directorate of Border Police decides on temporary suspension of Romanian passports. This measure is automatically used in case of repatriation of Romanian citizens expelled from a foreign country. The same applies to Romanians who commit offences or other law breaches abroad, if Romanian authorities are informed of it. There is a black list of Romanian citizens who are not allowed to leave their country for judicial reasons. Entering or exiting the country by fraudulently crossings of the border is considered as an infringement and punishable with 3 months - 2 years imprisonment. The penalties are the same for both Romanian and foreign nationals. A person who recruits, directs and guides another person in order to cross the border illegally and the person who organises such activities can be punished by 1 to 5 years imprisonment.

Moreover, the border police is in any case empowered to check whether Romanian citizens leaving their country are in possession of the visa, the residence permit, health insurance and the financial means required by the country of destination. According to the assessment of the migratory risk made by Romanian border authorities, the persons concerned who are stopped because they do not fulfil the conditions for entry fixed by the country of destination may have their passport temporarily withdrawn.

2.1.2. Institution building, technical equipment and investment programmes

Romanian authorities have taken measures to strengthen the control of travel documents for persons travelling to EU Member States, such as providing for additional checks at airport border control points and organising specialised training courses for staff in charge of checking travel documents and fighting cross- border crime (*supra*, § 1.1.2).

According to the readmission agreements in force (Annex I) Romanian authorities accept repatriation of their nationals who are found to be illegally resident in EU Member States, whenever it is proven or it could be presumed that they are Romanian nationals. This presumption can be based on driving licences, work permits issued by Romanian authorities or witnesses statements, provided that the person speaks the Romanian language. In case of doubt, the identity of the persons can be verified in the database of the Passports Directorate of the Ministry of Interior.

2.1.3. Statistics and general trends

From 1998 to February 2001, the right to use a Romanian passport has been suspended for 59,602 Romanians, returned on the basis of readmission agreements.

Furthermore, between 1998 and 2000, 27,409 Romanians citizens were forbidden to exit Romania. These included different categories of persons: persons listed as being under criminal investigation, or on trial or wanted for other offences, people using false passports, hidden in means of transport or carrying irregular documents.

According to Romanian sources, the number of Romanian nationals repatriated to Romania was 19,714 in 1998 (10,747 from Member States), 23,036 in 1999 (10,312 from Member States) and 21,411 in 2000 (9,003 from Member States).

2.1.4. Commitments

In order to combat illegal immigration of Romanian nationals to EU countries, the Romanian authorities intend to increase the penalties (e.g., extending the period of suspension of the passport) to be inflicted to nationals illegally emigrating to the EU Member States and returned on the basis of readmission agreements. The fight against illegal Romanian emigration is also one of the reasons for the introduction of the new type of passport meeting EU standards.

The Romanian Government is committed to strengthen controls on potentially migration-related activities, such as international organised tourism, child adoption organisations as well as ambiguous entrepreneurial activities (e.g., ‘artistic impresarios’). Investigations will also include media advertisements on visa and similar facilities, with the purpose to reveal the activities of criminal organisations involved in smuggling and trafficking in human beings.

2.2. Law and other rules on Romanian citizenship and stateless persons

2.2.1. Granting Romanian citizenship

Only persons having Romanian citizenship may be holders of a Romanian passport.

Aliens may apply for Romanian citizenship under specific conditions that have been recently strengthened. The minimal period of stay in the country and waiting period before aliens may request the citizenship has been increased from respectively - according to the marital status- 5 and 3 years, up to 7 and 5 years. Some other requirements as sufficient knowledge in Romanian language, Romanian culture and civilisation, and also knowledge of the Romanian Constitution have been added in order to ensure social integration.

Law Nr 21/91 on citizenship provides for special cases in which it is possible, for former Romanian citizens, to re-acquire Romanian citizenship. Law No 150 adopted on 15 July 1998 on providing support to Romanian communities abroad does not grant privileges such as the right to acquire a Romanian passport for former Romanian citizens living in the Republic of Moldova or elsewhere abroad.

Romania has signed but not yet ratified the European Convention on Nationality.⁴ Nevertheless, according to the Romanian authorities, the Law on citizenship passed in 1999 has taken over almost all provisions of that Convention.

According to the new definition of Romanian citizenship, the possibility of granting Romanian citizenship by repatriation has been removed. In the past some former Romanian citizens had, when being repatriated back to Romania, automatically recovered the citizenship they had lost. This provision seems to have raised some confusion and misunderstandings between Romanian authorities, citizens concerned and Member States. This category of people now fall under the normal procedure for granting citizenship based on request.

During the period from 14 December 1999 to 31 May 2001, 363 aliens and 19 stateless persons were granted Romanian citizenship. During the same period, 161 former Romanians, out of which 108 had a second citizenship and 53 were stateless, have been granted Romanian citizenship.

2.2.2. Renouncing to Romanian citizenship and stateless persons

According to previous legislation and practice, Romanian citizens could renounce Romanian citizenship without giving evidence that they were granted another citizenship, thus increasing the number of stateless persons. Legislation now in force provides that the request to give up Romanian citizenship is granted only if the person has been granted another citizenship or has applied for it. In the latter case, an official assurance must be given that the citizenship will be granted. This procedure is not applied to minors that cannot renounce to their Romanian citizenship. It has to be pointed out that Romania has signed the European Convention on Nationality on 6 November 1997 - which sets precise limits to and conditions for the possibility of renouncing citizenship - but ratification is still pending. Pluri-citizenship is not forbidden by Romanian law.

A bilateral agreement between Romania and Germany on readmission of stateless persons is in force since February 1999. The Governments of Romania and Germany are solving the issue on a bilateral basis and in accordance with international norms and European practices.

2.2.3. Commitments

Romania commits itself to refuse to its nationals the renunciation to their nationality unless they already hold another nationality or provide official guarantees from foreign authorities that they will be granted another citizenship, so as to avoid the multiplication of stateless persons.

2.3. Economic and social dimension

The Romanian Government is aware of the economic and social circumstances that may drive Romanian citizens to seek work opportunities in EU Member States. In order to improve living standards in Romania the Government has decided to give priority to combating poverty and unemployment. A two-way approach has been adopted, that consists in targeting:

⁴ Council of Europe, 6 November 1997.

- the undeveloped areas through programmes on regional development;
- the specific social categories affected by poverty and unemployment.

The Romanian authorities aim at increasing the rate of employment among the active population by speeding up the process of privatisation and implementing programmes for professional re-training especially devoted to young workforce and women.

In this context, special efforts are directed towards the Roma population. The Romanian Government has adopted in May 2001 a Strategy on Roma, which has been drafted with substantial support from the European Commission. The implementation of this strategy is expected to bring about an improvement of the overall situation of this community and should therefore curb down migration pressure. Co-operation and co-ordination between different institutions in this matter are ensured by the Inter-ministerial Committee for Minorities, in order to address health, education, labour market and children rights issues through a global approach. In addition, the Romanian Government is determined to improve the institutional and legal framework necessary to ensure better respect of the rights of Roma population as defined by national and international law.

3. REPATRIATION OF THIRD COUNTRY NATIONALS AND ROMANIAN NATIONALS ILLEGALLY RESIDING IN MEMBER STATES

3.1. Readmission agreements concluded by Romania (see list at annex 1)

On 3 May 2001, the Romanian Government approved a Memorandum on "Approval of negotiation of Readmission Agreements concerning own citizens and aliens with some European Union Member States, some candidate countries for accession to the European Union, as well as with States with high migration potential". A framework agreement which has been prepared for this purpose is harmonised, as much as possible, with the Council Recommendation of 30 November 1994 concerning a specimen bilateral readmission agreement between a Member State and a third country⁵.

3.1.1. Agreements with Member States

Romania has readmission agreements with 13 Member States. Agreements with the United Kingdom and Portugal have not yet been concluded. However, negotiations with these two Member States have just started. A new agreement is being negotiated with Austria to replace the old Protocol on readmission signed in 1990. The new agreement recently concluded with Sweden (April 2001) awaits ratification. The new readmission agreements being negotiated or updated with EU Member States or candidate countries all include both nationals of the contracting parties and third country nationals.

The length of re-admission procedure of Romanian citizens detected in illegal situation on the territory of a State with which a readmission agreement has been concluded, depends upon the situation of that person:

⁵ OJ C 274 of 19.9.1996, p 20

- if the person possesses identity documents which prove Romanian citizenship, he/she is accepted without any other formality;
- if that person does not possess identity documents (e.g., he/she destroyed the papers) which prove he/she is Romanian citizen, after notification of the requesting State, in 2 -3 days, the Romanian authorities check if he/she is a Romanian citizen or of Romanian origin, and accept him/her after verification.
- if the person is a foreign citizen, and the authorities of the requesting State prove that he/she crossed the Romanian territory, he/she is accepted, without other formalities.

3.1.2. Agreements with third countries

Romania has also concluded readmission agreements with several non-EU countries: Hungary, Poland, Slovakia, Czech Republic, Slovenia, Switzerland, Bulgaria and India. Agreements with Croatia and Slovenia have been signed and are in the process of ratification. Romania has started negotiations for concluding readmission agreements with Egypt, Ukraine, FYROM, Moldova, Lithuania, Russia, China, Bangladesh, Sri Lanka and Lebanon. Negotiation of readmission agreements with Albania, Afghanistan, Pakistan and Israel is being envisaged. All the new readmission agreements being negotiated or updated with third countries with high migration potential include both nationals of the contracting parties and third country nationals.

3.2. Building a network of liaison officers

In December 2000, Romania concluded and approved the legal framework defining 'home affairs attachés/police liaison officers', entrusted with specific tasks in the area of international co-operation. A Government Decision has made it possible for police officers depending from the Ministry of Interior to be posted to embassies and diplomatic missions under the authority of Ambassadors. The status they enjoy is comparable to the status granted to Defence attachés. A home affairs attaché has consequently been appointed at the Mission of Romania to the European Union. Thanks to the financial support of the beneficiary states, Romania has also posted for a limited period (1 to 3 months) liaison officers in Germany, the Czech Republic, Slovakia and Ireland. Depending on the availability of financial resources, Romania intends to appoint Justice and Home Affairs liaison officers in other Member States, especially those who are target countries for illegal immigrants entering through Romania. Several EU Member States (Belgium, Denmark, Spain, Germany, France, Italy and United Kingdom), as well as some third countries (Australia, Israel, Russia, USA and Ukraine) have appointed similar resident and non resident liaison officers to Romania. A priority of the government is to send liaison officers to EU Member States and to third countries with high migration potential.

3.3. Co-operation with airlines companies

For the voluntary repatriation of Romanian citizens back to Romania, an agreement has been concluded between the Romanian Border Police and TAROM Airline Company. Another agreement covers repatriation of third country nationals being expelled from Romania. As a member of IATA TAROM is involved in the international network and working parties dealing with questions related to this issue.

3.4. Commitments

The Romanian authorities commit themselves to take back illegal residents of Romanian origin, including stateless persons according to the present readmission agreements and to extend and renew the readmission agreements with the EU Member States.

Social reintegration programmes are being developed for repatriated Romanian nationals, also targeting women and children who have been the victims of trafficking.

Romania accepts the repatriation on its territory of third country nationals who entered illegally in the EU Member States or in candidate countries via Romania, based on the readmission agreements in force and of those that are to be concluded (Portugal, UK and the renewal of the agreement with Austria). Romania is developing its capacity to retain illegal migrants from third countries, inter alia by means of new accommodation centres.

4. CONCLUSION AND RECOMMENDATION

4.1. Progress achieved on legislation

The Romanian government has set up an ambitious plan for adoption of legislation which is relevant for the visa issue. Since the intermediate report was presented to the Council a new Aliens Law has entered into force on 3 May 2001 and the government has adopted methodological norms for the implementation of the new Aliens Law on 9 May 2001. A Government Decision was adopted on 19 April 2001 on the exchange of the present passports with a new type of passports with additional security features. On 3 May 2001 the government approved a Framework Agreement on Readmission.

In addition, there are several important pieces of legislation which are in a final stage of adoption. The Emergency Ordinance on the Romanian State Border and the Emergency Ordinance on the organisation and functioning of the Border Police are due to be adopted by 30 June this year. At the same time the government will adopt implementing rules for these ordinances. Data protection legislation and a law on ratification of the Council of Europe Convention on the Protection of Individuals with Regard to Automatic Processing of Personal Data have been submitted to the Parliament. Amendments to the Refugee Law of 1996 were adopted through an Emergency Ordinance in August 2000 and resulted in significant improvements of the legislation, although the legal procedures for final approval by the Parliament are still pending.

Romanian legislation provides for a list of countries whose citizens must be in possession of a visa to enter Romania which covers the same countries as the current EU list with the exception of seven countries (Russia, Ukraine, Moldova, Bosnia-Herzegovina, Federal Republic of Yugoslavia, FYROM and Turkey). For two countries, Russia and Ukraine, negotiations are ongoing in order to introduce the visa requirement for their nationals by the end of 2001. In case a bilateral agreement cannot be reached within this time-limit, Romania will introduce the visa requirement unilaterally. For the other countries concerned, the introduction of the

visa requirement will be considered by the Romanian authorities in connection with the development of the relations between the EU and those countries.

4.2. Institutions and operational capacity

A reorganisation and modernisation of the Romanian Border Police is ongoing. The organisation has been simplified and modelled after the organisation of border police structures in the Member States. The process of exchanging the conscripts with professional border policemen is progressing according to plans which were recently revised in order to accelerate the process. The training methodologies for the Border Police personnel are being changed and adapted to the new organisation. The reform of the training centres for different categories of the Border Police has started. Interagency and cross-border co-operation has been put into practice and will be further developed according to well-defined plans. While it is a fact that -corruption is widespread in the public sector in Romania and difficult to root out, the actions which have been taken to fight against it within the Border Police seem however to have given some results.

The government has made significant investments in equipment for the Border Police. The allocation in the national budget for 2001 for border protection and combating illegal immigration is 130 M€. The allocations for equipment in the Phare border programmes will in a near future lead to a clear improvement of the operational capacity of the Border Police at the Northeast border which is the most exposed border for organised illegal immigration from third countries.

The recent statistical figures give an indication of an increased operational capacity of the Border Police. Especially the figures for the first quarter of 2001 show an increased efficiency. For example, the number of retained persons at the green borders in the first quarter of 2001 was nearly five times as high as the number of persons retained the first quarter of 2000.

The handling of visa applications has been improved with the use of a new visa application form and the establishment of the National Visa Centre at the Ministry of Foreign Affairs. A visa on-line system modelled after the best practices in the Member States has been designed and can be expected to be implemented in its first phase in the second half of 2001.

Romanian passports and identity cards are issued using methods which fulfil adequate security standards.

4.3. Commitments

The commitments which the Romanian government has undertaken for the near future have been listed under each section in this report. The main actions which the government indicated in the document which was presented to the Commission on 15 January 2001 have in general so far been accomplished according to plans. The government has a strong political will to achieve a positive result on the visa issue which is one of the most important political subjects in Romania. The government is also under a heavy pressure from the Romanian public, which especially since the visa obligation has been abolished for Bulgaria perceives the visa requirement as discriminatory and humiliating and looks forward to an early positive decision. There are therefore good reasons to believe that the government will give the highest

priority to the fulfilment of the commitments. These commitments cannot be regarded as unrealistic or overoptimistic. However, many actions are due to be accomplished by the end of June 2001 and there might be a risk that some of these actions will be somewhat delayed. Apart from this, it can be expected that the commitments will be fulfilled according to plans.

4.4. Conclusion

Romania has made undeniable progress on border controls and visa policy and has taken important commitments in these fields. These measures will have an effect on the illegal immigration from third countries. The Romanian government has taken adequate commitments with the purpose to curb down the illegal emigration by Romanian nationals. However, there is a risk that the abolition of the visa requirement may encourage increasing numbers of Romanian citizens to take advantage of this new situation. This increase will most likely touch upon young students, researchers, businessmen and people trying to improve their living conditions.

It cannot nevertheless be expected that a visa free regime for Romania will result in a large increase of illegal residents from Romania in the Member States. The clear commitments the Romanian government has taken to facilitate repatriation counterbalance the possibility for a certain increase of illegal immigrants. In any case the EC Treaty provides a remedy against a sudden increased influx of nationals from a third country.

There are potential advantages of an exemption of the visa obligation in relation to the democratisation process in general. An exemption will have a positive effect on the support among the Romanian public for the EU accession process while a decision to the contrary will increase the feeling of marginalisation, which in its turn may encourage the development of non-democratic political movements. A positive democratic and economic evolution will be nourished by simplified international exchange and travel possibilities for students, researchers and businessmen. The successful continuation of the reform process in Romania depends on a new generation of responsible citizens with international experiences. The conclusion of the Commission is that the afore-mentioned advantages outweigh the disadvantage of a possible increase of illegal residents from Romania in the Member States.

The Commission's recommendation is therefore that the exemption of the visa obligation for Romanian citizens should be implemented as from 1 January 2002, and that the Council should decide in this way before the end of this year. This implies the fulfilment by Romanian authorities of a number of commitments related to the issues mentioned in the present report.

Would the visa requirement be lifted, Romanian authorities are also committed to inform their citizens of the rules applicable for entering the territory of Member States for nationals who are exempt from the visa obligation.

ANNEX I: READMISSION AGREEMENTS

Agreements currently in force	Signed agreements waiting ratification	Agreements negotiated still to be signed	Agreements In the process of negotiation	Negotiations of agreements planned to start during 2001
<ul style="list-style-type: none"> - Austria (1990)* - Poland (1993) - Czech Republic (1994) - France (1994) - Greece (1994) - Hungary (1994) - Slovakia (1994) - Sweden (1994) - Benelux (1995) - Slovenia (1995) - Switzerland (1996) - Italy (1997) - Spain (1997) - Germany (1998) - Denmark (2000) - Bulgaria (2001) - Finland (2001) - India (2001) - Ireland (2001) 	<ul style="list-style-type: none"> - Croatia - Slovenia** - Sweden** 	<ul style="list-style-type: none"> - Hungary** 	<ul style="list-style-type: none"> - Austria** - Bangladesh - China - Egypt - FYROM - Lithuania - Lebanon - Moldova - Portugal - Russia - Sri Lanka - Ukraine - United Kingdom 	<ul style="list-style-type: none"> - Afghanistan - Albania - Algeria - Cameroon - Congo - Gambia - Ghana - Iran - Israel - Jordan - Morocco - Nigeria - Pakistan - Sudan - Tunisia - Turkey - Yugoslavia

* Protocol signed by the Ministers of Interior.

** Revised agreements.