

PUBLIC POLICIES ON THE PROTECTION AND RIGHTS OF REFUGEES IN THE REPUBLIC OF MOLDOVA

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Abstract

The legal regulation of the public policies on the protection and rights of refugees in the Republic of Moldova is under scrutiny. The public policies allow, through their study, the presentation of a brief retrospective of the phenomenon of migration in the Republic of Moldova, as well as the results of the sociological research about the perception/integration of refugees in the moldovan society.

Keywords: *Republic of Moldova; migration phenomenon; USSR; CIS*

1. The Retrospective of the Phenomenon of Migration in the Republic of Moldova

During the period when the Republic of Moldova was part of the Soviet Union, "external migration" was forbidden. As a result, the migration flows from/into the Republic of Moldova were limited to the Soviet territory. However, at the appearance of the first signs of liberalization in the Soviet Union at the end of the 1980s accompanied by diminishing immigration restrictions, many countries repatriated their compatriots and their families (mostly referring to the migration of Jews and Germans to Israel, Germany and the US). This phenomenon increased after the collapse of the USSR.

The collapse of the USSR led to the subsequent constitution of 15 independent states, including the Republic of Moldova. The distinctive sign of this period was the emergence of inter-ethnic tensions, which intensified, degenerating into armed conflicts (for example, the Dniester conflict 1992, the Nagorno-Karabakh conflict 1988-1994). These circumstances led to the acceleration of ethnic migration in the first half of the 1990s, mainly to the Russian Federation and Ukraine. However, the impact of the Dniester conflict on the migration process should not be overestimated.

Since the second half of the 1990s, because of the precarious economic situation, the emigration of the Moldovans has gained a mass character. At present, the researchers of this phenomenon finds the existence of three waves of mass migration. The first wave has begun for economic reasons and was of a commercial character (purchase of goods abroad for further

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sale on the Moldovan market). Establishing stricter customs rules, introducing the visa regime and aligning prices in the former communist countries have made commercial migration less profitable. Consequently, commercial migration has gradually given way to labour migration.

The economic and financial crisis that has begun in 1998 in the Russian Federation generated a second wave of mass migration in Moldova, which, without losing its intensity, lasted at least until 2007. This second wave of migration can be explained as a reaction to extreme poverty.

At present, emigration from the Republic of Moldova is mainly a response to the opportunities offered by the external labour market.

2. The Current Situation of the Migration Phenomenon

Although the Republic of Moldova is a country characterized mainly by emigration, the phenomenon of immigration is also registered. According to the census held in the Republic of Moldova in October 2004, 180.255 (less than 5.4%) of foreign migrants lived in the Republic of Moldova according to the previous country of residence and permanent residence in the Republic of Moldova. The majority (173,200 people) arrived from the CIS countries. The length of stay and permanent residence on the territory of the Republic of Moldova of most of them attest to the fact that they arrived during the Soviet period.

By the end of 2015, the total number of foreigners (including stateless people) who were in the Republic of Moldova reached 21,876 people, representing 0,6% of the total population. The growth rate of foreigners compared to 2014 amounted to 0,9 percent, and compared to 2010, the increase was of 8,8%¹.

Legal immigration is carried out in accordance with the legislation in force, according to immigration quotas established by the state. Since 1990, Moldova has begun to pursue a policy of setting annual rates for immigrants. Between 1992 and 2006, the share practically did not change and was 0,05% of the country's population, which represents 2200 people.

During this period, about 22,000 people entered the country, with a total quota of almost 33,000 people. Therefore, the immigration quota has never

¹ Analytical report "The Extended Migration Profile of the Republic of Moldova 2010-2015", the Migration and Asylum Bureau, Chisinau, 2016, p. 12.

been fully utilized (except in 2007, when the immigration quota was recovered on November 1st, 2007)¹.

Citizens of the CIS, in accordance with the Bishkek agreements, arrive in the Republic of Moldova through a visa-free regime, while the citizens of the new independent states arrive based on the visas issued by the specialized governmental structures of the Republic of Moldova. Since January 1st, 2007, the Republic of Moldova has introduced the visa regime for immigrants from the countries of the European Union, USA, Canada, Switzerland, Norway, Iceland, and Japan.

Immigration in the Republic of Moldova has tended to increase in recent years, so in 2015 the number of immigrants increased by 1,7 times compared to 2010 and was of 4,210 people. Immigrants in Moldova predominantly men (the number of them being 2,1 times higher than that of women), people with specialized secondary education/higher education/scientific degrees (64%). At the end of 2015, the number of foreigners in the Republic of Moldova holding permanent residence permits was of 10,661 people, the negative growth rate as compared to 2010 being -31,4 %. During the reference period, is noticeable the growth of foreign citizens arrived to study in the Republic of Moldova, their number in 2015 increased by 8.6% compared to 2010, reaching 3840 people².

Statistical data show that the number of asylum applications in the Republic of Moldova during the years 2010-2015 varied continuously. During the year 2015 there were registered 276 applications (at the first request), their number increasing about 3 times compared to 2010. It should be noted that the number of applicants for asylum with pending applications at the end of 2015 was 110 people, and the growth rate of asylum seekers with pending claims compared to the previous year decreased, accounting for about -26%. The increase in asylum applications during the analysed period is explained by the proximity of the conflict zones (Ukraine, as ex.), as well as by the existence of the kinship links of the citizens of the Republic of Moldova with the citizens of the states in the conflict zones.

During the year 2015, 150 foreigners benefited from humanitarian protection, with 87 people more than in the previous year. The number of those whose application for humanitarian protection was rejected was 36 people. According to the statistical data, in 2015 in the Republic of Moldova

¹ Report „Migration trends and policies in the Black Sea region: cases of the Republic of Moldova, Romania and Ukraine”, Chisinau, 2008, p. 9.

² Analytical report “ The Extended Migration Profile of the Republic of Moldova 2010-2015”, The Migration and Asylum Bureau, Chisinau, 2016, p. 37.

with status of stateless persons, 1,513 people were documented, by 153 people more than in 2010. By the end of 2015, 144 refugees were living in Moldova, registering an increase of 2,1 times compared to 2010.

3. Legal Framework

The policy of regulating the immigration processes in the Republic of Moldova is established according to a legal and normative basis: the Convention on the status of refugees of July 28th, 1951 and the Additional Protocol of January 31st, 1967 to which the Republic of Moldova acceded by Law no. 677-XV of 23.11.2001, Constitution of the Republic of Moldova of 29.07.1994, Contravention Code no.218-XVI of 24.10.2008, Law no.200 of 16.07.2010 on the regime of foreigners in the Republic of Moldova, Law no.180-XVI of 10.07.2008 on labour migration, Law no. 275-XIII of 10.11.1994 on the legal status of foreigners and stateless people in the Republic of Moldova (repealed), Law no.270 of 18.12.2008 on asylum in the Republic of Moldova, Law no.274 of 27.12.2011 on the integration of foreigners in the Republic of Moldova, Law No. 257 of 01.11.2013 on third-country nationals subject to visa requirements and third-country nationals who are exempt from visa requirement when crossing the state border of the Republic of Moldova, Law no. 269-XIII of 09.11.94 on the exit and entry into the Republic of Moldova.

In the Republic of Moldova, asylum is a legal institution through which the state provides protection to foreigners, granting refugee status, humanitarian protection, temporary protection or political asylum.

Four forms of protection are granted in the Republic of Moldova:

1. Refugee status - is recognized upon request to a foreigner who, by virtue of a well-founded fear of being persecuted on grounds of race, religion, nationality, membership of a particular social group or political opinion, is outside the country whose citizenship is owned and cannot or, due to this fear, does not want to be protected by this country.
2. Humanitarian protection - is granted to a foreigner who does not meet the conditions for recognizing refugee status, and where there is reason to believe that he will be exposed to a serious risk on return to his home country.
3. Temporary protection is form of exceptional protection intended to ensure, in the event of a massive and spontaneous influx of displaced people who cannot return to their country of origin, immediate and temporary protection of such people, if there is a risk that the asylum system is not able to process this influx without

adverse effects for its effective operation, in the interest of the people concerned and other people in need of protection.

4. Political asylum - is granted in exceptional cases to people who have held political, diplomatic or public interest positions in other states or in international bodies, to people who have demonstrated a particular attachment, respect and interest to the Republic of Moldova and other outstanding personalities, who are persecuted in the country of origin, and request the President of the Republic of Moldova to grant political asylum.
5. In the Republic of Moldova, as in other states, public policies are shaped in response to the attitudes, pressures of their citizens or development partners towards certain events, relationships. In this respect we will analyse the results of a recent survey that addressed for the first time data about refugee issues.

4. Social Perception

Between March 23rd and April 17th, 2017, the Public Opinion Research Program entitled "Barometer of Moldovan Public Opinion" was conducted on a sample of 1103 respondents of 18-year-olds and more from almost 80 localities. In 2017 in questionnaires there were also included some questions about refugees in the Republic of Moldova.

To the first question " *Lately has grown considerably in the world the flow of refugees, meaning people who are forced to leave their native countries to save themselves from war, persecution or natural disasters,. To what extent do you agree with the following statements on this topic:?* ", the distribution of responses was the following:⁷

Refugees are not interested in coming in the Republic of Moldova	
Our country must give refugees protection and help	
There are too many refugees in our country, we cannot get more	
Personally, I am ready to help a refugee person or family to integrate into society	
Refugee people can contribute to the country's economic development	

Legend:

I do not know / do not answer	To a very small extent	Small extent	To a great extent	To a very great extent
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Analysing the answers of the respondents, we can see that most of the answers (54% -71%) represent the reluctance (to a very small extent and small extent) of the respondents towards the refugees and the problems they may face, an explanation of this situation, the fact that the crisis of migrants in Europe, strongly publicized, alarms the citizens of the Republic of Moldova.

To the question, "Do you personally accept a family member to marry a refugee?", the responses were distributed as follows: 29% said yes, 63% answered negatively, and 9% did not know how to answer.

To the question, "Do you personally accept to have as friend/neighbour a refugee a person or family?" 48% of the respondents had a positive response, 47% negative and 5% did not answer.

To the question, "Do you personally accept to have a refugee as a colleague?" 54% of the respondents answered "Yes", 41% answered "No" and 5% "Do not know".

To the question, "Do you personally accept that in your child's class will study a child from a refugee family?" The share of answers is the following: 52% said "Yes", 42% checked "No" and 6% did not answer¹.

Analysing the share of the answers of this group of questions, we can conclude that the citizens of the Republic of Moldova are very reserved for the integration of the refugees into our society. Moreover, the majority (63%) disapproves of the formation of mixed families between refugees and indigenous people.

At the same time, in terms of labour relations, education or proximity, the frequency of positive answers increased considerably (54%). This can be explained by the fact that many citizens of the Republic of Moldova have had the quality of labour migrants in the past or have present relatives who have left or settled abroad who face the issue of marginalization or even ostracization in the community, so they understand and express empathy regarding the vulnerable situation of refugees.

¹Survey "Barometer of Public Opinion - April 2017", Magenta Consulting, Chisinau 2017, p. 85.

5. Conclusions

Following the investigation of public policies for the protection and rights of refugees in the Republic of Moldova, the author of the article reached the following conclusions:

Firstly, the concept of "refugee", both in international law and in national law, is not static but is in a continuous dynamic, and the notion of "refugee" now has significant gaps in setting the criteria identification of refugees. These omissions do not include certain categories of people, who are victims of violence - which is a serious violation of the human rights - ecological disasters and refugee status.

Given that UNHCR offers protection and assistance to refugees only after they have fled their countries of origin, the main issue remains to prevent the causes of the refugee phenomenon. The solution to this problem requires a new approach, including providing humanitarian assistance to the population, creating the conditions for the normalization of the situation in refugee countries, the use of preventive measures.

At the same time, the international community should determine the most effective ways to prevent new flows of refugees. Priority must be given to studying the root causes of these phenomena and reacting to improving the situation. If poverty is the main cause of refugee flows, it is necessary to provide assistance including development techniques. If the main cause of involuntary mass migration is the violation of human rights, the solution may consist in the continued monitoring by UN bodies of the evolution of respect for human rights and the condemnation of violations by the international community. If the cause of refugee flows is violent conflict, the decision can be found in the area of preventive diplomacy in promoting mediation as a means of resolving conflicts, and in accordance with the provisions of humanitarian law.

The states should not only be responsible for those actions that force people to seek asylum in other countries, but also create conditions conducive to the return of refugees to their homes. If people leave their country because of the deterioration in economic conditions caused by armed conflicts, then, for example, they must be given financial assistance to restore their economy.

The findings and actions to be taken cannot be exhausted, because the seriousness of the problem of refugees and other categories of migrants has practically reached the peak. This problem awaits its own legislative and practical solution. We are convinced that only democratic governance principles, civic participation, cooperation between governmental and non-governmental organizations will lead to an efficient migration policy of the

Republic of Moldova and neighbouring states. Protecting the rights of refugees today means from now on preventing the violation of the rights of all citizens and compatriots.

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