

SCHENGEN ACTION PLAN

2008

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INTRODUCTION

Following the accession to the European Union as member with full rights, on January the 1st 2007, Romania entered a new period involving preparing and adopting the necessary measures for a future Schengen accession.

The deadline considered by the Romanian authorities for Schengen accession is March 2011.

We must also underline that the actual accession to the Schengen area depends exclusively on the results of the Schengen evaluation process which will take place during 2009-2010 and on issuing the decision concerning the full application of the Schengen acquis by the Council of the European Union.

Preparations for Schengen accession have already started and the general framework for a unitary approach at all levels (legislative, institutional, financial and training) was created.

One of the aspects permanently taken into consideration is the revision of the Schengen Action Plan. Thus, the Romanian Schengen Action Plan was updated in 2007 and adopted by the Romanian Government on the 30th of May 2007.

The 2008 Schengen Action Plan represents a revised version of the Schengen Action Plan, presented by the Romanian authorities in 2007. The revision was determined by the evolutions of the European acquis, by the legislative, institutional and operational development in the fields described in the Schengen Action Plan and was realized in order to update the information on the status of the implementation of the acquis.

Detailed information on progress made in implementing 2007 Schengen Action Plan are presented in annex 1.

The 2008 Schengen Action Plan contains clear references to the provisions of the relevant acquis, accepted in full by Romania. Each section indicates the relevant Schengen acquis, describes the present situation and the legislative, institutional and administrative-technical measures foreseen for the adoption and implementation of the relevant acquis. A timetable with clear deadlines is set for each of the planned measures. Also, the institutions responsible for their implementation are indicated.

The purpose of the Schengen Action Plan is to identify and prioritize the actions to be adopted for the accomplishment of the pre-conditions for complete implementation of the Schengen acquis as soon as possible, as well as their gradually implementation.

In order to ensure a coherent and integrated character of the process of training for Schengen accession, the Schengen Department was established by GD no. 1317/2007, as a national authority which coordinates and monitors the fulfillment of all conditions necessary for the full application of the provisions of the Schengen Agreement of 14.06.1985 on the gradual abolition of checks at the common borders and its implementing Convention, as well as the other specific provisions of the Schengen acquis, as it is defined by the relevant documents of the Council.

The Department is the specialized structure of the Ministry of Interior and Administrative Reform, without legal status and with general competence at national level, for coordinating and monitoring according to the National Strategy on Romania's Schengen accession, the Indicative Plan for Schengen Facility, the Schengen Action Plan and the National Strategy for integrated management of state border. The Department is headed by a head of Department at the level of secretary of state.

The inter-ministerial coordination of implementing the engagements taken by Romania in this document is done by the National Schengen Autoevaluation Commission.

The measures stipulated in the Schengen Action Plan are mainly financed from the state budget, shares of which are allotted annually to ministries and institutions responsible for their implementation. The actions are planned and executed by each of these ministries/institutions according to the timetable set by Schengen Action Plan and their own sectorial specific action plans.

According to the Accession Treaty, during 2007-2009, Romania will be allotted 559.8MEURO under Schengen Facility and Cash-flow Facility.

The funding is annually divided for these two facilities, as follows:

- 297.2 MEURO in 2007
- 131.8 MEURO in 2008
- 130.8MEURO in 2009

In order to establish the institutional framework for the financial planning, the coordination, implementation and auditing for the use of the funds allotted to Romania through the Schengen Facility, the Government Decision no. 895 of August 1, 2007.

The Ministry of Interior and Administrative Reform is the competent authority for the Schengen Facility being responsible for coordinating the implementation of the community assistance by the Schengen Facility.

The objectives set in the Indicative Plan:

- a. Strengthening the control at the external borders for surveillance of the external border area and the fight against cross-border crime.

- b. Improving the control by increasing the capacity for supplying and accessing the information.
- c. Developing the capacity for international cooperation in combating cross-border crime.

As regards the period for implementation of the Schengen Action Plan, according to the engagements taken by the responsible authorities, the implementation of the technical, administrative and legislative measures necessary for total achievement of the Schengen acquis shall be done until the end of 2010.

I. BORDER CONTROL

1. Crossing internal borders

A. Relevant acquis

- Title III– Internal borders, of the Regulation (EC) No. 562/2006 of the European Parliament and the Council on March 15 2006 regarding the issuance of a Community Code on the rules representing the base of the free movement of persons across borders (Schengen Border Code).

B. Current situation

At present, Romania has only external borders and applies uniform external border control procedures by conducting systematic checks at all border-crossing points and by allotting the resources necessary for the effective surveillance of the green and blue borders.

Romania's borders with Hungary and Bulgaria are not considered to be internal borders as defined under the Title I, art. 2 - Definitions from the Regulation (EC) no.562/2006. However, in order to ensure traffic fluidity, bilateral agreements with Hungary and Bulgaria were signed for the introduction of joint border controls starting with the 1st of January 2007, in accordance with the provisions of art. 17 of Regulation (EC) No. 562/2006 of the European Parliament and the Council on March 15 2006 regarding the issuance of a Community Code on the rules representing the base of the free movement of persons across borders.

After the lifting of internal border controls, Romania shall apply entirely the measures foreseen in Chapter I of Title III within the Schengen Border Code on Eliminating checks at internal borders and Chapter II Temporary reintroducing checks at internal borders.

C. Main objectives

- Preparing for implementing the necessary measure in order to lift the controls at the future internal borders and eliminate the obstacles, which restrict road traffic in the border crossing points of the future internal border

D. Measures

Institutional measures

1. Drafting and approving the strategic document for reassignment of the personnel from the border crossing points of the future internal border

Deadline: 31.12.2008

Responsible institution: the Ministry of Interior and Administrative Reform
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2. Implementing the measures necessary in order to lift the checks at the future internal border and eliminating the obstacles that restrict the road traffic in the border crossing points of the future internal border

Deadline: upon Schengen accession
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Responsible institution: the Ministry of Interior and Administrative Reform
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Administrative/technical measures

Strengthening co-operation between the Romanian Border Police and the National Customs Authority, in terms of information and intelligence exchange

Deadline: on a permanent basis

Responsible institution: the Ministry of Interior and Administrative Reform, National Customs Authority
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2. Crossing external borders

A. Relevant acquis

- Regulation (EC) No. 562/2006 of the European Parliament and the Council on March 15 2006 regarding the rules standing at the basis of the free movement of persons across borders (Schengen Border Code)
- SCH/Com-ex (94) 16 rev – 21.11.94 – Purchasing common stamps for marking the entry to and exit from the border crossing points
- Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20.12.2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention

B. Current situation

In all border crossing points opened on Romanian territory, the provision of Regulation (EC) No. 562/2006 of the European Parliament and the Council on March 15 2006 according to article 4 (1) of the Accession Act of 2005 are applied.

The entry/exit stamps used in the border crossing points opened on Romanian territory are according to the specification of SCH/Gem-Handb (93) 15 (not published).

For applying the provisions of Regulation (EC) No. 562/2006, the Romanian authorities drafted the project of Convention on local border traffic with third countries, approved by the prime-minister of Romania at the end of February 2008. This document was already sent through diplomatic channels to the Serbian, Ukrainian and Moldovan authorities. There has not been received a response so far.

1. Organizational structure

According to the provisions of the Schengen Catalogue (cap.1.4 Organizational structure), the Romanian Border Police established co-ordination structures of the specific activities, at central (GIBP), regional (territorial directorates of the Border Police) and local level (county inspectorates of the Border Police). At the level of each of these structures, services and specialized offices were set up necessary for surveillance and control (forensics, countering drugs trafficking and trafficking in human beings, risk analysis).

Thus, the territorial structures within the Border Police have a common organizational scheme with the GIBP (the structures within the GIBP have a counterpart within territorial subordinated structures).

The organizational charts of the GIBP and Romanian Border Police are presented in Annex 2.

2. Strategy

Romania implements the European policies in the field of Integrated State Border Management in order to achieve an adequate security level at its borders. In this respect, the 2007 - 2010 National Strategy for the Integrated State Border Management was approved by GD no 324/2007. It constitutes the update of 2004-2006 National Strategy for the Integrated State Border Management, approved by GD no. 471/2004.

The objective of the National Strategy for the Integrated State Border Management for 2007-2010, hereinafter named the National Strategy is to accomplish a common, coherent and efficient common management of the Romanian state border, in line with the Community requirements which could ensure the increase of security for citizens by respecting their fundamental rights and freedoms, a fluent legal traffic of persons and goods at the border, as well as the fulfilment, as soon as possible, of the necessary conditions for the full implementation of the Schengen Acquis and accession to this area are also pursued.

By its content, the document targets the improvement of the capacity of the Romanian state to ensure gradually a high level of control at the external border of the European Union at the same time with fighting against the statute of being a country of origin, transit and destination for the victims of trafficking in human beings and fighting illegal migration in the context of the future increase of migratory increase at the external border after becoming a member of the EU.

These will be done by implementing a set of measures aiming at adopting and implementing the relevant EU acquis, the institutional construction and investments for civilian construction works, acquisition of technical means, specialized equipment and systems. The investments are destined to modernizing and developing the border infrastructure, as well as developing and making efficient the border control and surveillance, within an integrated concept.

The National Strategy sets objectives for the integrated border management from two perspectives:

- the perspective of organizing specific activities in compliance with four filters/levels, according to the provisions of the Schengen Catalogue „External borders control, extradition and readmission”:
 - a) Activities carried out in third states, especially in the origin and transit countries of the illegal migration
 - b) International Co-operation regarding the border

- c) Control and Surveillance of the Romanian state border
- d) Activities carried out inside national territory.

- the perspective of the Integrated System for State Border Security – ISBS – as the main instrument for putting into practice the Romanian border integrated management.

In order to achieve the objectives of the National Strategy the Romanian authorities shall adopt a unitary and coherent policy in the field of the integrated border management, in the spirit of the policies of the EU, which includes the following components:

- a) a joint mechanism for operational co-ordination and co-operation
- b) a common integrated risk analysis
- c) trained personnel and inter-operational equipment
- d) joint legislative framework
- e) common effort of all institutions.

The evaluation and analysis of the stage of the fulfilment of the objectives in the National Strategy is realised within the working meetings of the Romanian Inter-ministerial Group for Integrated State Border Management, on the basis of periodical reports. The task of drafting the reports on the status of fulfilling the objectives of the National Strategy is an obligation of the Romanian Inter-ministerial Group for Integrated State Border Management Secretariat of the Schengen General Directorate.

The implementation of the National Strategy is realised through the following documents: “The Action Plan” and the “Single Multi-annual Investment Plan for Border Security”. On the basis of the Action Plan, the authorities and institutions with border competences draft their own sectorial programs. The financial resources for carrying out the actions regarding the investments for securing the border are contained in the “Single Multi-annual Investment Plan for Border Security”.

3. Integrated System for State Border Security - ISBS

The integrated system for state border security is the main instrument in exercising the Integrated Management for the Romanian State Border.

According to the integrated model developed in the provisions of the Schengen Catalogue „External borders control, extradition and readmission”, ISBS considers within a unitary concept

the four complementary filters/levels which reunite the activities of all the national institutions with competence in the field of border integrated management.

In compliance with the National Strategy, ISBS has the following components and subsystems, tightly inter-connected:

- a) The operational component: legislation subsystem, human resources subsystem, operational procedures subsystem
- b) The technical component: IT subsystem, mobile radio-communications subsystem, fixed communications subsystem, voice - data communications subsystem, infrastructure subsystem, surveillance subsystem, control subsystem, integrated logistic support subsystem, mobility subsystem.

4. Control and surveillance

As a rule, crossing the Romanian state border by persons, means of transportation, merchandise and other goods is only possible through the state border crossing points, during opening hours, following appropriate checking. Except for citizens of UE/EEA + CH Member States, citizens' travel documents are stamped when crossing the border.

A special attention is paid to minors crossing the border, whether accompanied or unaccompanied. In the content of the Law no. 248/2005 on the regime of free movement of Romanian citizens abroad and its Implementation rules (approved by GD no. 94/2006) mention was made stipulating the conditions according to which Romanian minors can exercise their right to free movement abroad (these conditions are under the responsibility of the parents or persons accompanying the minors) that had as a basis the necessity to efficiently ensure the parents' rights and minor protection, as well as the prevention and combating minor trafficking abroad, as an important element of transborder crime.

The conditions governing the checks performed at crossing the Romanian state border are set by GEO no. 105/2001 on Romanian state border approved by Law no. 243/2002, with its following modifications and amendments, GD no. 445/2002 for approving the methodological norms for applying the EGO no. 105/2001, as well as EGO no. 194/2002 on aliens regime in Romania, republished, with the following modifications and amendments.

The unauthorized crossing of the border outside the border crossing points and the schedule is sentenced by the Romanian legislation.

Beginning with January 1, 2007, Romania uses the uniform stamp format according to *SCH/Com-ex (94) 16 rev – 21.11.94 – Acquisition of common entry/exist stamps*.

For this purpose, a number of 1004 stamps were manufactured that were distributed to the border crossing points. The security codes of the stamps are changed monthly according to Annex IV of Regulation (EC) No. 562/2006 of the European Parliament and the Council on March 15 2006

regarding the rules standing at the basis of the free movement of persons across borders (Schengen Border Code).

The surveillance of the Romanian border is done by surveilling and specific actions and activities with the support of video equipment for day and night (portable or fixed) and radars that function in integrated and inter-operable configurations.

The flexibility of the border surveillance devices is ensured by the mobile, terrestrial, river and aerial platforms that are used by policemen in fulfilling their missions.

5. Risk analysis

Starting with December the 1st 2004, a risk analysis unit was set up and is currently operational within the General Inspectorate of the Romanian Police. Compartments, which are subordinated to this structure within the Border Police, were set up at the level of the territorial directorates and County Border Police Inspectorates.

The equipments and software necessary for operating risks analysis offices within the GIBP were purchased and delivered.

During the fourth trimester of 2006, with the support of the UK Embassy in Bucharest, training was assured for 35 officers specializing in risk analysis from the territorial and central structures of the Border Police in the use of Analyst Notebook and iBasse user.

Within the PHARE Program Strengthening Border Management Control “Operational training in selective risk-based border control techniques for Border Police and Customs”, 27 officers of General Inspectorate of the Border Police and territorial structures, one officer from the Romanian Immigration Office and three from the Territorial Unit for Information Analysis in the use of Analyst Notebook version 7 were trained and 20 officers from the General Inspectorate of Border Police and territorial structures, one from the Romanian Immigration Office and four from the Unit for Information Analysis were trained in operational analysis.

By the end of the first semester of 2008, the tactical training for 40 officers from the border crossing points was carried out within the same program as follows: 10 from the port of Constanta, 10 from the Iasi Directorate, 10 from the Radauti Directorate and 10 from the Timisoara and Oradea directorates.

Finalizing the IT system of the Integrated Border Security System, namely setting up the integrated system of data bases and operational applications will allow the optimum functioning of the system of risk analysis.

6. Equipment

With a view to ensuring a high level of surveillance and control at the future external borders, the operations of receiving specialized equipment and upgrading the infrastructure of Border Police Headquarters were continued.

The equipment purchased was delivered within the operational structures of the Border Police, according to the provisions of Chapter V of the Schengen Catalogue. Also, the principles governing the delivery of the equipment settled by the Schengen Catalogue were respected.

7. Personnel

At present, border surveillance and control are conducted by professional personnel of the Border Police, trained and equipped to provide effective checks at the border crossing points, continuous surveillance and a relevant response capability at the green and blue borders.

The level of employment of the Border Police is 100% at the external borders with Moldova, Ukraine and at the Black Sea.

C. Main objectives

- Strengthening the control at the external borders, the surveillance in the external border area and the fight against cross-border crime
- Improving the control by increasing the capacity of supplying and accessing the information
- Human resources management & development

D. Measures

Legislative measures

Taking measures to conclude agreements on local border traffic with neighboring third countries

Deadline: 31.12.2008
Responsible institution: the Ministry of Foreign Affairs, the Ministry of Interior and Administrative Reform

Administrative/technical measures

1. Monitoring and permanently evaluating the accomplishment of the actions established in the implementing documents of the National Strategy for integrated state border management for 2007 – 2010 - The Action Plan and the Single Multi-annual Investment Plan for Border Security and Indicative Plan for Schengen Facility

Deadline:	on a permanent basis until 01.01.2010
Responsible institution:	Ministry of Interior and Administrative Reform

2. Establishing and implementing the Integrated Black Sea Surveillance and Control System

2.1. Implementing the Integrated Black Sea Surveillance and Control System (third phase-PHARE Programme 2005)

Deadline:	28.02.2009
Responsible institution:	Ministry of Interior and Administrative Reform

3. Endowment of the National Center for Managing Data Bases on Persons with data base servers for users of the Integrated System of Border Surveillance – equipment necessary for establishing the interface between the Integrated System for Border Security (ISBS) and the servers that contain the central data bases for people's records

Deadline:	01.07.2010
Responsible institution:	Ministry of Interior and Administrative Reform

3. Provisions for ports and airports

3.1 Airports

A. Relevant acquis

- Regulation (EC) No. 562/2006 of the European Parliament and the Council on March 15 2006 regarding the rules standing at the basis of the free movement of persons across borders (Schengen Border Code)
- Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data

B. Current situation

General presentation

Currently, Romania has 16 civil airports. 15 of them are international airports, which have permanent border control points of the Border Police and customs offices. The list of international airports currently existing in Romania is the following: Bucharest Henri Coanda (formerly Otopeni), Bucharest Baneasa – Aurel Vlaicu, Mihail Kogalniceanu – Constanta, Timisoara – Traian Vuia, Arad, Bacau, Cluj Napoca, Craiova, Iasi, Oradea, Satu Mare, Sibiu, Suceava, Targu Mures, Baia Mare. The civil airport Tulcea operates international flights with the approval of the responsible ministries: Ministry of Transport, Ministry of Defense, MoIAR (Border Police) and the National Customs Authority.

The passenger traffic on all Romanian airports, registered in 2007, was 7,812,012.

Adapting airport infrastructure

On the international airports, arrangements were made in order to separate the passenger flows depending on citizenship (*UE/EEA +CH* and *Other Passports*) before control offices of the Border Police.

The following international airports already have an infrastructure that allows for passenger flow separation intra and extra Schengen and beginning with the date of accession to the Schengen area, the necessary adjustments will be made: Bucharest Henri Coanda, Bucharest Baneasa – Aurel Vlaicu, Mihail Kogalniceanu – Constanta, Timisoara, Iasi, Sibiu, Suceava.

The airports identified the necessary measures for adapting airports infrastructure and drawn up financial estimates (approximately 15.7 million Euros).

Mihail Kogalniceanu International Airport – Constanta finalized at the end of 2007 an investment project for modernizing the passenger flows and adapting them to the new Schengen requirements. The Bucharest International Airport – Henri Coanda ensures the financial support for the adjustments necessary to adopt the Schengen requirements from internal sources.

The Timisoara international airport is currently carrying out a program of investments for modernizing the passenger flows so that it is in line with Schengen requirements. The program is due at the end of 2008 and might be extended until the end of the first semester of 2009.

The measures set for fulfilling the Schengen requirements on the airports of local interest will be implemented using as financial source funds earmarked by the county councils.

Control procedures

The control procedures are in line with the provisions applicable to the external borders of the Schengen Borders Code.

Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (OJ L 261, 6.8.2004, p. 24) was implemented in the national legislation under GO 34/2006, on the obligation of carriers to communicate data on their passengers, approved by Law 452/2006.

C. Main objectives

- Developing/modernizing separation of the airport infrastructure (separate terminals, separate levels, others)
- The Border Police should receive the passenger data.

D. Measures

Technical/administrative measures

1. Rendering operational the passenger information system in airports

Deadline:	01.09.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

2. Separation of passengers flow intra and extra Schengen in international airports

Deadline:	01.01.2010
Responsible authority:	the Ministry of Transport, the Ministry of Interior and Administrative Reform

3.2. Sea and river ports

A. Relevant acquis

- Regulation (EC) no. 562/2006 of the European Parliament and Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)

B. Current situation

General presentation

The Black Sea

There are 3 seaports in Romania: Constanta, Mangalia and Midia, where there are 4 border crossing points opened to international traffic: Constanta, Constanta South – Agigea, Mangalia and Midia.

In these seaports, the passenger and boats traffic in 2007 was 238.247 passengers/12.631 boats.

The Danube River

According to *the Convention on the navigation on the Danube* (Belgrad, 1948), access of passenger and cargo boats on the Danube and in ports is free, regardless of their flag.

Passenger traffic is carried out by cruise vessels and floating bridges. There are 19 ports operating permanently as international ports as concerns the border control for passengers. Moreover, there are 3 points among the Romanian and Bulgarian ports where the border is crossed by ferry. These are: Calafat, Bechet, Calarasi.

Black Sea co-operation

In order to improve cooperation among the Black Sea neighbouring countries, the Romanian Border Police is taking part in annual meetings of the chiefs of Border Police and Coast Guards in these countries.

During 22-25.10.2007, the 7th annual meeting of the heads of border authorities of the Black Sea neighboring states took place. On this occasion, the Romanian party signed the collaboration agreement among the border structures of the Black Sea neighboring states.

At expert level, a series of cooperation activities were carried out among the Black Sea neighboring states:

During 02-04.09.2007, an exercise named BLACK SEA HAWK-07 (BSH-07) took place according to the Operation Orders on EXOPORD Exercises. The exercise was performed bilaterally among the Black Sea neighboring states and involved the multinational information exchange and an exercise in the field of search and rescue. The activity was a good opportunity for the national centers that coordinate operative units, as well as for improving the Automated Information Exchange Information and coordination in the field of search and rescue.

During 08-09.06.2007, a representative of the General Inspectorate of the Border Police took part in the seminar „*How can the Black Sea contribute to improving global security?*”, an event that took part in Bucharest and was organized by the Romanian Ministry of Foreign Affairs, the Norwegian Ministry of Foreign Affairs and the *Eurisc Foundation – IRSI*.

During 02-03.07.2007, a representative of the GIBP took part in Neptun in a workshop dedicated to launching a regional project for strengthening the cooperation in the field of planning civil emergencies in the Black Sea area. The activity was organized by the MoIAR and the MFA.

During 14-17.07.2007, in Tbilisi (Georgia), at the initiative of the Georgian party, a meeting of the Working Groups took part focusing on: „*Preventing the trafficking in radioactive materials and weapon parts in the Black Sea*” (WG-02).

During the meeting, the experts taking part in the working group discussed the following:

- *The current threats as regards the trafficking in radioactive substances and weapon parts in the region;*
- *The shared experience by the organizational capacities and problems of the border authorities of the Black Sea neighboring states as regards the prevention, detection and response to trafficking in radioactive materials in the sea area and entry ports and prevention, detection and response to illegal acts of transporting radioactive substances;*
- *The mechanism of information exchange for detecting illegal transports of radioactive substances.*

The experts proposed to discuss the following issues at the next meeting at the level of head of structures:

- *Intensifying the information exchange on operative and investigation activities that combat illegal trafficking in radioactive material and weapon parts*

among the states taking part of the Black Sea cooperation and the third countries taking part in this field;

- *Amending the forms for information exchange by using the Automated Information Exchanges System (AIES) by creating a page exclusively for CBRN data (chemical, biological, radioactive, nuclear) on ships, other means of transport and persons that are suspected for illegal transport of radioactive materials and weapon parts;*
- *In case of necessity, carrying out common operations in the field of preventing, detecting the illegal trafficking of radioactive material and weapon parts according to the internal and international legislation;*
- *Organizing several seminars and training activities in the field of preventing, detecting and response, as well as information exchanges as regards the illegal trafficking of radioactive material and weapon parts in the year 2008.*

During 24-26.03.2008, a meeting of the Working Group on cooperation in the field of investigative and operative activity on combating terrorism and preventing illegal trafficking in migrants from the Cooperation Forum of the border polices/border guards of the Black Sea states took place.

Infrastructure

The Black Sea

In the port of Constanta, the passenger terminal was finished in November 2005. The new terminal is according to the Schengen standards and has been in use since March 2006.

The Danube River

According to the present and envisaged passenger traffic, only the following river ports are a priority: Moldova Veche, Orsova, Drobeta Turnu Severin, Giurgiu, Oltenita, Calarasi, Cernavoda and Tulcea. Hence, these ports will be a priority as concerns the development of the infrastructure and the necessary procedures for the control of the external borders.

On September 1, 2006, the modernization of the river station Tulcea was finished. The technical equipment necessary for border control was moved in the new building and the infrastructure is in line with the Schengen standards.

Since every port represents an external border, measures are foreseen in order to implement proper procedures and develop the port facilities in order to fulfil the necessary conditions of the Schengen acquis before the date of joining the Schengen area.

Thus, for the ports of Moldova Veche and Orsova, the necessary funds were earmarked for building several terminals of passengers. These works were finished and received at the end of 2007. Also, a floating pontoon was built for Calarasi port in June 2007.

In Galati port, the port facilities for the passenger traffic will be ensured by means of passenger terminal for border control, financed by the state budget and having as deadline the year 2010.

Control procedures

The applied control procedures are concordant with the provisions applicable to the external borders, of Annex VI, point 3 (Sea borders) of the Schengen Border Code, as well as of Annex VII, point 3 (Seamen). After the date of accession to the Schengen area, the provisions of Annex VI, point 4 (Transportation on internal naval routes) will be implemented.

C. Main objectives

- Developing/modernizing the infrastructure in ports (separating the terminals, separating the levels, other)

D. Measures

Administrative/technical measures

1. Ensuring the necessary technical and organizational conditions for separating the passengers flows depending on their citizenship (EU/EEA citizens, citizens of third countries)

Deadline: 31.05.2009 – Galati
Responsible institution: the Ministry of Transport, the Ministry of Interior and Administrative Reform

2. Separating the passenger flows in the ports where there are border crossing points open to international traffic, intra and extra Schengen, according to the provisions of the Schengen Convention

Deadline: 01.01.2010

Responsible institution: the Ministry of Transport, the Ministry of Interior and Administrative Reform

4. Cooperation among the contracting states

A. Relevant acquis

- Article 16 (on co-operation among the Member States) of Regulation (EC) no. 562/2006 of the European Parliament and Council of March 15, 2006, establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)
- Council Regulation 2004/2007 of 26 October 2004 on establishing the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)
- Regulation 2007/863/EC of the European Parliament and of the Council of July 11, 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation 2004/2007/EC as regards that mechanism and regulating the tasks and powers of guest officers EC regulation
- SCH/Com-ex (98) 59 rev – 16.12.1998 – Co-ordinated appointment of document consultants.
- SCH/Com –ex (99) 7 – 28.4.1999 – Liaison officers

B. Current situation

The international cooperation agreement concluded by Romania with most of the EU/Schengen Member States include provisions regarding the information and experience exchange, carrying out common actions, sending liaison officers in various fields of combating crime, including cross-border crime, concluding technical protocols for cooperation among the relevant authorities within the limits of national jurisdiction.

In order to apply the provisions of Regulation 2007/2004 and Regulation 863/2007, in 2007, the Romanian Border Police took part in 10 common operations at the green border, 5 common operations at the blue border and 5 common operations at the air border.

In 3 of the operations at the green border, Romania also took part as a hosting country, but also with experts seconded from other Member States at the external border having as an objective combating illegal migration from/through Ukraine, Moldova to the European Union. The other operations at the land border in which Romania took part only with seconded experts to other Member States, had as objective combating illegal migration from/throuCelelalte operațiuni la frontiera terestră, la care România a participat doar cu experți detașați în alte State Membre, au avut drept obiectiv combaterea migrației ilegale from/through Croatia to the EU of the Moldovan citizens coming from Serbia or in tranzit through Serbia to the EU, detecting illegal workers in tranzit through Slovenia to the Member States, detecting false/forged documents and detecting stolen vehicles.

As regards the operations organized at the air borders, Romania hosted 2 of them taking part also with seconded experts to the airports opened for international traffic from other Member States and in other 3 operations only with experts seconded to other states. The operations targeted combating illegal migration from South American countries, of Chinese citizens, of „false seamen” coming from third countries in tranzit through and to the EU, etc.

At the blue border, Romania took part in 5 common operations with seconded experts to ports in Greece, Malta, Spain, Italy. These operations targeted combating illegal migration from countries of Northern Africa by strengthening control at the Southern sea borders of central Mediteranean.

Bulgaria

On 22.12.2004, in Sofia, the Agreement between the Government of Romania and the Government of Bulgaria was signed, a document concerning the cooperation between the border authorities. This document came into force on the 28th of July 2005.

The Treaty with Bulgaria on the regime of the state border was signed in Bucharest on the 28th of august 2006.

The Agreement between the Government of Romania and the Government of Bulgaria regarding the common control at the border crossing points was signed on the 21st of December 2006,

At the same time, in the Action plan for implementing the National Strategy for Integrated Border Management a new activity was included and began to be implemented: Cooperation with similar structures of Bulgaria in the sense of developing and sharing the necessary infrastructure for Danube surveillance.

This action targets:

- Establishing common working groups of the two countries for drafting and fundamenting technical, procedural and legal solution aiming at their cooperation on the common Danube border;
- Presenting the initial estimates regarding the necessary resources in terms of finance, materials and human resources necessary for implementing the common project;
- Organizing and carrying out documentation mission on site in order to establish the final solution/solutions of the project;
- Initiating the approaches in order to start the acquisition procedure/procedures necessary for implementing the project;
- Activities related to concluding acquisition contract/contracts;
- The actual implementation of the project/projects;
- Rendering operational the system/systems;
- Setting up the legal and procedural framework regarding the management, maintenance, information exchange and operative activities following the functioning of the system/systems.

Hungary

The Treaty with Hungary on the regime of the state border, cooperation and mutual assistance in the field of border was signed on 20.10.2005. The treaty came into force on the 06th of January 2007.

On the 21st of December 2006, the Agreement between the Government of Romania and the Government of Hungary regarding the implementation of the Convention between Romania and Hungary on railway and road traffic control of the 27th of April 2004, ratified by Law 235/20.10.2006, was signed.

Operative information exchange with neighboring and European states

Operative information exchange with neighboring and European states is realised through existing common contact points, centers and offices. Their current situation is presented in Annex 2.

An operational informational flow is organized through the liaison officers of the EU/Schengen Member States in Romania.

GEO 30/2007 regarding the organization and functioning of the MoIAR, adopted with modifications and amendments by Law 15/2008, authorizes the MoIAR to develop and maintain international relations with the similar authorities of the states with which Romania has diplomatic relations and with specialized international organizations. MoIAR can be represented abroad by home affairs attachés and liaison officers appointed by the minister of interior and administrative reform and accredited with the authorities of the respective state or international organization. The main responsibilities of the attachés and officers are in accordance with the provisions of art. 7, 47 and 125 of the Schengen Convention (counsels, facilitates and assists the information exchange in the law enforcement field). Unlike the home affairs attaché, the liaison officer has a limited mandate from the duration, geographical area and field of activity and co-operation points of view.

On 01.04.2008, Romania had 34 home affairs attaches appointed to the following countries/institutions: NATO (1), the European Union (1), Europol (1), Italy (3), Germany (2), France (2), Great Britain (2), the Netherlands (2), Spain (2), Turkey (2), Austria (2, out of which one is also accredited in Slovenia and Slovakia), Belgium (1, accredited also in Luxembourg), Bulgaria, the Czech Republic, Greece, Ireland, Norway, Poland, Russia, Serbia, Ukraine, Hungary, Croatia, Switzerland, the United States of America (1).

They have also responsibilities concerning illegal migration and, from this point of view, they are members of the migration liaison officers' network, in accordance with Council Regulation (EC) 377/2004 of the 19th of February 2004. Also, according to their competences, they respond to the legal demands of the law enforcement institutions of the Member States, thus, in compliance with Council Decision 2003/170/JHA from the 27th of February 2003.

Romania intends to further develop the bi-lateral legal framework for the co-operation with the Schengen Member States, in accordance with the current practice and standards in the field and to ensure the necessary conditions for rapid data and information exchange with the specialized authorities.

C. Main objectives

- Developing the legal instruments, including standard operative procedures for the law enforcement personnel who works abroad
- Strengthening bilateral cooperation with the EU/Schengen Member States
- Human resources management and development

5. Introducing biometric data in travel documents

Relevant acquis

- Council Regulation No 2252/2004/EC of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States

Current situation

By GO no. 5 5/2006 on modifying and amending the Law no. 248/2005 on the regime of free movement of Romanian citizens abroad, the legislative framework was created for implementing Council Regulation No 2252/2004/EC of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

Thus, in art. 7 paragraph 1 of the GE no. 5/2006 it is stipulated that „in the travel documents issued for a validity period over one year, an electronic storage medium is included for the biometric data of the person and other personal data from those included in the IT sheet”. Starting with the date when the electronic passports are issued and also the form and content of this document are set by GD no. 557/2006. This normative act was modified and amended by GD no. 1869/2006 which stipulates the extension of the deadline for issuing the electronic passport for September 1, 2007. Following the Government meeting of 25.04.2007, the deadline of September 1, 2007 stipulated by GD no. 1869/2006 was extended with four months for January 1, 2008.

Beginning with June 2006, the General Secretariat of the Government by the Autonomous Unit for Managing State Patrimony (R.A.-A.P.P.S.), together with the Ministry of Interior and Administrative Reform and the Ministry of Foreign Affairs organized the tender procedure for appointing an unique supplier to manufacture the electronic passport according to EU requirements.

The documents necessary for drafting and presenting the offer, which was realized by the relevant institutions, was acquired by internal and international companies. The evaluation commission was faced with analyzing the offers and declaring them as nul since they did not completely fulfill the qualification requirements and then they decided to abort the international tender following the repeated contestations submitted by the participating companies.

On 25.10.2007, the Department for Foreign Affairs of the Romanian Government sent to the R.A.-A.P.P.S. the letter of notification of the European Commission for Romania since it failed to implement the provisions of Regulation No 2252/2004/EC of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States and Commission Decision C (2005) 409 establishing the technical specifications on the standards for security features and biometrics in passports and travel documents issued by Member States.

Thus, the reasons for extending the deadline for the tender in order to implement the Council Regulation EC no. 2252/2004 was determined by objective facts related to observinf the national legislation.

Romania pays great importance to observing the legislation in the field of public acqistions moreover since selecting the best offer is a guarantee for properly fulfilling the issuing of passports according to Council Regulation EC no. 2252/2004.

Consequently, a new Calendar of activities was drafted and later signed by the minister of interior and administrative reform, the minister of foreign affairs and the delegated minister for coordinating the General Secretariat of the Government which sets the date of issuing of the electronic passports beginning with 01.07.2008 by GD no. 1505/2007 for amending art. 1 paragraph 2 of Government Decision no. 557/2006 on setting the date of issuing of the electronic passports, as well as the form and contents thereof and for amending art. 2^1 paragraph 31 of Government Decision no. 1016/2003 on setting the form and content of the residence permits and travel documents issued for aliens.

By *GEO no. 96/29.11.2006 for modifying and supplementing the Law no. 248/2005 on the regime of free movement of Romanian citizens abroad*, the Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of the citizens of the Union and their family members to move and reside freely within the territory of the Member States was transposed in the national legislation. In art. 1 paragraph 1, the amendment of Law no. 248/2005 is stipulated by including a new article, namely art. 6.1.: „the valid identity card is a travel document on the basis of which Romanian citizens can travel to EU Member States”.

On 25.02.2008 the evaluation of offers for the project „Manufacturing and delivery of electronic passports according to EU requirements, as well as related software products and equipment” started. The tender is organized by R.A.-A.P.P.S. together with the Ministry of Interior and Administrative Reform and the Ministry of Foreign Affairs.

The tender procedure was cancelled on 26.03.2008 by the contracting authority because the offers were not appropriate. Currently, steps are taken to resume the tender procedure.

Administrative measures

1. Impementing a pilot project of the system for issuing a managing the new biometric data passports

Deadline:	01.12.2008
Responsible institution:	The General Secretariat of the Government, the MoIAR

2. Extending the system for issuing and managing biometric passports for the entire country

Deadline:	30.06.2009
Responsible institution:	The General Secretariat of the Government, the MoIAR

3. Introducing biometric data in the travel documents issued for the beneficiaries of a form of protection

Deadline:	30.06.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

II. VISAS

1. Common policy on visas

A. Relevant acquis

- Art. 9 and 10 of the Convention implementing the Schengen Agreement
- Art. 5 of Regulation 562/2006 EC
- Decision of the Executive Committee on the common visa policy (SCH/Com-ex (95) PV 1 rev)
- Decision of the Executive Committee on harmonizing the visa policy (SCH/Com-ex (97) 32)
- Council Regulation (CE) no. 539/2001 of March 15, 2001 on determining the third states whose citizens must possess a visa when crossing the external borders of the Member States and whose citizens are exempted from this request, amended by Council Regulation no. 2414/2001/EC of December 7, 2001 and Council Regulation 453 of March 6, 2003, and Regulation 1932/2006 EC

- The final versions of the Common Manual and the Common Consular Instructions (hereinafter referred to as CCI), Annexes 1-3 of the CCI (2003/C310/01)

B. Current situation

1.1. Harmonizing the negative list

Since January the 1st, 2007 Romania fully applies Regulation 539/2001, the positive list and the national negative list being identical to those at the level of the EU.

The European Commission received from Romania on the basis of reciprocity mechanism (according article 2 of Council Regulation no. 851/2005), the list of states on the positive list of the EU which did not eliminate the visa regime for Romanian citizens: Australia, Brunei Darussalam, Canada, Japan, Panama, Singapore (30 days) and the USA.

1. The visa regime for the diplomatic and professional passports

The list of states whose citizens that own diplomatic and professional passports are exempted from compulsory visa in order to enter Romania can be found in Annex 3.

1. The visa regime for transit airports and ports

The states whose citizens need a visa for transiting the airports are: Afghanistan, Bangladesh, Eritrea, Ethiopia, Ghana, India, Iraq, Iran, Nigeria, Pakistan, Congo Democratic Republic, Somalia, Sri Lanka.

C. Main objectives

- Completely harmonizing the Romanian national visa policy with the EU one
- Strengthening the administrative capacity of the consular system.

2. The uniform visa format. The uniform format of the form on which the visa is applied in the case of unrecognized travelling documents

A. Relevant acquis

- Article 10 of the Convention implementing the Schengen Agreement
- The final versions of the CCI – Annex 7 to the CCI (1222/2005)
- The Decision of the Executive Committee on the final versions of the Common Manual and the Common Consular Instructions, Annex 8 of the ICC (SCH/Com-ex (99) 13)
- Council Regulation no. 1683/95/(EC) of May 29, 1995 establishing a uniform format for visas, amended by the Council Regulation no. 334/2002/EC of February 18, 2002 and Council Regulation 1791 of December 20, 2006
- Commission Decision of February 7, 1996 and Commission Decision of June 3, 2002 establishing the technical specifications for the uniform format for visas (unpublished)
- Council Regulation no. 333/2002/CE of February 18, 2002 on a uniform format for forms on which a visa issued by the Member States is applied to the persons who own travel documents unrecognized by the respective Member States.

B. The current situation

The current visa sticker, introduced on September 1, 2004 are according to Council Regulation 1683/95/EC, contains a set of 14 security elements, including the photo of the owner, but are not totally in observance with the EU technical specifications set by Commission Decision C (96) 352 of February 7, 1996 with the following amendments and modifications.

Romania is involved in the debates and activities carried out at EU level on introducing biometric data in visa stickers.

The provisions of article 10 of GEO no. 142/2002 on the aliens' regime in Romania, republished, with further amendments and completions, regulate the issue of "Documents for crossing the state border which are accepted by the Romanian state". According to the provisions of art. 10, point (5) "because of humanitarian reasons or for implementing several international agreements or understandings to which Romania is part at, the Government of Romania can also approve by decision, other documents on the basis of which entry can be permitted on the territory of Romania".

Regarding on the issuing of the uniform visa format, R.A. –A.P.P.S. together with the MFA and MoIAR started the acquisition procedure in the first trimester of 2008. At the end of it, the RIO will take the necessary steps for modifying the IT module for customizing the visa sticker (printing the photo, the personal data and visa information).

C. Main objectives

- Introducing to circulation the uniform visa format
- Introducing to circulation the Schengen sticker
- Introducing the uniform format on which the visa issued for persons who own travel documents unrecognized by Romania is applied.

D. Measures

Legislative measures

Modifying the current legislation, namely introducing the visa format valid on the territory of all the Schengen states

Deadline: 01.01.2010
Responsible institution: the Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

Administrative measures

1. Introducing into circulation the uniform visa sticker

Deadline: 31.12.2008
Responsible institution: the Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

2. Introducing the Schengen sticker into circulation

Deadline: 31.03.2011
Responsible institution: the Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

3. Introducing the form for affixing the visa in case of unrecognized travel documents

Deadline: 31.12.2008
Responsible institution: the Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

3. Categories of visas

A. Relevant acquis

- Articles 9-17 and 18 of the Convention implementing the Schengen Agreement, (art. 18 amended by the Council Regulation No 1091/2001 of 28 May 2001),
- Final versions of the Common Manual and the Common Consular Instructions, Part I, points 2.1.1-2.1.4 and Annex 14 of the CCI (2003/C310/01)

B. Current situation

The regulations in force (GEO no. 194/2002 on the aliens' regime in Romania, republished, with further amendments and completions) provide A, B, C and D visas according Common Consular Instructions.

The legislation is harmonised with regard to the validity of short-term visa (90 days in a semester, beginning with the first entry) and with regard to the validity term of transit visas (maximum 5 days from the entry date on Romanian territory).

The regulations in force do not contain the concept of the uniform visa, which will be applied by Romania after the accession to the Schengen Agreement.

The project to modify the GEO no. 194/2002 on the regime of aliens in Romania in order to introduce the concept of uniform visa valid in the Schengen area is under revision.

C. Main objectives

- Introducing the concept of uniform visa valid on the territory of all contracting states

D. Measures

Legislative measures

1. The amendment of the legislation concerning the regime of aliens in the sense of introducing the concept of uniform visa, which is valid for the territory of the Schengen area (to be applicable upon full Schengen membership)

Deadline	31.12.2008
Responsible institution:	The Ministry of Foreign Affairs, the Ministry of Interior and Administrative Reform

4. The issuing of visas

A. Relevant acquis

- Art. 12 of the Convention implementing the Schengen Agreement
- Decision of the Executive Committee on extending the uniform visas (SCH/Com-ex (93) 21)
- Decision of the Executive Committee on the common principles for cancelling, residing or shortening the length of validity of the uniform visa (SCH/Com-ex (93) 24)
- Council Regulation no 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit
- Decision of the Executive Committee on the stamping of passports of visa applicants (SCH/Com-ex (98) 21)
- Decision of the Executive Committee concerning the compilation of a Manual of documents to which a visa may be affixed (SCH/Com-ex (98) 56)
- Final versions of the Common Manual and the Common Consular Instructions, (2003/C310/01)
- Decision of the Executive Committee concerning the compilation of a Manual of documents to which a visa may be affixed (SCH/Com (99) 14)

- 2002/585/EC: Council Decision of 12 July 2002 on the adaptation of parts III and VIII of the common consular instructions
- 2002/585/EC: Council Decision of 12 July 2002 on the adaptation of parts III and the development of annex 16 of the common consular instructions
- Council Decision No. 2004/17/EC of 22 December 2003 amending Part V, point 1.4, of the Common Consular Instructions and Part I, point 4.1.2. of the Common Manual as regards inclusion of the requirement to be in possession of travel medical insurance as one of the supporting documents for the grant of a uniform entry visa
- Council decision 2004/14/EC of 22 December 2003 amending the third subparagraph (Basic criteria for examining applications) of Part V of the Common Consular Instruction
- 2004/15/EC: Council Decision of 22 December 2003 amending point 1.2 of Part II of the Common Consular Instructions and drawing up a new Annex thereto
- Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS)
- Decision of the Executive Committee on introducing a computerized procedure for consulting the central authorities referred to in Article 17(2) of the Convention (SCH/Com-ex (94) 15 rev)

B. Current Situation

The provisions regarding the issuing of visas are included in GEO no.194/2002 on the aliens' regime in Romania, republished, with further amendments and completions. The issuing of visas is one of the main consular functions, according the Romanian Consular Regulation, approved by the Government Decision no. 760/1999.

The project for modifying GEO no. 194/2002 on the regime of aliens in Romania in the sense of including the obligation for aliens to own a medical insurance upon applying for a visa in order to cover all costs related to return in case of medical reasons, medical assistance or emergency medical assistance and/or emergency treatment in the hospital is currently being drafted.

The system of electronic processing of visas – Visa on line system

The system of electronic processing of visas – Visa on line system links the Romanian consular offices, the National Visa Center and the Romanian Immigration Office (within the Ministry of Interior and Administrative Reform). The system was finalised on the 30th of June 2006, when all 114 consular offices were connected.

During 2007, 449,185 visa applications were processed, out of which 228,378 were short stay visas.

Issuing visas at the border, including the regime applied to seamen in transit

The regulations into force, regarding the exceptions allowing the issuing of visas in cross border points, are fully harmonised with EU regulations in the field, through the provisions of the GEO no.194/2002 on the aliens' regime in Romania, republished, with further amendments and completions.

According to the provisions of the law no. 306/2005 which amended the GEO no. 194/2002, the border police may grant a visa for foreign seamen with the same nationality that apply for transit in groups of 5 to 50 persons in order to embark or disembark, re-embark a ship for the purpose of repatriation at the end of the labor contract as well as in the case of changing the crew.

As of the 1st of February 2006, all border crossing points have issued visas, in the limited cases stipulated by law, using visa stickers. They replace the stamping procedure and ensure a strict control and record of all entries for which the Border Police issued visas.

On the same date, the modules for customizing the visa stickers became operational (printing the photo, the personal data and visa information) as well as recording the data regarding these, through the Integrated IT System for management of migration, asylum and visas – managed by the Romanian Immigration Office.

Refurbishment of consulates

The investments aim to ensure that all Romanian consular offices correspond to best practices and recommendations provided by the “Schengen Catalogue – issuing of visas; recommendations and best practices”, especially as regards the security of the buildings and of the consular personnel and ensuring the conditions for installing the equipment for collecting the biometric identification data.

Endowment with equipment for detecting false and forged documents

All consular offices are endowed with equipment for detecting false and forged documents corresponding to a low risk level.

In 2007, 9 consular offices were endowed with equipment for appropriately detecting a higher risk. A series of training sessions on the identification of false documents took place as well as for using the equipment for detecting false documents. They will be provided by the company that supplies the equipment and in cooperation with the Border Police.

In order to endow the medium risk consular offices, MFA drafted the Phare Project 2006 “Modernization of the visa system to Schengen standards”, which includes a procurement component of equipment for detection false or forged documents, corresponding to medium risk.

Visa Information System

Romania started the preparations to implement the national component of the future Visa Information System, until Schengen accession.

The personnel involved in VIS implementation includes consular, IT and visa policy experts. They take part in working groups of the EU Council on VIS and attended a series of meetings with EU experts, which are responsible in this field.

MFA drafted a project for technical assistance using PHARE funds aiming at modernizing the on-line visa system. This system is currently under the administration of the Romanian Immigration Office of the Ministry of Interior in order to correspond to VIS requirements and ensure compatibility with SIS II.

During 2007, in order to improve the performance of the system and increase the capacity to process data, a new equipment was bought for the data base of the visa on-line system.

C. Objectives

- Fully implementing the Common Consular Instructions.
- Refurbishing and endowing the Romanian consular sections and consular offices abroad in line according to the Schengen Manual for recommendations and best practices.
- Introducing the National IT System for Visas.

D. Measures

Legislative measures

1. The full implementation of the provisions of the Common Consular Instructions.

Deadline:	01.01.2010
Responsible institution:	The Ministry of Foreign Affairs

2. Amending the aliens' regime legislation with an aim to introducing the obligation for alines that are applying for a visa to be in possession of a medical insurance that covers any repatriation costs linked to medical reasons, medical/emergency assistance and/or hospital emergency treatment (Council Decision 200/17/EC)

Deadline:	31.12.2008
Responsible institution:	The Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

3. Amending the legislation on aliens' regime in Romania in order to include the provisions regarding the extension of uniform visas and the common principles for annulment, revoking or shortening the validity period of the uniform visa

Deadline:	31.10.2010
Responsible institution:	The Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

4. Adopting a normative act on establishing, organizing and functioning of the National IT System for Visas

Deadline:	31.12.2008
Responsible institution:	The Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

Administrative measures

1. Endowing all consulates classified with high risk with specific types of equipment for detecting false and forged documents, in accordance with risk levels, according to the relevant acquis

Deadline:	30.09.2010
Responsible institution:	The Ministry of Foreign Affairs

2. Implementing the national component of the Visa Information System (VIS)

Deadline:	30.06. 2010
Responsible institution:	The Ministry of Foreign Affairs and the Ministry of Interior and Administrative Reform

5. Visa with limited territorial validity

A. Relevant acquis

- Article 10 (3); article 11 (2); article 14 (1); and article 16 of the Convention implementing the Schengen Agreement
- Final versions of the Common Manual and the Common Consular Instructions, Part IV, V paragraph 3 of CCI (2003/C310/01)

B. Current situation

All visas issued by the Romanian Consulates prior to the accession to the Schengen Agreement have a national character and are valid only on Romanian territory.

The concept of the visa with limited territorial validity will be implemented into the Romanian aliens' regime legislation simultaneously with the uniform visa and will be applicable only after the accession to the Schengen Agreement. The project for amending GEO no. 194/2002 on the regime of the aliens in Romania in order to introduce the notion of uniform visa with limited territorial validity is currently being drafted.

C. Objectives

- Implementing the provisions of SCh/Com-ex (95) decl 4 (not published)

D. Measures

Legislative measures

Introducing into the Romanian aliens' regime legislation the concept of uniform visa with limited territorial validity

Deadline:	31.12.2008
Responsible institution:	The Ministry of Foreign Affairs, the Ministry of Interior and Administrative Reform

6. Representation

A. Relevant acquis

- Final versions of the Common Manual and the Common Consular Instructions, Part II, paragraphs 1.2, 2.3 of CCI (2003/C310/01)
- 2004/15/EC: Council Decision of 22 December 2003 amending point 1.2 of Part II of the Common Consular Instructions and drawing up a new Annex thereto

B. Current situation

This regulation is not applicable for Romania until the accession to the Schengen Agreement.

Romania will adopt, before accession to the Schengen Agreement, regulations, which will allow create the legal framework so that our country could issue visas for a Schengen country in the form mentioned in the acquis and also could allow a Schengen country to issue visas on behalf of Romania under the same conditions of observing the acquis.

C. Objectives

- Enforcement of the provisions of ICC

D. Measures

Legislative measures

Amending the legislation concerning the aliens' regime, in order to allow Romania to grant visas for another Schengen state and implementing provisions, which will allow a Schengen state to issue visas on behalf of Romania, according to the conditions of the acquis

Deadline:	01.01. 2010
Responsible institution:	The Ministry of Foreign Affairs, the Ministry of Interior and Administrative Reform

7. Co-operation, exchange of information and statistics

A. Relevant acquis

- Decision of the Executive Committee on the exchange of statistical information on the issue of visas (SCH/Com-ex (94) 25)
- Declaration of the Executive Committee on issuing visas with limited territorial validity and exchanging information on VLTVs which have been issued (SCH/Com-ex (95) decl 4) (not published)
- Decision of the Executive Committee on the exchange of statistics on issued visas (SCH/Com-ex (98) 12)
- Final versions of the Common Manual and the Common Consular Instructions (2003/C310/01)

B. Current situation

Romanian consuls attend the meetings organised by the Presidency of the Council in the framework of the consular co-operation at local level.

C. Objectives

- Adapting the relevant practices to the Schengen ones

D. Measures

Implementation of the Schengen practices on the exchange of information regarding the visas issued by Romanian consular offices

Deadline:	01.01.2010
Responsible institution:	The Ministry of Foreign Affairs, the Ministry of Interior and Administrative Reform

8. Visa fees

A.Relevant acquis

- Final versions of the Common Manual and the Common Consular Instructions (2003/C310/01)
- Council Decision 2003/454/EC of 13 June 2003 amending annex 12 of the Common Consular Instructions and annex 14 of the Common Manual on visa fees
- Council Decision 2006/440/EC of June 1, 2006, on the amendment of Annex 12 of the CCI and Annex 14 of the Common Manual with regard to fees corresponding to administrative costs for the processing of visa applications

B. Current situation

Visa fees applied by the Consular Offices of Romania are set by GO no. 24/1992 on setting up the consular services and the fees for consular services, approved with amendments by Law no. 89/2003, with further amendments and completions. These fees do not comply with the community acquis.

Currently, several agreements with countries on the EU negative list (agreement with India, China and Jordan) are under revision for eliminating the provisions, which stipulate granting free visas. In relation with Republic of Moldova, Serbia and the Former Yugoslav Republic of Makedonia, Romania will not charge visa fees until the date of fully complying with the Schengen acquis on the basis of agreement of the EU with those states on facilitating visa issuing.

C. Objectives

- Aligning the Romanian visa fees with the EU ones

D. Measures

Legislative measures

1. Adopting a normative act for introducing visa fees according to the Schengen acquis

Deadline:	31.12.2008
Responsible institution:	The Ministry of Foreign Affairs

2. Amending the agreements concluded by Romania with some states from the EU negative list, whose provisions stipulate free visas

Deadline:	31.12.2008
Responsible institution:	The Ministry of Foreign Affairs, the Ministry of Interior and Administrative Reform

III. MIGRATION

1. Conditions governing the movement of aliens

A. Relevant acquis:

- Art. 20-22 of the Convention implementing the Schengen Agreement
- Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorized entry, transit and residence
- SCH/Com-ex (98) 57 – 16.12.1998 on the introduction of a harmonised form providing proof of invitation, sponsorship and accommodation
- Council Regulation 1091/2001/EC of 28 May 2001 on freedom of movement with a long-stay visa
- Council Regulation 1030/2002/EC of 13 June 2002 laying down a uniform format for residence permits for third-country nationals
- Council Framework Decision 2002/946/JHA of 28 November 2002 on strengthening the criminal legal frame for the prevention of the facilitation of entry, transit and unauthorized stay

B. Current situation

Art.22 of the Convention implementing the Schengen Agreement was fully transposed by art.12 para 1 of GEO no. 194/2002 on the aliens' regime in Romania, republished, with further amendments and completions.

As regards the Declaration of the Executive Committee of 16 December 1998 on the introduction of a harmonised form providing proof of invitation, sponsorship and accommodation (SCH/Com-ex (98) 57), art. 38 of the GEO no. 194/2002 on the aliens' regime in Romania, republished, with further amendments and completions, provides for the existence of a standard form of invitation, with appropriate security elements included.

By GEO no. 194/2002 on the regime of aliens in Romania, republished, with the following amendments and modifications, the legal necessary framework was created in order to apply the provisions of Council Regulation 1091/2001/EC of 28 May 2001 on freedom of movement with a long-stay visa.

The provisions of Council Regulation 1030/2002/EC of 13 June 2002 laying down a uniform format for residence permits for third-country nationals were transposed by the GD no. 1016/2003 establishing the form and contents of the residence permits and of the travel documents that are issued to aliens.

The provisions of Council Directive 2002/90 of 28 November 2002 and Council Framework Decision 2002/946/JHA of 28 November 2002 were transposed by GEO no. 194/2002 on the regime of aliens in Romania, republished, with the following amendments and modifications and by GEO no. 105/2001 on the Romanian state border, with the following amendments and modifications.

The Integrated IT System on the management of migration, asylum and visas was developed on the basis of existing applications using the same software technology. It was tested, validated and includes the following systems:

- the IT System for the Management of Aliens
- the “VISA ON LINE” System
- the Asylum IT System

The IT System for the Management of Aliens was designed for the Romanian Immigration Office. It includes a subsystem for issuing identity cards and border crossing documents to aliens. The system includes several functions to monitor the legal stay of aliens, diminishing the number of cases of alines exceeding the right of staying and identifying such person, as well as keeping record of the measures taken against these persons.

At present, the IT System for the Management of Aliens is operational both at the central level (the central offices of the Romanian Immigration Office) and in all 52 local offices (2 aliens offices in Bucharest, 41 county offices for aliens, as well as in the Accommodation Centers for aliens in Arad and in Otopeni and Teritorial Centers for accommodation and procedures for asylum seekers in Galati, Radauti, Somcuta Mare and Timisoara).

As regards the system for electronic processing of visas Visa On-line, it ensures the connection between the Romanian consular offices, the National Center for Visas and the Romanian Immigration Office (of the Ministry of Interior and Administrative Reform). The system was finalized on June 30, 2006 when all 114 consular offices were connected.

The IT system for keeping records for asylum applications is currently functional and allows for keeping records, updating and storing the information regarding asylum applications. There are plans for upgrading the existing functionalities, extending the reporting system and further developing according to the possible legal amendments.

In December 2007, the IT system of the territorial Centers for accommodation and procedures for asylum seekers was finished.

Thus, we may conclude that the extension at national level of the IT System for the Management of Aliens was achieved.

The Integrated IT system for management of migration, asylum and visas is operational in all territorial units of the Romanian Immigration Office as well as in consular missions abroad. It is going to be modernized and upgraded in view of connection to SIS II and VIS.

Thus, a project was drafted namely FSCH 07.1, „Modernizing the IT system of the Romanian Immigration Office, correlated with SIS II and VIS”, for obtaining funds from the Schengen Facility. This project was approved for financing.

After finishing the Technical Project of the NISA compatible with SIS II, RIO will draft the general conception for the modernization project, which will be the basis for drafting the acquisition documentation.

RIO plans to integrate into the IT system a virtual library with specimens of identity documents, travel documents and civil status documents used by aliens in Romania, including a description of their safety elements – through project FSCH 06.1, included in the Indicative Plan 2007-2009 for the Schengen Facility.

The IT&C equipment, which forms the local and national networks, was purchased especially from Phare funds but also from state budget funds.

C. Main objectives

- Legal harmonization
- Fully implementing National Integrated IT System on the management of migration, asylum and visas

D. Measures

Legislative Measures

1. Modifying and completing GEO no. 194/2002 on the aliens' regime, republished, with further amendments and completions, in order to incorporate the provisions of art. 19-21 of the Convention implementing the Schengen Agreement

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform, the Ministry of Foreign Affairs

Technical/Administrative Measures

1. Realizing and integrated into the IT system of the RIO a virtual library containing specimens of identity documents, travel documents and civil status documents used by aliens in Romania, including a description of their safety elements

Deadline:	31.05.2009
Responsible institution:	The Ministry of Interior and Administrative Reform, the Ministry of Foreign Affairs

2. Expulsion/Removal of aliens

A. Relevant acquis

- Art. 23-25 of the Convention implementing the Schengen Agreement
- SCH/Com-ex (97) 39 rev. – 15.12.1997 Guiding principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen states
- SCH/Com-ex (98) 10 – 21.04.1998 Cooperation between the contracting parties in returning foreigners by air
- SCH/Com-ex (98) 18 rev. – 23.06.1998 Measures to be taken in respect of countries posing problems with regard to the issue of documents required to remove their national from Schengen territory
- SCH/Com-ex (96) Decl. 7 rev. – 27.06.1996 Transfer and readmission between the Schengen states

- SCH/Com-ex (97) Decl. 14 rev. – 15.12.1997 Measures towards third states giving rise to readmission problems
- SCH/Com-ex (98) 37 def. 2 Action Plan on illegal immigration
- Decision of the Central Group of 27 October 1998 on taking measures to fight illegal immigration (SCH/Com-ex (98) 117)
- European Council Directive (EC) no. 110/2003 of 25 November 2003 on the assistance in case of air transit with purposes of return (SCH/Com-ex (98) 10-21.04.1998)
- European Council Directive (EC) no. 40/2001 on mutual recognition of the expulsion of third countries nationals
- European Council Decision (EC) no. 191/2004 of 23 February 2004 on the establishment of the criteria and practical arrangements for compensating the financial disruptions that resulted from the application of the European Council Directive (EC) no. 40/2001 on the mutual recognition of expulsion decisions of third countries nationals (Art. 24 from the Convention implementing the Schengen Agreement)
- Council Decision (EC) no. 573/2004 of 29 April 2004 on organizing mutual actions for the air return from the territory of two or more Member States, of third countries nationals, subject to individual return orders

B. Current situation

The provisions of article 23 of the Convention implementing the Schengen Agreement (expulsion/removal) were included in the provisions of article 79-92 of the GEO no. 194/2002 on the regime of aliens in Romania, republished, with the following amendments and completions.

Regarding the implementation of the provisions of SCH/Com-ex (96) Decl. 7 rev. – 27.06.1996 – the policy on transfer and readmission among the Member States – on the basis of the provisions of the readmission agreements concluded by Romania, according to the recommendations of EU Council in the field of readmission agreements, Romania can readmit the aliens who had residence on its national territory.

The common order of the MFA/MoIAR 1321 of 31 May 2006 on the procedure applicable in the case of non-cooperation of several diplomatic representations relating to the issuing of travel documents for removal of aliens from the territory of Romania transposed the provisions of SCH/Com-ex (98) 18 rev. – 23.06.1998 and SCH/Com-ex (97) Decl. 14 rev. – 15.12.1997.

The provisions of Council Directive 110/2003/EC of 25 November 2003 on the assistance in case of air transit with purposes of return and European Council Directive (EC) no. 40/2001 on mutual recognition of the expulsion of third countries nationals were included in art. 88¹ and art.

92¹ of the GEO no. 194/2002 on the regime of aliens in Romania, republished, with the following modifications and completions.

The European Council Decision (EC) no. 191/2004 of 23 February 2004 on the establishment of the criteria and practical arrangements for compensating the financial disruptions that resulted from the application of the European Council Directive (EC) no. 40/2001 on the mutual recognition of expulsion decisions of third countries nationals (Art. 24 from the Convention implementing the Schengen Agreement) was transposed by Government Decision no. 1.513 of 25 October 2006 on setting the criteria and practical engagements for compensating the financial unbalances following the recognition of decisions of removal of aliens from the territories of EU Member States, published in the OJ no. 905 of 7 November 2006.

The Council Decision (EC) no. 573/2004 of 29 April 2004 transposed through the GEO no. 194/2002 on the regime of aliens in Romania, republished, with the following amendments and completions.

C. Main objectives

- Legislative harmonization
- Continuing the negotiation of bilateral readmission agreements

D. Measures

Legislative measures

1. Amending GEO no. 194/2002 on the regime of aliens in Romania, republished, with the following amendments and completions, in order to include the provisions regarding the consultation of the contracting party which signaled an alien as non-admissible if a stay permit for that persons is going to be issued (article 25 of the Convention implementing the Schengen Agreement).

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

3. Cooperation, information exchange and statistics

A. Relevant acquis

- a. Council Decision 2005/267/EC of 16 March 2005 on establishing a secure web-based Information and Coordination Network for Member States' Migration Management Services
- b. Council Regulation 2004/2007/EC of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

B. Current situation

The national contact point for ICONET was established at the level of the Romanian Immigration Office. The ICONET network allows Member States to receive in full confidentiality rapid alert messages on illegal migration, its signs, the activities of organized crime networks, perceptible changes in the "*modus operandi*" and itineraries as well as other events and incidents which anticipate new evolutions of this phenomenon. Due to technical reasons but also legal ones, ICONET does not allow for exchange of personal data.

As regards the cooperation with Frontex, Romania designated its representative to the Board of Frontex, namely the general inspector of the Border Police and takes part regularly in expert meetings in Warsaw. The National Focal Point Frontex was set up at the level of the Border Police headquarters.

C. Main objectives

- Active participation in the data exchange

4. Carriers' liability

A. Relevant acquis

- Art.26 of the Convention Implementing the Schengen Agreement
- Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of article 26 of the Convention implementing the Schengen Agreement

B. Current situation

Art.7 of the GEO no. 194/2002 on the regime of aliens in Romania, republished, with the following amendments and completions includes the provisions of art. 26 of the Convention implementing the Schengen Agreement (carrier liability) and the provisions of Directive

2001/51/EC of 28 June 2001 supplementing the provisions of article 26 of the Convention implementing the Schengen Agreement.

IV. ASYLUM

A. Relevant acquis

- Articles 28 - 38 of the Convention implementing the Schengen Agreement replaced by the Convention signed in Dublin on 15 June 1990, later replaced by the provisions of the Council Regulation 2003/343 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national
- Commission Regulation (EC) 2003/1560 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national
- Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of „Eurodac” for the comparison of fingerprints for the effective application of the Dublin Convention
- Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) (No 2725/2000 of 11 December 2000 concerning the establishment of „Eurodac” for the comparison of fingerprints for the effective application of the Dublin Convention

B. Current situation

In the field of asylum, in order to observe the obligations of Romania as EU member state, an extended reform was necessary both at legislative and institutional level. Romania has at present a modern and harmonized framework in line with European acquis and standards.

Thus, at institutional level, by merging the main structures with competencies in managing migration in Romania, namely the Authority for Aliens and the National Refugee Office, by GEO no. 55/2007 of June 20, 2007, the Romanian Immigration Office was created, a structure in the Ministry of Interior and Administrative Reform with competencies in the field of migration and asylum.

At legislative level, by adopting the Law no. 122/2006 on asylum in Romania and the secondary legislation, the national legal framework was harmonized with the provisions of the relevant

community acquis and the relations of inter-institutional cooperation were regulated necessary for implementing the regulations concerning the Dublin and EURODAC mechanisms.

In the context of Romania's accession to the EU, Romania ensured the data exchange and participating in the mechanism for establishing the responsible member state for examining the asylum application (Dublin Regulation) which imposed the implementation and operationalization beginning with 01.01.2007 of the IT systems DubliNet and EURODAC. At present, the DubliNET system is completely functional and 95% of the official mail is sent through this line of communication. From the date of EU accession, 39 transfers in and from Romania according to Regulation 343/2003 – Dublin II. Also, the print system EURODAC ensures the permanent exchange of information with the central data base in Luxembourg and efficiently applying the provisions of Regulation 2003/343 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

C. Main objectives

- Continuous monitoring the relevant acquis in the field of asylum.

V. POLICE COOPERATION

A. Relevant acquis

- Articles 39 – 47 of the Convention implementing the Schengen Agreement
- SCH/Com-ex (98) 52 – 16.12.1998 – Cross-border police cooperation Manual
- SCH/Com-ex (99) 6 – 28.04.1999 – Telecommunications
- SCH/Com-ex (99) 7 rev. 2 – 28 April 1999 on liaison officers
- Schengen Com. Ex. Decision (99) 11 rev – 28.04.99 – Decision on Cooperation Agreement regulating the procedures for highway infringements
- Council Decision 2000/586/JHA of 28 September 2000 establishing a procedure for amending Art. 40 (4) and (5), 41 (7) and 65 (2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders
- Council Decision 2003/170/JHA of 27 February 2003 on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States, except for art.8

- Council Decision 2003/725/JHA of 2 October 2003 amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders
- Council framework decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union
- Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network
- Council Decision 2004/919/EC of 22 December 2004 on tackling vehicle crime with cross-border implications

In december 2006, the Romanian Governement adopted GEO no. 103/2006 on several measures for facilitating international police cooperation, published in the OJ no. 1019 of 21.12.2006.

This normative act includes provisions regarding the organization and attributions of the Center for International Police Cooperation, several working procedures on information exchange through the assistance request (the content of the assistance request, the way of transmitting them), the cooperation through the home affairs attaches and liaison officers, cross-border pursuit, as well as several special dispositions on cooperation with the EU Member States.

The relevant provisions of the Schengen acquis (the Schengen Common Manual, the Police Cooperation Manual, the SIRENE Manual, the Catalogues for recommendations and best practices) represent documents focused in the process of legislative harmonization in the field of police cooperation.

B. Current situation: Structure of the internal cooperation

1. Police structures with competences in the field of Schengen cooperation

- Center for International Police Cooperation (CIPC) (central structure)

CIPC is the central national structure for police cooperation specialized in the exchange of operative information in the field of combating cross-border crime which is subordinated to the Ministry of Interior and Administrative Reform, in the competence of the Department for Public Order and Safety.

The main competences of the central structure

- It represents the single contact point at national level in the field of international police cooperation according to article 4 of the GEO no. 103/2006
- It receives, processes and sends data and information for police which is supplied both by the national structures and the foreign police authorities through Romanian and foreign home affairs attaches and liaison officers, the National Interpol Bureau and the Europol National Unit
- It supports the other law enforcement agencies in Romania in preventing and combating cross-border crime

The CIPC is presented in Annex 4.

- Romanian Police

The Romanian Police is part of the Ministry of Interior and Administrative Reform and is the specialized institution of the state which exercises attributions in defending fundamental rights and freedoms of the person, of private and public property, preventing and discovering crimes, preserving public order and safety, under the conditions of Law no. 218/2002 on organizing the functioning of the Romanian Police with the following modifications and completions and Law no. 360/2002 on the Statute of the Police Officers with the following modifications and completions.

The organizational chart includes three levels namely:

- Public safety
- Crime investigation
- Combating organized crime

For fulfilling the attributions given by the legislation in force, the Romanian Police is organized as follows:

- The General Inspectorate of the Romanian Police
- Territorial units subordinated of the General Inspectorate of the Romanian Police, the Police General Directorate of Bucharest and county police inspectorates
- Education institutions for training and continuous training of the personnel
- Other units necessary for fulfilling the specific attributions of the police, established according to the law

- Romanian Border Police

The Romanian Border Police is part of the Ministry of Interior and Administrative Reform and is the specialized institution of the Romanian state which exercises the following attributions:

- Surveillance and control of crossing the Romanian state border
- Preventing and combating illegal migration and deeds specific to cross-border crime
- Observing the legal regime of the state border, passports and aliens
- Respecting public order and safety, defending state interests in the competence area, according to the law

2. Organization of CIPC

2.1. The Dispatch of the Center functional 24/7 days, is part of the Dispatch Service, Classified Documents and Secretariat and is composed of 10 persons, which ensures the receiving of assistance requests for all the cooperation channels (INTEROL, EUROPOL, SECI, home affairs attaches and liaison officers, national authorities).

It was set up in 2004 after the model of EU states in order to handle more numerous assistance requests both at national level and international ones in the field of police cooperation.

The main competences of the common dispatch are:

- It receives/transmits assistance requests permanently 24 hours a day, 7 days a week which concern all the attributions and competences of the CIPC for all the channels of cooperation and in case of urgent requests, it performs checks in the data bases or the territorial units and communicates the answer with prior approval of the management
- It ensures receiving and recording of all information transmitted from the central and territorial units
- It ensures by phone connection with the persons requested for solving the operative problems as well as transmitting the documents and messages by observing the legal provisions regarding the copying, distribution, withdrawal and destroying of documents used for information
- It receives, records and transmits the requests for international assistance addressed to home affairs attaches and liaison officers of the Ministry of Interior accredited in other states or international organizations by the Romanian authorities
- It ensures the permanent connection with the General Secretariat of INTERPOL and the Central National Bureaus from the states members of the organization as well as with other operative police cooperation bodies

2.2. SIRENE Service was created in August 2004 and it currently has under its competence 7+1 officers.

In April 2007, a contest was organized for the head of the SIRENE Bureau. Development of this bureau will continue according to its development plan (see Chapter Schengen Information System).

2.2.1. Description of the future tasks of the SIRENE bureau and its cooperation with the national law enforcement agencies

The National Focal Point is part of the Center for International Police Cooperation included in the Department for Public Order and Safety. The cooperation platform reunites the National Focal Point (the Operational Unit, the National Europol Unit and the SIRENE Bureau) and the National Interpol Bureau and it ensures the operational information exchange between the home affairs attaches and the liaison officers from Romania and other countries.

The National Focal Point serves as a contact point for the exchange of data and information in the field of police cooperation with the SECI Center, foreign liaison officers and home affairs attaches in Romania. It was reorganized in order to set up the future SIRENE bureau.

Among the activities carried out in the twinning project PHARE 2002 - RO02/IB/JH-03 there was the drafting together with the foreign experts a development plan for the SIRENE bureau which includes issues related to human resources, material resources as well as a preliminary budget assessment regarding the necessary equipment for operationalizing the SIRENE Bureau and the system for processing the cases of the SIRENE Bureau.

The above mentioned twinning project continued by carrying out the second PHARE project 2006 – RO06/IB/JH-01 „Schengen Acquis Approximation”, having as partner Germany. The project is three fold namely legislative harmonization, SIRENE Bureau and cross-border police cooperation.

Within the component for the SIRENE Bureau, activities were carried out for drafting a guideline for the national SIRENE bureau. This guide will contain information on the tasks of the SIRENE Bureau regarding the alerts in the SIS, primary aspects related to information flow within SIRENE, as well as cooperation with the national law enforcement agencies, police cooperation for articles 39-41 and 46 of the CISA, data protection and human resources. Also, this document will contain a series of recommendations of German and Slovak experts regarding the aspects observed in Romania.

The SIRENE Bureau will be operational at the time when the National IT System for Alerts (NISA) is set. At the moment of Schengen accession, the system as well as the management of human resources of the SIRENE bureau will be in line with the recommendations and best practices of the Schengen Catalogues.

2.3. The National Bureau INTERPOL (BNI) represents the structure ensuring international police cooperation through exchange of data and information between the Romanian law enforcement agencies and the central national bureaus from member states of the Interpol Organization, as well as with the General Secretariat of the organization.

The Operational Service is the structure that ensures the exchange of operative data and information between Romania and the Center for Regional Cooperation in South East of Europe (the SECI Center) for combating cross-border crime and among Romanian and foreign law enforcement agencies through Romanian home affairs attaches and liaison officers, as well as through Foreign home affairs attaches and foreign liaisons officers.

2.5. The National Europol Unit is the liaison structure between the European Police Office – Europol and the national Romanian authorities for law enforcement which target crimes done on the territory of EU Member States and those states with which cooperation agreements were concluded.

The manner of cooperation between the CIPC and other Romanian law enforcement agencies is presented in Annex 5.

3. International relations

Fields:

- Cooperation with neighboring states
- Cooperation with the EU Member States
- Europol cooperation
- Interpol cooperation

3.1. Relations with the neighboring countries:

- Operational cooperation is done through the exchange of operative data and information
- Among the Romanian law enforcement authorities and those similar of the neighboring countries through the home affairs attaches and liaison officers (Hungary, Bulgaria, Republic of Moldova, Ukraine)
- Cooperation through SECI is done using Romanian liaison officers and customs officers at the SECI Center, for preventing, provingm investigating and combating cross-border crime

3.2. Relations with the EU Member States:

- Operational cooperation is done through the exchange of operative data and information between Romanian law enforcement authorities and those similar of the EU Member States through home affairs and liaison officers (France, Germany, Greece, Spain, Italy, the Netherlands, Poland, Austria, the Czech Republic, Great Britain, Portugal, Turkey and Belgium)

- Twinning programs

- At the level of CIPC two twinning programs were carried out for SIS/SIRENE (finished in 2005) and Europol (finished in 2005).

In 2006, the project fiche for the program exercise PHARE 2006 RO/06/IB/JH/01 „Schengen Acquis Approximation” was drafted and Germany was chosen as partner.

The project started in October 8, 2007 and is three fold: component 1 – legislative harmonization, component 2 – SIRENE Bureau and component 3 – cross-border police cooperation in the Schengen area. The project was carried out during October 2007 – October 2008 and until now, it has been carried out according to plan.

- At the level of the Romanian Police, a twinning project *Phare 2006* „Adopting the concept of led policing in the field of organized crime”. The partner country is Germany.

3.3. Europol – cooperation with Europol is done through the National Focal Point

- The National EUROPOL Unit (UNE) was set up in 2003 în anul 2003 and it was later consolidated by implementing the twinning program 2003/IB/JHA/006 in cooperation with the Netherlands and Austria, becoming operational in 2004
- UNE Romania is made up of 7+1+3 (detached by the Romanian Border Police, the Border Police, the Romanian Intelligence Service)
- It represents the national contact point between the Romanian national law enforcement agencies and Europol, namely the similar structures of the Member States
- At present, an information exchange is carried out on the basis of the EUROPOL Convention, which entered into force on 01.08.2007
- The information exchange is done through a Romanian liaison officer seconded at the EUROPOL headquarters in The Hague and the technical support is ensured through a secured line of communication made available by Europol
- The project for Europol extension was finished
- Officers from the National Europol Unit ensure the participation to the meetings of Europol Management Board and Heads of Europol National Unit
- In February 2008, access was achieved to the Europol Information System as well as to the portal for combating terrorism „Check the Web”

3.4. Relation through Interpol

The National INTERPOL (B.N.I.) Bureau ensures the exchange of police information regarding the activity of offenders. These data is necessary to identify them and prove the crimes as well as for extradition-related activities – preventive arrest in case of emergency, hand over/take over of the extradited person, the procedure for requesting the extradition by Romania, distributing the request for preventive arrest through INTERPOL chanel, hand over/take over of convicted offenders.

These activities are done through the three specialized services, namely the Unit for International Pursuit and Extradition, the Unit for Operative Documentation, the Unit for Judicial Identification.

4. Operative cooperation

4.1. Mutual assistance (article 39 of the Convention implementing the Schengen Agreement)

The Center for International Police Cooperation, part of the Department for Public Order and Safety, represents the national platform for police cooperation, a single specialized entity for the exchange of operative information in the field of combating cross-border crime. Creating this structure fulfills the requirements of article 39, paragraph 3 of the Convention implementing the Schengen Agreement, modified by the Council Framework Decision 2006/960/JHA of December 18, 2006 for simplifzing the data exchange between the law enforcement authorities of the EU Member States, as well the recommendations and best practices stipulated by the Schengen Catalogue for police cooperation.

The CIPC ensures the operative connections between the Romanian competent authorities and the home affairs attaches and liaison officers of the Ministry of Interior and Administrative Reform accredited in other states or at the international organizations/bodies, between the foreign home affairs attaches and liaison officers accredited in Bucharest and the competent Romanian authorities, as well as managing the information flow for operative interest related to the international cooperation carried out by the specialized structures of the Ministry of Interior and Administrative Reform.

The platform reunites on one hand the National Focal Point made up of the Operational Unit (which ensures the operational exchange of information with the SECI Regional Center between the Romanian and foreign law enforcement agencies through Romanian and foreign home affairs attaches and liaison officers), the National Europol Unit, the future SIRENE Bureau and on the other hand, the National Interpol Bureau.

The GEO no. 103/2006 on several measures for facilitating the international police cooperation, approved by Law no. 104/2007 which includes provisions regarding the working procedures for the information exchange through the request for police assistance (the content of the request for assistance, the manner of transmitting it), cooperation through the home affairs attaches and

liaison officers, as well as several special dispositions on cooperating with other EU Member States.

4.2. Cross-border operations (article 40 and 41 of the CISA)

Articles 40 and 41 of the CISA are not obligatory not applicable for Romania now.

Romania will be able to apply the provisions of the Schengen Convention regarding cross-border surveillance and pursuit until becoming a full Schengen member. Great attention is paid to identifying and analyzing the solutions in the field of cross-border surveillance and pursuit for example between France and Germany or the Netherlands and Germany.

Also, bilateral cooperation agreements signed by Romania with Hungary and Bulgaria will be renegotiated in order to become compatible with the provisions of the correspondent articles of the Schengen Agreement and possibly extending the scope of the Schengen Convention

GEO 103/3006 on some measures for facilitating international police co-operation stipulates provisions regarding cross-border surveillance.

Provisions on cross-border surveillance are also stipulated in Law 302/2004 with modifications and completions of Law 224/2006.

4.3. Additional provision on cross-border cooperation - (Articolul 44 of CISA)

Concerning art. 44, mention must be made of the fact that starting with 2002, efforts have been made for the identification of viable technical solutions to support cross-border cooperation between the Romanian authorities with border competence and the similar authorities in Bulgaria. In this context, the Romanian counterpart has made available and is able to render operational the equipment and the accessories that will ensure fix data and voice communication links between border crossing point Giurgiu and its counterpart, Ruse in Bulgaria. Similar solutions can be further made available for other communication channels to be jointly selected by the competent authorities in Romania and Bulgaria, according to the actual needs of the cross-border cooperation process. Similar steps were initiated in relation with Hungary, in 2002, but lesser results were achieved.

By implementing and developing the system of common centers and contact points (Bors-Artand/Hungary, Giurgiu-Ruse/Bulgaria), Romania intends to solve the issue related to facilitating cross-border cooperation relations (art. 44 of the Schengen Convention).

4.4. Article 45 of the Convention implementing the Schengen Agreement (the obligation of filling in the application forms at the accommodation centers) was incorporated in the national legislation regulating aliens' regime (art. 12 para (2) from GEO no. 194/2002 on aliens' regime in Romania, republished and amended by Law 482/2004.

4.5. Exchange of information (Articolul 46)

The Romanian current practice and experience in international police cooperation are in line with the provisions of article 46 amended by Council framework decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union. The cooperation agreements in force stipulate the possibility of spontaneous information in case of imminent risk. The regulations in force set up working procedures allowing for direct contacts in emergency cases, making it mandatory to inform the central authority, either at the same time, or as soon as possible.

4.6. The liaison officers

GEO no. 30/2007 on the organization and functioning of the Ministry of Interior and Administrative Reform, (approved with amendments by Law no. 15/2008), authorises the Ministry of Interior and Administrative Reform to develop and maintain international relations with similar authorities of the states with which Romania has diplomatic relations and with specialised international organizations or bodies. In doing so, the MIAR may be represented abroad by home affairs attaches (HAA) or liaison officers (LO) appointed by the minister and accredited as such to the (or by the) authorities of the respective foreign states or international organisations or bodies.

The main tasks of both home affairs attaches and liaison officers are in line with the provisions of art.7, 47 and 125 of the Schengen Convention (advise, facilitate and assist the joint work and exchange of information in connection with international law enforcement cooperation). As opposed to the home affairs attaches, the liaison officers has a shorter mandate in terms of duration of the secondment, a more limited geographical area of operation, and more focused fields of cooperation with the authorities in the host country.

They also have attributions related to illegal migration, taking part in the liaison officers' network on immigration issues, according to Council Regulation no. 377/2004 of 19.02.2004. Also, according to their attributions, they reply to the request of the law enforcement agencies from Member States, according to the provisions of Council Decision no. 2003/170/JHA of 27.02.2003.

On 01.04.2008, Romania had 34 home affairs attachés posted in the following countries: NATO (1), EU (1), Europol (1), Italy (3), Germany (2), France (2), Great Britain (2), Holland (2), Spain (2), Turkey (2), Austria (2, out of whom one is also accredited in Slovenia and Slovakia), Belgium (1, also accredited to Luxembourg), Bulgaria, the Czech Republic, Greece, Ireland, Norway, Poland, Russia, Serbia, Ukraine, Hungary, Croatia, Switzerland, the United States of America (1).

C. Measures

Legislative Measures

Drafting the methodological norms of the GEO no. 103/2006 on some measures facilitating international police cooperation, approved by Law no. 104/2007 on Schengen cooperation component

Deadline: 31.12. 2008

Responsible institution: Ministry of Interior and Administrative Reform
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Administrative/technical measures

1. Setting up and developing the international police cooperation component in Schengen context (art. 39-41 and art. 46 of the CISA) within the Center for International Police Cooperation

1.1. Identifying and filling in the necessary positions for setting up the international police cooperation component in the Schengen context, as well as the relevant financial resources

Deadline: 31.03.2009

Responsible institution: the Ministry of Interior and Administrative Reform
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1.2. Recruitment of personnel able to activate within the international police cooperation component in Schengen context (art. 39-41 and art. 46 of the CISA)

Deadline: 31.12.2009

Responsible institution: the Ministry of Interior and Administrative Reform
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1.3. Establishing personnel training modules on international police cooperation in Schengen context

Deadline: 31.06.2009

Responsible institution: the Ministry of Interior and Administrative Reform
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VI. JUDICIAL COOPERATION

1. Judicial cooperation in criminal matters

A. Relevant Acquis

- Article 48 – 53 from the Convention Implementating the Schengen Agreement
 - The European Convention on judicial assistance in criminal matters, adopted in Strasbourg on 20 April 1959
 - The first additional Protocol from 17 March 1978 to the European Convention of judicial assistance in criminal matters
 - The second additional Protocol from 8 November 2001 to the European Convention of judicial assistance in criminal matters
 - Framework Decision 584/2002, on the European arrest warrant and surrender procedure between Member States
 - Council Act of 29 May 2000 establishing in accordance with art. 34 of the Treaty on the EU, the Convention on Mutual Assistance in Criminal Matters between the Members of the EU
 - Council Act of 16 October 2001 establishing, in accordance with art. 34 of the Treaty on the EU, the Protocol to the Convention on Mutual Assistance in Criminal Matters between the Members of the EU UE
 - Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties
 - Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders -
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B. Current situation

1. Schengen Acquis

Romania has ratified, under Law no. 236/1998, both the European Convention on Mutual Assistance in Criminal Matters, adopted in Strasbourg on 20 April 1959, and its First Additional Protocol, adopted in Strasbourg on 17 March 1978. Also, Romania is among the first 10 States that ratified the Second Additional Protocol to the European Convention on Mutual Assistance in

Criminal Matters, adopted in Strasbourg on 8 November 2001 (Law no. 368/2004). The Second Protocol entered into force for Romania on the 1st of March 2005.

The provisions of the instruments adopted at the level of the Council of Europe currently regulate relations of judicial co-operation in criminal matters between Romania and the Member States of the EU, including the Schengen States, which are party to such conventions, as well as relations with the other European States that are not members of the EU and with non-European States that have ratified such instruments.

Naturally, in relations between Romania and the EU Member States, the provisions of Council of Europe conventions are supplemented by those of the Convention concluded by the Council, on grounds of Art. 34 of the Treaty of the European Union, on 29 May 2000, regarding mutual assistance in criminal matters between Member States of the EU (further herein referred to as the EU Convention of 29 May 2000) and by those of the Protocol of 16 October 2001 additional to the EU Convention of 29 May 2000. Romania has acceded to these community acts according to art. 3 para. 3 of the Act of accession by Romania and Bulgaria to the EU, an integrated part of the Treaty concerning the accession of Romania and Bulgaria to the EU, as ratified by Romania under Law no. 157/2005.

The EU Convention of 29 May 2000 and its Additional Protocol entered into force for Romania on 1 December 2007.

Law 302/2004 is harmonised with the community acquis in this matter, and it also transposes Council Framework Decision No. 584/JHA/2002 of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between the Member States of the EU, the Framework Decision of 13 June 2002 on Joint Investigation Teams and the EU Convention of 29 May 2000 on Mutual Assistance in Criminal Matters and the provisions on judicial cooperation of the CISA.

In the matter of transfer of proceedings in criminal matters, Title IV of Law No. 302/2004 has been supplemented with a new chapter: Chapter II¹ implementing provisions on the principle of non bis in idem - Art. 54 of the CISA.

Also, in the matter of mutual assistance in criminal matters, provisions were introduced to transpose in full the provisions regarding mutual assistance contained in the Convention of 19 June 1990 applying the Schengen Agreement. Thus, Title VII “Judicial assistance in criminal matters” has been supplemented by inserting a new chapter: Chapter 2 “Provisions on judicial assistance, applicable in relations with the Member States of the European Union”, which is divided into two sections: Section 1 which contains provisions implementing the CISA (Art.49, Art. 51, Art.52 and Art. 53 of the CISA), and Section 2 introducing provisions that implement the additional Protocol of 2001 to the Council Convention, based on Art. 34 of the Treaty of the European Union, of 29 May 2000, on Mutual Assistance in Criminal Matters between Member

States of the EU, regarding information about bank accounts, bank transactions, as well as information obtained by monitoring bank accounts.

The provisions of the Schengen Convention that relate to extradition (Art.66) and to execution of criminal judgements (Art. 68 and Art. 69), as well as those of the Council Framework Decision 584/JHA/2002 of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between the Member States have been transposed since 2004, under Law no. 302/2004.

2. Strengthening Romanian Judicial Network in criminal matters

By Order of the minister of justice no.948/C/31.03.2004, the Romanian Judicial Network in the field of judicial co-operation in criminal matters was created, by re-organizing the Network of local correspondants in the field of international judicial assistance, set up in 2001.

Order No. 398/C/06.02.2007 by the minister of justice designated the national contact points to the European Judicial Network in criminal matters, and the Romanian Judicial Network in criminal matters was reorganised as a national counterpart of the European Judicial Network. The Romanian Judicial Network in criminal matters is composed of judges and public prosecutors from the 15 courts of appeal and from the prosecution offices attached to them, as well as of the national contact points to the European Judicial Network.

In 2007, within the framework of the programme of co-operation between the Ministry of Justice and the EIPA, 2 seminars were organised for the training of judges and public prosecutors, regarding the implementation of the new community instruments in this field.

Moreover, in 2007, the Ministry of Justice, in collaboration with the judges and the public prosecutors who are members of the Romanian Judicial Network in criminal matters, organised 3 work sessions at the level of appeal courts and the prosecution offices attached to them, with Romanian judges and public prosecutors from the jurisdictions of those courts of appeal. The work sessions aimed at providing practical and theoretical information on the community acquis in the field of justice and home affairs – judicial cooperation in criminal matters (the Framework Decision No. 584/JHA of 13 June 2002 on the European Arrest Warrant and the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between Member States of the European Union and its Additional Protocol of 2001), as well as at identifying judicial practice issues existing in this field in Romanian courts and prosecution offices. At the same time, the sessions were targeted at the dissemination of the information related to the European Judicial Network and Eurojust.

This measure was in line with the efforts made in view of training the Romanian magistrates to implement the community instruments on judicial cooperation in both criminal and civil matters.

Within the PHARE project “Strengthening the institutional and legislative framework on international judicial cooperation” which has as partners Romania and Austria, a study visit was undertaken to France during 19 – 23 February 2007. Thus, Romanian experts from the Ministry of Justice, as well as judges and prosecutors who are members of the Network, met with French experts from the French Ministry of Justice, as well as with members of the Judiciary from the Courts of Appeal in Paris and Versailles.

Issues related to implementing the European arrest warrant, the order on the freezing of assets, the transfer of sentenced persons, art.21 of the European Convention on Mutual Assistance in Criminal Matters and the tasks of the Ministry of Justice in the field of implementing the European arrest warrant were discussed. This study visit continued in March with a study visit to Austria from 4 to 9 March 2007.

At the same time, within the same project, in 2007 several seminars for continued training were organized which ensured the training of 600 Romanian judges and prosecutors and 300 court clerks. Also, a Manual for judicial cooperation in criminal matters was drafted for judges and prosecutors and a Manual for judicial cooperation in civil and criminal matters for court clerks.

In 2007, the GEO no. 123 of 5 November 2007 was adopted regarding several measures for consolidation the judicial cooperation with the EU Member States. By Title III, the mentioned normative act contains provisions regarding the contact points of Romania for the European judicial networks and the Romanian judicial networks. For the first time, a base at the level of law was created by establishing the Romanian Judicial Network in criminal matters which existed previously at the level of order of the minister of justice as well as for the national contact points in the European Judicial Network in criminal matters.

3. Creating the judicial co-operation framework with Eurojust

Law no. 58/2006 ratifying the Agreement on cooperation between Romania and Eurojust, signed in Brussels on 2 December 2005, and regulating measures regarding Romania’s representation at Eurojust, during the pre-accession period and after Romania’s accession to the European Union – , published in the Official Journal No. 300/04.04.2006, provides the appropriate framework for cooperation with Eurojust.

Based on art. 5 of the Agreement on cooperation between Romania and Eurojust, the Decree No. 1045 of 17 August 2006, published in the Official Journal no. 716 of 21 August 2006, beginning with 18 September 2006, Ms. Elena Dinu, Head Prosecutor with the Office of International Judicial Assistance within the Directorate of Investigation of Offences of Organised Crime and

Terrorism at the Prosecutor Office of the High Court of Cassation and Justice, was appointed as liaison magistrate with Eurojust.

By Title I of the GEO no. 123 of 5 November 2007 several measures for consolidation the judicial cooperation with the EU Member States the complete legal framework was created for applying the Council Decision of 28 February 2002 setting up Eurojust with a view to enforcing the fight against serious crime (2002/187/JHA). Thus, the provisions of Law no. 58/2006 were taken over which were abrogated except for those regarding the ratification of the Agreement on cooperation between Romania and Eurojust signed in Bruxelles on 2 December 2005, which finished its validity period at the date of Romania's accession to the EU. At the same time, new provisions were included in order to facilitate the application of Council Decision 2002/287/JHA and regulate in detail the limits of the competences of the Romanian representative at Eurojust, the cooperation procedure between the Romanian authorities and Eurojust, as well as the procedure for appointing the Romanian representative in the Eurojust Joint Supervisory Board.

4. Creating the legal framework for liaison officers

By Title II of the GEO no. 123 of 5 November 2007 on several measures for consolidating the judicial cooperation with the EU Member States, the legal framework for sending on the basis of bilateral and multilateral agreements Romanian liaison magistrates in EU countries was created, as well as in third countries in order to apply the Common Action of 22 April 1996 adopted by the Council on the basis of article K.3 of the Treaty on the European Union for creating a framework for the exchange of liaison magistrates for the purpose of judicial cooperation among the EU Member States, published in the OJ L 105, 27.4.1996.

Thus, in the specialized directorate of the Ministry of Justice, the central authority in the field of international judicial cooperation, 10 positions for liaison magistrates were created.

The first liaison magistrates were sent to Italy in December 2007. In order to conclude other bilateral agreements with Member States with which Romania has intense cooperation relations, such as Spain, Austria, Germany, other liaison magistrates will be sent.

5. Updating the electronic guides for international co-operation in criminal matters published on the web site of the Ministry of Justice

The Guide was updated with excerpts from the community legislation applicable in the field of judicial cooperation in criminal matters and also supplemented with instructions meant to facilitate the implementation by Romanian judges and public prosecutors of the main community legal instruments on judicial cooperation in criminal matters in relations with EU Member States, a guide of international legal assistance and 2 information sets about how to implement the European arrest warrant.

Within the program PHARE RO 2005/IB/JH 03 Strengthening the institutional and legislative framework on international judicial cooperation”, in the IT module, a new structure of the guide was drafted which is currently in the final phase of design.

6. Endowment with modern equipment, automation of 15 Courts of Appeal according to the Strategy for Judicial Reform and to the plan for implementing that Strategy

Through the leasing contract No. 1/2006 the equipment needed to provide basic endowment to the 15 courts of appeal (servers, computers, printers) was purchased.

Currently, the majority of personnel in law courts have their own PC, an Internet connection, access to e-mail, as well as a program of electronic legislation. Also, summons, session lists, as well as other documents used in judicial proceedings, are edited by means of ECRIS software, which provides also a statistical database at the level of each court of appeal.

C. Main objectives

- Continuing the harmonization with the legal instruments adopted by the EU in the field of judicial cooperation in criminal matters
- Continued training for judges and prosecutors
- Modernizing and developing the data management infrastructure (IT&C)

D. Measures

Legislative measures

Approving a legal project for modifying and supplementing the Law no. 302/2004 on international judicial cooperation in criminal matters

Deadline:	31.12.2009
Responsible institution:	the Ministry of Justice

Institutional measures

Continuing the training of judges and prosecutors

Deadline:	31.12.2009
Responsible institution:	the National Institute for Magistrates

Technical/administrative measures

Purchasing the necessary equipment for Bucharest Appeal Court and endowing other appeal courts to apply dispositions related to audiences by videoconferences stipulated in Law no. 302/2004 on international judicial co-operation in criminal matters

Deadline:	31.12.2008
Responsible institution:	the Ministry of Justice

2. *Non bis in idem* principle

A. Relevant acquis

- Articles 54-58 of the Convention implementing the Schengen Agreement.

B. Current situation

In Romania the *nonbis in dem* principle is applied according to the provisions of articles 2 and 10 from the Criminal Code, art.10 and Chapter II¹, Title IV of Law no.302/2004.

3. Extradition

A. Relevant acquis

- Articles 59 - 66 from the Convention implementing the Schengen Agreement as replaced by Council Framework Decision 584/2002, on the European arrest warrant and surrender procedure between Member States
- Provisions of the Convention on the simplified extradition procedures between the EU Member States of 1995 and the Convention on extradition between the EU Member States of 1996 which is mentioned in Council Decision 2003/169/JHA of 27.02.2003 which determines the provisions of the 1995 and 1996 Conventions that represent evolutions of the Schengen acquis according to the Agreement on the association of the Republic of Iceland and Kingdom of Norway in implementing, applying and developing the Schengen acquis

B. Current situation

Romania ratified the European Convention on Extradition and its two additional Protocols by Law no. 80/1997.

Law No. 302/2004 is harmonised with the community acquis in this matter, transposing also Council Framework Decision No. 584/JHA/2002 of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between the Member States, the Framework Decision of 13 June 2002 on Joint Investigation Teams and the EU Convention of 29 May 2000.

As regards the provisions concerning the European arrest warrant, they entered into force for Romania on January 1, 2007, the date of Romania's accession to the EU, and are implemented successfully. In 2007, the Romanian judicial authorities executed over 190 European arrest warrants issued by judicial authorities of the other EU Member States, and over 856 European arrest warrants were been issued by Romanian judicial authorities and sent for execution.

Under Law no. 224/2006 amending and supplementing Law No. 302/2004 on international judicial co-operation in criminal matters, the provisions of the Romanian law applicable in this field have been supplemented with provisions that implement legal instruments adopted at the level of the European Union. Law no. 224/2006 was published in the Official Journal of Romania, Part I, No. 534 of 21 June 2006 and has entered into force on 24 June 2006.

Thus, Title II "Extradition" of Law No. 302/2004 has been supplemented with a new chapter: Chapter III¹ entitled "Provisions for the implementation of legal instruments relating to extradition and adopted within the European Union", which introduces provisions for implementing the Convention of 10 March 1995 on simplified extradition procedures between the Member States of the European Union and the Convention of 27 September 1996 relating to extradition between the Member States of the European Union, as well as the provisions relating to extradition contained in the Convention of 19 June 1990 applying the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders - Art. 62, Art. 64 and Art. 63 (further herein referred to as the Convention of 19 June 1990 applying the Schengen Agreement). These provisions will apply in relation to the EU Member States that have uttered statements on the non-application of the Council Framework Decision No. 584/JHA/2002 of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between the Member States for acts committed prior to a certain date (France, Italy, Austria, Luxembourg).

C. Measures

Legislative measures

Continuing the training of judges and prosecutors within seminars and courses in order to apply the new legislation in the field of judicial cooperation in criminal matters

Deadline:	31.12.2009
Responsible institution:	the National Institute for Magistrates

4. Transfer of convicted persons

A. Relevant acquis

- Art. 67- 69 from the Convention implementing the Schengen Agreement
- European Convention on the transfer of condemned persons adopted in Strasbourg on 21 March 1983
- The additional Protocol to the European Convention on the transfer of convicted persons adopted in Strasbourg on 18 December 1997

B. Current situation

Romania ratified the European Convention on the transfer of condemned persons by Law no. 76 from 1996, as well as its additional Protocol by GO no.92/1999 (OJ no.425/31.08.1999), approved by Law no. 511/2001 (OJ no. 643 from 15.10.2001).

Law 302/2004 includes in Title VI - Transfer of condemned persons, provisions facilitating the implementation of the European Convention and Additional Protocol on transfer of condemned persons, as well as provisions implementing art. 68 - 69 of CISA.

The topics and cases discussed in the training seminars that were organised within the programme of cooperation between the Ministry of Justice and the EIPA have provided appropriate information and training to judges and public prosecutors.

In what concerns the transfer of sentenced persons or the recognition and execution of Romanian or foreign criminal judgements, the implementation of instruments in such matters was successful and no difficulties were met with in practice.

C. Measures

Institutional measures

Continuing the training of judges and prosecutors within seminars and courses in order to apply the new legislation in the field of judicial cooperation in criminal matters

Deadline:	31.12.2009
Responsible institution:	the National Institute for Magistrates

VII. FIGHT AGAINST DRUGS

A. Relevant acquis

- Articles 70-72 and 74-76 - the Convention implementing the Schengen Agreement
- Council Regulation 2004/273 on drug precursors
- Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between Community and third countries in drug precursors
- Council Regulation (EC) No 1277/2005 applying Council Regulation 2004/273 and Council Regulation (EC) No 111/2005
- The 1971 UN Convention on psychotropic substances
- The 1988 United Nation Convention against the illicit Traffic in Narcotic Drugs And Psychotropic Substances
- Article 12 of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between Member States
- Agreement on illicit traffic by sea, signed on 31 January 1995, implementing article 17 of the UN Convention against illicit traffic in narcotic drugs and psychotropic substances, done in Vienna on 20 December 1988
- SCH/Com-ex (93)9 – of 14.12.1993 - Confirmation of the Ministers and State Secretaries declaration against drugs
- SCH/Com-ex (93)14 of 14.12.93 – Strengthening the practical co-operation between the judicial authorities with the purpose of countering trafficking in drugs
- SCH/Com-ex (94)28 Rev. – 22.12.1994 – Permit delivered on the basis of Article 75 regarding drugs and/or psychotropic substances transport

- SCH/Com-ex (99)25 – 22.03.1999 – General principles regarding informers an infiltrated persons payment
- SCH/Com-ex (99)1 Rev. 2 – 28.04.1999 – Current situation on drugs
- SCH/Com-ex (99)8 rev 2 – 28.04.1999 – Means of payment for informers

B. Current situation

Legislation

Romania joined, under Law no. 118/1992, the 1971 United Nations Convention on psychotropic substances and the 1988 United Nation Convention against the illicit Traffic in Narcotic Drugs And Psychotropic Substances. Also, under Law no. 394/2002, the Agreement on Illicit Traffic by Sea, adopted in Strasbourg on 31 January 1995, in order to enforce art.17 of the UN Convention on fighting against illicit drug and psychotropic substances trafficking, drafted in Vienna, on December the 20th, 1988, was ratified.

Articles no. 71 and 73 of the Convention implementing the Schengen Agreement are incorporated in the national legislation under Law no. 143/2000 on countering illicit drug consumption and trafficking, with further amendments and completions, and GD no. 860/2005 for the approval of the Regulation applying Law no.143/2000, Law no. 39/2003 on the prevention and countering organised crime, Law no.339/2005 on the legal regime of narcotic and psychotropic plants, substances and preparations, entering into force on 01.06.2006.

Article 72 of the CISA is incorporated in the national legislation under Law no. 656/2002 on the prevention and fight against money laundering, with further amendments and completions.

Art.73 of the CISA which limits the controlled deliveries in the case of crimes related to the trafficking in drugs was abrogated and replaced by article 12 of the Convention of 29 May 2000 (on mutual legal assistance in criminal matters among the EU Member States) which imposes on the parties to stipulate in their own legislation the possibility to proceed to controlled deliveries for any crime which implies extradition.

The Romanian legislation in force allows the competent judicial authorities to use such instruments as controlled deliveries (Law no. 39/2003 on preventing and combating organized crime and Law no. 143/2000 on combating the trafficking and illegal use of drugs, with the following modifications and completions).

This was done in Romania through art. 167 of the Law no. 302/2004 on international judicial cooperation in criminal matters, with the following modifications and completions („The competent Romanian authorities authorize upon request under the conditions mentioned in the Romanian legislation, controlled deliveries within criminal procedures for crimes that imply extraditions. The controlled deliveries are done according to the Romanian legislation” – art.167 para.1 and 2. The requesting state is the one that decides if a controlled delivery must or not take

place on its territory according to the procedures stipulated in its legislation. („the decision to carry out controlled deliveries shall be taken on a case by case judgement by the competent authorities of the requested member state, by respecting the national legislation of that state. The controlled deliveries shall take place according to the procedures of the requested states. The right to act and conduct and control the operations shall belong to the competent authorities of that member state” – art.12 point 2 and 3 of the Convention of 29 May 2000).

Art. 74 of the CISA was transposed into the Romanian legislation by Law no. 339/2005 on the legal regime of plants, narcotic and psychotropic substances and solutions, which entered into force on 01.06.2006.

Article 76 of the Convention implementing the Schengen Agreement is incorporated in the national legislation under Law 143/2000 on combating illicit drug trafficking and use, with the following amendments and completions and also by GEO no. 121/2006 on the legal regime of drug precursors, approved by Law no. 186/2007.

SCH/Com-ex (94)28 Rev. – 22.12.94 – Licence issued on the basis of art.75 on the transport of drugs and psychotropic substances and art.75 of the Convention implementing the Schengen Agreement are incorporated in the national legislation by the GD no.1.915 of 22 December 2006 for approving the Implementation rules of Law no. 339/2005 on the legal regime of plants, narcotic and psychotropic substances and solutions .

SCH/Com-ex (93) 14 – 14.12.1993 – was transposed by the provisions of Law no.143/2000, modified and completed by Law 522/2004 for preventing and combating illegal trafficking and use of drugs, with the following modifications and completions.

SCH/Com-ex (99) 8 rev 2 – 28.04.1999 – Means of payment for informers and SCH/Com-ex (99) 25 – 22.03.1999 – General principles regarding the payment of informers and infiltrated persons are transposed by the provisions of art. 22 of Law no. 39/2003 on the prevention and combating of organised crime, according to which: *“Informers can benefit from financial rewards, under the conditions established by Order of the minister of interior and general prosecutor of the Prosecutor office by the Supreme Court of Justice”*.

On the 21st of December 2006, GEO no.121 on precursors’ legal regime was approved and provides the adequate legal framework for the direct application of the European regulations in the field of precursors, respectively:

- Regulation 273/2004/EC on drugs precursors
- Regulation 111/2005/EC laying down rules for the monitoring of trade between the Community and third states in drug precursors
- Regulation 1277/2005/EC laying down the implementing rules for Regulation 273/2004/EC of the European Parliament and of the Council on drug precursors and for

Council Regulation 111/2005/EC laying down rules for the monitoring of trade between the Community and third countries in drug precursors.

According to GEO no.121/2006, the contact point between operators and the authorities is the National Anti-drug Agency which functions as single office concerning the precursors.

Institutional framework

According to the provisions of Government Decision no. 1489/2002, with the following modifications, the National Anti-Drug Agency is the institution within MoIAR establishing the framework conception and ensures unitary co-ordination, on the basis of a national strategy of the fight against illicit use and trafficking in drugs, carried out by the competent authorities and other state institutions and NGO's, it centralises and monitors the results of the co-operation between the Romanian authorities in the field and foreign counterparts.

Romania has continued to develop the administrative capacities of the National Anti-Drug Agency, according to the provisions of Government Decision no. 1093/2004 and GD no. 1873/2006 for modifying and completing GD no. 1489/2002 on the establishment of the National Anti-Drug Agency.

In order to develop the institutional framework for fighting the illegal use and trafficking in drugs, according to the national legislation in line with the community acquis, several organizational and administrative measures were taken in order to strengthen the local structures and fill in the vacant positions of the Agency. Thus, in 2007, in order to ensure a better management of these activities, 13 centers for anti-drug prevention, evaluation and counselling were declared as services. At the end of 2007, at the level of the Agency and the 47 centers for anti-drug prevention, evaluation and counselling, which are all operational, 308 out of 348 positions were filled in which means a percentage of 88,5 %.

The three territorial labs for drug analysis in Iasi, Cluj-Napoca and Timisoara work in the right parameters. Also, in 2007, the territorial lab for drug analysis in Constanta was also established and the personnel for it were employed.

National Anti-Drug Strategy

By GD no. 73/005, the 2005-2012 National Anti-drug Strategy was adopted, hereinafter referred as the National Strategy, drafted in accordance with the guidelines of 2005-2012 European Anti-Drug Strategy. The National Anti-Drug Strategy comprises five main guidelines: request reduction, offer reduction, informing-evaluation, international co-operation and inter-institutional co-ordination.

The general objective of the National Strategy is to maintain a low level of illicit drug consumption and to reduce alcohol use and tobacco use by the general population by strengthening prevention measures and developing public and private medical, psychological and social assistance systems.

The Agency performed the third annual evaluation regarding the implementation of the National Strategy at the beginning of 2008. The 2007 evaluation report will be sent to all institutions involved in drugs request and offer reduction, as well as to all international organisations, according to the international obligations in which Romania takes part.

Also, in 2007, NAA reported every third month to the Romanian Government on the evolution of the drug phenomenon and the measures taken by the institutions involved in request and offer reduction and also those for preventing and combating illegal trafficking and use of drugs.

International co-operation

In 2007 Romania attended for the first time as EU member state the two meetings of the European Monitoring Center for Drugs and Drugs Addiction (EMCDDA) in Lisbon with experts of the NAA.

As a consequence of Romania's accession to the EU, starting with the 1st of January 2007 our country attends, with full rights, the Center's activities. Romania was represented by ORDT experts at 15 reunions of the Center.

The questionnaires and tables regarding the key epidemiological indicators and the major indicators was accomplished were drafted and transmitted to the EMCDDA, as well as the 2007 National Report on drugs situation in Romania (with data from 2006). The Romanian version of this report was presented in Bucharest, on the 23rd of November 2007 by the representatives of the European Center.

Our country was represented in all the reunions of the EU Horizontal Working Party on Drugs in 2007, either by personnel the National Agency or personnel from the Permanent Representation of Romania in Bruxelles.

The president of the National Agency as National Anti-drug Coordinator took part in 2007 in the meetings of National Anti-drugs coordinators of the EU Member States in Berlin and Lisbon, organised uner the German and Portugese presidencies of the EU.

On January 23, 2007, Romania was admitted with full rights in the Dublin group.

C. Main objectives

- Legal harmonization

- Institutional construction
- Human resources management&development
- Upgrading operational control equipment – investment programmes

D. Measures

Institutional measures

1. Creating a Central Register for Investigation and Research in the field of drugs and related crimes which will include all the operations carried out by any institution with attributions in law enforcement (the General Inspectorate of Romanian Police, the General Inspectorate of Border Police and the Directorate for Investigating Organized Crime and Terrorism from the Prosecutor's Office of the High Court of Cassation and Justice) and allow records for operations under way so that the priorities could be set and efficiency and coherence in law enforcement be ensured

Deadline:	31.12.2008
Responsible institution:	the Public Ministry, the Ministry of Interior and Administrative Reform

2. Strengthening the inter-institutional cooperation between the institutions involved in implementing the National Strategy on Drugs

Deadline:	permanently
Responsible institution:	National Anti-Drug Agency

Administrative/technical measures

1. Upgrading and/or relocating the operational control equipment of the custom bureaux on the future external EU border according to the evolutions of the drug trafficking phenomenon in terms of quality/quantity/routes

Deadline:	permanently
Responsible institution:	National Customs Authority

VIII. FIREARMS AND AMMUNITION

A. Relevant Acquis

- Art. 77-81 and 83-90 of the Convention implementing the Schengen Agreement, replaced by Council Directive 91/477/EEC of 18 June 1991 on control of acquisition and possession of weapons
- Art. 82 and 91 of the Convention implementing the Schengen Agreement
- SCH/Com-ex (99)10 – 28.04.1999 – Illegal trade in firearms
- Council Directive 91/477/EC of 18.06.1991 on the control of acquisition and weapons control
- Commission Recommendation 92/129/EC of 12 January 1996 supplementing recommendation 93/216/EEC on the European firearms pass

B. Current situation

Law no. 295/2004 on the regime of firearms and ammunition was adopted.¹

The normative act on the regime of firearms and ammunition fully implements Council Directive 91/477/EEC of 18.06.1991 on control of acquisition and possession of weapons. It also includes regulations in the sense of those stipulated by art.91 from the Convention implementing the Schengen Agreement.

Secondary legislation to Law no. 295/2004 was also adopted:

-GD no. 130/2005 for the approval of the implementation rules of Law no. 295/2004²

- Order of the minister of administration and interior no. 389/19.10.2004 on the organization and functioning of the National Firearms Register³

The Government Decision no. 1914/22.12.2006 on approving the methodological norms for applying the provisions in Chapter VI of the Law No. 295/2004 – on arms and ammunition regime was adopted.

This normative act regulates the regime applicable to firearms and ammunition operations performed by Romanian armourers and Romanian citizens in the European Union and also the regime of operations performed by armourers of the European countries and persons with

¹ OJ. 583/30.06.2004

² OJ. 241/23.03.2005

³ OJ. 107/02.02.2005

permanent residence in these countries on the Romanian territory. This provision transposes the acquis regarding the European passport for firearms (Commission Recommendation 92/129/EC of 12 January 1996 supplementing recommendation 93/216/EEC on the European firearms pass).

In order to transpose in the national legislation the provisions of the SCH/Com-ex (99)10-28.04.1999 – Illegal trade in firearms, the Minister of Administration and Interior issued order no. 1532/19.12.2006 – on introducing weapons and ammunition in the “corpus delicti” rooms. This Order regulates the centralisation and transmission manners of the requested data to the EU Member States.

By Order of the minister of administration and interior no. 389/19.10.2004, the National Firearms Register was set up. It is a complex system to process data regarding weapons, legal owners, weapons and ammunitions operations. It is organized at the level of the General Inspectorate of the Romanian Police.

At the end of 2007, the National Firearms Register was launched according to the provisions of Law no. 295/2004 and Order of the Ministry of Interior no. 389/2004 in order to implement the monitoring system of firearms operations according to the requirements of Council Directive 91/477/EEC of 18.06.1991 on control of acquisition and possession of weapons. Thus, an IT&C system was set up necessary for the functioning of the National Firearms Register and the corresponding personnel was selected and trained.

IX. SCHENGEN INFORMATION SYSTEM

A. Relevant Acquis

- Convention implementing the Schengen Agreement – art. 92-119, as replaced by Regulation of the European Parliament and the Council 1987/2006 and Council Decision 533/2007
- SCH/Com-ex (97) 2 rev 2-25.04.97- drafting of preliminary study for SIS II – SIS
- SCH/Com-ex (97) 35-15.12.97 Amendment for C.SIS on financial regulations – SIS
- SCH/Com-ex (97) decl.13 rev 2-21.04.98-Minors kidnapping
- SCH/Com-ex (99) 6 – 28.04.1999 – Telecommunications
- SCH/Com-ex (99) 3 – 28.04.1999 – Budget HelpDesk
- Council Decision 2007/533/JHA on the establishment, operation and use of the second generation Schengen Information System (SIS II)
- Commission Decision 2008/334/JHA of 4 March 2008 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II)

- Council Decision 2008/173/EC on the tests of the second generation Schengen Information System (SIS II)
- Council Regulation (EC) No 189/2008 on the tests of the second generation Schengen Information System (SIS II)
- Council Decision 2000/265/EC of 27 March on the SISNET, with the current amendments (Council Decision 2000/664/EC from 23 October 2000, Council Decision 2003/171/EC from 27 February 2003)
- Council decision 2424/2001 of 6 December 2001 on the development of SIS II
- Council decision 2001/886/JHA of 6 December 2001 on the development of SIS II
- Regulation (EC) No. 1160/2005 of the European Parliament and of the Council of 6 July 2005 amending the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, as regards access to the Schengen Information System by the services in the Member States responsible for issuing registration certificates for vehicles
- Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)
- Regulation (EC) No 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates
- Council Decision 2006/1007/JHA of 21 December 2006 amending Decision 2001/886/JHA on the development of the second generation Schengen Information System (SIS II)
- Council Regulation (EC) No 1988/2006 of 21 December 2006 amending Regulation (EC) No 2424/2001 on the development of the second generation Schengen Information System (SIS II)
- Commission Decision No 2007/170/EC of 16 March 2007 playing down the network requirements for the Schengen Information System II (1st Pillar)
- Commission Decision No 2007/171/EC of 16 March 2007 playing down the network requirements for the Schengen Information System II (3rd Pillar)

B. Current situation

In December 2005 the Strategy of the Ministry of Interior and Administrative Reform in the field of IT&C was approved. The document foresees the development of the IT&C field within the Ministry of Interior and Administrative Reform, the orientations and the strategic options, the major objectives and the guidelines for their accomplishment.

1. The voice-data communication network of the MoIAR

The first stage of implementing the voice-data communication system was connecting all MoIAR unit in Bucharest, including the Bucharest Police, the General Inspectorate of the Romanian Police, the police stations and the central head offices. The integrated communication system was extended to national level by connecting the metropolitan voice-data communication network with 40 county inspectorates (stage finished in July 2003 and which is functional).

The second stage of implementing the integrated voice-data communication system started at the end of 2003 and connected at the units of the MoIAR from 12 county capital cities (out of 40) and was finished at the end of October 2005.

The third stage for extending the integrated voice-data communication system to other 16 county capital cities was finished at the beginning of March 2008.

For the fourth stage of extension to the rest of 12 county capital cities, the Ministry of Finance and Economy was requested to ensure the necessary funds for the acquisition procedure.

At the same time, the integrated voice-data communication system is extended by using VPN connections in order to supply this service to users inland or in Bucharest including institutions outside MoIAR (other ministries, intelligence services, the National Customs Authority, the Romanian Vehicle Register, etc.).

The Romanian Immigration Office was connected to the external data networks by implementing the project PHARE – „EURODAC system in Romania“. At present, the EURODAC implementation is finished; the temporary acceptance of the system was signed. After the warranty period (2 years) the final acceptance will be signed. Through EURODAC, all RIO units were connected in network.

2. IT System of the MIAR

Following the merge with the Ministry of Public Administration, the IT System of the Ministry of Interior and Administrative Reform is now made up of:

- Integrated IT system of public order and safety
- Integrated IT system of the public administration
- E-administration system

The aforementioned IT system of public order and safety integrates the individual systems of all home affairs related structures within the MIAR by the RCVD infrastructure (the voice-data communication network). Details about each system are presented below.

2.1.The IT System of the Romanian Police

The databases currently administrated by the Police are:

- AFIS (Automatic Fingerprints Identification System)
- IMAGE TRACK (electronic image identification system)
- Stolen vehicles database
- Wanted persons database
- Firearms licensing database
- The intelligence analysis system
- A database dedicated to combating trafficking in human beings and illegal migration

2.2. The IT System of the Border Police records specific to the activity in the cross-border check points

The databases currently administrated by the Border Police are:

- Data base for documents and visas, means of transport which were given as alerts at the border
- Data base for persons recorded when crossing the borders
- Data base for returned persons
- Operational situation (crimes, misdemeanors, found goods, other offenses at the border, missions)
- System for information analysis

The contract for the implementation of the pilot phase of the integrated voice and data communication system of the Romanian Border Police in Iasi, Vaslui, Galati counties was signed in November 2003. The pilot stage was finalized in April 2005 and the system is already operational in three counties: Iasi, Vaslui, Galati. At the end of May 2007 the system final acceptance was signed (the system was in the warranty period during 01.04.2005- 31.03.2007.)

The extension of the pilot phase of the integrated communication system in other counties will be realized under 2003 and 2004 Phare funds. The contract relative to 2003 Phare project was

signed during the 1st quarter of 2006 being presently ongoing, with deadline 31 March 2007. During 15.10.2007 – 04.11.2007 the temporary acceptance was carried out (verifying the quantity of equipment delivered and installed). The project PHARE 2004 was signed in November 2008, is under way with deadline 30.05.2008.

2.3. The Integrated Border Security System (IBSS)

The Integrated Border Security System (IBSS) will be done according to a program in several stages on the basis of the Multiannual Investment Plan by acquisition based on the contract of the MoIAR with EADS. The acquisitions are based on PHARE/SCHENGEN FACILITY projects and from complementary budget funds.

The IT Back-up subsystem is the first subsystem of the IBSS to be implemented. It ensured in a relatively short time the increase of control level in the border crossing points of the future external EU border by connecting them to the central data bases. This subsystem ensures:

- The minimum infrastructures for the exchange of information (data and voice) between the structures of the Border Police until the implementation the IT&C subsystems
- The necessary support for using the Visa On-Line application in order to grant entry visas in the border crossing points after EU accession.

Implementing this subsystem represents the way in which Romania fulfills several engagements to the EU.

2.4. The integrated system for the management of migration, asylum and visas

a. The IT system of the RIO for the management of asylum contains:

- Country Document Manager - data bases with country of origin information
- AZIL IT system (records of asylum seekers and beneficiaries of a protection form)
- Records for issuing and managing passports for the aliens who have a form of international protection in Romania.

b. The IT System for the Management of Aliens - the system is implemented at the central level (the head office in Bucharest of the Romanian Immigration Office) and in 52 territorial locations (at the departments for aliens in Bucharest, at 41 county bureaus for aliens, the accommodation centers for aliens taken in public custody in Arad and Otopeni and the territorial centers for accommodation and procedures for asylum seekers in Galati, Radauti, Somcuta Mare and Timisoara).

c. The IT System VISA ON LINE is used by the Romanian Immigration Office and the General Directorate for Consular Affairs. The system links the Romanian consular offices, the National Visa Center and the Romanian Immigration Office (within the Ministry of Interior and Administrative Reform).

2.5. Extending the public key infrastructure at the level of sectorial IT systems of the MoIAR

Current situation

Now, there is the Law no. 455/2001 on the electronic signature and at the level of MoIAR there is a single certification authority supplied by the Special Telecommunication Service for cross checking with the other institutions of the National Defense System. The solution states the connection of this authority to the Tranzit Certification Authority from the STS exclusively for managing relevant information for the institutions of the System. At the same time, a limited number of licenses for the users of this certification authority were set. The level of covering the real needs of the MoIAR by implementing this authority is 1%.

Main objectives

- Acquisition of consultancy and documentation services
- Implementing the PKI at central level
- Implementing the PKI at territorial level

3. The Schengen Multifunctional Training Center and related fields

The project was designed starting from the need to ensure an integrated training of the users of Schengen IT systems and form them as regards the management of Schengen documents and legal norms.

The purpose of training activities in the Schengen field will include:

- Knowledge and implementation of the legal framework and working procedures
- Using existing technical means and knowledge of the newly acquired ones
- Training the personnel involved in using SIS
- Training operative personnel
- Training management personnel

- Training and developing the cooperation skills of Schengen personnel – at national, European and regional level
- Training the personnel for learning the new working procedures in case of developping/modifying/updating SIS
- Continued training of personnel involved in functioning/maintenance of equipment, networks etc used with the National IT System for Alerts.

Currently, the MoIAR has the location necessary for the Center which until 2009 functions in the high schools of the MoIAR in Ploiesti and Buzau.

For the purpose of defining the role of the structural elements of the Center, for the best endowment of the two locations depending on the education missions and for the rational use of the teaching personnel, the distribution of teaching tasks will be the following:

- The location in Ploiesti will be specialized in supplying education programs targeting the Schengen IT&C field
- The location in Buzau will be specialized in teaching the other Schengen related fields
- The initial training in the field of Schengen will be done in both locations but the continued training programs will be organized in the specialized locations.

4. IT systems managed by the Special Telecommunication Service

Based on the Law no. 92/1996, the Special Telecommunication Service builds and manages IT systems for essential public state institutions such as: institutions of the judicial system, the Ministry of Economy and Finance, the Ministry of Agriculture and Rural Development, the Ministry of Environment and Water Management (including the National Environment Guard), the National Veterinary and Food Safety Authority. These systems are ensured by the infrastructure of secured information for extended area using Asynchronous Transfer Mode (WAN-ATM) technology. Currently, this infrastructure has points in all county capital cities and offers secured voice-data communication services 24 hours a day, 365 days a year.

5. The common platform for mobile communication in TETRA standard, at national level

This platform is under construction following the strategic decision of the Supreme Council for National Defense. The Telecommunication Service, the Ministry of Interior and Administrative Reform and the Romanian Intelligence Service carry out project with national and European funds in order to realize this platform as follows:

- PHARE project 2004-RO 016-772.03.04.02.B2 which covers the Iasi, Vaslui and Galati counties. The project is ongoing and its deadline is mid 2008
- MoIAR-EADS contract concerning Romanian state border security, carried out in several stages: in the 1st stage, which is ongoing, TETRA system is being designed and implemented in Tulcea, Braila, Suceava and Botosani counties. The deadline for this stage is the beginning of 2008 for coverage in the Border Police area (the end of 2009 for the rest of the territory of the counties). In the next stages, the rest of the border counties will be covered
- On state budget, the Special Telecommunication Service covers with radio electric equipment Bucharest and the Ilfov, Mures, Cluj, Sibiu, Arges, Brasov, Dambovita, Buzau counties.
- During 2008-2009, the investments will be continued similarly to 2005-2006. It will cover with radio equipment the national territory in all uncovered areas of the contract for securing the state border

6. National IT System for Alerts (NISA) SIS II compatible

The twinning covenant PHARE 2002 - RO02/IB/JH - 03 -*Technical and legal assistance for setting up an IT national system harmonized with SIS* started in March 2004 with France and Spain as partners. It had the following results:

- Training the personnel involved in SIS and SIRENE procedures
- Setting up of the operational bodies competent with NISA management in accordance with the Schengen acquis and SIS II requirements
- Setting up NISA general architecture, keeping in mind the correct partition of the information between different end-users according to their competences, followed by a budgetary estimation
- Preparing police cooperation agreements in accordance with the prerogatives of articles 39-46 from the CISA
- Preparing the legislation and regulations concerning NISA organization and functioning
- Drafting a first plan regarding the organization and functioning of the SIRENE bureau

- Harmonizing the national data bases structures and working procedures with the provisions of articles 93-101 from the CISA, followed by a budgetary estimation.

On 29 July 2005 the Twinning Covenant was concluded.

The GEO no. 128/26.09.2005 on setting up, organizing and functioning of the National IT System on Alerts (NISA) approved with amendments and supplements by Law no. 345/2005, Also, GD no.769/14.06. 2006 on the Implementation Plan of the National IT System for Alerts and GD no. 1411/ 11.10.2006 on the implementation rules for Implementing GEO no. 128/26.09.2005 were approved. Currently, GEO no. 128/2005 is under revision.

By order of the minister of administration and interior, a SIS Implementing Unit was set up within the IT&C Directorate. Its responsibilities are targeted towards implementing and administrating the NISA, SIS II compatible. By order of the minister of interior and administrative reform I/0505/01.02.2008, this unit was transferred to the Schengen Department.

The Strategic Coordination Committee (SCC), a body with analysis and coordination responsibilities for the good functioning of NISA and the Technical Committee (TC), a body with analysis and solution responsibilities for the technical problems that could arise in the functioning of NISA were also set up.

The project PHARE 2006 no. 018-147.03.04, 02.4.1 component NISA, compatible with SIS II was approved. The project foresees financial assistance for realizing the NISA pilot stage. It contains the following steps:

- Tender for the contract to implement the pilot stage of NISA
- Signing the contract
- Delivering the equipments
- Ensuring the connexions

The national budget supplied funds for the public acquisition of the IT&C consultancy services for designing and auditing NISA implementation, according to the NISA Implementation Plan.

The contract for the IT&C consultancy services and auditing the NISA implementation was signed on 19.06.2007 with deadline June 2010 and will have the following roll out:

- **Stage 1** – evaluating the existing situation and planning the activities – **finished in November 2007**
- **Stage 2** – drafting the Phesability Study and approving it by the Technical and Economical Committe – **finished in December 2007**

- **Stage 3** – Drafting the Technical Project and Tender Dossier for implementing the pilot stage of the NISA and for the NISA implementation at national level and approving them by the Technical and Economical Committee –**finished in March 2008**
- **Stage 4** – Support for organizing and carrying out the acquisition procedure for NISA implementation – **Aprilie – June 2008**
- **Stage 5** – Auditing the NISA and final acceptance of the system – **July 2008 – June 2010**

Based on the technical project and the tender dossier drafted in the IT&C consultancy services the project PHARE 2006 for realizing the pilot stage of the NISA will be done and the NISA implementation at national level, which was proposed for financing from Schengen Facility funds.

In order to put out the tender dossier necessary for setting up the SIS National Center, the acquiring documentation was drafted based on the feasibility study approved in December 2007 by the Technical and Economical Committee.

C. Main objectives

- Legal harmonization
- Developing the IT&C infrastructure (investment projects – IT&C, constructions, roads etc.)
- Upgrading and development of IT&C hardware and software
- Human resources management & development
- Ensuring a general and special knowledge level for the personnel with responsibilities in using the Schengen information systems

D. Measures

Legislative Measures

1. Drafting the methodological norms for implementing GEO no.103/2006 on some measures facilitating international police cooperation. They will contain:

1.1. The attributions and competences of SIRENE Romania Bureau (activity foreseen in 2006 Twinning PHARE project)

Deadline:	31.12.2008
Responsible institution:	the Ministry of Interior and Administrative Reform

1.2. Drafting international and national procedures for the information exchange performed by the SIRENE bureau with the law enforcement agencies and other SIRENE bureaus according to the procedures in the SIRENE Manual (with further amendments) (activity foreseen by 2006 PHARE Twinning project)

Deadline:	31.12.2008
Responsible institution:	the Ministry of Interior and Administrative Reform

2. Signing protocols for an operational co-operation with the Ministry of Justice and the Superior Council of Magistrates

Deadline:	31.12.2008
Responsible institution:	the Ministry of Interior and Administrative Reform, the Ministry of Justice and the superior Council of Magistrature

3. Amending the legislation regarding the National IT System for Alerts (NISA) . GEO no. 128/2005, GD no. 1411/2006, GD no. 769/2006

Deadline:	31.12.2008
Responsible institution:	the Ministry of Interior and Administrative Reform

Institutional measures

1. Setting up the SIS National Center

Deadline:	01.01.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

1.1. Identifying the personnel needed for the activity of the SIS National Center (number of positions, roles)

Deadline:	31.12.2008
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Responsible institution:	the Ministry of Interior and Administrative Reform
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1.2. Recruiting and employing the personnel of the SIS National Center

Deadline:	01.05.2010
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Responsible institution:	the Ministry of Interior and Administrative Reform
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2. Rendering operational SIRENE Bureau

Deadline:	01.09.2010
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Responsible institution:	the Ministry of Interior and Administrative Reform
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2.1. Identifying the necessary personnel for carrying out SIRENE activities (number of functions, profiles)

Deadline:	15.11.2008
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Responsible institution:	the Ministry of Interior and Administrative Reform
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2.2. Recruiting the personnel identified in paragraph 2.1. in two stages:

Deadline:	31.12.2009
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Responsible institution:	the Ministry of Interior and Administrative Reform
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2.2.1. Recruiting 12 SIRENE operators along the 8 existing ones

Deadline:	31.12.2008
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Responsible institution:	the Ministry of Interior and Administrative Reform
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2.2.2. Recruiting 20 operators to reach the number of 40 operators

Deadline:	31.12.2009
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Responsible institution:	the Ministry of Interior and Administrative Reform
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2.3. Recruiting the magistrates and translators

Deadline:	31.12.2009
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Responsible institution: the Ministry of Interior and Administrative Reform, the Ministry of Justice, the Superior Council of Magistrates
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2.4. Defining the working hours for SIRENE operators (working program, number of shifts, etc.)

Deadline: 31.03.2010
Responsible institution: the Ministry of Interior and Administrative Reform

2.5. Drafting training modules for SIRENE operators, magistrates, translators and their specialization and the shift managers (fields of interests: foreign languages, Schengen cooperation, risk analysis, statistics, performance criteria, IT, etc.)

Deadline: 31.03.2010
Responsible institution: the Ministry of Interior and Administrative Reform

2.6. Handling by the SIRENE Bureau Romania and the Ministry of Justice of all the alerts according to article 95 in the SIS at that time and which require related procedures (validation or flagging)

Deadline: 31.07.2010
Responsible institution: the Ministry of Justice, the Ministry of Interior and Administrative Reform

2.7. Checking all alerts according to articles 95-100 by their owners either to be included in the NISA or to be validated by the SIRENE Bureau (in the case of art. 95)

Deadline: 31.07.2010
Responsible institution: the Ministry of Justice, the Ministry of Interior and Administrative Reform

3. Setting up the Schengen Multifunctional Training Center

Deadline: 30.06.2010
Responsible institution: the Ministry of Interior and Administrative Reform

Administrative/technical measures

1. Technical activities concerning the setting up of the Romanian SIRENE Bureau.

1.1. Implementing the SIRENE application and the off-line copy destined for the training modules for the SIRENE operators

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

1.1.1. Making public the documentation necessary for the acquisition for the services to realize the SIRENE application

Deadline:	31.10.2008
Responsible institution:	the Ministry of Interior and Administrative Reform

1.1.2. Realizing the application for the SIRENE Bureau by financing it through the Schengen Facility

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

1.2. Defining the necessary tests for validating SIRENE application

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

1.3. Establishing the national procedures necessary to create the A and M forms related to national alerts for art. 95 before the operational testing, by the SIRENE Bureau, Interpol, the Romanian Police and the Ministry of Justice

Deadline:	before the SIRENE operational tests
Responsible institution:	the Ministry of Interior and Administrative Reform

1.4. Preparing Romanian data according to art. 95 existing into NISA to be inserted into SIS (data selection, translation, validation and integration)

Deadline :	31.07.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

1.5. Final testing of the SIRENE application and working procedures at national levels

Deadline:	01.08.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

1.6. Purchase of necessary equipment to develop SIRENE infrastructure (furniture, office materials, systems for preventing non-authorised access, fire prevention systems, etc)

Deadline:	31.12.2008
Responsible institution:	the Ministry of Interior and Administrative Reform

1.7. Setting in place the SIRENE premises within the Parliament Palace, site C4-02, quota+66M, 9th floor (aprox. 40 persons on a 96 sqm surface)

Deadline:	31.12.2008
Responsible institution:	the Ministry of Interior and Administrative Reform

1.8. Purchase of IT&C for SIRENE well functioning, according to the Indicative Plan for the Schengen Facility

Deadline:	01.01.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

2. Modernising current IT systems of the state institutions authorized to enter/access data into/in the N.SIS II

2.1 Fulfilling the responsibilities set by the protocol between the MoIAR-STS for developing the telecommunications destined for the state institutions for Romania's accession to the Schengen area

Deadline:	31.12.2010
Responsible institution:	the Ministry of Interior and Administrative Reform and the Special Telecommunications Service

2.2. Extending WAN-ATM integrated network to the national level to support the achievement of the objectives from 2, 2.3, 3, 3.1, 4, 6, 8 points

Deadline:	30.06.2010
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Responsible institution: the Special Telecommunications Service, the Ministry of Interior and Administrative Reform
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2.3 Romanian Police IT and communication system

Using current applications within Romanian Police on modern software and hardware platforms by ensuring their compatibility with other systems currently used at the level of the Ministry of Interior and Administrative Reform.

Extending the Ministry of Interior and Administrative Reform data-voice integrated communication system:

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

2.4. Modernizing the National IT System for People's Records in order to make it compatible with NISA

Deadline:	01.10.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

2.5. Modernizing the IT system of the Romanian Immigration Office compatible with SIS II and VIS

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

3. Implementing the national SIS II system (N.SIS II) in Romania made up of the National IT System for Alerts and the national copy of the CS-SIS II data base

3.1. Designing NISA with the necessary interfaces for updating and/or quering

3.1.1. Implementing the pilot stage of the NISA compatible with SIS II

3.1.1.1. Acquisition of IT&C equipment and software in order to implement the pilot stage of the NISA

Deadline:	31.12.2008
Responsible institution:	the Ministry of Interior and Administrative Reform

3.1.1.2. Rendering operational the pilot stage of NISA

Deadline:	30.11.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

3.1.2. Migrating the national data that will be integrated into NISA and preparing them in order to be transmitted to CS-SIS II

Deadline:	01.03.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

3.1.3. Testing and rendering operational the NISA

Deadline:	30.06.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

3.2. Designing the national copy of the CS-SIS II database and interconnecting the N.SIS II with the CS-SIS II

3.2.1. Designing the national copy of the CS-SIS II database

Deadline:	30.06.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

3.2.2. Performing the necessary tests for connecting the N.SIS II to the CS-SIS II:

3.2.2.1 Performing connectivity tests between N.SIS II and CS-SIS II (Network Connectivity Test)

Deadline:	31.07.2010
Responsible institution:	the Ministry of Interior and Administrative Reform, the Ministry of Communication and Information Technology, the Special Telecommunication Service

3.2.2.2 Performing the conformity tests between N.SIS II and CS-SIS II based on the conformity conditions for connecting N.SIS II according to the technical specifications of the SIS II

Deadline:	31.08.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

3.2.3. Interconnecting N.SIS II to the CS-SIS II

Deadline:	01.09.2010
Responsible institution:	the Ministry of Interior and Administrative Reform, the Ministry of Communication and Information Technology, the Special Telecommunication Service

3.3. The SIS National Center - building

- Constructions works necessary for the building of the SIS National Center
- Ensuring the ammenities, endowment of the building of the SIS National Center and its location

Deadline:	01.10.2009
Responsible institution:	the Ministry of Interior and Administrative Reform

4. Within the public key infrastructure and certification through electronic signature for the NISA users, realizing the interface for validation and pre-authentication for the NISA users that are not part of the MoIAR

Deadline:	31.12.2009
Responsible institution:	the Special Telecommunication Service

5. Setting up (if there are not within the IT systems), rendering compatible with Schengen format and interconnecting the databases on objects searched to be confiscated or used as evidence in criminal matters (art. 100 of the Schengen Convention) and the ones regarding persons or vehicles in view of a discrete surveillance or specific controls (art. 99 from Schengen Convention). The conversion of all data to be transferred to NISA

Deadline:	01.01.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

6. Developping the technical and communication infrastructure for the access of competent authorities to the above mentioned databases (art. 101 of CISA)

Deadline:	31.12.2009
Responsible institution:	the Ministry of Interior and Administrative Reform, the Ministry of Foreign Affairs, the National Customs Agency, the Special Telecommunications Service

6.1. Extending MIAR integrated voice-data communication network to ensure the communication support at access level, necessary to MoIAR structures supporting the setting up of the European IT cooperation environment in the field of Schengen and home affairs

Deadline:	31.09.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

7. Acquisition of TETRA terminals for the MoIAR structures correlated with the completion of TETRA single platform implementation at national level in cooperation with the STS and Romanian Intelligence Service

Deadline:	31.09.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

8. Extending the implementation of TETRA-STs at national level in all areas which are not included in the existing contract for state border security.

Deadline:	31.12.2009
Responsible institution:	the Special Telecommunications Service

9. PKI extension at the sectorial IT systems level within MoIAR

Deadline:	31.09.2010
Responsible institution:	the Ministry of Interior and Administrative Reform

10. Fourth stage of modernizing and developing the voice-data communication networks of the MoIAR in 12 county capital cities

Termen:	31.12.2009
Responsible institution:	the Ministry of Economy and Finance (for approving the funds), the Ministry of Interior and Administrative Reform

X. PERSONAL DATA PROTECTION

A. Relevant acquis

- Art. 102-118, 126 – 130 of the Convention implementing the Schengen Agreement
- Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 december 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data
- Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector
- Council Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data
- Convention of the Council of Europe 108/1981 of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data
- Additional Protocol to the Convention of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows, signed in Strasbourg on 8 November 2001
- Recommendation No. R(87)15 of the Committee of ministers to Member States regulating the use of personal data in the police sector, adopted by the Committee of Ministers on 17 September 1987

B. Current situation

1. Personal data protection – art. 126 – 130 of the CISA

Legislative

The following legislative acts pursuant to 95/46/CE Directive of the European Parliament and the European Council dated 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data were adopted in Romania:

- Law no. 677/2001 on the protection of individuals with regard to personal data processing and the free movement of such data (OJ no. 790/12 December 2001). It contains clauses regulating the processing of personal data in the context of the activity of law

enforcement institutions (police, etc), which were undertaken from Recommendation No. R (87) 15 of the Committee of ministers to Member States regulating the use of personal data in the police sector

- Law no. 682/2001 on ratifying the Convention of the Council of Europe 108/1981 of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data (OJ no. 830/21 December 2001)

- Law no. 102/2005 on the setting up, organization and functioning of the National Supervisory Authority for Personal Data Processing, entered into force on 12 May 2005.

An important modification brought by Law no.102/2005 refers to abrogating article 27 paragraph (5) of Law no. 677/2001 which provided the requirement of obtaining the prior consent of the criminal investigation body or of the competent court of law, in cases in which the supervisory authority intended to carry out an investigation in connection to any personal data processing related to the specific activities in criminal law.

Pursuant to the provisions of Law no. 677/2001, the president of the National Supervisory Authority for Personal Data Processing issued the following decisions:

- Decision no. 60/2006 on establishing standard forms for the notifications provided by Law No. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data

- Decision no. 89/2006 on establishing the categories of personal data processing operations which are likely to present special risks to the rights and liberties of individuals

- Decision no. 90/2006 on the situations in which the notification for personal data processing is not required

- Decision no. 91/2006 on establishing the situations in which the simplified notification form for personal data processing may be submitted

- Decision no. 167/2007 on establishing the standard contractual clauses for personal data transfers to data processors in a state whose legislation does not provide a level of protection at least equal to that provided by Romanian Law

- Decision no. 172/2007 on the adequate protection of personal data in Argentina

- Decision no. 173/2007 on the adequate protection of personal data provided by the Canadian Personal Information Protection and Electronic Documents Act of 13th of April 2000

- Decision no. 174/2007 on the adequate protection of personal data provided in Switzerland

- Decision no. 175/2007 on the adequate protection of personal data provided in Guernsey

- Decision no. 176/2007 on the adequate protection of personal data provided in Isle of Man

- Decision no. 28/2007 on personal data transfers to other states

Also, pursuant to the provisions of Law no. 677/2001, the following orders issued by the Advocate of the People are in force:

➤ Order of the Advocate of the People no. 52/18 April 2002 on the approval of the minimum security Requirements for personal data processing operations. Such requirements assist operators in adopting technical and organisational measures in order to provide a legal and appropriate security level while processing personal data (OJ no. 383/5 June 2002)

➤ Order of the Advocate of the People no. 75/4 June 2002, for establishing some specific measures and procedures providing a satisfactory protection level of individuals' rights whose personal data are subject to processing operations (OJ no. 449/ 26 June 2002)

➤ Order of the Advocate of the People no. 6/29 January 2003, on establishing the standard contractual clauses in the case personal data transfer to a foreign operator whose legislation does not provide a level of protection at least equal to the one which is granted by the Romanian legislation (OJ no. 151/10 March 2003. This order integrates the provisions of Decision 2001/497 of 15 June 2001 regarding the standard contractual clauses for personal data transfer to third countries, pursuant to Directive 95/46/CE.

On the supervisory authority's web site there are also, in a draft stage, the following decisions of the President of the supervisory authority:

- Decision on approving the minimum security requirements for personal data processing
- Decision on establishing the standard contractual clauses in the case of personal data transfers to a data controller in a state whose legislation does not provide a level of protection at least equal to that provided by Romanian law
- Decision on establishing a model code of conduct for professional association whose members process personal data
- Decision on processing personal data by means of video surveillance
- Decision on establishing situations in which the notification of some personal data processing is not required.

Under the cooperation agreement signed with EUROPOL, which, following ratification became part of the internal law, Romania is committed to implement the regulations specific to this field, as provided for in the Europol Convention, which are similar with those stipulated under the 3rd paragraph of the art.126 of the Schengen Convention.

Independence of the Supervisory Authority

Law no. 102/2005 on the setting up, organization and functioning of the National Supervisory Authority for Personal Data Processing entered into force on 12 May 2005.

In accordance with the provisions of article 1 of Law no. 102/2005, the National Supervisory Authority for Personal Data Processing is a public authority with legal attributes, autonomous and independent in relation with any other authority of the public administration, as well as in relation with any other natural or legal person of public or private law, which exercises the legal attributions granted to it in the field of personal data processing and the free movement of such data.

The Supervisory Authority's president is appointed by the Romanian Senate for a 5-year mandate, which may be renewed only once. The procedure for the appointment is provided by article 7 of Law no. 102/2005. In this sense, the proposals for the candidates are made by the Standing Bureau of the Senate at the recommendation of the parliamentary groups from the two Chambers of Parliament. The candidates submit to the Senate's legal, appointments, discipline, immunities and validations Commission the documents that prove that they fulfill the legal requirements to exercise the position of president of the Supervisory Authority. The Senate passes a judgment over the plenary hearing. The president is appointed with a majority vote from the senators.

The Supervisory Authority's independence is also ensured through the way it is financed, as the National Supervisory Authority for Personal Data Processing has its own budget, which is part of the state budget.

It is worth mentioning that the Supervisory Authority will acquire new competencies by implementing the Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters and the CISA.

In this context, it is necessary to ensure the statute of independent authority for the Supervisory Authority, similar to the ones for data protection in the other EU Member States by taking the following measures:

- Supplementing the personnel. We mention that at present, the supervisory authority has insufficient personnel for carrying out investigation. The GEO no. 115/2006 for modifying and completing the Law no. 102/2005 the setting up, organization and functioning of the National Supervisory Authority for Personal Data Processing, which stipulated the supplementing of the personnel chart with 5 positions with the possibility of creating territorial offices was rejected by Law no. 270 of 1 October 2007
- Granting supplementary funds in order to carry out special information campaigns for the population through advertising messages.

The organization of the Supervisory Authority

According to the regulation for organizing and functioning, the Supervisory Authority is made up of 4 specialized departments namely: Department for records of data controllers and data

processing, Department for authorization, Department for European Integration and International Relations and Department for Investigations.

During 2007-2008 the personnel was trained and specialized in internal seminars on data protection

The competences of the Supervisory Authority

The Supervisory Authority monitors and controls, with regard to their lawfulness, all personal data processing under the scope of Law No. 677/2001.

In this sense, the supervisory authority exercises the following attributions:

- a) issues the standard notification forms and its own registers
- b) receives and analyzes the notifications concerning the processing of personal data and informs the data controller on the results of the preliminary control
- c) authorizes personal data processing in the situations set out by law
- d) may dispose, if it notices the infringement of the provisions of the present law, temporarily suspending the data processing or ending processing operations, the partial or total deletion of processed data and may notify the criminal prosecution bodies or may file complaints to a court of law
- d) informs the natural or legal persons that work in this field, directly or through their associative bodies on the need to comply with the obligations and to carry out the procedures set out by this law
- e) keeps and makes publicly accessible the personal data processing register
- f) Receives and solves petitions, notices or requests from natural persons and communicates their resolution, or, as the case may be, the measures which have been taken
- g) Performs investigations –*ex officio*, or upon requests or notifications
- h) Is consulted when legislative drafts regarding the individual's rights and freedoms are being developed, concerning personal data processing
- i) May make proposals on the initiation of legislative drafts or amendments to legislative acts already enforced, in the fields linked to the processing of personal data
- j) Collaborates with the public authorities and bodies of the public administration, centralizes and analyzes their yearly activity reports on the protection of individuals with regard to the processing of personal data, issues recommendations and assents on any matter linked to the protection of fundamental rights and freedoms regarding the processing of personal data, on request of any natural person, including the public authorities and bodies of public administration; these recommendations and assents must mention the reasons on which they are based and a copy must be transmitted to the Ministry of Justice; when the

recommendation or assent is requested by the law, it must be published in the Official Journal of Romania, Part I

- k) Co-operates with similar foreign authorities in order to ensure common assistance, as well as with foreign residents for the purpose of guaranteeing the fundamental rights and freedoms that may be affected through personal data processing
- l) Fulfills other attributions set out by law.

Rules on the Right of Access to Data

Every data subject has the right to obtain from the data controller, upon request, and free of charge, once a year, the confirmation of the fact that the data concerning him/her are/are not being processed by the data controller.

It is the data controller's obligation to communicate the requested information, within 15 days of receipt of the petition.

In accordance with the provisions of the art. 21, Law no. 677/2001, the Supervisory Authority centralizes and analyzes the annual activity reports of the public authorities and bodies of the public administration, on the protection of individuals with regard to the processing of personal data. These reports contain aspects with regard to the exercise of the right of access to data by the data subject.

Competencies in supervising and control

The Supervisory Authority is empowered with investigation powers such as access of the data subject to the processing operations and the power to collect all the necessary information in order to accomplish its incumbent powers, in accordance with art.25 para 4 and art.27 para 3 and 4 of Law no. 677/2001. Thus, if a complaint is forwarded, the supervisory authority, if it deems necessary, may hear the data subject, the controller and if any, the processor or the association or foundation representing data subject interests.

These persons have the right to forward requests, documents, memoirs and the Supervisory Authority has the possibility to request an expertise.

The Supervisory Authority may investigate ex officio or upon a request, any violation of the data subjects' rights, namely controllers' obligations or, if any, of the processors, within personal data processing operations, in order to protect data subjects' fundamental rights and freedoms. The investigative powers cannot be exercised by the supervisory authority if a legal action has been previously filed to a court of justice and it has as object the same violation of rights and opposes to the same party.

While exercising its investigative powers, the Supervisory Authority may request the controller any information linked to the processing of data and may verify any document or record regarding the processing of personal data. The state and professional secret cannot be invoked in order to prevent the exercise of the powers of the Supervisory Authority set out by the law. When protection of the state or professional secret is invoked, the Supervisory Authority has the obligation to keep the secret.

In 2007, the Supervisory Authority carried out 280 investigations, as compared to 2006 when 153 investigations were carried out. Between the 1st of January and the 1st of March 2008 46 investigations were also carried out. With regard to personal data processing carried out by police bodies, investigations were carried out at the General Inspectorate of the Romanian Police, the Romanian General Inspectorate of Border Police, The County Border Police Inspectorate in Galati, the County Police Inspectorate in Ilfov, Police of Voluntari town, the County Police Inspectorate of Arges, the County Police Inspectorate of Mehedinti, the County Police Inspectorate of Gorj, the County Police Inspectorate of Constanta, Police of Pitesti city, Police of Curtea de Arges town, Police of Campulung Muscel town, Police of Buzau city.

Public awareness

In order to increase the level of public awareness and information with regard to the data protection field of activity, the Supervisory Authority carried out a series of specific activities in the country namely:

- Organizing meetings at the office of the Authority with the participation of data controllers in the relevant fields of activities
- Organizing information campaigns at national level
- Diversifying the themes on the web site of the Supervisory Authority in order to meet the requirements for information and dialogue with the citizens and the data controllers; the Schengen section includes information on the Joint Supervisory Authority (JSA) set according to the CISA and which is responsible for controlling the technical service of the Schengen Information System (SIS) and a guide on the National IT System for Alerts (NISA) and data protection
- Distributing brochures on the main attributions of the authority and flyers on the notion of personal data and the rights of the citizens in this field
- Press conferences in Bucharest and especially in the country and sending press releases
- Distributing press releases.

2. Personal data protection in SIS - art. 102-118 of CISA

In 2005, GEO no. 128/2005 on the setting up, organizing and functioning of the National IT System for Alerts (NISA), was approved by Law no. 345/2005. According to art. 1, paragraph 3

of the GEO no. 128/2005, NISA will provide data to SIS, in line with the European regulations in the field, once Romania will accede to the Schengen area.

Also, by Government's Decision no. 1411/2006 the methodological norms implementing GEO no.128/2005 were approved.

According to the provisions of art.9, paragraph 1 of the GEO no. 128/2005, "the access and processing the data entered in the SINS which relate to them shall be exercised in accordance with the national law regulating the protection of personal data and to the Convention for the protection of individuals with regard to Automatic Processing of Personal Data of 28 January 1981, ratified by Law no. 682/2001, with the following amendments, exclusively by the competent authorities established by law and under the conditions set up by it".

The conditions regarding the access to data foreseen by articles 6 and 7 of the GEO no.128/2005, as well as the data storing periods are established by the methodological norms of the GEO no.128/2005 in articles 6, 7, 8 and 9.

According to art.9, paragraph 3 of the GEO no.128/2005, data is processed exclusively to the scope for which it was introduced in the NISA. The management and use of the data contained in NISA, in respect to personal data processing, is subject to the Supervisory Authority's control.

According to art.10 of the GEO no.128/2005, the competent authorities are responsible for the authenticity, level of emergency, actuality and legality of data introduced in the NISA, in line with art.105 from the Schengen Convention.

The competent authority issuing the alert shall be authorized to modify, add to, correct or delete data, which it has entered, until the expiry period established by law, in line with art.106 from the Schengen Convention

According to art.10, paragraph 3 any interested person or competent authority, different from the one that introduced the data, may alert the competent authority indicated in paragraph 2 of the fact that certain data introduced in the NISA are not *de iure* and *de facto* authentic. The competent authority foreseen by para 2 has the obligation to verify the alert, and, when necessary, to modify, add or delete the data without any delay, in line with art.110 from the Schengen Convention.

According to art.11, paragraph 1 of the GEO no. 128/2005 any interested person can request MoIAR information regarding his/her personal data existing in NISA, according to art.109 from the Schengen Convention. Art.11, paragraph 2 of GEO no. 128/2005 underlines the fact that any prejudiced person can request for the legal redress of the prejudice caused by introducing or exploiting his/her personal data in NISA, in line with articles 111 and 116 from the Schengen Convention.

According to art.3, paragraphs 1 and 2 of the GEO no.128/2005 and in line with art.108 from the Schengen Convention, MoIAR is the public central authority that manages and ensures the good functioning of the NISA, the integrity of the hits contained by it and the process of data insertion into SIS, according to the requirements of the Schengen acquis. From the technical point of view, NISA is managed by the IT&C central structure within MoIAR with responsibilities in the field.

In accordance with Article 114 of the CISA, Romania assigned the National Supervisory Authority for Personal Data Processing as supervisory authority responsible with carrying out an independent supervision of the personal data in the NISA, in accordance with the national legislation.

Also, in accordance with art.4, paragraph 1 of the GEO no.128/2005 and art.118 from the Schengen Convention, the MoIAR and the competent authorities are obliged to adopt security measures in relation to managing and using NISA, aiming at:

- Controlling the access to equipment, controlling the data support, controlling the storing, controlling the use, data access control, controlling the communications, controlling the data introduction, controlling the data transport.

In accordance with art.4, paragraph 2 of the GEO no.128/2005, MoIAR and the competent authorities will adopt technical, operative and procedural measures, according to the following principles: confidentiality (information is accessible only for authorized persons according to their competences), integrity (ensuring the precision and complete character of information and also of processing methods), availability (ensuring the access to information in due time), identification and certification (all the users are properly identified, according to their competences, before any transaction), authorization (the participants to a transaction are authorized to access NISA data according to their competences).

In accordance with art.4, paragraph 3 of the GEO no.128/2005, MoIAR and the competent authorities must prevent loss of information and ensure their recovery in case of natural disaster.

As regards the data protection at the level of the MoIAR, at present this issue is regulated by the order of the minister of interior and administrative reform no. 195/2004 on protection the personal data at the level of the MoIAR as well as by general regulations within the organization laws of the MoIAR structures, which handle personal data.

For ensuring the integrated implementation of the community provisions, taking into consideration the experience of other EU Member States, which joined the Schengen area recently, as well as the latest developments in the legislative field, it came about the necessity to transpose the provisions of Recommendation No. R (87) 15 of the Committee of ministers to Member States regulating the use of personal data in the police sector.

Also, in order to establish firm mechanisms for ensuring a single coordination platform, at the level of the MoIAR, in the field of data protection, and which could fulfill the requirements of the future evaluation missions, an officer for data protection was appointed in subordination of the minister (through an order of the minister of interior no. S/II/2826/13.05.2008) and who is supported in fulfilling his tasks by a working office called the Office of the Responsible for Data Protection.

C. Main objectives

- Legal harmonization in the context of the provisions of Recommendation No. R(87)15 of the Committee of Ministers to Member States regulating the use of personal data in the police sector

D. Measures

Legislative measures

1. Harmonizing the legislation, the regulations and the practice with the Schengen acquis in the field of personal data protection

1.1. Drafting the methodology for the use of the IT system including and respecting the recommendations and principles of the European Council Convention of 28 January 1981 and Recommendation R (87) 15 of 17 September 1987

1.2. Presenting for approval, to the Supervising Authority the document containing the methodology for the use of the IT system, as control and surveillance authority in the field of personal data protection

Deadline:	01.01. 2010
Responsible institution:	the Ministry of Interior and Administrative Reform

2. Continuous training of personnel involved in managing databases

Deadline:	on a permanent basis
Responsible institution:	the Ministry of Interior and Administrative Reform

3. Drafting a normative act in the field of data protection by the MoIAR structures according to the principles of Recommendation No. R (87) 15 of the Committee of Ministers

Deadline:	30.11.2008
Responsible institution:	the Ministry of Interior and Administrative Reform