



## The International Aspects of the Smuggling of Migrants Across State Borders and the Fight Against it

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### **Abstract**

This paper focuses on highlighting the international aspects of the smuggling of migrants across state borders and the fight against it. The relevance of the issue is due to chaotic migration in the process of globalization, the intensification of the illegal movement of migrants across the state border by transnational organized criminal groups, the danger of a merger of migrants and human trafficking, as well as criminal coincidence of migration and terrorism. Historical, statistical, normative-logical comparisons, and a number of other methodologies were utilized in the study. The legal attitude of individual states towards the smuggling of migrants across the state border and the compliance of this attitude with the United Nations conventions and their complementary protocols are also presented in this study.

**Keywords:** Migration, State border, History, Smuggling, Migrant, Definition, Trafficking, Terrorism, Law, Punishment

### **Introduction**

People have been moving since time immemorial. A large group of scientists believe that about 1.9 to 2 million years ago, early humans began internal migration processes.

The movement of early humans, Homoergaster - “workman” and Homoerectus - “upright man”, first began across the African continent. About 1.9 to 2 million years ago, Homoerectus migrated from Africa to other

continents. Interestingly, this fact took place 1.5 million years ago. The tombs of these people have been found in Greece, Spain, China, and other countries. *Homo sapiens* - the “wise man” has spread all over the world, migrating from Africa and covering the continents of Europe, Asia, and America (Markov, 2018). In 1991, human remains were discovered in Dmanisi, Georgia, about 1.8 million years ago. The man who was found was another species of human between *Homo habilis* – “handy man”, and *Homo erectus*- “upright man” and was called the “Georgian man” by *Homo georgicus* (Markov, 2018 ).

Scientists explain the reason for the migration of *Homo sapiens* – “wise man” to Asia in various circumstances such as climate change, the search for a food-rich environment, and others.

Human migration took on an irreversible character due to the process of population movement. However, the process of collective migration of previously unseen tribes of the great population movement began as early as the Middle Ages with the invasion of Germanic tribes from the periphery of Rome to the Roman Empire.

The Goths settled adjacent to the Black Sea coast from northwestern Europe, while the Alemanni invaded Italy. The Franks settled in Gaul, and the Turko-Mongol tribes known as the Huns attacked the Germanic tribes in 375. Rome sheltered the refugees from the Visigoths. However, the Visigoths first destroyed the army of Emperor Valentinian and further plundered Rome in 410. They later moved to Spanish territory and founded the Kingdom of Toulouse. The Franks founded the Frankish State in Gaul, while Angles, Saxons, and Jutes migrated to Great Britain. In the early Middle Ages, the Finno-Ugric tribes migrated from the southern Urals and the Volga and overthrew the Great Moravia, which led to the creation of the Hungarian State. Emigrated Suomines laid the foundation for the formation of the State of Finland. The Jesuit tribe, the Estons, formed the State of Estonia.

In 632, the Bulgarians, who had left Central Asia, established the Bulgarian state on the Balkan Peninsula.

After the discovery of America by Christopher Columbus in 1492, the European population began to migrate to the American continent. After the discovery of Australia in 1606, Great Britain began to settle criminals in this area.

The process of migration was accompanied by negative and positive factors. The conquest of culturally far developed countries by the tribes of low cultural development and the delay of the development process were part of the negative factors. An example of this is the migration process of the nomadic Huns. The invasion on the Germanic tribes in 375 was considered the beginning of a great displacement of people, and the Huns destroyed the Burgundian kingdom of the Germanic tribe. More so, they raided and weakened Byzantium, thereby plundering northern Italy. The weakened

Roman Empire was put to an end by the invasion of vandals of Germanic tribes. In 476, the existence of the largest empire with the most powerful civilization in the world at that time ended.

The expansion of Spanish into the continent of America in 1521 was followed by the fall of the Aztec Empire. In 1532, the Spaniards ended the existence of the Inca Empire, and the migration of Europeans to America killed the Maya, Chibcha-Muiski, and other civilizations. Nonetheless, large and powerful states emerged in their place and the symbol of democracy is enough to name such as the United States, Canada, Argentina, and others.

The history of migration reveals that uncontrolled, chaotic migration leads to cultural controversy, which is often accompanied by violence and armed conflict.

Umberto Eco, an Italian culturologist, and others distinguish the issues that exist between migration and immigration. He believes that immigration can be controlled by political means unlike migration to a natural disaster in which you are unable to do anything. Furthermore, it is opined that a clash of cultures could have bloody consequences which will be inevitable to some extent (Umberto Eco, 2001).

The massive invasion of migrants into the continents of Europe and America in the 21<sup>st</sup> century of highly developed countries has also posed against global challenges.

The essence of migration systems is related to the existence of independent migration processes between countries that are politically, economically, and culturally close to each other. Migration flows are usually directed to one or more destinations (recipient) countries. However, the system has migration links with other countries and other migration systems (Simmons & Piche, 2002).

Douglas Stephen Massey, a professor at the University of Preston and the University of Pennsylvania, in his articles “Why Migration Takes Place, Theoretical Synthesis” and “International Migration Theories: A Review and Evaluation of Migration Network Issues”, concludes that single migration cases provide a solid link. New migrants consisting of already established “skilled” migrants and non-migrants, both in their countries of origin and in their host countries, use their origin, kinship, or friendship to form an emigration network that facilitates their social adaptation to the new environment. More so, their integration into the new society allows them to overcome restrictive migration policies (Douglas, 1993, 1999).

<b>Migration of population – Data of 2020</b>		
<b>Continent</b>	<b>The approximate number of international migrants / in millions /</b>	<b>Number of international migrants In%</b>
<b>Europe</b>	<b>87</b>	<b>61</b>
<b>Asia</b>	<b>86</b>	
<b>North America</b>	<b>59</b>	<b>21</b>
<b>Africa</b>	<b>24</b>	<b>9</b>
<b>Latin America</b>	<b>17</b>	<b>6</b>
<b>The Caribbean</b>		
<b>Pacific</b>	<b>8</b>	<b>3</b>

A migrant is a person who, in anticipation of a better life, voluntarily leaves his home and goes to another country. The reasons for migration include conflict of various kinds such as political wars, economic, socio-cultural, natural, ecological, and others. Wars make people refugees and push them to emigrate from conflict zones to neighboring or more distant countries.

All of this has put Western Europe and North America at a critical juncture as migrants from third world countries migrate to different countries to get to the desired country. Thus, they receive a specific visa that allows them to bypass the embassy after paying a certain amount to individuals or organizations that create forged documents.

The process of migration has especially increased in the 21st century. Tens of thousands of migrants from Africa and Asia Minor enter Europe illegally. The reasons for migration are demand for labor, access to land, good economic opportunities, and political freedom.

A person makes the decision to migrate by simple observation, comparing the situation within his or her host state and the desired state, and by analyzing the cost-benefit economic consequences for him or her based on where he or she expects to stay.

Consequently, in the context of trafficking, the analysis is done not only by the victim who thinks he or she is involved in the migration but also by the smuggler, who calculates whether it is worth transporting the migrant across the border in a particular case and what difficulties he or she will face.

According to current global estimates, there were approximately 281 million international migrants in the world as at 2020. This is equivalent to 3.6 percent of the global population.

Europe and Asia each received about 87 and 86 million international migrants, representing 61% of international migrants.

Migration is taking place all over the world. As for North America, in terms of numbers, 59 million migrants were added in 2020. This represents 21% of international migrants, 9% in Africa, 6% in Latin America and the Caribbean, and 3% in the Pacific.

The proportion of international migrants varies considerably around the world. For example, from 2000 to 2020, the number of migrants in Asia increased by 74%, which equates to 37 million migrants. Europe ranks second in terms of migrants, numbering 30 million international migrants, 18 million international migrants in North America, and 10 million in Africa.

According to 2009 data, the number of people who do not migrate abroad and carry out internal migration is about 740 million.

Worldwide, the number of international migrants is small at 3.6%. Nevertheless, this number varies from country to country. For example, in a country like the United Arab Emirates, more than 88% of the population is made up of international migrants.

In addition, more than 40% of international migrants were born in 2020 in countries such as India, China, Bangladesh, Pakistan, the Philippines, and Afghanistan. Mexico ranks second while the Russian Federation ranks third. Significant numbers of immigrants are identified in several other European countries such as Ukraine, Poland, Romania, and Germany.

The United States has been a major destination for international migrants since the 1970s. The number of migrants has quadrupled, reaching 51 million in 2019 (World migration report .iom.int).

<b>Increase in the share of international migrants worldwide in 2000-2020</b>	
Continent	Quantity / In Millions /
Asia	37
Europe	30
North America	18
Africa	10

The uncontrolled chaotic migration of Ossetians in the 17<sup>th</sup> and 18<sup>th</sup> centuries, their compact settlement in the Georgian highlands, the annexation of the Republic of Georgia by Soviet Russia, and the creation of an “autonomous region of South Ossetia” in annexed Georgia gave rise to Ossetian separatism. Ossetian separatists who have chaotically immigrated to the Tskhinvali region launched an armed confrontation with Georgians to

expel them from the region. The internal armed conflict had escalated into an international armed conflict due to the aggressive attack of Russia on independent Georgia. This resulted in the Russian-Georgian war of 2008 with the Russian occupation of 20% of the territory of Georgia.

In 1944, Soviet Russia began to artificially change the demographic situation in the Transnistrian region of Moldova. This led to the deportation of 500,000 ethnic Moldovans and the settlement of 300,000 Russian-speaking ethnic groups in their place. As a result, the chaotic migration sparked an internal state armed conflict that was followed by the annexation of Moldova and the declaration of independence.

In the dissertation thesis “Criminological Characterization of Illegal Actions Committed at the State Border of Georgia”, it was revealed that the problems of hundreds of thousands of IDPs who were left homeless and without a minimum income became a heavy burden on the economy of the country. This is because the country was in the process of transition to a market economy. Thus, poverty and the increase in unemployment facilitated labor emigration and the outflow of population from Georgia. Internal migration processes also increased and job seekers from rural and other regions settled in within the capital and other large cities. The establishment of a terrorist state on the territory of Syria-Iraq in the region outside Georgia and the war for its liquidation, as well as the ongoing global processes in the world, led to an increase in the flow of refugees and asylum seekers in Georgia and illegal migration. Subsequently, this gave rise to a significant impact on the criminological situation in the country, alongside other objective and subjective factors.

Unemployment, along with the increase in demand for a cheap workforce, is one of the provocative circumstances of migration and smuggling of migrants across the state border. Through this means, a network of transnational organized criminal gangs is actively involved. Many experts cite unstable economic situation as a cause of migration and related trafficking.

Criminal gangs provide ways to transfer people to a country where they are not citizens and do not have the necessary documents to enter legally for a fee.

Therefore, the issue of differentiation of prevention measures is important in this regard. The prevention system should take into account: trafficking in women and children, sexual exploitation, forced labor in agriculture, construction, family farming, other sectors, and trafficking in human organs (Messina, & Lahav, 2006).

The global process that began in the second half of the twentieth century, the simplicity of crossing state borders, and increased transport traffic facilitated and encouraged migration processes. At the same time,

transnational organized crime activities in this direction are strengthened since it covers almost all countries of the world. An important area of activity of this criminal organization is the smuggling of migrants across the border.

The world community has, however, tried to respond to the challenge with legal regulations. This is evidenced by several UN resolutions addressing the issue, which is noteworthy in the year 1994, 1997, 1999, and 2010.

On November 11, 2000, the United Nations Convention against Transnational Organized Crime was adopted to simplify and intensify international cooperation. The Protocol of the United Nations Convention against Transnational Organized Crime was also adopted on December 12 of the same year, with its focus on “Prevention of Illegal Smuggling of Migrants to the Border by Land, Sea, and Air” (UNITED NATIONS 2000 PROTOCOL). Through the Palermo Protocol on the Suppression of the Smuggling of Migrants to Border by Land, Sea, and Air of the United Nations Convention against Transnational Organized Crime of December 12, 2000, the UN aims to combat and prevent the smuggling of migrants across the border. To achieve this goal, it is important to strengthen cooperation between the Member States, provided that the rights of migrants who cross the border illegally will be protected.

The Convention obliges the Contracting States to declare penalties against actions such as smuggling migrants across the border for the purpose of creating, obtaining, transmitting or possessing false travel or identity documents. Also, it is criminal to allow a person who is a national of the receiving State or a permanent resident to remain in that country. Therefore, it is significantly important to strengthen border control measures to achieve the objectives of the Convention, as well as to prevent and detect the smuggling of migrants.

The provisions of the Protocol stipulate that the smuggling of migrants across the border means “the unlawful entry of a person into a Member State of which he is not a national or a permanent resident for the purpose of obtaining, directly or indirectly, financial or material benefits” (Herein Article 13).

Neither the Protocol nor any other international legal norm defines the status of a migrant. The term “migrant” includes all cases where a person makes a decision about migration freely, without coercion, which is dictated for “personal well-being” and takes place without the intervention of an external coercive factor (Glossary on Migration 2019).

When it is a mandatory requirement to take action against migrants in order to obtain the objective composition of the crime, it is necessary in such a situation to establish a legally defined status of the migrant. This is because an asylum seeker, humanitarian status seeker, and refugee have different status from a migrant. The definition of the latter is defined by the United Nations



Convention of 1951 on the “status of refugees and the person” who, for reasonable fear that he or she may be persecuted for his or her race, religion, creed, nationality, social affiliation or political beliefs, is outside his or her country of nationality and is unable or unwilling to enjoy the protection of that country or he/she does not have any citizenship and as a result of similar events when he is outside his former country of residence, he cannot or does not want to return there due to such fear” (Convention relating to the Status of Refugees Article 1951).

According to the report of 2020 of the International Organization for Migration (IOM), the number of migrants from 150 million increased by 2.8% of the world population in 2000. However, it was observed that the number increased to 272 million in 2020, amounting to 3.5% of the world’s population. This year it amounted to 14 million people (International Organization for Migration World Migration Report 2020).

Attempts to penetrate other countries in 2014-2018 have documented more than 30,900 deaths of migrants. The highest number of cases was reported in the Mediterranean region, where at least 17,919 people died. In 2018, 813 migrants died while moving from the coast of North Africa to Spain. 570 died in US-Mexico border as a result of smuggling attempts in 2014-2018 (See Footnote ). According to the research, 1237 foreign citizens were registered as asylum seekers in Georgia in 2019. However, the number declined to 864 citizens in 2020. Although, 42 citizens were granted refugee status in 2019, the number declined to 10 foreign citizens in 2020. Furthermore, 35 foreign citizens in 2019 were granted humanitarian status but their number reduced to 16 in 2020. 407 persons were denied in 2019, while 351 foreigners were granted status in 2020 (Statistic of the Minister of Internal Affairs of Georgia 2019). The Law of Georgia on the “Legal Status of Aliens and Stateless Persons” facilitates international cooperation in the field of illegal migration in order to avoid irregular and spontaneous migration (On the legal status of aliens and stateless persons 2020).

According to the Georgian law, illegal transfer of a migrant to the Georgian border is subject to punishment. Also, according to Article 3441 of the Criminal Code of Georgia, “Illegal transfers of a migrant to the state border of Georgia and/or creation of appropriate conditions for his/her stay in Georgia (promotion) in violation of the rules established by the legislation” is considered a criminal conduct (Parliament of Georgia ).

The Prosecutor's Office of Georgia started criminal prosecution for the mentioned crime against 28 persons and 9 persons in 2019 and in 2020, respectively.

Georgia, due to its geopolitical location, is a possible transit hub for the illegal smuggling of migrants across the state border. Hence, within a short period of time, it is possible to completely smuggle a migrant across the state



border by entering the territory of Georgia and end the same action on the same day.

The mentioned crime is not unknown to the reality of Georgia. This is why it is quite relevant to discuss the criminalization of illegal transit of a migrant across the state border of Georgia as an aggravating circumstance under Article 344 of the Criminal Code of Georgia.

In addition, illegal natural processes of migrants in Georgia's neighboring countries are heterogeneous.

According to the 2020 report of the International Organization for Migration (IOM), in 2018, Turkey bordering Georgia was the largest country in the world for 5 consecutive years with 3.7 million persons (See Footnote 14 pg.4).

The legal regime of crossing the state border of Turkey and staying in the Republic of Turkey by foreign citizens, including migrants and victims of trafficking is established by Law on “Foreigners and International Protection” (Turkey: Law No. 6458 of 2013).

Foreign citizens who enter or leave the Republic of Turkey in violation of the requirements of Article 5 of the above law will be subject to an administrative penalty, which is a fine of 2000 Turkish LIRA ( See Footnote 19 Article 102).

Any direct or indirect action by a person who illegally allows a foreign citizen or stateless person to enter and/or stay in the Republic of Turkey to obtain material benefits and also allows a Turkish citizen or non-citizen to leave the Republic of Turkey illegally as a migrant smuggler shall be imposed with criminal liabilities. This is clearly stated in Article 79 of the Criminal Code of the Republic of Turkey (PENAL CODE OF TURKEY 2004).

The regime of movement of a person at the state border of the Republic of Azerbaijan is established by the Law of the Republic of Azerbaijan. This law was enacted December 9, 1991, based on the “State Border of the Republic of Azerbaijan” (Law of the Republic of Azerbaijan 2017). Violators of the state border regime of Azerbaijan or persons who made attempt to cross the state border of Azerbaijan illegally will be held criminally liable by the applicable law of the Republic of Azerbaijan (Law of the Republic of Azerbaijan 2017). Organizing illegal entry of a foreign citizen or stateless person into the territory of Azerbaijan is considered an illegal act on the state border of Azerbaijan. Furthermore, organizing illegal transit through the territory of Azerbaijan or organizing illegal departure of any person from the territory of Azerbaijan is also considered an illegal act (Criminal Code of the Republic of Azerbaijan 2000).

Illegal crossing of the state border of the Republic of Armenia is criminalized by the Criminal Code of the Republic of Armenia (Criminal Code of the Republic of Armenia Article 329.1).

The regime of movement of persons at the state border of the Russian Federation is determined by the Law that applies to “the State Border of the Russian Federation” (About the State Border of the Russian Federation 1996). The organization of illegal migration is criminalized by the Criminal Code of the Russian Federation. Organizing illegal entry or illegal transit through the territory of the Russian Federation of foreign citizens or stateless persons in the Russian Federation is considered as criminal ( Criminal Code of the Russian Federation 2020 Article 322.1).

Preventing illegal border crossings and stopping illegal and chaotic migration remains a challenge in the 21<sup>st</sup> century for the United States. An obvious expression of this is the decision to erect a protective barrier on the US-Mexico border (gar–United States barrier, 2-05-2020). The erection of this border dam was intended to prevent illegal migration and other illegal actions.

The U.S. Congressional Research Service has released a letter by Michael John Garcia, Acting Director of Research Department, entitled “Barriers Across the U.S. Border: Key Bodies and Requirements”. The author emphasizes the long-standing interest of the federal government and the importance of arranging the state border of the United States. Garcia discusses the construction of a border barrier such as a retaining wall by the State Department to curb illegal crossing of the state border. This is due to the reaction that has arisen around the issue (Michael John Garcia 2017).

According to a study by the International Organization for Migration, international remittances rose to \$ 689 billion in 2018. However, the United States remained the largest remittance country with \$ 68.0 billion. According to the same study, 50,661,149 migrants were registered in the United States in 2019 (WORLD MIGRATION REPORT 2020).

U.S. criminal law prohibits the actions of a person, aircraft, transport company, shipowner, owner, commander, agent, shipper, or consignee who smuggles foreigners into the United States from anywhere as such actions are punishable (U.S. Code Title 8. Aliens and nationality 2000).

In addition, U.S. criminal law plays an important role in preventing illegal crossings of the state border by blocking covert border crossings such as underground tunnels and crossings. The U.S. Criminal Code further stipulates up to 20 years imprisonment for the illegal arrangement of border tunnels and crossings. Both the immediate constructor and the sponsor are responsible for the above mentioned. Every individual shall be subject to punishment if she/he commits the said act (Criminal Codes of United States 2017).

According to 2019 data, there are more than 82 million international migrants living in Europe. Compared to 2015, the number of migrants entering from outside the European continent increased from 35 million to 38 million

in 2018 (See Footnote 14 pg.97). The Agency of European Border and Coast Guard also publishes an important study on the number of migrants in Europe, including illegal migration (Front exreleases Risk Analysis 2020).

On March 9, 2016, the EU Parliament and the Council adopted the SCHENGEN Code, which regulates the regime of crossing the borders of the SCHENGEN countries. The Code is binding for all SCHENGEN countries and legitimizes direct action on the borders of member states.

According to the Code, border control is not only set up in the interest of the Member States on the external borders which are exercised but also for all the Member States which have abolished internal border control. Border control facilitates the fight against illegal immigration and trafficking and hinders the internal security, public policy, public health, and international relations of the Member States (Schengen Borders Code 2016).

European states, regardless of whether they belong to the SCHENGEN countries or not, in accordance with their domestic interests and obligations under international treaties, criminalize illegal acts involving the smuggling of persons across the state border, including the smuggling of migrants (Hungarian Criminal Code 2012) (234,353).

Under Polish law, the organization of the smuggling of persons across the state border is punishable (Criminal code of the Republic Poland Article 264, 1997).

Latvian criminal law also criminalizes the illegal crossing of the state border and the smuggling of a person across the state border (Criminal Code of the Republic Latvia/amended 2018) (235,284-285). Similar acts are criminalized under Estonian criminal law which was set up in 2001 but amended in 2019.

According to the Criminal Law of Finnish, the organization of illegal migration is punishable. The subject of a crime involves a person who attempts to bring persons without a passport, visa, residence permit, or other similar document, such as false documents, required to enter the country. Also, trying to bring an alien into Finland through illegal ways is punishable by law. If the act is committed by special humanitarian motives that are related to close family relations or due to circumstances related to the security of the alien that threatens him/her in his/her homeland or country of permanent residence, the act is not considered as organizing illegal migration in this case (Criminal code of the Republic of Finland 1889 amended 2015).

According to a study by the International Organization for Migration, 5 million migrants were registered in Ukraine in 2019. Interestingly, most of them are citizens of Belarus, Kazakhstan, the Republic of Moldova, the Russian Federation, and Uzbekistan. The illegal transfer of persons across the state border of Ukraine, including organizing, directing, assisting, and enforcing this action is punishable under the Law of Ukraine. Aggravating

circumstances involves performing an action by a group or by an organized group for any benefit (Criminal Code of Ukraine with changes and additions as of April 13, 2020).

An analysis of the regulations adopted by states on the smuggling of migrants to the state border shows the Protocol to the UN Convention against Transnational Organized Crime which involves the "Prevention of the smuggling of migrants to the border by land, sea, and air". The proviso that the purpose of smuggling a migrant across the state border is the "purpose of obtaining direct or indirect financial or other material benefits" is reflected in different ways in the legislations of states. According to Georgian legislation, the motive and purpose of the crime of smuggling migrants across the state border of Georgia can include various direct or indirect financial or other material benefits, the desire to help a relative, and others. According to Finnish law, a desire to help a loved one is not considered a punishable act if its motive and purpose are of a humanitarian nature. Under Moldovan law, action is punishable only if the motive is to obtain various direct or indirect financial or other material benefits. According to Russian law, the construction of the objective composition of the crime does not count.

There is also a difference in the use of the term "migrant". As long as there is no universally recognized legal definition of a migrant, the term "migrant" is replaced with other terms such as foreigner, foreign citizen, and so on.

Illegal smuggling of migrants to the state border is a deliberate intentional crime. The purpose of the offender is to smuggle a migrant to the destination country, where the relationship between the offender and the migrant ends. This is different from transporting a victim of trafficking across the border (even illegally) because the goal of the offender in trafficking is to exploit the victim. An illegal migrant, despite ending his or her relationship with an illegal smuggler at the border, often becomes a victim of trafficking because it is difficult for him or her to stay abroad illegally or even find shelter and food. More so, helpless conditions may force him/her to agree to the offender on the deliberate exploitation.

In the 21<sup>st</sup> century, a particularly dangerous form of migration has emerged such as migration for the purpose of carrying out terrorist activities. The horrific terrorist attack of September 11, 2001, was carried out by citizens of Saudi Arabia, the United Arab Emirates, Egypt, and Lebanon who migrated to the United States. In an article published in August 2017 during the News aired on BBC, there were 63 attacks. According to the calculation of researches from September 2014 to August 2017, 424 people died and 1800 were wounded by jihadists in the 63 attacks. Thus, the link between terrorism and migration is complex and multifaceted and has become the subject of

heated debate, which has reached its peak during the crisis of illegal migration in Europe.

The number of attackers who were in the country illegally or came in as refugees is small. Two-thirds of the citizens of the country were attacked, while the rest were legal residents or legal visitors from neighboring countries. In addition, the terrorist act was carried out by persons illegally staying in the West (BBC NEWS August 30, 2017).

In 2006, a terrorist organization was formed in Iraq (an Islamic State) by 11 radical Islamic groups. Due to the influence of fundamentalist leaders, some Muslims around the world began migrating to the area to join terrorist groups and engage in terrorist activities. In order to restrain this process, a relevant legislative regulation has been implemented in the Criminal Code of Georgia. This is in accordance with the Resolution N2178 of the United Nations Security Council, which was established on September 24, 2014, at its 72<sup>nd</sup> meeting. This regulation declares that an act of “crossing or attempting to cross the state border of Georgia for the purpose of preparing or participating in terrorist activity or terrorist exercise” is punishable (Footnote ). In order to manage and control legal migration, states impose different quality regulations. According to international studies, China is one of the largest countries in terms of the origin of migrants (with 10.7 million migrants living abroad). According to Chinese law, it is punishable to organize illegal crossing to the state border, prepare forged documents for this purpose, purchase and sell such documents or use them. Similarly, smuggling third parties to the border envisages severe punishment (Criminal Law of the People's Republic of China). In parallel with the above mentioned, China simplified visa regulations for specialists and highly skilled workers in 2018 to attract talented foreigners (See Footnote 17 Article 323).

Strengthening state border by monitoring and tightening legislation is not enough to prevent the smuggling of migrants to the state border. At the international level, it is necessary to analyze the problems causing migration in the countries of origin of migrants and relevant responses.

The state has a leading role to play in managing migration processes. In this regard, it is important to adhere to such principles as:

- The rule of law, which is derived from the principles of international refugee and human rights law;
- Zero tolerance for human trafficking and smuggling of migrants across the state border;
- Deepening cooperation at the international level;
- Transparency;
- Non-discrimination on racial, national, linguistic, religious, gender, ethnic, political, social or other grounds;

- Proper implementation of international agreements;
- Cooperation with international, regional, and non-governmental organizations;
- Fight against racism and xenophobia.

## **Conclusion**

This study analyzed the history of global migration and its positive and negative aspects. The chaotic uncontrolled migration, the current situation, and the risks associated with it are examined as well.

Regulations, conventions, protocols related to the smuggling of migrants to the state border, and compliance with the domestic legislation of the Contracting States are also discussed.

It has been found that States criminalize the smuggling of migrants to the state border through their legislative acts, which extends the UN's goal and motive for constructing the objective composition of the crime based on its own challenge. However, as long as the term "migrant" does not have a universally recognized international status, the term is replaced by other terms such as foreigners, foreign nationals, and others. Thus, there is need to develop a legal definition of the term "migrant".

The study further examines the interrelationships between international terrorism and illegal migration and, in some cases, their coexistence. Like Georgia, it is advisable for states to criminalize the legitimate or illegitimate crossing of their country's state borders in order to join a terrorist organization or participate in terrorist activities, regardless of the nationality of the perpetrator.

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