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MODERNISATION OF THE STATE MIGRATION POLICY OF UKRAINE IN TERMS OF EUROPEAN INTEGRATION

The main purpose of the article is to analyze the most significant peculiarities and recent challenges of the state migration policy in Ukraine. Specific objectives of the research encircle evaluation of tendencies and trends of migration policy development in Ukraine. The article also provides the insight of evolution of international migration process in general. It includes assessment of the state system of migration regulation in Ukraine and its legislative approaches. It also aims to analyze activities of the relative institutional model in Ukraine. Moreover, the paper describes the whole system of migration management and its modernization in Ukraine in the framework of its integration with the European Union. Especially it concerns the Action Plan on EU-Ukraine Visa Liberalisation.
Key words: international migration, state migration policy, State Migration Service, Concept of the state migration policy of Ukraine, Visa Liberalisation Action Plan, European integration.

Intensification of migration flows is one of essential features of the modern world. There is no a single country, which could be able to stop or absolutely control them. Obviously, international migration is a natural result of imbalance in population, standards of living and political situation in different states.

Nowadays scientists, politicians and civil activists show a great interest in migration issues. One of the main reasons for it is enlargement of the number of migrants all over the world. As the International Migration Organisation (hereinafter – IOM) stated, in 2010 the total number of migrants was about 214 mln. people and in 2050 according to prediction there would be about 405 mln. of migrants living abroad[1]. Such tendency depends on a number of factors: demographic inequality, environmental changes, technological revolutions, regional political and economic crisis.

IOM experts also mentioned that the world economic crisis that had started in 2008 did not in fact reduce the intensity of international migration processes. Basically, migration trends slowed down in some regions though in other countries they grew up significantly. Taking to account the unsustainable situation in many states, the migration flows would constantly grow and all developed countries should focus not on banning this process (as it is impossible), but on its efficient regulation.

In terms of international migration new communities change the traditional image of those countries they arrive to. They directly influence political, economic and social processes in these states. Previously external migration processes used to be accepted mostly negatively because immigrants increase pressure upon the state budget and social sphere. Moreover, emigration encourages best labor forces to look for a job abroad. Nevertheless, more and more governors believe that migration is a normal and even useful process that donates to the state economy in general.

Ukraine also looks for efficient approaches to migration management balancing between international obligations for human rights and economic quotas for unpopular professions. Ukraine is primarily a transit country for migrants due to its geographical position and borders with four EU members. However, the level of emigration rapidly increased with the annexation of Crimea and beginning of war in the Donbas region. Nowadays there are many challenges and risks in the migration field for Ukraine caused with the internal political situation and external expectations.

The main purpose of the article is to define significant peculiarities and challenges for the state migration policy in Ukraine. Specific objectives of this research are following: to design tendencies, peculiarities and trends of migration policy development in Ukraine; access efficacy of a general system for migration regulation in Ukraine at the legislative level; analyze activities of the relative institutional model and its transformation.

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[1] International Organization for Migration (2010). *World Migration Report 2010: The Future of Migration: Building Capacities for Change*. France: Imprimerie Courand et Associés, 19.

Regulation of active migration flows is not a new subject for the public administration in Ukraine. The proclamation of independence of Ukraine was immediately followed with intensification of migration processes. Having no experience in migration management the country faced numerous problems caused by unregulated flows of migrants. Nevertheless, even EU countries dealing with the enlargement of number of refugees and asylum seekers do not have an adequate answer on how to integrate them in the society and provide them with the necessary means of subsistence. That is why the process of development and modernization of migration policy should be strategically planned. For Ukraine it is also a prior area of public administration due to unstable socio-political situation and growing number of immigrants. Moreover, when visa-free regime with the EU becomes truly available, external migration will become even more intensive.

It is crucial for any state policy to create and follow fundamental principles of migration regulation. There are many approaches to migration policy as it concerns different spheres of public life – sociological, political, economic, physiological, and legal. For instance, some political scientists emphasize on social technologies for migrant flows regulation: "Migration policy is a system of resources and mechanisms enabling the state to provide a systematic control on social movements and social mobility of its native citizens and foreigners"[1]. V. Kolpakov and O. Kuzmenko identify migration policy as a number of mechanisms corresponding to public administration and including the process of decision making. These mechanisms should control migration flows in accordance with the rule of law and relevant responsibilities of authorities[2].

As we focus mainly on state migration policy, it is crucial to emphasize its political and legislative approaches. Doctor Olefir suggests defining migration policy as a complex of legislative, financial, administrative and organizational measures the government uses for regulation of migration processes taking to account migration priorities and their place in the whole system of governance[3].

The main tasks for migration policy are regulation of migrant flows, fight with illegal migration, protection of migrants' rights and integration of foreigners into a national, social and economic environment in a recipient country.

Obviously, migration consists of two basic processes – emigration (going out of a country) and immigration (going into a country). In Ukraine the migration balance remains positive since 2005, as the State Statistics Committee illustrates. Thus, in 2012 the migration growth was amounted to 61 800 people and in 2014 – about 22 600 people. For the period of January – September 2016 the growth of migrants is estimated only as about 7000 people[4]. Beyond any doubt, the Euromaidan, annexation of the Crimea region and war in Donbas had an impact on migration flows both within Ukraine and outside its borders. Consequently, the migration balance will constantly decrease unless the situation with the war gets better.

Analysts of the Migration Policy Institute, Washington DC, identified three main factors, which have effected migration growth in Ukraine. These factors are forced migration or internal displacement from Donetsk and Luhansk regions, as well as the annexation of Crimea; migration (internal and external) as a way to avoid mobilization, emigration for studying or employment, caused by deteriorating of socio-economic situation in the country[5]. From this perspective, it is important to design the migration action plan in Ukraine corresponding to this classification with certain measures for each of three trends. Beyond this, the state migration strategy should also include integration programs (both state and local levels) for immigrants and internally displaced people.

Ukraine already has numerous legislative regulations of migration issues, though a strong correlation between them is still needed. There is point in the State Sovereignty Declaration of Ukraine about regulation of migration flows. Following democratic principles the Constitution of Ukraine guarantees free

[1] Бабенко, О.Г. (1997). *Міграційна політика Української держави на сучасному етапі (політологічний аспект)*: автореф. дис. … кандидата юридичних наук: спец. 23.00.02. Київ.

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[4] Міграційний рух населення у січні-вересні 2016 р. *Державна служба статистики України* <http://www.ukrstat.gov.ua/> (2016, December, 12).

[5] Düvell, F., Lapshyna, I. (2015). The EuroMaidan Protests, Corruption, and War in Ukraine: Migration Trends and Ambitions. *Migration Policy Institute website* <http://www.migrationpolicy.org/article/euromaidan-protests-corruption-and-war-ukraine-migration-trends-and-ambitions> (2016, December, 12).

migration, selection of a place for living, coming into and out of the country. It also states equal rights for foreigners with a legal status and asylum for those who look for it. Legislative regulation of migration is also composed with a number of laws: On legal status of foreigners and people without citizenship, On citizenship, On refugees, On immigration, On freedom of migration and choice of place for living in Ukraine, On Rule of coming in and out of Ukraine for its citizens and so on.

However, over the years Ukrainian lawmakers debated on the need to create a single fundamental act in the field of migration. Due to the global growth of international migration flows the lack of the coherent migration policy of Ukraine could lead to serious economic and social problems. The intention to create a policy concept also corresponded to Ukraine's commitment to the international community. Some of requirements of the European Union concerning visa-free regime with Ukraine were to design a migration policy, define an authority responsible for migration issues and to form a unified e-population register. Thus, the delay in the adoption of the Concept of the state migration policy aggravated the migration situation in the country and undermined the international image of Ukraine.

Olena Malynovska, a leading Ukrainian expert in migration issues, shares her arguments for the lack of a coherent migration policy in Ukraine. The reason for poor political discussion of its main principles and trends is that politicians do not perceive migrants as voters to a high extent. The analyst states that Ukrainians living abroad have not been very active at elections for years. Only about 20-30 thousands of Ukrainian emigrants usually vote[1]. Moreover, Olena Malynovska believes migration issues have always been rather important for Ukraine, however – not essential and urgent. As a result, state regulation of migration flows in such circumstances has more external pressure and expectations than inside the country.

All legislative acts in Ukraine dealing with external affairs proclaim integration with the EU as the most important vector of the international relations. Consequently, the European Union has a great influence on modernization of the migration policy in Ukraine. The Visa Liberalization Action Plan (hereinafter – Action Plan), approved in 2010, simply became the roadmap for the migration management system transformation in Ukraine. Some of its key points are: safety standards for private data; biometrics and other e-technologies increasing efficacy of services; capacity building for fight with illegal migration and protection of refugees; efficient following of a bilateral readmission agreement etc[2]. The Action Plan consists of certain criteria and needs two stages of implementation. Primary indicators evaluate political and legal readiness of a country to a visa liberalization process. Next step concerns efficient and sustainable activities for implementation of these rules. In June 2014 the European Council led Ukraine's transition to the second stage of the Action Plan approving changes in legal and political fields towards migration. Finally, in December 2015 the European Commission stated that Ukraine has met all the requirements and the visa liberalization process has started. Beyond migration issues, it was a sign of the international support of Ukraine in terms of military actions in the eastern part of the country and support of a newly elected president Petro Poroshenko.

Ukrainian and foreign experts have different predictions about the consequences of visa liberalization for Ukraine. Usually the process for its activation lasts from three to twelve months. In case of Ukraine, it will obviously start in a year or even later after the approval of the full commitment of the Action Plan. Nevertheless, only those Ukrainian citizens who have biometric passports will have benefits of this reform. In addition, general rule for staying in the EU only 90 days during six months will remain the same. Consequently, visa liberalization favors tourists or migrants with short business trips. Those who plan to work or study in the EU won't have simplified procedures.

Beyond the issues of visa, the Action Plan also focuses on development of key priorities for the state migration policy. The Cabinet of Ministers of Ukraine has been responsible for their implementation since 2010. Although it has already held all the planned activities, the whole system for migration management in Ukraine still looks very fragmentary. The most essential EU requirements concerned drafting a national

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[1] Малиновська, О. (2014). Міграційна політика в Україні: формування, зміст, відповідність сучасним вимогам. *Інститут економічних досліджень та політичних консультацій.* <http://www.ier.com.ua/files//publications/Policy_Briefing_Series/PB_01_migration_2013_ukr.pdf> (2016, December, 12).

[2] Безвізовий діалог між Україною та ЄС. План дій з лібералізації візового режиму (Кабінет Міністрів України). *Офіційний сайт Кабінету Міністрів України.* <http://www.kmu.gov.ua/document/244813925/План%20д_й%20щодо%20л_берал_зац__%20C%20в_зового%20 режиму%20для%20Укра_ни.pdf> (2016, December, 12).

concept for the migration policy development in Ukraine and creation of a central body of power authorized for migration issues – State Migration Service.

As for the concept, MPs of Ukraine really tried to design a law on migration. Needless to say, there was a confrontation of interests of different authorities and lobby groups who tried to improve their career status through this document. Among all the attempts to create a special rule on migration we should mention two drafts of law – On basic features of the State Migration Policy of Ukraine and On the Concept of the state migration policy of Ukraine. They both were written in 2008 and they both were declined in 2009 by the Central Scientific Expert Committee. The first document was too declarative to be adopted as a law[1]. The second one was badly structured with some contradictions towards the Constitution of Ukraine[2]. All other following attempts unfortunately were not successful either. Meanwhile Ukraine signed the Action Plan in 2010 and the question about the fundamental law in the migration sphere became urgent. The Cabinet of Ministers found an alternative solution – to approve the Concept of the State Migration Policy of Ukraine (hereinafter – the Concept) just as a governmental resolution instead of law. That resolution, in fact, had to become the source for further specific laws. So, in May 2011 the desirable concept finally appeared.

Yevhen Perelygin, Head of the Division of the EU integration, Administration of the President of Ukraine, commented the approval of the Concept as a very important tool for prevention of uncontrolled migration processes. He also emphasized the importance for further legal rules based on the main principles and priorities of the Concept, basically concerning trade migration, force migration and protection of human rights in terms of these issues[3].

Although the approval of a state migration strategy was highly demanded among civil society leaders and scientists, the Concept only partly corresponded to their expectations. Ihor Markov, expert of the National Academy of Science of Ukraine, admitted the approval of the Concept as a failure. From his prospective, the strategy did not define main tasks and challenges in the migration sphere or any relevant actions that should be done by authorities[4].

The Concept, in fact, looks like a list of trends and general principles of the migration management in Ukraine. Only a few points there indicate the necessity for further dynamics and concrete steps. They refer to preparation of laws dedicated to "better immigration procedures for Ukrainians and those, who had been forcedly departed from Ukraine" and "legal status of foreigners and the stateless (new edition)"[5].

One of the main disadvantages of the Concept, however, is the lack of information about institutional regulation of migration flows in Ukraine. For instance, there is no article about the State Migration Service that has already been created in Ukraine. Meanwhile, international experts currently define a chaotic and bureaucratic migration management structure as the main obstacle for efficient policy in this sphere. Later a special regulation for the State Migration Service functions was approved by the government; however, it should have been also defined in the Concept as well.

Despite the above mentioned important defects, the Concept includes some statements about innovative approaches in the migration policy based on the EU standards. For instance, the government gets obliged for:

- Creation of e-statistics system for immigrants; its integration with the EU data bases;
- Creation and distribution of biometrical passports both Ukrainian and international;
- Forming of the Unified Data Base about all citizens of Ukraine (e-State Population Register).

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[1] *Висновок Головного науково-експертного управління стосовно Проекту Закону про основні засади державної міграційної політики України № 3158* (Верховна Рада України). *Офіційний веб-сайт Верховної ради України.* <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=33324&pf35401=135460> (2016, December, 14).

[2] *Висновок Головного науково-експертного управління стосовно Проекту Закону про концепцію державної міграційної політики України № 3506* (Верховна Рада України). *Офіційний веб-сайт Верховної Ради України.* <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=33981> (2016, December, 2014).

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[5] *Указ про Концепцію державної міграційної політики* 2011 (Президент України). *Офіційний сайт Верховної Ради України* <http://zakon0.rada.gov.ua/laws/show/622/2011> (2016, December, 10).

Implementation of these tasks was launched in Ukraine a few years ago. For instance, Ukrainians now have an opportunity to change their paper passports for biometrical ones. The design of the population register and statistics system is still in process. Experts predict it will appear in 2017 as relevant legislative acts have finally been adopted in 2016.

Although the Concept is rather declarative, its approval by the government is a big step forward. However, it will serve as a roadmap for the migration policy in Ukraine only in case of its support with a number of other specific and technical regulations.

Beyond any doubt, institutional regulation of migration also has vital importance in terms of public administration. Since the proclamation of independence the government tried various models of migration regulation. The institutional system in different periods included up to seven central bodies of power dealing with regulation of migration flows. Such diversity of institutions consequently led to a rather chaotic system of control and administration. Needless to say, different authorities doubled the same functions and spheres of competence. Experts have stressed the necessity to create a system with a core institution in migration regulation for about 10 years.

Viktor Chumak, Head of the Ukrainian Institute for Public Policy, believes that a postponed decision about the State migration service is determined by private and corporative interests of some institutions and individuals, who did not want to delegate their sphere of competence and public budget. Beyond that, the Cabinet of Ministers of Ukraine and the Verkhovna Rada did not have a unified position towards a migration institutional model[1]. The majority of experts insisted on creation of the State migration service of Ukraine. Moreover, the EU demanded it according to the visa liberalization plan.

Referring to the international experience, many countries use the model with a State migration Service included to the Ministry of Internal Affairs (Austria, Belgium, Bulgaria, Great Britain, Greece, Italy, Latvia, Lithuania, Germany, Poland, Belarus, Romania, Slovakia, Turkey, France, Czech Republic). In some states it serves as an independent body coordinated by the Minister of the Internal Affairs (Spain, Portugal, Russia, Hungary). State Migration Service is a special independent governmental body in Denmark, Estonia, Sweden[2].

The State Migration Service of Ukraine was launched in 2009. It existed about a year as a pilot project and then it was disbanded by the president's decree. In 2011 it started working again. Nowadays the State Migration Service of Ukraine plays a very important role in migration flows regulation. For instance, it controls migration trends both inside and outside the country. It also helps to predict and prevent certain challenges in the sector of national security that has connection to rapid intensive migration flows. The Service enables IDP to get their new passports and other documents. Nowadays it is hard to imagine the ecosystem of migration management in Ukraine without the State Migration Service. However, its work needs to be improved at a regional level, as there are still long lines of clients expecting for services in many cities. Some of these disadvantages will be reduced with launching of e-services in the migration sphere. The government intends to provide them in 2017, as soon as the population e-register starts working at the national level.

Recent reforming of the migration management system in Ukraine is favorable for making an efficient model for international migration flows control and contribution to the EU general standards of good governance. However, most of these changes in institutional and legislative fields were caused with external challenges and expectations, obligations on the Action Plan of Visa Liberalisation in particular. Although Ukraine has not become an asylum for a great number of international refugees and does not face global social pressure like the majority of EU states, it has other crucial and urgent problems. The war in the eastern part of the country, numerous internally displaced people, essential level of emigration because of low living standards and many other challenges make the migration management system in Ukraine very complicated and hardly predictable. In spite of these risks, the government keeps looking for rational solutions. Hopefully, in 2017 Ukraine will finally get a visa free regime with the EU, the e-register of population will start working and a lot of new e-services in the migration field will become available for Ukrainian citizens.

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