

4 July 2016, Kyiv – Brussels

POLICY BRIEF
**Ukrainian Migration Policy Reform:
Paving the Way for the EU-Ukraine Cooperation**

Authors: Kateryna Kulchytska	NGO "Europe without barriers"	kathrin.pankova@gmail.com
Iryna Sushko	NGO "Europe without barriers"	iryna_sushko@ukr.net
Andriy Solodko	CEDOS think tank	asolodko@cedos.org.ua

Summary

Significant progress has been made in reforming Ukraine's migration policy in all its aspects, from border management to readmission, from the management of all forms of migration including asylum to the integration of recognized refugees and Ukrainians displaced by the conflict in the East (IDPs), from cooperation with EU countries and agencies to respect for human rights regarding to the movement of people. Long-term cooperation with the EU within the framework of the EU-Ukraine Action Plan on Justice, Freedom and Security, as well as on visa liberalization has helped Ukraine to implement best practices in migration policies. Now, after Ukraine has met all the conditions of the European Commission for visa-free travel, Ukraine must continue and deepen the undertaken reforms, particularly in the areas of refugees' integration and IDPs' reintegration. Although some structural aspects of Ukraine's migration policy have been introduced based on the lessons from earlier reforms, the integration policy especially with regard to IDPs has been implemented from scratch. Further improving Ukraine's integration policy would help monitor migration risks and benefit from the potential of migration for development of the country.



This report has been created under the Ukrainian Think Tank Development Initiative, implemented by the International Renaissance Foundation (IRF) in partnership with the Think Tank Fund (TTF) and funded by the Embassy of Sweden in Ukraine (SIDA).

The views and interpretations expressed in this report are the authors' and do not necessarily reflect those of the Government of Sweden.

Recommendations to Ukraine's government

- The Ukrainian government should engage migration policy experts to assist with comprehensive implementation of its migration policy, including migrant integration. Otherwise, progress in other areas of the “migration package” could be jeopardized.
- The Ukrainian government should review best practices in migrant integration in EU countries, particularly the multi-level governance of migration and migrant integration, and initiate similar pilot projects in Ukraine. Simultaneously, it should intensify cooperation with migration services, labour ministries and social services in EU countries.
- The Ukrainian government should incorporate the findings from the research by Ukrainian think tanks on immigrant, refugee and IDP integration and re-integration, which show that the most efficient integration programs are based on local initiatives, not government directives that usually do not have a clear sense of migrants' needs.

Recommendations to the EU and Ukraine's partners

- The EU should mainstream migration and integration issues through policies, inter-governmental coordination, and dialogue with Ukraine. This will increase transparency of the policy-making process, improve the quality of decision-making, and help move away from closed-door politics.
- EU politicians should insist on Ukraine launching awareness-raising campaigns on migration as Ukrainian society does not yet see this issue as something that affects it directly. Due to financial limitations, such campaigns should focus on the areas with a high number of migrants and on those target audiences who are in contact with most vulnerable migrant groups. Migration should also become a greater priority as a state policy.
- International and EU donors that operate in Ukraine should support the organizations that provide data and analysis on migration. This would help generate evidence-based integration policies and bring about a more efficient allocation of state and donor funding for migration needs.

1. Reforms in Ukraine's migration policy as a result of cooperation with the EU

Over the past eight years, Ukraine has made significant progress in migration management. The transformation of Ukraine's migration policy has been greatly facilitated through close cooperation with the European Union. Progressive reforms primarily have taken place as a result of the implementation of the EU-Ukraine Action Plan on Justice, Freedom and Security (2001 and revised in 2007),¹ the Action Plan on Visa Liberalisation with the EU (2010-2015)² and cooperation with relevant EU institutions.³

Adopting the revised EU-Ukraine Action Plan on Justice, Freedom and Security in 2007 was a huge step forward for international cooperation. It has helped to better respond to common challenges in cross-border cooperation after the EU's enlargement. To implement this action

¹ http://zakon3.rada.gov.ua/laws/show/994_956

² http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/visa-liberalisation-moldova-ukraine-and-georgia/index_en.htm

³ Europol, EUBAM and Eurojust (European Union's Judicial Cooperation Unit) are meant here: <http://mfa.gov.ua/ua/about-ukraine/european-integration/justice-freedom-security>

plan Ukraine established a single central body the State Migration Service (SMS), which implements policies on migration. Ukraine has substantially strengthened the fight against irregular migration by ratifying the EU-Ukraine readmission agreement (2008). From 2010 to 2015 the State Border Service accepted 3081 persons from EU countries and transferred 353 individuals to the EU under this agreement.⁴

In 2010 the EU-Ukraine Visa Liberalisation Action Plan (VLAP) entered into force, providing the overall framework for the country's implementation of modern migration management policies. According to the terms of VLAP, Ukraine's policies of migration management, integrated border management, asylum and state control over legal and irregular migration had to be changed. International monitoring missions and NGO representatives, including "Europe without Barriers," evaluated Ukraine's implementation of VLAP and certified the country's significant progress.⁵ VLAP helped set strategic directions for migration policy and put emphasis on guaranteeing respect for fundamental rights and basic freedoms.

Ukraine met 54 VLAP criteria, including 23 conditions from the field of migration management, according to the Final (Sixth) Progress Report of the European Commission.⁶ This became the basis for the legislative proposal of the European Commission in April 2016 to grant Ukraine a visa-free travel regime with the EU.

2. Progress in reforming migration policy on the way to visa liberalization

On the eve of the VLAP implementation in 2009 the main challenges for Ukrainian migration policy were the lack of document security system and the low efficiency of border management. Both raised questions about Ukraine's ability to stop irregular migrants at the EU border. The Ukrainian response was the approval of legal framework for issuing new biometric machine-readable documents that meet ICAO standards.⁷ As a result of this decision, 1.3 million biometric passports and 90,100 biometric ID cards have been issued as of June 2016.⁸ Special passport reading equipment was installed at 68 border crossing points.⁹

The next step in fulfilling VLAP requirements was the adoption the State Development Strategy of the State Border Guard Service of Ukraine (SBGS) and the 2015-2020 Integrated Border Management Concept in 2015.¹⁰ The SBGS was designed to analyse risks and detect and investigate cross-border crime. In addition, the SBGS was granted access to Interpol databases at 39 priority border crossing points and developed cooperation in border checks at crossing points with neighbouring countries.¹¹ In 2015, the SBGS exposed 63 organized crime groups and arrested 66 organizers and accomplices; 27 convictions were handed down by the court based on these arrests.¹² The total number of undocumented migrants detained by the border guard service increased by 30 percent in 2015 over the previous year

⁴ http://dmsu.gov.ua/images/files/profile_2015_en.pdf p.68, <http://dmsu.gov.ua/images/files/MP2015.pdf> p.68

⁵ <http://novisa.org.ua/wp-content/uploads/2015/12/Buklet5.pdf>

⁶ <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF>

⁷ <http://dmsu.gov.ua/yevropeiska-intehratsiia/3399-stan-realizatsiji-planu-dij-z-liberalizatsiji-es-vizovogo-rezhimu-dlya-ukrajini>

⁸ <http://dmsu.gov.ua/images/files/statistic/Statistic15.pdf>

⁹ http://dpsu.gov.ua/ua/about/programms/programms_7.htm

¹⁰ http://dpsu.gov.ua/ua/about/news/news_9234.htm , <http://ukranews.com/news/211062.Stalo-izvestno-skolko-ukraintsev-uzhe-oformili-ID-karti-i-biometricheskie-zagranpasporta.uk>

¹¹ <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF>

¹² <http://dmsu.gov.ua/images/files/MP2015.pdf> p.62

(in 2014: 2,723, 2015:3,536). The number of persons detained for illegal border crossing almost doubled during the same period (in 2014: 960, 2015:1, 804).¹³

Through VLAP implementation, Ukraine has **strengthened the institutional capacity** of the State Migration Service of Ukraine (SMS), which plays a major coordinating role in migration policy implementation. The SMS was strengthened by an increase of personnel by 10 percent (500 employees), and the establishment of a contact information and analytical centre, as well as special units for combating irregular migration.¹⁴

Assessing the progress of Ukraine's migration policies over the past five years, one can summarize that continued bilateral cooperation with the EU has driven Ukraine's progressive reforms in its policies of migration management, border management, asylum, readmission and state control over legal and irregular migration. The main recipients of international assistance are the State Migration Service and the State Border Guard Service of Ukraine, which despite the Russian aggression managed to increase their capacities in line with EU best practices. However, strengthening the legislative framework and institutional capacities of the migration system only partially addressed Ukraine's integration policy for immigrants, refugees and asylum-seekers as well as IDP reintegration policy.

3. Integration of refugees and immigrants in Ukraine

The integration of refugees and immigrants is an integral part of effective migration policy. Successful integration reduces the risk of onward migration and results in positive effects for migrants, local communities and the country, as a whole. At the beginning of 2016 there were 2,487 persons with refugee status and 598 individuals in need of subsidiary protection¹⁵ in Ukraine.¹⁶ Asylum seekers in Ukraine are mostly natives of Afghanistan, Syria, Somalia, Russia and Iraq. One of the EU's requirements within the framework of VLAP implementation was the introduction of an integration policy, which is reflected in the Action Plan for the Integration of Refugees, and Persons in Need of Subsidiary Protection into the Ukrainian Society, as well as 25 regional action plans, introduced in 2012.¹⁷

The plans envisage that traditional measures are taken to ensure that refugees enjoy their rights such as access to opportunities of learning the language, history, culture and laws of Ukraine; temporary refugees housing units; and that tolerance education takes place in local communities. However, none of the regional plans covers all the elements of a logical integration process: education, employment, social inclusion, citizenship and political participation.¹⁸ Also, there are no performance indicators for integration. Since it came into force four years ago, the national programme has never been revised, evaluated, or extended to particular migrant categories in spite of the fact that modern best practices show that each category of migrants, like children, women or workers needs a specific integration model¹⁹.

4. Reintegration of IDPs in Ukraine

¹³ <http://dmsu.gov.ua/images/files/MP2015.pdf> p. 59

¹⁴ <http://dmsu.gov.ua/yevropeiska-intehratsiia/3399-stan-realizatsiji-planu-dij-z-liberalizatsiji-es-vizovogo-rezhimu-dlya-ukrajini>

¹⁵ Subsidiary protection is an international protection for persons seeking asylum, but do not qualify as refugees

¹⁶ <http://dmsu.gov.ua/images/files/statistic/Statistic15.pdf>

¹⁷ <http://zakon2.rada.gov.ua/laws/show/605-2012-%D1%80>

¹⁸ http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578956/IPOL_STU%282016%29578956_EN.pdf

¹⁹ <http://www.cedos.org.ua/uk/migration/analiz-polityky-intehratsii-bizhentsiv-ta-osib-yaki-potrebuut-dodatkovoho-zakhystu>

After the annexation of Crimea and Russian military aggression in the east of the country, Ukraine has been presented with a new challenge - its 1.78 million internally displaced persons.²⁰ The main destinations of those affected by military actions were other regions of Ukraine – Lugansk, Donetsk, Kharkiv, Dnipropetrovsk, Zaporizhzhia regions and to a much lesser extent EU countries. In 2014 -2015, 36,110 Ukrainian citizens applied for asylum in the EU; only 1.5 percent were granted asylum status and 23 percent were granted other forms of protection. Despite the scale of the problem, over the past two years Ukraine has laid the foundations to ensure the protection of IDPs' rights. The law "On ensuring the rights and freedoms of internally displaced persons" (dated October 20, 2014)²¹ simplified administrative procedures, provided social assistance and temporary housing, and ensured guarantees for access to education and health services.

According to a survey conducted in June 2015 by the ILO, 61 percent of IDPs did not plan to move anywhere during the next 12 months and 6.6 percent were willing to change their place of residence for another region in Ukraine or go abroad.²² Much greater efforts are therefore needed to reintegrate IDPs into the local labour market and Ukrainian society. For that reason the integration plan²³ was adopted in 2015.²⁴ However, similar to the refugees' integration program, there are shortcomings.

The reintegration program actually covers three different components that are incoherently lumped together: support, social adaptation and reintegration of IDPs. It seems to be a melting pot of all possible measures the authorities can take. The program does not focus on the actual needs of IDPs to successfully reintegrate them. Those needs are social assistance, housing and employment.²⁵ Emphasis is put on social and economic rights, while the protection of political rights is declarative. For instance, Ukrainian IDP's are deprived of voting rights²⁶.

These facts indicate that the Ukrainian government interprets the concepts "integration" and "reintegration" in a limited fashion, more as ensuring of certain human rights rather than as a two-way process in which migrants and natives are engaged in and which helps to adapt to each other. The government programs are not based on the emergence of a holistic vision, but rather respond to internal pressure or the requirements of international partners as it was in the case of action plan for the integration of refugees.

5. Why integration matters

Integration has a positive effect on almost every aspect of life. Recent research findings show that from a midterm perspective integration policy can have positive effects on health, education, and social programs²⁷ and spur economic and regional development as it happened with the EU²⁸ where free movement is a fundamental principle of the Treaty

²⁰ http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=190488&cat_id=107177

²¹ <http://unhcr.org.ua/en/2011-08-26-06-58-56/news-archive/1231-internally-displaced-people>

²² http://www.ilo.org/wcmsp5/groups/public/--europe/--ro-geneva/--sro-budapest/documents/publication/wcms_457535.pdf

²³ Comprehensive National Programme for Support, Social Adaptation and Reintegration of Citizens of Ukraine Internally Displaced from the Temporarily Occupied Territory of Ukraine and the Anti-Terrorist Operation Conduct Area to Other Regions of Ukraine for the period until 2017

²⁴ <http://unhcr.org.ua/attachments/article/1231/IDPAdaptationProgrammeE.doc>

²⁵ <http://www.oecd.org/els/mig/Indicators-of-Immigrant-Integration-2015.pdf>

²⁶ <http://helsinki.org.ua/2016/03/dotrymannya-vyborchih-prav-hromadyan-d-bjelyj/>

²⁷ <http://www.nap.edu/read/4942/chapter/5>

²⁸ http://cse.uaic.ro/eurint/proceedings/index_htm_files/EURINT2015_FER.pdf

enshrined in Article 45 of the Treaty on the Functioning of the European Union. For Ukraine, integration can bring about four distinct benefits.

Protection of human rights

Ukraine has ratified the absolute majority of treaties and other international documents relevant to international human rights law and the protection of human rights. Integrating migrants will therefore be an important step to show that Ukraine shares European values.

Integration is a primary tool to protect human rights. The main objective of integration is to turn refugees and immigrants into full members of society to let them enjoy a full range of human rights, including political participation.

Access to social services and poverty reduction

Refugees and immigrants are often socially excluded and suffer from discrimination in access to social services.²⁹ The lack of effective integration affects the level of protection of their rights to employment and education. It increases the risk of poverty, prevents their rooting in Ukraine and encourages them to leave the country. Women, pensioners, and minorities are especially vulnerable to poverty and need support to access social services. NGOs have been the primary actors to implement integration activities. With the financial support of international organizations, they provide a wide range of services such as financial and legal aid, food and basic necessities, language courses and job seeking. However, in the long run these services should be provided by the state through a comprehensive integration policy.

Strengthening social ties

Integration helps refugees, immigrants and IDPs establish social ties and become full members of their communities. Social ties can be the decisive factor in choosing to settle rather than move to find better conditions in another country. Moreover, successful integration avoids social tension and strengthens social cohesion³⁰.

Increasing tolerance in Ukrainian society

Successful integration would create a positive image of migrants and break down common stereotypes about them in Ukraine, such as "immigrants are taking our jobs"; "they do not contribute to society"; "they cost the country money" and "they are putting pressure on social services". Tolerance provides an opportunity to learn from others while respecting and valuing their differences. It works as a barrier to prejudice and makes people confident living in a diverse society.

Managing migration risks. Converting from a transit to a destination country

Only by establishing a comprehensive system for "settling" IDPs and immigrants in the country, will Ukraine be able to manage the risk of onward migration. Strong social ties within communities prevent emigration and onward migration better than humanitarian aid or protective policy. Ukraine has traditionally been considered a transit country; however, an effective integration policy would help Ukraine becoming a viable host country for IDPs and migrants.

²⁹ <http://www.coe.int/be/web/commissioner/-/without-papers-but-not-without-rights-the-basic-social-rights-of-irregular-migrants>

³⁰ http://ec.europa.eu/employment_social/social_situation/docs/vc04_171_immigration_report.pdf

Conclusions

The EU-Ukraine Visa Liberalisation Action Plan has become a powerful tool to transform Ukraine's migration policies. Together with improved document security and border management and a more effective fight against irregular migration, it has made Ukraine a safer neighbour for the EU. Now, Ukraine needs to develop an efficient system of integration to address the large-scale influx of IDPs and ensure respect for the rights of all categories of foreigners. An effective integration policy not only creates social connections, facilitates access to social services and guarantees human rights, but also generally contributes to social cohesion, helps mitigate migration risks and transforms Ukraine from a transit country into a more attractive host country for immigrants and refugees.