

## **Report 1. Schengen - consequences for national migration policy**

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### **Introduction**

On June 14, 1985 Belgium, Germany, France, Luxembourg and Netherlands signed the Schengen Agreement document, which emphasized the gradual elimination of border and custom control on the borders within this territory. This was the intergovernmental agreement for all European Union countries named "Europe without borders". There were no details included in the Agreement. The details were given in Schengen Executive Agreement (SHEA) that came into force on June 19, 1990. The Agreement was to be ratified by Parliament members of member-states. It is important to mention that SHEA was signed as an international public rights agreement, which specified the countries' obligations but did not determine any rights and duties for citizens or organizations. National law may adopt some exceptions, which may be specified in national constitutions or international law as well. SHEA is open to the prospect of being joined by any EU country.

EU legislation is characterized by the so-called basic freedoms. This term includes: free movement of goods, services and capital, and movement of persons. It means that every EU citizen has the right to move freely within the EU. This involves both the free migration of workers and establishment of enterprise branches. According to the definition of this freedom every citizen of EU member-states is free to choose to reside in another EU state. After the Agreement on the European Economic Area (EEA) was made, it was made possible for EU states to embrace most of European Free Trade Area (EFTA) countries, which also enjoy that kind of freedom.

After the Schengen Agreement comes into effect, borders between the states members of the agreement can be crossed by citizens of these states and those citizens who legally stay on their territory without passport control. These privileges do not concern citizens of the third countries. Simplification of border control inside the Schengen area entails strict external border control. Effective from May 1, 1999, the Amsterdam Treaty introduced Schengen Agreement into EU countries legislation.

Therefore Ukrainian governmental institutions set a priority of approximation of the national law with the relative European law in the sphere of border formalities simplification.

### **Ukrainian legal regulations on migration and asylum and its convergence to EU law (visa policy, acts on foreigners status, decrees, etc.)**

In any country migration management involves two certain spheres: legal migration; and illegal migration counteraction.

#### **Legal migration**

Legal aspect of migration management lies within the competence of State Nationalities and Migration Department, which functions within the Ministry of Justice. The department performs the following migration management tasks:

- Shaping of immigration and refugee policy;
- Consideration of refugee, asylum seekers cases and those of illegal migrants for whom it is impossible to return to countries of residence due to political or other reasons;
- Provision of temporary accommodation for refugees for the time of investigation;
- Assistance in voluntary return and elaboration of programs on integration and reintegration of refugees into Ukrainian society.

In addition, cooperation with the Ministry of Labor and Social Policy, the Ministry of Interior, the Ministry of Health Care, the Ministry of Foreign Affairs and the State Border Guard Committee of Ukraine enables refugee and legal immigrants problems to be solved successfully.

Presently, Ukraine possesses well-developed system of migration management legislation. It was in the last few years, which marked the adoption of the legislative basis for migration issues in full compliance with EU standards. Below is a list of the positive changes in this field:

- Adoption of Act of Ukraine “ On Immigration” effective in June 7, 2001;
- Adoption of Act of Ukraine “ On Refugees” effective in June 21, 2001;

- Ratification by the Act of Ukraine effective from January 10, 2002 the International Convention “On Refugee Status” effective from June 28, 1951 and Protocol of 1967;
- Adoption of new Act of Ukraine “On Ukrainian Citizenship” effective from January, 18, 2001;
- Amendment of Act of Ukraine “On Legal Status of Foreigners”.

In addition to these results, the following regulations include migration management issues: “On State Border of Ukraine” and “ On Border Guard Troops of Ukraine”, Administrative Offences Code, Decrees of the President of Ukraine and Cabinet of Ministers regulations.

Adoption of the Act of Ukraine “On Immigration” in June 7, 2001 is undoubtedly positive in this context. This Act specified conditions and processes of immigration of foreigners and persons without citizenship. The act defined the notions of “immigration” and “immigrants”, immigrant quotas and immigration control agencies in Ukraine.

Immigration is a possibility for foreigners and persons without citizenship to enter or stay for permanent residence in Ukraine according to the current legislation. To define “Immigrant” - this is a foreigner or a person without citizenship who received permission for immigration and entered Ukraine for permanent residence or, being in Ukraine legally, received permission for immigration and stayed for permanent residence.

Permission is granted within the fixed immigration quota. This quota is the ultimate number of foreigners and persons without citizenship who are to be granted permission for immigration during one calendar year.

The Ukrainian Immigration quota is set for definite categories of immigrants by the Cabinet of Ministers:

- 1) scientists and cultural workers, immigration of who meets the interests of Ukraine;
- 2) highly-qualified specialists and workers , who are needed by Ukraine;
- 3) foreigners who invested in Ukraine's economy a sum of money in hard currency not less than 100,000 USD, registered as defined by the Cabinet of Ministers;

- 4) persons who are of blood relation such as brother and sister, grandfather and grandmother, grandson and granddaughter of Ukrainian citizens;
- 5) persons who formerly possessed Ukrainian citizenship;
- 6) parents, husband (wife) of immigrant and their under-aged children;
- 7) persons who have lived permanently in Ukraine for three years since the date they received "refugee" status or asylum while in Ukraine as well as their parents, spouse, and under-aged children who live with them.

In certain cases the status can be granted beyond immigration quota to such categories of migrants:

- 1) Person who has been married for more than two years and his/her spouse is a citizen of Ukraine, child or parent of Ukrainian citizen;
- 2) Person who is a guardian of Ukrainian citizen or is in custody of Ukrainian citizen;
- 3) Person who has a justified right for Ukrainian citizenship;
- 4) Person whose immigration can be of interest to Ukraine.

Permission for immigration is not granted to:

- 1) 1) persons, sentenced to the term of more than 1 year of imprisonment for action which is defined as offence by the Ukrainian law if this sentence is not cancelled as specified by the law;
- 2) persons, who have committed crimes against peace, humanity, humanism, military crime as specified in international law or wanted for action which is defined as a felony by the Ukrainian law or who are prosecuted while the previous case is not closed;
- 3) persons who are chronic alcoholics, drug addicts or infected with a dangerous disease;
- 4) persons who deliberately provided false information in the applications for permission to immigrate or presented forged documents;
- 5) persons who are not allowed to enter the country under the Ukrainian law;
- 6) persons in other cases defined by the law of Ukraine.

- 7) On the 10-th of January of 2002 year Verkhovna Rada of Ukraine ratified Convention "On Refugees status" effective from July, 28, 1951 year and Protocol of 1967 year.

The year 2001 marked drastic changes in migration legislation of Ukraine, when updated Act of Ukraine " On Refugees" was adopted (in June, 21, 2001).

Act of Ukraine " On Refugees" complies with main international documents on human rights and Constitution of Ukraine, which specify the asylum granting to foreigners and persons without citizenship. The Articles of General Declaration of Human Right was taken into consideration as well.

The Act of Ukraine " On Refugees" specifies the legal status of refugees in Ukraine, the process of granting, losing and depriving of refugee status, guarantees protection of refugees by the government.

The Updated Act of Ukraine "On Refugees" outlines conditions of acquiring refugee status in Ukraine, which may be granted for the time when there are fears that a person can be prosecuted on the basis of race, confession, citizenship, social group, political views persecution, is outside of the country of his citizenship and is not able to use the protection of this country or is not willing to use this protection because of the reasons mentioned above (previously, in Ukraine the "refugee" status was granted only for three months).

It is also worth mentioning that the new act considerably extends the rights of refugees as well as of people who received refugee status in Ukraine.

People, having been granted "refugee" status in Ukraine have equal rights with foreigners or people without citizenship who are legally staying in Ukraine. Such people enjoy the same rights and freedom and have the same responsibilities as citizens of Ukraine with the exceptions specified by the Constitution and acts of Ukraine, as well as international agreements agreed to be compulsory by the Verkhovna Rada of Ukraine (Ukrainian Parliament).

Persons granted the "refugee" status in Ukraine have equal rights with Ukrainian citizens who have marital and family rights.

Person granted the "refugee" status in Ukraine has right to receive financial aid, pension, accommodation or other kinds of social care in the order specified by the law of Ukraine.

This list is not exceptional, other additional rights can be defined by the law of Ukraine, but this list of rights is not the subject to abridgement.

It necessary to note that new Act "On Refugees" includes such provisions as those stating that a refugee can not be extradited or forced to return to the country where his life and freedom are endangered by persecution for his social status, race, confession, nationality, citizenship or political views (Article 3),and that refugees are not to be prosecuted for illegal crossing of the state border.

However, like any other country within the world, Ukraine maintains a principle of not granting refugee status to persons who endanger peace and society, namely:

- to persons who committed crime against peace ,military crime or crime against humanity and humanism , as stated in the international law;
- to person who committed grave felonies outside of Ukraine before entering the state with the purpose of obtaining "refugee" status , if such action is considered to be the grave felony by the Criminal Code of Ukraine ;
- to person who guilty of actions which run counter to the purpose and principles of the United Nations Organization;
- to person who in whose cases it has been determined that conditions specified by the second paragraph of Article 1 of this Act , are absent.

Also the status is not granted to those:

- Before entering Ukraine were recognized as refugees or received asylum in other country;
- before entering Ukraine with the purpose of receiving "refugee" status stayed in the third safe country. This regulation does not affect children, separated from families and those

who were born or lived permanently in Ukraine as well as their descendents(children and grandchildren).

It must be said that in Ukraine in 2001 "refugee" status has been granted to 3,040 people, which is more than in such neighboring countries as Poland, Belarus and Lithuania altogether. Thus, it is natural that Ukraine faces a number of practical problems providing them with accommodation and necessary essentials and also extraditing those not liable for "refugee" status.

In YEAR 2001the refugees came from:

➤ **Europe** – 240,:

Russia – 231;

Bosnia-Herzegovina – 4;

Yugoslavia – 4.

➤ **Asia** – 2460,:

Afghanistan – 1635;

Azerbaijan – 236;

Armenia – 245;

Iraq – 60;

Syria – 49.

➤ **Africa** – 340,:

Congo – 120;

Sudan – 68;

Angola – 36;

Ethiopia – 35.

These figures show that the majority of people seek "refugee" status on the territory of Ukraine. As we see they are citizens of countries supplying illegal migrants, who, having filed the application and obtained status of "refugee", attempt to cross western border illegally and lose the status. In 2001 more than 500 persons lost their refugee status.

Another problem consists in the fact that majority of foreigners who applied for "refugee" status, as a rule, lived in other CIS countries, however they did not apply for status there. Having arrived in Ukraine, in general, they attempt in such a way to become legalized with the purpose to further penetrate to the neighboring EU countries.

In spite of assistance of UNHCR representatives in Ukraine face the problem of supplying refugees with accommodation and all necessary items for living deportation of those who can't receive the status of refugee in Ukraine is still unsettled.

It needs to be mentioned that Ukraine confirms its cooperation with other states, with the United Nations High Commissioner for Refugees Office, and with other international organizations with the purpose of eliminating refugee problems, improvement of their well-being and legal status, as well as returning refugees to the countries of their citizenship or previous permanent residence in case if conditions of acquiring "refugee" status cease their existence.

The registration of the foreigners who legally arrive in Ukraine is specified in the Article 3 of the Act of Ukraine "On the legal status of foreigners" the registration of foreigners who legally arrive in Ukraine are specified. The Ukrainian President's Decree from July 05, 2001 №435 introduced the registration of foreigners, who legally arrive in Ukraine and their passport documents provided only at the Ukrainian border Check Points by the Ukrainian border guard authorities from June 1, 2001. This new rule completely corresponds with the statements of the Schengen Agreement and aims at simplifying border control procedures.

### **Illegal migration counteraction**

The Ministry of Interior coordinates illegal migration control in close cooperation with State Border Guard Committee.

As it has already been mentioned, in 2001 there were many successful changes made with the legislation on migration policy of Ukraine ,as well as with the legislation, that determines responsibility for illegal migration in Ukraine.

Liberalization of the updated Criminal Code of Ukraine enabled to lessen the responsibility of illegal migrants for illicit border crossing. They are now considered as victims of organized crime dealing with trafficking of third country citizens to Western Europe. This offense entails both administrative and criminal responsibility, which does not imply imprisonment, however.

However, criminal responsibilities of persons who are involved in organizations are permitted assistance to illegal crossing of the border. As you can see in the slide such actions also entail forfeiture of assets acquired in the process of criminal activity (Article 332 of the Criminal Code).

Apart from these legislative acts Ukrainian side has prepared amendments to the current Ukrainian legislation on administrative offenses, which are supposed to make the responsibility for assistance to illegal migrants, (i.e. accommodation, transport) more severe. Responsibility implies laying a fine in the amount of assessed assistance. This is a measure will positively affect the process of such kind of offense prevention.

On the 10<sup>th</sup> of January 2002 the Act of Ukraine “On Responsibility For Air Transportation of Passengers Who Has No Relevant Documents Across the Border of Ukraine” was adopted. This act fully complies with regulations set in Articles 3.40, 3.40.1 of Amendment 9 “Simplification of Formalities” to the Convention On International Civil Aviation”, which specifies that air transportation companies hold responsibility for improper foreign passenger documents examination. Responsibility of air transportation companies for the above mentioned offense is specified in the relevant legislation of many countries including member-states of the EU.

Adopting this new legislation is provided only in the case of complete adoption of the legal act to the EU. Ukrainian visa policy is determined by the following criteria:

Today a non-visa entering order on all types of passports is provided for citizens of such countries, which are adjacent with Ukraine such as The Russian Federation, and The Republic of Byelorussia.

Non- visa mutual crossing of the state border, by the passport which is valid for foreign travel is provided for countries such as Moldova, Poland, Romania, and Hungary . Visa regime by the state official passports is provided by Slovakia.

Visa regime of crossing of state border is provided between Ukraine and The Republic of Bulgaria. It is based on principle and agreement between the governments of two states on mutual trips between Ukrainian and Bulgarian citizens.

To provide national security and regulate migration processes for suppliers of illegal migrants, Ukraine must be aware of the acts of the following countries, as they are well known for illegal immigrant status: Vietnam, Guinea, Iran, Croatia, Chile, Yugoslavia.

To become an influential European state, to become a member state of the is in the national interests of Ukraine. As a result of the EU expansion which is expected in the near future – Poland and Hungary joining to the EU - Ukraine will border on the EU, which in effect will create a principled new geopolitical situation. In this connection international political strategy as to the integration of Ukraine into European political, economic and legal area must be determined clearly and from different points of view.

The Decree of the Cabinet of Ministers of Ukraine written on 05.09.97 № 490- p states: “ On non-visa holders, entering Ukraine with diplomatic passports who are citizens of the EU countries are of a one-sided order provided from 01.12.97. In accordance with the above-mentioned document, the diplomatic passport bearers have a right to visit Ukraine for 90 days term without visa. It stipulates creation of mutual none visa regime for Ukrainian diplomatic and service passports bearers entering the EU countries.

Ukraine is not a which provides illegal migrants. It has many times emphasized its European choice through its policy. That's why it is regarded that EU country-members and country-candidates must gradually change their visa policy towards Ukraine, thereby providing non visa regime for diplomatic and service passports bearers at first , and then for foreign offices and members of their families and etc.

## **Management of migration processes**

Traditions and tendencies of European migration policies are reflected in Ukrainian legislation, mainly in administration of migration management, which enforces national migration control legislation. It should be mentioned that migration management is carried out under Ukrainian Acts only.

The Ukrainian Cabinet of Ministers by its regulations, demands cooperation of law enforcement and other executive agencies. It contributes to enhancing of the migration control efficiency by enforcing programs, which define the procedures of setting immigration quota for every year, adopting Programs on prevention of trafficking in women and children, etc. The Ministry of Interior of Ukraine coordinates the activities on illicit migration prevention.

It also must be mentioned, that at present, the creation of the unified migration organization is being considered. Perhaps there should be a specially created central authority of executive power, based on the existing central authority of the executive power (Ministry of Interior of Ukraine, State Border Guard Committee or State Migration Committee).

The statistics concerning the number of people crossing the national or border illegal migrants is collected by the Border Authorities and the Ministry of Internal Affairs after figures are passed over to the State Committee of Statistics (SSCU).

During 2001 the Border Troops of Ukraine revealed 7166 illegal migrants which came from countries within South-Eastern Asia, Middle East, Africa (the list of countries is defined by the MFA). The following is a breakdown of how these migrants were detained:

**4620** people during the illegal crossing of state border;

**442** people - in rear areas during the transit movement;

**2104** people were not allowed to enter Ukraine.

***Taking into consideration European approaches*** to the statistics of the CIS citizens when they are considered to be illegal migrants and violate the visitation rights of the country, the number of illegal migrants revealed by **Border Guards was 7525** persons, in the year 2001. During attempts to illegally cross the borders with Poland, Slovakia, Hungary and

Romania **359** persons who were citizens of Moldova, and Middle Asian and Caucasian Regions of CIS (Tadjikistan, Turkmenistan, Uzbekistan, Kirghizia, Kazakhstan, Azerbaijan, Georgia, Armenia) were detained.

The Bodies of Ministry of Internal Affairs of Ukraine revealed 27,1 thousand persons in 2001 who violated their visitation rights in Ukraine. They exceeded noticeably their allowed terms of stay, had no personal papers and intended to illegally cross the state border.

In 2001 the Border Troops and Bodies of MHA of Ukraine revealed and sanctioned **34,625** illegal migrants.

According to the migration experts, and taking into consideration the inactivity of actions of the international groups of peoples being smuggling, the real number of illegal migrants is much greater. Additionally, the level of inactivity is not officially defined. According to the specialists it could be from 90% to 50% of low violations in sphere of drug and weapon smuggling at the border.

The analysis of temporary arrival of foreigners to Ukraine for studies, tourism, and personal affairs indicates that a certain number of foreigners do not leave Ukraine in the **appointed** term. As a result they become illegal migrants who try to illegally cross the border in Western Ukraine with an aim of illegal migration to Western Europe. In January of 2001, **2220** foreigners who arrived in Ukraine to study committed such violations, and in January of 2002 year - **1080** foreigners, who arrived for tourism were found to have stayed in Ukraine illegally. According to analysts, the number of foreigners who use legal arrival into Ukraine for studying, tourism, and personal affairs for further illegal migration annually is for about 20 thousand.

*According to official statistics in 2001 year 7% of foreigners, who arrived in Ukraine for temporary visitation had not left the country. More specifically, **272 thousand were** citizens of the countries who are known to be the main suppliers of illegal migrants; countries of South-East Asia, the Middle East, and Africa, countries of Middle Asia and Caucasian regions of the CIS, Moldova. It is possible that a certain number of them used official channels to enter Ukraine for further illegal transfer to the countries of Western Europe.*

*These facts stipulate a need of the quick establishment of the registration system for the foreigners and their personal papers at the Ports of Entry, and for the creation of corresponding electronic databases and so on.*

**Information on the entrance – departure of foreigners in 1999-2001 years**

Entry – departure	Years			Total
	1999	2000	2001	
Entered Ukraine	10 994 014	11 691 274	11 876 728	34 562 016
Left Ukraine	8 348 952	10 288 979	11 034 888	29 672 819
(-) didn't leave	2 645 062	1 402 295	841 840	4 889 197
(%) didn't leave	24%	12 %	7%	14%

**Information on foreigners – citizens of countries of the Middle Asian and Caucasian regions of CIS and Moldova who officially entered Ukraine and departed from it in 1999-2001 years**

Citizenship	Entered Ukraine			Total in 1999-2001
	1999	2000	2001	
Afganistan	4 311	5 093	1 255	10 659
Azerbaijan	35054	32920	15427	83401
Bangladesh	2581	3105	742	6428
Vietnam	9457	9770	3275	22502
Armenia	40284	35185	15549	91018
Georgia	44653	40466	16097	101216
India	6001	6739	5507	18247
Iraq	286	1009	252	1547
Iran	4259	2659	2884	9802
Kazakhstan	20317	22345	16514	59176
Kirghizia	7605	8667	4457	20729
China	11536	9769	8315	29620
Libya	847	1325	1083	3255
Lebanon	4564	3073	3562	11199
Moldova	2444794	3008093	3133282	8586169
Pakistan	2684	2984	1649	7317
Syria	12771	13754	14023	40548
Somalia	14	182	17	213
Sudan	367	912	454	1733
Turkmenistan	11494	11093	5737	16830
Tadjikistan,	3840	5962	3534	13336

Turkey	44845	50615	47732	143192
Uzbekistan	32696	31482	22673	86851
Sri Lanka	941	1592	717	3250
Total	2746210	3308794	3324737	4127150
<b>Oriented number of person that didn't leave Ukraine in proper way</b>	<b>659087</b>	<b>397054</b>	<b>232730</b>	<b>1288871</b>

The State priorities in migration processes regulation should be as follows:

- completion of legislative base formation as adjustment of migration processes;
- formation and improvement of state authority systems which are competent in migration regulation ;
- assistance to the repatriation of persons of Ukrainian origin, who appeared to be away from Ukraine due to different reasons;
- assistance in returning or reintegrating into Ukraine , previously deported peoples;
- providing assistance to the state for ecological migrants;
- combating illegal (including transit) migration;
- assistance for refugees and immigrants.

On a state level, it is possible to do the following:

- to work out of State migration program for 2002-2005, which will be based on national interests, general norms and principles of international law and human rights protection, norms and principles Europe Union and to confirm it by appropriate Law;
- to pay special attention to regulation of all of migration forms;
- to improve the coordination activity of the central bodies of executive power which regulate the migration processes.

As it was mentioned there is a proposal to create a single state body that would be responsible for migration issues

But we think that it is not purposeful to combine the law-enforcement and humanitarian functions in this sphere in one body of executive power .

The help of humanitarian experts and appropriate financial support is needed to create the dormitories and places of maintenance of non regime type, to solve the problems of socio-economical adaptation into the society of refugees, persons who appealed to receive the citizenship of Ukraine.

At the same time the law-enforcement activity in the sphere of migration includes the determination of person's status during its stay in Ukraine, the necessary provision with passport documents and identification cards, influence on migration processes by the administrative actions (permit for assignment of temporary entry and permanent residence, employment, entry visas, control on state border).

The combination of humanitarian and law-enforcement functions in one body will lead to conflict of interests during the consideration of their legal status of persons.

Such an approach to improve the system of authorities that would control the legal status of foreigners and their legal citizen application meets the conception of the administrative reform in the country. This indicates that there is not a great need to great changes in legislation, financial expenses and it is economically expedient. In addition, it would be possible to use the present material and technical base, with available regular potential of each above mentioned units, practical experience and the elements of cooperation as to combating illegal migration.

### **Upcoming Management of EU Eastern Border**

Ukraine confirms its permanent European choice and welcomes the expansion of the EU, considering it to be important factor, that has strategic significance for the European future and objectively leads to the appearance of broad possibilities in cooperation between Ukraine and EU.

At the same time the extension of the EU will affect Ukraine's cooperation with present EU candidates-countries. As a result, EU expansion can lead to negative consequences for Ukraine, and the prospects of Ukraine's cooperation with extended EU are vague.

In order to strengthen strategic partnership and cooperation between Ukraine and the EU, we suggest that the discussion of the EU extension issue be continued to minimize its possible negative consequences for Ukraine within the frameworks of its joint EU dialogue based on the Partnership and Cooperation Agreement as well as multi and bilateral relations with certain member-countries and candidates-countries.

Introduction of relevant restrictions as a result of the extension of the Schengen agreements into new states will affect Ukraine in the following ways:

- the number of illegal migrants will increase (by about 17%) as a result of immigration control intensification by adjacent states at the western part of the borders and underdeveloped eastern border infrastructure;
- preconditions for Ukraine becoming the country that accumulates illegal migrants rather than experiencing their transit will occur as a result of an increase in apprehension, custody and extradition expenses as well as aggravation of criminal activity in Ukraine, concentration of illegal migrants in definite regions, change of ethnic situation and noticeable discrepancy between nationally-cultural interests of local population and migrants;
- discontent of the Polish and Hungarian minorities in Ukraine will grow as a result of strict visa regime that can lead to negative migration and other tendencies inside of the minorities;
- conditions for business cooperation, especially small business will be complicated that can ensue a partial decline of economic relations, number of citizens travelling across the border as well as cultural exchange, tourism, living standards, growth in social tension with the population of western border region of Ukraine;
- access of workers from Ukraine to the new members-states labour-markets will be restricted. Problems in Ukraine's citizens employment in these countries will occur.

### **Possible ways out**

- Continuation of active cooperation with the EU in the context of liberalization of visa regime, namely cancellation of visas for diplomatic and service passport owners going to EU, simplifications of visa issuing, issuing long-term visas for certain categories of Ukrainian citizens;

- EU adoption of common policy as to “third” country citizens, aimed at the prevention of illegal migration, that will promote cooperation of Ukraine with EU structures, as well as EU assistance in arrangement of points of accumulation and return of illegal migration on homeland;
- EU assistance in improvement of logistics at eastern and northern borders of Ukraine as well as resolving the problem of extradition funding ;
- working out measures of prevention of negative consequences of visa regime via the introduction of Ukraine’s citizens within the frameworks of Ukraine - EU cooperation at an expert level in visa issues;
- Elaboration of joint projects, that would promote competitiveness of Ukrainian workers, facilitate solving the problems of unemployment and social protection of employed migrants, taking into account intensification of adjustment of Labor legislation of Ukraine in line with EU standards as well as participation in ILO and CU Conventions on legal and social protection of employed migrants;
- Development of border cooperation, especially implementation of technical assistance projects within the frameworks Tacis programs ;
- Priority Ukraine - associate and then full EU membership. Presently as a result of newly appeared EU members western borders of Ukraine will become EU Eastern borders. This yields to the activation of efforts aimed at the reinforcement of eastern and northern border guarding.

**Migration and security: threats of illegal migration (e.g. trafficking of people, drugs, illegal trafficking in women)**

The Question pertaining to “Migration and security” is closely connected with the problem of border protection, which is an inseparable function of any state. Ukraine began to develop border infrastructure and its protection since the first days of its independence.

These unprecedented actions, after the collapse of the former Soviet republics were at first open to uncontrolled trafficking of persons, weapons, explosive, narcotic and poisonous substances, and other types of smuggling. Secondly, two-thirds of its borders and (over 4.5000 km) were not defined at the state level and as a result - not guarded.

These conditions as well as the unstable situation on the post-soviet territory, military conflicts in Pridnestrovie and Zakavkazie regions required prompt action as for protection of territorial integrity of the state.

In particular, there is a great danger in rapidly growing organized crime activity in the following:

- trafficking across the territory of Ukraine's illegal migrants
- smuggling of weapons, ammunition, drugs, explosive, cultural pieces, cigarettes, alcohol and other goods.

It needs to be said that ineffective management of migration is not Ukraine's only problem. In fact almost no country in the world escaped negative influence of illegal migration, being either a country of residence or country of destination or transit.

The main negative impacts of illegal migration are:

- Trafficking activity which is connected with other crimes;
- Trafficking of people, transplants, economic and sexual exploitation, etc;
- Possibility for terrorists to enter the country with other illegal migrants;
- Organized crime activity is connected with human rights abuse, humiliation of migrants, and corruption of law enforcement officers.

Out of 85.000 detained migrants at Ukraine's borders the majority headed to Europe from regions of military conflicts or international terrorism activity. 70% of all migrants were from Afghanistan, Pakistan, India, Iraq, Vietnam and Sri Lanka.

This information enables us to draw conclusions that these migrants were illegally transported by car or train through the territory of Uzbekistan , Kyrgyzstan, Tajikistan, Russia or Caucasus region.

**Across the border illegal migrants were trafficked and found at the following :**

- At check points with forged documents or hiding in vehicles
- Beyond check points by car or foot with the help of an accomplice.

**Further attempts of their illegal transfer to Hungary, Poland, Slovakia**

More than 7 thousand illegal migrants were detected by Ukrainian border guards last year. Among them: 4621 – for illegal crossborder, 433 – while moving across the country, and more than 2000 – were denied entry to Ukraine for not proving the applied aim of the journey.

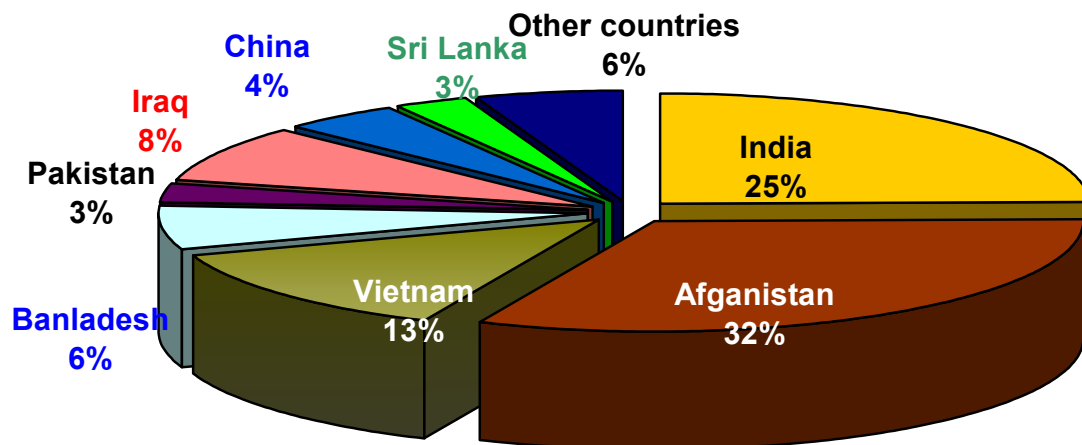
Constant search and devising of new methods of border crossing are being carried out first of all through the territory of Belarus, Moldova , Caucasus region and by sea.

For instance: In November, 2001 two groups of Chinese citizens were delivered by air from Moscow to Kishinev and illegally transferred to Ukraine.

In January of this year 25 citizens of Iraq and Iran were delivered from Turkey in cargo containers of vehicles and vessels. These examples demonstrate capabilities of organized crime dealing with trafficking people within Euro-Asian region.

Pursuing huge profits, criminals:

- Transport illegal migrants in concealed places of cargo vehicles for a long time and distances.
- Keep migrants in cold isolated buildings without any food.
- Make them overcome mountain and water obstacles, often in winter.
- Leave the migrants sick and exhausted to be left without help.



As an additional example - in June of last year, 54 persons were detained who attempted to penetrate to Hungary in a concealed space in the ceiling of a truck . The Height of the ceiling was 50 cm. There were 22 children aging from 1.5 to 10 years and 7 women.

In 1999-2000 trafficking of children with forged documents was prevented via the following means:

- By air through airports of Kiev to the countries of Western Europe
- By railway to Romania, Hungary and Slovakia.

To prevent this illicit activity and punish criminals who are responsible for such acts it is necessary to take joint action with the European community law enforcement, and request for assistance from their agencies..

**The above mentioned allows us to draw the conclusion:**

Organized international crime groups fully control the flow of illegal migrants. They are well-equipped and organized. For illegal trafficking of migrants from South-eastern Asia, Middle East, African countries they use:

- Legal channels (tourism, studying, service or private purposes of travel)
- Sectors of “green” border and sea routes.

Constant change in the directions and methods of trafficking is observed. Flaws in legislation, lack of coordination and equipment are the factors that are widely used in this activity.

Measures taken in the last years were of positive result, although there were still many problems. Drugs, weapons, means of terrorism and subversion, illegal trafficking of tobacco, alcohol, electronic equipment and export of antiques all present a considerable threat to the social security.

Here are some figures which indicate some of the problems and illegal goods found by border guards over the last ten years :

- guns – more than 18.000
- ammunition over 2.7 mln.
- drugs - about 20 tons
- various goods worth over 20 mln Euro .

Judging from the range of the illegal migration and illegal transportation of goods across the state border we can conclude, that there is a great need of devising and implementing joint action and measures of whole European Community to stop these negative activities.

### **Migration flows (national and regional prospective)**

**The Migration processes, which take place in Ukraine during 1991-2001 years, proves that Ukraine actively joining the world migration processes**

Characteristic feature of migration is its adaptability, character and structure of migration flows according to the political, ecological, socio-economic situation in Ukraine and abroad.

Foreign migration is one of the greatest and most importance issues for migration situations in Ukraine. During the period from 1991 to 2001 there were about 4,5 mln migrants taken by the foreign migration flows. Among them: about 2,2 million entered Ukraine, and about 2,3 mln people left.

About half of all of persons, who entered the country in 1991-1992, were basically from the countries of the former Soviet Union. During 1991-1993, Ukraine established a migratory surplus, which stands for the greater number of people who entered than left. In 1992 this surplus was the greatest - above 260 thousands.

Mass migrations into Ukraine in the early 90's was due to the repatriation character. Due to the population migration of Ukraine during the first few years of independence increased in number, regardless of the decrease of natural population growth, which reached 52,2 million in 1993. This only reaffirms the repatriation as an integral part of the migration situation in Ukraine, therefore repatriation facilitation must be defined as a guidance of the migratory policy of Ukraine.

Since 1993, entry into Ukraine has continuously decreased. Since 1994, migration reduction was apparent, which accounts for the prevailing number of persons who left out those who entered. The process is continuously on-going. The peak of it was in 1994, which can be explained by the socio-economic situation in Ukraine at that time. Due to a considerable reduction of persons entering Ukraine, despite the high indication of migration surplus in early 90's, in 1991-2000 the migration reduction generally took place. The number of people left also decreased. In the result of migration during this period the population of Ukraine decreased by 108 733 persons.

Nowadays forced external migration is characterized by the following indicators: Up to the 1-st January this year in Ukraine, the status of refugees was granted to 3040 persons, among whom were citizens of 49 different countries. Presently in Ukraine there are 2767 persons, who had to leave their places of permanent living in Abhasia, Georgia and entered Ukraine.

Due to the complex economic situation in Ukraine, many Ukrainian citizens leaving their country in search of jobs. According to official data in the previous year the number of Ukrainian citizens, who temporary worked abroad was 33735 persons, and number of foreigners and stateless persons, who temporally worked in Ukraine, was 3018 persons. Analysis of interstate labor migration displays the necessity of Ukrainian applicable interests

and protection systems who work abroad and legally regulate the exploitation of working of foreign force in Ukraine.

There is an acute problem of illegal migration to Ukraine and on through Ukraine, which requires prompt counteraction to these processes. Migration analysis shows that the number of persons, leaving Ukraine is larger than number of persons, entering Ukraine. Thus, government should take interest in people entering Ukraine (businessmen, tourists, students etc.).

All this shows the importance of state migration management, which is to be implemented by shaping and pursuing migration policy of state.

Nowadays there are many unsolved questions in the area of state migration management. Drawbacks of implementation of state migration legislation have to be eliminated by strengthening national control over enforcement of the law and coordinated efforts of governmental agencies in this regard.

There is a necessity to adopt legal acts, which would settle many unsolved questions, namely: encouraging repatriation to the people of Ukrainian origin and their offspring; return to the historic motherland people who were deported from territory of Ukraine because of national background; establishment of legal, social and economic basis for management of external migration of labour; provision of assistance to refugees and asylum seekers; control over immigration into Ukraine foreigners and persons without citizenship.

For Ukraine it is important to adopt international mechanisms of migration management. It will be helpful for migrants and for the state that has to harmonize its legislation with the proper European legislation in the framework of European integration process.

### **Conclusion of the report**

Analysis of the migration situation in Ukraine, processes of establishment and development of state migration management agencies clearly shows some inadequacy in this area. Migration processes are developing faster than agencies, which execute control over these processes. In such circumstances there is a danger of uncontrolled migration in Ukraine.

As a result, in 2001 Ukrainian legislature gave much attention to developing migration regulations and relative legal policy. It is necessary to study international experience at this stage. Humanity has worked out legal basic instruments of migration management. Hence, international cooperation and introduction of world migration management tendencies should be the important part of Ukraine migration policy.

The setting of migration management acts is inadequate because of imperfection of migration policy. The further development of migration law in Ukraine requires not only intensive activity aimed at completion of adopting necessary acts, but systematization of them as well. Agency's regulations need to be further developed and systematized.

Close attention must be drawn to the problem of illegal migration. Its growth threatens society and requires legal and organizational regulation./ There are more problems, and so called "grey zones" in the area of migration management which need to be solved legally.