

Tasks of migration policy of Ukraine in the context of visa dialogue with EU

Migration policy has not yet become a priority for Ukrainian authorities regardless the fact that according to media reports existence of migration problems is among social concerns. Society is equally keenly responsive to trips abroad that are quite often accompanied by violation of rights of Ukrainian citizens, and to entry of foreigners into the country, in particular those who use our state for mostly illegal transit to the West. At the same time there is a paradox when the migration issue in Ukraine is addressed in the context not related to migration rather than due to its large scope and its questionable consequences. For example, it is spoken about during the elections, as there is a need for the votes of citizens living abroad or in connection to budget deficit trying to partially pay it off with earnings of citizens employed abroad. Quite often migration is used in political and interdepartmental struggle for dominance, authority, allocation of state funds or as an argument to receive international aid.

Under such circumstances the society is left disoriented and the migration issue is regarded as a critical one, citizens create unjustified myths, mostly in the form of various phobia. In addition, the emphasis on migration issues in relations with EU, including visa dialogue is perceived with suspicion. Difficulties Ukrainian citizens face when applying for Schengen visas cause the feeling of frustration and dissatisfaction. According to the large scale survey conducted in 2009 by the Market Technologies Bureau together with PR-bureau “Diyeslovo” (more than 3 thousand respondents were surveyed in 130 localities all over Ukraine) more than half of Ukrainians (45%) believe that they are discriminated in Europe¹. Besides, public discussions often interpreted the interconnection of the Agreement on the Facilitation of the Issuance of Visas for Ukrainian citizens and the Agreement on Readmission as well as the requirements to organize adequate border and migration control as the egoistic attempts on behalf of the EU to transform Ukraine into the “buffer zone”, “sump” for illegal immigrants who are trying to reach the wealthy European countries. Such perceptions were repeatedly exploited by the opponents of European integration in order to discredit it in the eyes of citizens. For example, we can mention the draft laws registered in Verkhovna Rada (Parliament) of Ukraine last year on suspension of the Agreement on Readmission and reintroduction of visa regime for the EU citizens entering Ukraine.

If we forget the emotional declarations and assessments, the main point of similar proposals was trying to prove the fact that EU requirements in the field of migration primarily correspond to the interest of the EU itself, while they turn into additional burden for Ukraine. In order to be fair we must agree that indeed, if we take into account the perspective of visa free travel around Europe for Ukrainians, the EU is trying to protect itself from migration threats originating in Ukraine. However, if we review the documents on partnership, potential association or visa dialogue, migration issues are listed as important but not the primary ones. Europe is much more concerned with democracy and human rights safeguards in Ukraine, fight against organized crime and corruption.

¹ Tied by a Visa: Travelling Experience of Ukrainians
http://www.dieslovo.com.ua/ua_projects_010609.html

At the same time, the Action Plan on Visa Liberalization, presented to Ukraine during Ukraine-EU Summit in November 2010, includes many provisions dealing directly with migration. Even though the document security is a primary issue, the second block of the Action Plan mostly deals with migration issues. However, its title “Illegal Migration Including Readmission” shows that migration problems are interpreted rather narrowly and are limited to the aspect the EU is particular interested in. Apart from the section on border migration, this Block includes the “Migration Management” and “Asylum Policy” sections. A number of issues listed in the 4th Block of the Action Plan deal with fundamental rights; in particular freedom of movement within Ukraine and anti-discrimination can be attributed to the migration issues.

Let us review the main provisions of the Action Plan on migration and try to determine what concrete tasks it puts forward for Ukraine in the sphere of migration policy; to what extend the solution of these problems can improve the level of migration processes management and how it benefits the state and its citizens.

The Problems of Legislation Improvement

The first stage of the Action Plan on Visa Liberalization implementation envisages “**approval of the national strategy on migration management**”. Such provision appears due to the fact that Ukraine has not yet decided on the necessary migration policy and has not approved a clear and comprehensive guide for authorities and society in this field.

The first attempts to create the concept of migration policy date back to the middle of 1990s. The Presidential Decree from October 18th 1997 dealing with the foundation for social policy included the section on migration policy with the definition of its basic principles: free exit and entry of Ukrainian citizens; equality before the law for the foreigners and citizens of Ukraine; diversified treatment towards different categories of immigrants depending on the national interests of the state. According to this document, the major principles of migration policy should be: promoting repatriation of Ukrainians and Ukrainian natives of other nationalities; return of the persons who were previously deported on nationality grounds; assisting refugees; foreigners’ immigration management. The Presidential Decree on main principles for social policy dated 2000 amended previously defined policy tasks with the following issues: protection of social and economic interests and rights of Ukrainian immigrant workers; preservation of labour and intellectual potential of the state; creation of legal, social and economic basis for external labour migration regulation in response to mass employment of Ukrainians abroad which unfolded spontaneously and was often illegal².

These reference points played an important role in development of Ukrainian migration policy, facilitated legislation creation and accedence’s to the recognized international legal documents. However, they were limited in time as the Decrees listed tasks set out only for several years. In addition, after they were approved there were many changes in dynamics and structure of migration flows in the world and Ukraine.

At the beginning of the new millennium the development of migration policy of Ukraine considerably slowed down. Even though dozens of draft laws were put forward, only some of them were approved by Verkhovna Rada, mostly those dealing with amendments and changes to the existing legislation.

² On main principles of social policy for 1997-2000: Decree of the President of Ukraine dated October 18, 1997. # 1167; On main principles of social policy for the period till 2004: : Decree of the President of Ukraine dated May 24, 2000. # 717/2000. - www.president.gov.ua.

On the one hand, urgent tasks of creating the basis of migration policy and legislation, with the primary aim to reject autarchy from the Soviet times and guarantee human rights including freedom of movement, were completed. On the other hand, the role of migration policy under the new conditions was not seen when not only rejection of totalitarian past was discussed, but also ensuring orderly movement of the population being open to the external world and participation in the international labour market and globalization processes.

On June 15th, 2007 the National Security and Defence Council of Ukraine having reviewed the issue of state migration policy made the conclusion that the policy remains conceptually undefined. Its principles, strategic tasks, current goals and standards of human rights protection are not set.

In order to implement the Council decision approved by the Presidential Decree³, the Cabinet of Ministers entrusted the Ministry of Justice with the Concept draft of state migration policy of Ukraine. However, the work on the draft document was determined to fail. Firstly its development was entrusted to the institution competent in the legislation field and not migration. Secondly, the old draft law, developed in the late 1990s and already dismissed by the Parliament, was taken as a basis, even though the migration situation has significantly changed since then. Thirdly, the Ministry of Justice collected and tried to take into account all proposals submitted by other ministries and institutions. As a result it failed to develop a single strategic vision of the problem. The draft law listed numerous repetitions and it looked more like an action plan for specific authorities rather than a legal act of conceptual nature.

On April 1st, 2009 Verkhovna Rada rejected the draft law submitted by the Cabinet of Ministers on the Concept of migration policy. Shortly after the government developed the new draft law and submitted it to the parliament in September 2009 though the document did not substantially differ from the previous one: after the revision the text was just shorter, amended and edited. Several days later a group of members of parliament registered an alternative draft law. Some experts saw it as intentional hindering of the law making process. However, such situation existed not only in the field of migration law making but concerning other governmental initiatives as well. Alternative proposals were put forward by the members of parliament under the conditions of existing confrontation between power branches which resulted in decision delay.

The Central Scientific Experts Office of the Verkhovna Rada of Ukraine was very critical of the two law making attempts. Sharp critical remarks pertained to the draft law submitted by the Members of Parliament as according to the conclusions made by the Scientific Experts Office the document was more of a publication rather than a regulatory act. Nevertheless, on February 16th, 2010 the Parliament rejected the governmental draft law and at the first reading it adopted the draft submitted by MPs. Although at the second reading on July 1st 2010 only 56 votes supported this initiative and consequently it was rejected as well.

At the same time, the need for the State Migration Policy Concept has not been met. It is still present not just because it is impossible to proceed with improvement of state migration management without clear definition of its strategic goals and principles; but also because according to the National Security and Defence Council decision mentioned above, a number of important draft laws on migration regulation had to be submitted after the Concept approval. Thus its absence blocked any law making process causing deference in processing the new version of extremely important regulation on legal status of refugees and stateless persons. The

³ On the decision of the National Security and Defense Council of Ukraine dated June 15, 2007 "On Ukrainian State Migration Policy Principles and Urgent Measures for its Efficiency Improvement". : Decree of the President of Ukraine dated July 20, 2007. # 657.

need for such document is long overdue. On addition, the asylum and subsidiary refugee protection mechanisms issues have not been legally settled⁴.

Taking into account existing preconditions and the Presidential Decree, in July 2010 the Cabinet of Ministers of Ukraine resumed its work on a different document version soon after the MPs had repeatedly failed to approve the attempt of state migration policy concept definition. The Ministry of Justice of Ukraine presented the draft law for public discussion on its website and sent it to competent institutions for harmonization. However, the draft law did not contain any substantial changes comparing to the previous governmental document which had been already rejected by the MPs, the new document was basically its revised copy. At the same time a group of MPs registered their own draft law in the Parliament as well, and this version just copied the document submitted before, not introducing any quality changes. Therefore, the context of two contrasting documents was created again. The idea to approve the state migration policy Concept of Ukraine by the Presidential Decree was put forward in order to escape such context.

If this idea is realized Ukraine will finally acquire the Concept of state migration policy. However, according to the Constitution migration issues are regulated exclusively by the laws (Article 92), that is why there is a reservation concerning possible approval of the Concept by the Presidential Decree and secondly, failed attempts to approve the relevant document reflect (apart from political struggle not related to migration) the fact that there is no consensus within society concerning the migration policy and its goal is perceived too narrowly, mainly in the context of fighting against illegal migration flows coming to Ukraine.

Regardless, the State Migration Policy Concept approval will bear indisputable positive effect. First and foremost it will unblock further law making process and it will result in implementing the tasks of the Action Plan on Visa Liberalization that emphasizes priority migration issues requiring legislative regulation.

These issues include improvement of the rules for migrants' entry and stay, fight against illegal migration, even though the law makers have always been focused on these problems which is attested by a number of draft laws (approved or rejected by the parliament) aimed at settling these issues. The requirement for measures on **reintegration of Ukrainian returnees** seems like a novelty as it has not been previously included in the national legislation. Thus the Action Plan provides a chance to not only settle legislative issues that have been already addressed, but also to start discussion of the issues which have not been previously discussed in the legal context.

First of all it should be mentioned that even though due to the illegal migrant readmission practices the society is primarily concerned with return of foreign citizens, coming mostly from exotic countries and illegally entering Western Europe via Ukraine, the results of the Agreement implementation show that the number of trespassers was much higher among Ukrainian citizens comparing to foreigners: during the first nine months of the Agreement on Readmission validity 573 persons were admitted from neighbouring countries, out of whom 357 were citizens of

⁴ Asylum procedure for foreigners in Ukraine is defined in the Article 26 of the Constitution of Ukraine. Applying current law of Ukraine "On Refugees" showed the need for such additional protection mechanism as humanitarian protection. Legislative regulation of asylum and subsidiary protection issues was to be defined in the new law version "On Refugees"; according to The National Security and Defence Council decision its draft was to be submitted to the parliament in two months after the approval of the State Migration Policy Concept.

Ukraine, 157 – CIS citizens and 89 citizens of other countries⁵. The deportation circumstances for our citizens from EU countries are certainly different.

However, if we exclude clear criminal components which are most likely present, majority of the deported are labour immigrants who were working in other countries without necessary permits. Some of them could be victims of human trafficking, fraud or exploitation. While the foreigners deported to Ukraine under the Agreement on Readmission will benefit from not quite comfortable but specially equipped placements with provided accommodation, food, medical aid and even legal consultations, Ukrainian citizens deported to the country are left alone with their problems, though they certainly need support, employment help and probably psychological or medical care.

The measures on reintegrating successful migrants who voluntarily return to their home land after having worked abroad are equally important. Moreover, taking into account the demographic situation in Ukraine, quite possible labour force deficit in the nearest future, promoting return of the citizens who went abroad for employment purposes should occupy the key position in the state migration policy structure. It will help to preserve the population and reinforce labour resources at the account of workers who acquired new, sometimes extremely valuable experience of production and management.

Council of Europe pointed out to the necessity of reintegration policy for Ukraine. For example, the Action Plan for Ukraine for 2008-2011 emphasizes the necessity to develop reintegration programs for returning migrants⁶. However, currently the church, non-governmental and international institutions are the ones providing assistance for returnees. Repatriates do not benefit from any state support, though in many cases persons who have been working abroad for a long time, need such support: they are under serious psychological stress as they returned to a different family and society; at the age of 40-50 having lost their qualifications and previous social ties while working abroad, they face difficulties finding a job, the acquired savings are seldom sufficient to start their own business and create their own working place, the credit interests are unreasonably high. As a result repatriates quite often had to seek employment abroad again after having spent their savings in 1,5-2 years. It is a paradox, but this tendency intensified during financial and economic crisis, as the conditions for employment and starting small enterprise in Ukraine grew worse⁷.

Representatives of non-governmental organizations, in particular unions of Ukrainian migrant workers abroad have continuously appealed for the new law on legal status of the citizens employed abroad that would list measures on returning migrants' reintegration. However, practical actions in this direction have not taken place. The Action Plan encourages expectations that state authorities will take into account the initiative of immigrants and will jointly work on the necessary document. The document should define the responsibilities of persons going for employment purposes abroad (for example, officially appoint guardians for minor children staying at home), state guarantees of their rights, responsibilities of competent authorities, responsibility of the state in securing the rights and freedoms of workers. The law could include the requirements for intermediary services offering employment abroad, liability of intermediaries and the role of public institutions in the process of employing citizens outside Ukraine.

⁵ Chumak V. The readmission is not as scary as they say //Dzerkalo Tyzhnya (Weekly Mirror). – 2010. – # 40. – October 30th – November 5th.

⁶ Council of Europe. Action Plan for Ukraine 2008 – 2011. - DSP(2008)15

⁷ “Ukrainian Greece”: reasons, problems, perspectives (based on the results of interviewed labor migrants) /Levchenko Y.B. [et al] – K.: Agency “Ukraine”, 2010.

Specific law provisions should be devoted to the migrant insurance mechanisms, including pension insurance and methods to include the duration of service outside Ukraine into the pension record. However, the central position in the law should be devoted to the activities on promoting the return of migrants and productive usage of funds earned abroad; in particular regulations for the practical solutions of the relevant issues, introduction of target programs on the state and regional levels.

The next policy task stipulated in the Action Plan is the introduction of the **monitoring of migration flows**, both legal and illegal, in order to provide reliable and constantly updated information on the situation, as any management decision will be made blindly without it.

In order to stop speculations on the questions whether immigrants are burden for the state, whether emigration scale turned into a threat, and whether migration processes contribute to the growth of crime rate, etc., official statistics should provide complete and clear answers to such questions. The components of migration statistics should be enhanced, while means of information collection should be diversified. For example, it can be enhanced and diversified through sample surveys of households in order to detect labour migrants or immigrants to Ukraine among them and find out their level of integration into the society. The researches that are currently only sporadic should become systematic and should be implemented with defined periodicity.

Apart from the state migration statistics, internal statistics compiled by a number of institutions, for example, internal affairs agencies, custom office, etc. belongs to the informational basis in the migration sphere as well. It requires settling the issue of comparing the data from different sources, and setting the order of their exchange and application entailing intensified activity coordination of different institutions. Therefore it constitutes a very important policy task.

Adequate informational basis for approval of administrative decisions in the migration sphere provides for not mere collection but also proper interpretation of the required data, i.e. systematic scientific research. Taking into account that international migration belongs to the phenomena affecting different social aspects, such researches should be multidisciplinary in order to provide full image of migration situation development. However, at the moment there is no specialized center for migration studies in Ukraine capable of uniting expert work on different research fields; its creation is long overdue.

Development of policy provisions and legislation **on asylum** in compliance with international legal standards and EU standards is an important component of the Action Plan. Recently Ukraine has been repeatedly criticized by the reputable international human rights organizations for the serious drawbacks in the refugee protection system, for example, the criticism was sharp in the recent report developed by Human Rights Watch⁸. One of the biggest legislation gaps relates to the fact that it provides for protection only on the basis of the UN Convention Relating to the Status of Refugees from 1951, i.e. to the victims of prosecution based on the concrete criteria listed in the Convention. At the same time, Ukraine lacks any additional protection mechanisms applied in the countries of Europe, those that are provided for the persons facing serious danger in their home land due to the military conflict or mass violation of human rights, who are exposed to the risk of death penalty, tortures, inhuman or undignified treatment or punishment in case of return to their homeland.

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Buffeted in the Borderland: The Treatment of Asylum Seekers and Migrants in Ukraine. December 2010.

Additionally, there are no mechanisms for protection on humanitarian grounds of human trafficking victims not necessarily falling under the Convention provisions on refugee status but needing international assistance. Adequate protection of children seeking asylum who arrived to Ukraine not being accompanied by adults entails a number of legal issues. Currently about 100 of underage asylum seekers residing on the territory of Ukraine who are separated from their family are registered in the UN Refugee Agency. Though the number of this most vulnerable category is not big, the access to the procedure of assigning refugee status for the minors is significantly complicated due to the absence of clear procedures of appointing legal guardian for the child and determining its age. There are no special placements for such children, and that is why they have to reside together with the adults, live in rented flats, being exposed to the risk of violence.

Apart from legislative gaps on asylum there are many problems with the existing legislation implementation. It especially relates to the limited number of placements in the temporary locations for refugees that cannot accommodate everyone, including persons belonging to the most vulnerable groups, i.e. unaccompanied children, children from incomplete or large families, etc. Lack or inadequate status of interpreters constitutes another serious problem. As a rule migration services choose them among the refugees or asylum seekers and as a result the accuracy or neutrality of the translation of official conversations with asylum seekers is questionable.

Lack of adequate programs for local integration of refugees is another drawback in the relevant policy of Ukraine, at the moment the UN Refugee Agency and non-governmental organizations deal with this problem in Ukraine but not the state. Obviously this direction is emphasized in the Action Plan for a reason. Securing non-discrimination of foreigners, actual fight against hate crimes can be added to this, which is stipulated in the paragraph 2.4.3 of the Action Plan provisions.

Organization of the refugee protection system, ensuring their integration in Ukrainian society is needed not only to implement international requirements and national legislation but also to increase the efficiency of illegal migration fight listed as one of the key provisions of the Action Plan. Annually 2 thousand applications for refugee status are registered in Ukraine. At the same time 33 persons acquired this status in 2007, 155 – in 2008 and 156 in 2009. A certain share of rejected applicants could have applied for additional protection mechanisms if such mechanisms existed. They cannot be sent out from the country as it would breach Ukraine's commitments rising from important international legal documents, for example, European Convention on fundamental rights and freedoms. The fate of those who were rejected or escaped the procedure before it ended is not known. Obviously, some of them renew their attempts to reach European countries or stay on the territory of Ukraine illegally.

Institutional aspect

Insolvency of many legal issues in the migration sphere to a large extent is caused by the lack of adequate management structures in this field, capable of developing and lobbying the advancement of relevant draft laws, forming public opinion, coordinating the activities of central and local authorities in migration sphere, cooperating with civil society, monitoring migration situation, improving migration statistics, stimulating scientific researches. That is why it is not surprising that the Action Plan provides for creation of **effective institutional structure for migration management**.

Currently migration management in Ukraine belongs to the competence of several ministries and institutions and many experts expect its efficiency increase as a result of relevant

functional centralization. First projects of creation a single body for migration management date back to 1996 and since then they seemed as attempts to overtake competences, budget funding and human resources between the Custom Office, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Justice and State Committee on Nationalities and Religions (formerly on nationalities and migration matters). Though the need for a single body on migration management has not been questioned, the institutions failed to develop a united vision of its form and competences. Ministry of Labour and Social Policy responsible for labour migration management practically did not participate in these discussions, as none of the projects presupposed the transfer of labour migration issues to the migration service competence, even though this type of migration flow is the largest and most socially significant in Ukraine. In 2002 the draft law on state migration service establishment reached the level of plenary meeting of the Verkhovna Rada of Ukraine. However, MPs rejected it, as they considered that creation of another law enforcement agency as listed in the proposal did not meet the interests and needs of the country.

Nevertheless the issue of the concentration of executive functions in the migration sphere was not removed from the agenda partially because it was viewed as an important stage in the advancement of cooperation with the EU, including continuous movement towards visa free regime. Ukraine-EU Action Plan on Justice and Home Affairs that was concluded in 2002 and enacted in 2007 provided for its creation.

According to the aforementioned National Security and Defence Council decision from 2007, the Cabinet of Ministers had to create the State Migration Office. In summer 2008 the government completed this task by approving the resolution on renaming the Department on Citizenship, Migration and Personal Registration Matters at the Ministry of Interior into the Department of Migration Service and authorizing the Ministry of Interior with functions of executive body especially competent in the migration matters. However, this decision was suspended by the Presidential Decree as an unconstitutional one, as according to the Constitution the functions and structure of law enforcement agencies as well as basics of migration process regulation are defined exclusively by the laws. Besides, it contradicted the Council decision defining the creation of an independent central executive body in the field of migration⁹.

In response to the Presidential Decree the Cabinet approved new regulation according to which the State Migration Department was formed and the Ministry of Interior had to direct its activities. Nevertheless, this regulation was suspended by the Head of the State. Moreover, he filed a claim to the Constitutional Court. Such position was supported by the Ombudsman as she considered it to be impractical to entrust the social migration issues to the law enforcement agency.

“The War” of regulations and decrees concerning migration agency did not end. In June 2009 the new governmental regulation was approved on creating an independent executive body, namely the State Migration Office on the basis of the State Department on Citizenship, Migration and Personal Registration Matters at the Ministry of Interior and the Department on Refugee Matters at the State Committee on Nationalities and Religions. This regulation transferred a part of the functions, property and staff from these institutions to the new agency¹⁰.

⁹ Some issues of state administration in the field of migration policy. Regulation of the Cabinet of Ministers dated June 18, 2008, # 558. – www.zakon.rada.gov.ua; On suspending the Regulation of the Cabinet of Ministers of Ukraine from June 18, 2008, # 558. Decree of the President of Ukraine # 643/2008 dated July 21, 2008-www.president.gov.ua

¹⁰ On creating the State Migration Office. Regulation of the Cabinet of Ministers of Ukraine, dated June 24, 2009 # 643. - www.zakon.rada.gov.ua

Criticisms addressed to the government related to the fact that it exceeded its authority and approved the decision belonging to the Presidential field of competence.

Before the decision of the Constitutional Court was made the government had amended its Regulation in order to avoid the accusations in unconstitutional changes of the Ministry of Interior functions and resources. In this way, the Migration Office did not have the functions of fighting illegal migration which was the task for the Ministry of Interior; the detention centres for illegal migrants remained within the structure of the Ministry of Interior. However, the changes concerning the number of Ministry of Interior staff and division of its property could not be avoided, so the grounds for claiming unconstitutionality remained. The Court reviewed this matter several times and on February 17, 2010 it confirmed unconstitutionality of certain provisions of the Regulation approved by the Cabinet of Ministers.

Confrontation between power branches concerning the issue of State Migration Office establishment caused numerous negative outcomes. For example, since the approval date of governmental Regulation the competence on the refugee status decision was transferred to the Migration Office, the State Committee of Ukraine on Nationalities and Religion that was previously responsible for implementing the Law of Ukraine “On Refugees” did not make any decisions. The numbers of asylum seekers, whose applications for refugee status in Ukraine, were processed longer than stipulated by the law, equals to about 800. Another several hundred foreigners who had appealed previous decisions in the court were not able to obtain or prolong the validity of residence certificates and the State Committee was devoid of the relevant competences. Thus, more than thousand of foreigners stay in Ukraine without relevant legal status regardless constant brave state rhetoric about fighting illegal migration.

In her report to the Head of the State “On Approval of General Basics of The State Migration Policy and Creation of Civil State Migration Office of Ukraine” (May 2010)¹¹, Ukrainian Ombudsmen Nina Karpachova pointed out the issue of institutional migration policy maintenance in Ukraine to the new president of Ukraine. For example, she emphasized the urgent need to secure the interests of millions of Ukrainian citizens working abroad as well as of migrants and refugees in Ukraine, and with this aim create the governmental agency with special status making it civil in nature rather than law enforcement.

Taking this into account as well as other conditions and the request of the President of Ukraine the Cabinet of Ministers of Ukraine approved the Regulation on July 7th 2010 # 559 “Certain Issues of State Management in the Field of Migration”. The Regulation liquidated the State Migration Office that was never created in practice and returned the previous competences in the sphere of migration to the Ministry of Interior and the State Committee on Nationalities and Religions. Under existing conditions it was probably a predictable step and perhaps the only correct decision enabling further adequate operation of relevant institutions.

However, such situation did not last long. In terms of the administrative reform initiated by the President of Ukraine in 2010, the decision to establish the State Migration Office was made; such agency would be empowered to implement state policy on citizenship, immigration and personal registration, as well as on the migration matters according to the Law on Refugees¹². In other words, the decision of the previous government to create State Migration Office on the basis of relevant departments of the Ministry of Interior and the State Committee

¹¹ Ukraine needs strong State Migration Office as an independent civil agency with a special status – Nina Karpachova. – www.gazetaukrainska.com.

¹² On central executive authority optimization . Decree of the President of Ukraine # 1085/2010 dated December 9, 2010. // <http://www.president.gov.ua/documents/12584.html>

on Nationalities and Religions was resumed, with the latter being liquidated as a result of the administrative reform.

Under such conditions all critical remarks concerning relevant decision that were expressed before, including those made by the Ombudsman remain relevant. The most serious doubts relate to the question whether the State Migration Office will turn into the institution capable of providing effective migration management as it is created on the basis of police departments and only a part of the competences in the field of migration was transferred to it not including labor migration. Nevertheless concentration of main functions in migration area in one institution will lead to positive results and will benefit to its organization.

Concluding Remarks

Thereby over the last decade the migration policy creation process in Ukraine that was rapidly developing in the 1990s has been paused and its goal and principles have not been defined. Lack of determined work in this sphere causes abundant and sharp problems and they require immediate solutions without any delays. Primarily it relates to the labour migration from Ukraine as during demographic crisis it constitutes a serious threat for labour and intellectual potential of the nation; entails the need to protect the rights of labour migrants, ensure their legal employment abroad, and encourage their return to the homeland and reintegration; causes accumulation of foreign immigrants on the territory of the state, including asylum seekers, as their legal status definition is unreasonably complicated, while clear actions on their integration into Ukrainian society are virtually missing.

As Ukraine has recently joined world migration processes, the society and authorities have not yet realized the necessity for active migration management actions. Understanding of migration situation does not meet the modern requirements because of existing migration statistics weaknesses and deficiency in adequate scientific research of people movement. Migration legislation includes numerous shortcomings, while institutional management of its implementation was not established. The need to correct these deficiencies has been repeatedly addressed by the Head of the State and the government; it has also been discussed in the parliament. However, relevant solutions were hindered due to political confrontation and interdepartmental struggle.

Under such conditions the impact of European migration policy which became one of the main directions for home and external EU policies, as well as cooperation with the EU Member States in the sphere of migration can have significant positive implications for final movement of this issue out of the deadlock.

It should be mentioned that migration issues were always present in relations between Ukraine and EU and its Member States. Firstly, migration is inherently an international phenomena and therefore it cannot be regulated exclusively by one country; secondly, migration policy in a democratic society must comply with certain principles, in particular on human rights, developed by the international community and enshrined in recognized international legal instruments, thirdly, efficiency of international cooperation in migration sphere and capacity of the state in migration management are interrelated and interdependent.

The Action Plan on Visa Liberalization with Ukraine which was approved on November 22nd 2010, practically does not include any issues that have not been discussed previously on the national and international levels, in particular in the Ukraine-EU Action Plan on Security, Justice and Home Affairs, Agenda for the association or within the framework of the “Eastern

Partnership”. It only emphasizes the issues, solutions of which are needed and will be beneficial for Ukraine.

At the same time the experience of EU accession preparation of the new Member States shows that implementation of European norms and standards made a significant positive impact on public administration improvement, especially in the field of migration. That is why existence of the Action Plan and its implementation can be regarded as an important external impetus for solving current issues in Ukraine in the sphere of migration.

While choosing the ways and methods for the Action Plan implementation attention should be paid to the international experience in improving migration policy and advancement towards visa free regime of those countries that acquired EU membership and third countries, primarily Western Balkan states. However we should take into account specific Ukrainian political realities, migration situation, and available resources as simple copying of foreign experience is just impossible and can be harmful as well. Nevertheless, experience of Poland in liberalizing the access of foreigners (including Ukrainians) to the national labour market is positive by all means, as Ukrainians are the largest group of temporary foreign workers in the country. Achievements of Balkan countries in ensuring orderly migration of their citizens and acquiring visa free regime with the EU as a result is another positive example.

International experience also shows that migration policy formation, relevant organs establishment cannot be done behind the scenes, exclusively by the efforts of several public officials or members of parliament; scientists, experts, representatives of non-governmental organization should also be involved and wide public discussion should take place. Migration policy should be regarded in complex, its understanding should not be limited by mere control and coercive measures; meaningful cooperation between different institutions and between the government and civil society should be established. The Action Plan on Visa Liberalization with the EU can act as an important factor for new quality solutions of migration issues. The final outcome, however, will depend only on the authorities and society in Ukraine.