



**UKRAINE'S PERFORMANCE**

**UNDER THE CRITERIA**

**OF THE EU'S**

**VISA WAIVER SUSPENSION MECHANISM**

**Asylum**

**Entry refusals**

**Irregular migration**

**Return and readmission**

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*Europe Without Barriers* is a Ukraine-based NGO and think tank founded in 2009. The organization's mission is to find a new balance between freedom of movement, human rights and security in an effort to see Europe without barriers and Ukraine being a part of such a Europe. The organization's activity is aimed at enabling human rights to freedom of movement and supporting related socially important reforms in the fields of the rule of law, migration and border management, public order and combating discrimination.

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## INTRODUCTION

In 2005, EU adopted “Global Approach on Migration and Mobility” (GAMM) to address the aspects of external migration and asylum policy of Union, in cooperation with third countries. In the framework of GAMM, it was decided that existing and future possible visa dialogues will encompass particular benchmarks to be fulfilled by the partner countries. (The Global Approach to Migration and Mobility, 2011)

In the light of its collaboration with Eastern Partnership countries, EU launched Visa Liberalisation Dialogue with Ukraine in 2008, following by adoption of Visa Liberalisation Action Plan in 2010. Ukraine, in its turn, undertook the required reforms regarding *document security, irregular migration, public order and fundamental rights* successfully in the further years. As a result, the decision to transfer Ukraine to the list of countries for whose nationals visa requirements are abolished came into effect on 11 June 2017, marking a historical moment for the country considering its growing European aspirations. (European Commission, 2018a)

On the other hand, highly increasing numbers of asylum applications from Western Balkans stemming from visa-free regime as well as European migration crisis emerged a need for EU to control the flows of irregular migration in a more effective and comprehensive way. Therefore, European Union introduced visa-suspension mechanism to monitor the fulfillment of visa liberalisation benchmarks with countries attaining visa-free regime. (Trauner, 2017) Under this new policy tool, suspension can be triggered by member states or Commission in the cases of:

- a) substantial decrease in the readmission cooperation;
- b) substantial increase in risks to the public policy or internal security of the member states;
- c) substantial increase in the number of asylum applications from third countries with low recognition rate;

- d) substantial increase in the number of nationals of third country refused entry to and staying illegally over the territory of a member state. (Regulation 2017/371 of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001, 2017)

On 20 December 2017, the first report under the Visa Suspension Mechanism was published. The report, among other considerations, recommends Ukraine *to enhance cooperation with relevant agencies of EU to prevent risks stemming from irregular migration.* (European Commission, 2017) Hence, this brief paper will look at the current situation of irregular migration from Ukraine to EU with an objective of contributing to the reforms in the field aforementioned to sustain visa-free regime.

### **ILLEGAL OVERSTAYERS**

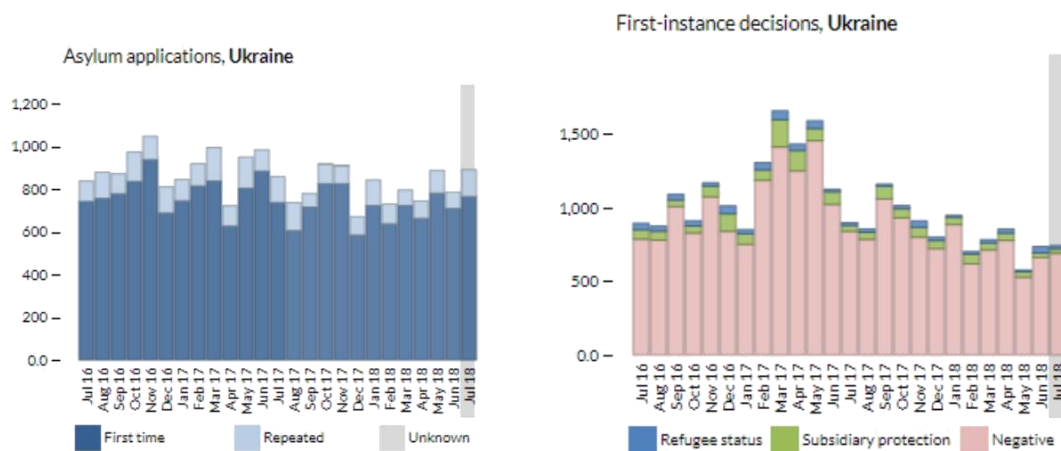
*Majority of the Ukrainian citizens migrated to the EU member states and Schengen zone countries through acquisition of visas and residence permits, in legal ways.* By 31 December 2017, 1.132.383 residence permits were obtained by Ukrainians, indicating about 1.6 % increase in comparison with the previous year. About 51% (578.151) of the residence permits were issued for reasons on remunerated activities. (Eurostat, 2018a) On the other hand, 694.349 uniform visas (half as many as issued in 2016) were issued at the consulates in Ukraine in 2017. (European Commission, 2018b) The reducing numbers regarding obtainment of visas is influenced by the coming into effect of visa-free regime for Ukraine. Moreover, over one million Ukrainians enjoyed the visa-free regime so far. (EaP Panel on Migration, Mobility and Integrated Border Management, 2018a)

*The numbers of Ukrainians found illegally present in the EU member states in 2017 rose to 33.795, experiencing an increase of about 12% in comparison with 2016.* More than half of irregular Ukrainian migrants were found in Poland (19.815), whereas Hungary (3.955), Germany (2.405), Slovakia (1.740) and Czech Republic (1.510) have had the high shares of Ukrainian citizens present over these territories illegally. (Eurostat, 2018b)

## ASYLUM SEEKERS

In the initial seven months of 2018, 5,305 asylum applications from Ukrainians were registered in the EU member states. 88% of applications (4,685) were lodged by the first-time applicants. The most popular countries for asylum seekers were Italy (1,550), Spain (1,180) and Germany (620) (Eurostat, 2018c). This data demonstrates further tendency to decrease in number of applicants from Ukraine after fall on 19% in 2017 and 43% in 2016 (calculations based on Eurostat (2018e)).

Furthermore, 4,405 final decisions were made on the asylum applications of Ukrainian citizens in 2017, among which only 325 decisions were positive. Asylum recognition rate for Ukrainian nationals was about 7.3 % in 2017, quiet higher than the rate defined by the visa suspension mechanism as “low” (according to the low recognition rate combined with rise of asylum applications number may be a ground for launching the suspension mechanism,) (Eurostat, 2018d)



Source: European Asylum Support Office

## REFUSAL OF ENTRY

33,525 Ukrainian citizens were refused entry at the EU member states' borders in 2017, indicating about 46% increase in comparison with 2016. Ukrainians were mostly refused

entry at the borders with Poland (25.255), Hungary (2.980) and Romania (1.715) (Eurostat, 2018e). At the same time, data provided by Frontex agency evidence only 34% rise in 2017 (Frontex, 2018).

Moreover, 9.712 Ukrainians have been refused an entry in the initial three months following visa liberalisation. *Overwhelming majority of them (4.009) had no appropriate documentation justifying the purpose and conditions of the stay*, whereas absence of a valid visa and residence permit (2.253) as well as lack of sufficient means of subsistence related to the period and form of stay (or means to return to the country of origin/transit) (1.054) have also been major reasons of refusal. *Amongst the travelers for whom an entry to the EU member states were refused because of deficiency of appropriate documentation justifying the purpose and conditions of the stay, Ukrainians had the highest share (36%) Furthermore, on the land borders, Ukrainian migrants had the highest share (35%) of refusal of entry due to false documents.* (Frontex, 2018)

## **RETURN AND READMISSION**

Since 2013, the number of Ukrainians who were returned following an order to leave the EU member states increased every year and peaked at 26.560 in 2017. An order to leave was issued for Ukrainians the most in Poland (17.735), followed by Germany (1.670), Slovakia (1.420) and Belgium (1.060) (Eurostat, 2018f)

21.325 Ukrainian citizens left the territory of the EU member states voluntarily in 2017. The number of Ukrainians returned enforced (readmitted) was much less: 1570, however. (Eurostat, 2018g)

Furthermore, a slight decrease was observed (from 783 in 2016 to 553 in 2017) in the numbers of detained foreigners trying to enter the European Union illegally from Ukraine as a transit route. Majority of detained migrants have been the citizens of Vietnam (135), India (89), Turkey (53) and Bangladesh (44) Nevertheless, Ukraine has not been a primary route for irregular transit migrants. (Derkach, 2018)

Cooperation with Ukraine on readmission was considered positive by both EU and the member states. (European Commission, 2017)

## CONCLUSION

Johannes Hahn, European Commissioner for European Neighbourhood Policy and Enlargement Negotiations has recently stressed that *introduction of a visa suspension mechanism for Ukraine is not expected at the moment*, indicating successful cooperation between EU and Ukraine in the field of migration. (EaP Panel on Migration, Mobility and Integrated Border Management, 2018b)

Analysis of the latest migration trends from Ukraine to the EU lead to the similar conclusion. Especially, in the field of readmission, Ukraine and EU had an effective collaboration, and most of the Ukrainian citizens ordered to leave the territories of the EU returned voluntarily. Additionally, *asylum applications from Ukrainians to the EU member states in 2018 have not experienced an increase following a substantial decrease in 2016 and 2017*.

However, *the number of Ukrainian citizens refused an entry at the EU borders has risen*.

Therefore, this paper suggests Ukraine *to increase cooperation with the EU member states, especially with Poland, Romania and Hungary on the border management*.

Besides, EU recommends *Ukraine to continue information campaigns to raise awareness among Ukrainian citizens on the rights and obligations ensuing from visa-free travel, in order to attain a more sustainable migration management*. (European Commission, 2017).

Finally, Ukraine should *continue progressive readmission cooperation with EU in the future as well and undertake other reforms depicted in the First Report under the Visa Suspension Mechanism* so as to benefit from the positive impact of visa-free travel.

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