

# Migration from Ukraine to V4 in time of crisis

Final Reports from Czech Republic, Hungary,  
Poland and Slovakia



Human Rights League



# **Migration from Ukraine to V4 in the time of crisis**

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## Foreword

The aim of the project *Migration from Ukraine to V4 in time of crisis* has been to analyse how migration flows to countries of V4 from Ukraine have been affected by the current crisis in Ukraine, with special focus on Ukrainian citizens. Ukraine is important neighbour to Poland, Slovakia and Hungary and Czech Republic is also one of the traditional destinations for Ukrainian immigration.

In the current situation, when large numbers of Ukrainians have been internally displaced due to the war conflict, we have been looking into the paths and routes taken by Ukrainian citizens to immigrate into V4 countries. Special focus has been paid on asylum immigration in order to find out if this type of immigration is preferred and what is the position of concerned States towards asylum applications of Ukrainians. Interestingly, as data show, Ukrainians prefers other types of immigration into V4, including statuses of „foreign nationals of V4 countries living abroad“, resorting to asylum application only as a last option.

Furthermore, we were interested in the response of V4 authorities regarding reception or rejection of Ukrainians in our region and on accessibility of legal routes of immigration for Ukrainian citizens. Special arrival humanitarian schemes have been analysed per country, in order to highlight best practices related to humanitarian admissions/schemes used to aid to Ukraine and its citizens to overcome the consequences of the conflict. Such schemes may be an inspiration for the governments to build upon and to extend such type of solidarity to other populations affected by conflicts, such as Syrians or Iraqis.

Coordinated response to the humanitarian situation in the regions affected by the conflict requires also increased and coordinated efforts of solidarity on the side of the V4 governments. The aim of this analysis is to contribute to development of proactive responses of our governments targeting the populations affected by conflicts of large scale.

Zuzana Številová  
Director of Human Rights League

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# 1. National report on Czech Republic

*By Kateřina Buchtová, Martin Rozumek, Organization for Aid to Refugees*

## 1. Introduction

This report describes migration flows from Ukraine to the Czech Republic before and during the crisis in Ukraine. It analyses the extent to which the migration been affected by the crisis and the main features of this migration flow. In particular, they will be analysed in the context of international protection as well as other types of stay.

This report includes an overview of legal possibilities of Ukrainians for arrival and settlement in the Czech Republic, statistical data regarding different types of stay in the territory, and facilitating programmes for Czech compatriots. Inadequacies of legislation and public policies in migration and asylum agenda will be indicated.

Data provided by public authorities as well as experience of migrants assisting NGOs were used for the purpose of this report.

## 2. Legal possibilities of arrival and settlement

Ukrainians can apply for all kinds of visas and residence permits as other third countries nationals. Third countries nationals are allowed to enter and stay in the territory of the Czech Republic (hereinafter CR) based on visa for a stay up to 90 days (unless a visa-free relation agreement is concluded between the CR and a particular country<sup>1</sup>), visa for a stay over 90 days, long-term residence permit and permanent residence permit. These types of stay will be discussed separately.

**Visas for a stay of up to 90 days (short-term visa)** are regulated by Regulation No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code). Visa Code regulates both conditions for issuing visas and procedures of issuing visas.

An application for a short-term visa must be submitted to the consulate of the EU country concerned. Operating consulates of the CR in Ukraine are currently in Kiev and Lvov<sup>2</sup>. When lodging an application, the following must be presented by the applicant: an application form, a valid travel document, a photograph, supporting documents set out in Annex II, proof of sponsorship and accommodation, and proof of possession of travel medical insurance. The applicant must allow the

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1 No such agreement has been concluded between the CR and Ukraine.

2 Consulate in Donetsk has been closed due to situation in the area.

collection of his/her fingerprints and pay a visa fee.

A decision on an admissible application must be taken within 15 calendar days from the date on which it was lodged. A visa is refused if the applicant: presents a false travel document; gives no justification for the purpose and conditions of the intended stay; provides no proof of sufficient means of subsistence for the duration of the stay nor for the return to his/her country of origin/residence; has already exhausted the 3 months of the current 6-month period; has been issued an alert from the Schengen Information System (SIS) for the purpose of refusing entry; is considered to be a threat to the public policy, internal security or public health of one of the Member States; provides no proof of travel medical insurance; or presents supporting documents or statements whose authenticity or reliability is doubtful.

If the visa application is refused, the applicant is entitled to request reappraisal of the reason of refusal. This reappraisal is regulated by Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of Czech Republic. It is made by Ministry of Foreign Affairs of the Czech Republic. The decision of the reappraisal must be taken within 30 days.

The second type of visa is a **visa for a stay of over 90 days (long-term visa)**. Long-term visa conditions are regulated by Act No. 326/1999 Coll. and the procedure is regulated by the Administrative Code. Long-term visa is issued for the purpose of collecting a permanent residence permit, family reunification, studies, scientific research and business or tolerance (see below). A long-term visa for the purpose of employment has been replaced with an Employment Card since 24 June 2014.

The application for a long-term visa must be filed at the consulate of the CR in the state of which an applicant a citizen, in the state that issued applicant's travel document, or in the state where the applicant has long-term or permanent residence. The application shall be submitted with a completed form, travel document, photograph, proof of accommodation, document proving the purpose of stay and proof of funds. Upon request, the applicant is further obliged to submit a document similar to an extract from Penal Register record and a medical report proving that the applicant does not have a serious illness. The applicant is also obliged to submit a proof of medical travel insurance (not required in special cases stated by law) and, upon request, proof of the payment of the insurance premium.

The application shall be processed within 90 days from the date it was filed, within 120 days in particularly complicated cases and in the case of long-term visa for purpose of studies and research, within 60 days. The decision on granting a visa is made by the Ministry of Interior of the Czech Republic. A visa is refused if the applicant does not report for an interview or does not submit the documents for verifying the data presented in the application, the applicant does not fill the application truthfully, the applicant submits forged or altered requirements

or the data necessary for appraising the application presented in them does not correspond with the truth, or the applicant is registered as *persona non grata* or is included in the SIS. The visa is also refused if there is a reasonable risk that the applicant may threaten the state security, public order or international relations of the CR, if there is a reasonable suspicion that the applicant has a disease listed in special laws<sup>3</sup>, or if the applicant does not submit a document on medical travel insurance that corresponds with specified conditions or facts indicate that the applicant will not leave the territory after cessation of the stay or intends to abuse the visa for another purpose.

If the applicant is not granted a long-term visa, he/she is entitled to request a new appraisal of the reasons for not granting the visa within 15 days. Within 60 days from the request, the Ministry of Interior informs the applicant of the result of a new appraisal.

As mentioned above, long-term visa for the purpose of employment has been replaced with Employment Card. It also replaces long-term residence permit for the purpose of employment and Green Card. A foreign national who holds an Employee Card is entitled to reside in the territory of the CR and, at the same time, to work in the job for which the Employee Card was issued, or to work in the job for which the Department for Asylum and Migration Policy of the Ministry of Interior granted consent. The conditions for granting Employee Card are regulated by Act. No. 326/1999 Coll., and the procedure is regulated by the Administrative Code. Application for the Employment Card must be filed at the consulate of the CR with the appropriate territorial jurisdiction<sup>4</sup> or at an office of the Ministry of Interior.<sup>5</sup>

Documents that must be attached to the application are the same as for long-term visa. In addition, the applicant is obliged to attach a contract of employment and documents proving professional qualification for performance of the particular job (e.g. document certifying that applicant's foreign education has been recognised by the relevant authority of the CR). For the purpose of collecting the Employment Card, a long-term visa is issued.

The decision on Employment Card must be issued within 60 days from the date of the filing of the application, or within 90 days in complicated cases or if the Employment Agency has been requested to issue a binding opinion statement. The application can be rejected for the same reasons as in the case of a long term-visa. In addition, the application is rejected if the applicant fails to meet certain conditions for issuing Employment Card and if the Employment Agency issues a binding opinion that further employment of the applicant cannot be permitted due to the situation on the labour market.

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3 Decree No. 274/2004 Coll. on list of diseases threatening public health and public order.

4 Same as for long-term visa

5 If the applicant is already legally staying in the territory of the CR

If the application for an Employee Card is refused, the applicant is entitled to lodge an appeal against the decision with the Commission for Decision-Making on the Matters of the Residence of Foreign Nationals (hereinafter Commission) within 15 days from the date of delivery of the decision. However, the appeal is to be first filed with the Department for Asylum and Migration Policy of Ministry of Interior which appraises the appeal. If it fails to find a reason to cancel or change its own decision it will refer the appeal to Commission. The appeal must be referred to the Commission within 30 days from delivery of the appeal. If the Commission rejects the appeal, the applicant is entitled to bring an action to the administrative court.

A **Blue Card** is a residential status designed for a long-term stay and performance of a highly skilled job.<sup>6</sup> Again, Blue Card is regulated by Act No. 326/1999 Coll.

Third-country nationals intending to stay for a longer period of time can apply for **long-term residence permit**. The application is to be lodged in the territory of the CR at the Ministry of the Interior offices if the applicant has been residing in the CR for a visa or stay over 90 days and intends to temporarily live in the CR for more than 6 months (including previous visa) and if, at the same time, the purpose of his/her stay remains the same. In certain cases<sup>7</sup>, an application can be submitted at Czech consulate without previous stay on the basis of long-term visa. Long-term residence permit can be issued for the purpose of studies, scientific research, business and family reunification and tolerance.

As in the previous cases, the applicant must submit travel document, proof of purpose of the stay, proof of accommodation, proof of funds, travel medical insurance, medical report and submit other special documents according to the purpose of the residence.

The period within which the decision on long-term residence permit shall be made is 60 days for studies, scientific research, and business purpose and 270 days in case of family reunification.

The reasons for rejecting the application are similar as for long-term visas. If rejected, the applicant can lodge an appeal to the Commission. If the appeal is rejected, the applicant is entitled to bring an action to administrative court.

The last type of residence is a **permanent residence permit**. Foreign nationals can be granted a permanent residence permit only after 5 years of continuous residence in the CR. However, in special cases, permanent residence permit can be issued even without fulfilling the condition of 5 years continuous residence.<sup>8</sup>

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6 Sec. 42i Act No. 326/1999 Coll.

7 Purpose of studies, research, family reunification, Blue Card or Employee Card

8 In humanitarian cases, in other special cases, in cases where a permanent residence of the applicant is in the interest of the CR, in cases of minor or dependent child of foreigner who has already been granted the permanent residence permit and in other cases.

The application for permanent residence permit can be filed at a Czech consulate (if the applicant now resides outside the CR) or at the Ministry of Interior office where the applicant is registered. The following documents must be attached to the application: a travel document, proof of fulfilling the condition of 5 years continuous temporary residence, photograph, proof of accommodation, proof of funds, Czech language exam certificate, and a document similar to extract from the Penal Register. The decision on the application must be taken within 60 days from filing the application in the CR and within 180 days from filing the application at a Czech consulate.

Reasons for rejecting the application are similar as in previous cases. If rejected, the applicant can lodge and appeal to the Commission and subsequently to bring an action to administrative court.

Foreign nationals fleeing from their country of origin can also apply for **international protection**. International protection in the CR is regulated by Asylum Act No. 325/1999 Coll. CR is a contracting party to 1951 Refugee Convention and 1967 Protocol to the Convention.

There are two types of international protection provided to foreigners on the territory of the CR: asylum and subsidiary protection.

**Asylum** shall be granted to a foreign national if the foreign national is persecuted for exercising political rights and freedoms, or has a well-founded fear of being persecuted on the grounds of race, gender, religion, nationality, membership of a particular social group or for holding certain political opinions in the country of which he/she is a citizen or, if the foreign national is a stateless person, in the country of his/her last permanent residence. If there are no reason for granting asylum pursuant this definition, asylum may be granted for humanitarian reasons in a case worthy of special consideration.

**Subsidiary protection** shall be granted to a foreign national who has not satisfied the reasons for granting of asylum and: a well-founded concern exists if the foreign national is returned to the country of which he/she is a citizen or, if the foreign national is a stateless person, to the country of his/her last permanent residence, he/she would face an actual risk of serious harm and that he/she is unable or unwilling, due to such risk, to avail himself/herself of the protection of the country of which he/she is a citizen or the country of his/her last permanent residence.

In particular, serious harm means an imposition or execution of capital punishment, torture or inhuman or degrading treatment or punishment, serious threat to life or human dignity by reason of malicious violence in situations of an international or internal armed conflict, or if the foreign national's departure from the country would contradict the international obligations of the Czech Republic.

Application procedure starts with a declaration of the intention to apply for international protection. This declaration must be made in the territory of the CR

to the Alien Police at one of the locations designated by the Asylum Act.<sup>9</sup> After the declaration the foreign national is obliged to appear at the reception centre<sup>10</sup> within 24 hours where he/she files an application for international protection.<sup>11</sup>

When the application is lodged, the applicant is required to undergo fingerprints and to be photographed. The applicant is further obliged to surrender his/her travel document and undergo a physical examination, examination of his/her personal items and medical examination. One or more interviews are conducted with the applicant during which he/she has the opportunity to explain reasons for applying for international protection in the CR.

Decision on the application is issued by the Ministry of Interior. An application is rejected if the applicant only cites economic reasons, submits incorrect information on his/her identity or citizenship or refuses to provide such information without a serious reason, applies only to escape from a situation of general destitution, arrives from a country which is considered a safe third country or safe country of origin, holds more than one citizenship and failed to avail himself/herself of the protection of such a country, does not state any fact indicating that he/she could be exposed to persecution or is under threat of serious harm, submits clearly untrustworthy facts or with the aim of making determination of the actual merits of the case more difficult, or destroyed, damaged or concealed his/her travel document or any other material instrument with the same aim. An application for international protection shall also be rejected if it is apparent from the applicant's course of action that the applicant has filed it with the aim to avoid an impending expulsion, extradition or transfer for criminal prosecution to a foreign country although the applicant was able to apply for international protection earlier, unless the applicant proves the contrary.

International protection cannot be granted to a person who committed a crime against peace, a war crime or a crime against humanity, committed a serious non-political crime and committed acts that are contrary to the principles and goals of the UN.

A decision on the international protection shall be issued within 90 days of the commencement of the proceeding. Nevertheless, Ministry of Interior is allowed to extend this period. If the application is rejected, the applicant can file an action against the decision to an administrative court and subsequently cassation complaint to Supreme Administrative Court.

Another special type of protection on the territory of the CR is **temporary protection**. Temporary protection is an exceptional measure to provide immediate and temporary protection to displaced persons from non-EU countries unable

9 At a border crossing, reception centre, regional headquarters or alien detention centre. An exception is made for foreigners who are hospitalised at a medical facility, in custody or serving a prison sentence.

10 Reception centre is located at Zastávka u Brna.

11 Again, exceptions are made for objective reasons.

to return to their country of origin. Temporary protection is an EU measure and European Council would designate the group for whom temporary protection is required. Temporary protection has never been applied.

### 3. Statistics

For the past several years, Ukrainians have been the largest national minority in the CR.<sup>12</sup> The total number of Ukrainian nationals residing in the CR is slightly decreasing. The majority of them holds permanent residence permit and the percentage of permanent resident permit holders has been increasing.<sup>13</sup>

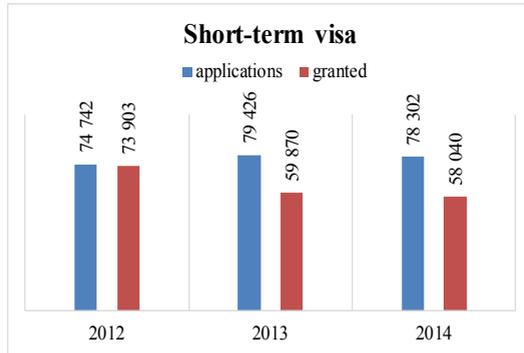
Year	Number of Ukrainians by the 31 December	% permanently	% contemporarily
2012	112,647	51.3 %	48.7 %
2013	105,239	65.2 %	34.8 %
2014	104,388	70.9 %	29.1 %
2015	104,588	72.4 %	27.6 %

Graphs showing migration trends from Ukraine to the CR in 2012, 2013 and 2014 (and 2015 for certain types of residence permit) are presented below. Category “granted” does not contain only positive decision made in the same year as in which the applications were filed but also decisions made on applications filed in the previous year.

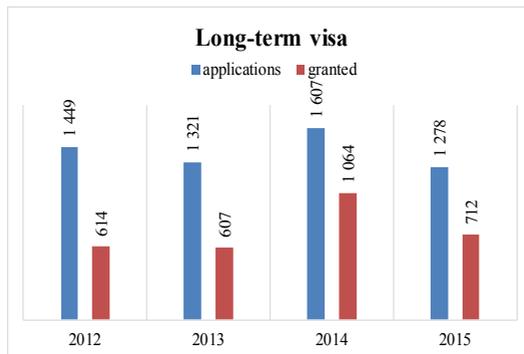
12 Ministry of Interior of the Czech Republic, Migration and Integration Report 2012, 2013 and 2014 were used for the purpose of this report. Certain information concerning 2015 was provided by the Ministry of Interior upon request.

13 Available at <<http://www.mvcr.cz/clanek/cizinci-s-povoleny-m-pobytem.aspx?q=Y-2hudW09NA%3d%3d>> accessed 20 October 2015 and at <<http://www.mvcr.cz/migrace/clanek/cizinci-s-povoleny-m-pobytem-cizinci-s-povoleny-m-pobytem.aspx>> accessed 20 October 2015

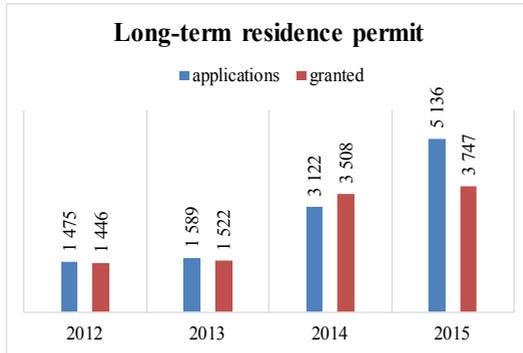
14 By 31 July 2014.



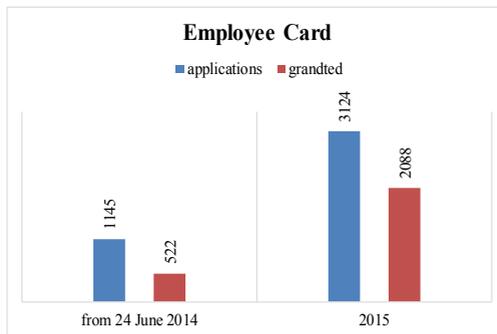
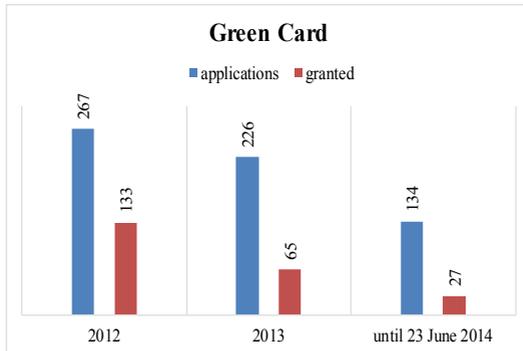
The number of application for short term visa slightly increased in 2013 and remained the same in 2014. Short-term visas do not seem to be influenced by the situation in Ukraine.



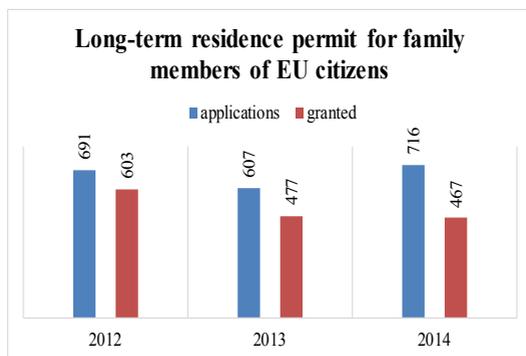
The number of applications for long-term visa increased by 21 % in 2014 compared to 2013. Regarding the number of application submitted in past months of 2015, the increase compared to 2013 is also expected. The increase might be caused by high number of tolerance visa applications which are related to the situation in Ukraine (see below). Also the number of long-term visa for the purpose of study has risen.



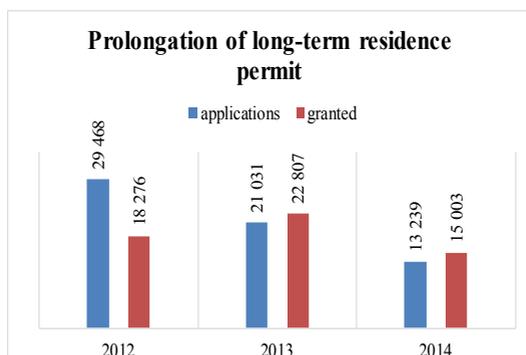
The crisis at Ukraine also influenced significantly the number of long-term residence permits. The number of applications submitted at Czech consulates in Ukraine in 2014 rose by 54.3 % compared to 2013 and the number of applications submitted at the territory of the CR rose by 92.1 %. The number of applications in past months of 2015 grew by 64.5 % compared to 2014.



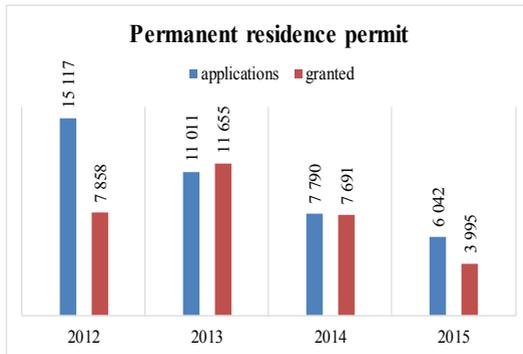
Graph on Green Card shows that Green Card was not a widely used residence permit compared to Employee Card. However, it is important to note that Employee Card did not replace only Green Card but also long-term visa and long-term residence permit for the purpose of employment. Whilst the number of applications for Green Card is slowly decreasing, the amount of applications for Employee card has risen substantially.



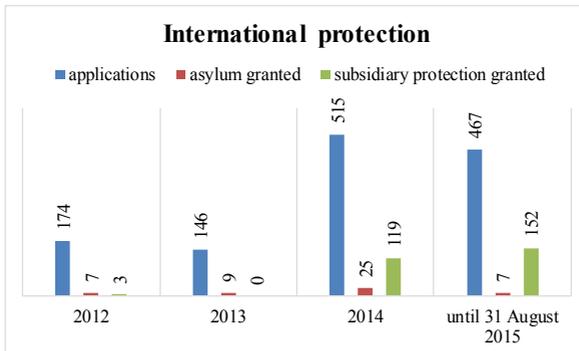
By 18 % more Ukrainians applied for long-term residence permit for family member of EU citizens in 2014 than in 2013. However, the number is very similar to year 2012. Therefore this category remains rather constant and does not seem to be affected by the Ukrainian crisis.



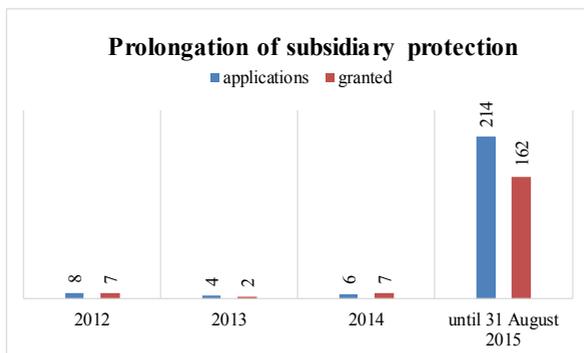
The number of applications for prolongation of long-term residence permit has been decreasing in the past few years. Nevertheless, to have a complete picture of the development, it would be necessary to have data of 2015 to see how many Ukrainians who were granted long-term residence permit in 2014 applied for prolongation in 2015.



The number of permanent residence permit applications has been decreasing. However, the only way how permanent residence permit data can reflect the crisis in Ukraine is the number of permits granted to those who are not required to fulfil the condition of five years of continuous stay (typically compatriots).



Concerning the **international protection**, the majority of the applicants in 2012, 2013, 2014 as well as in 2015 were Ukrainian nationals. In 2014, 44.5 % international protection applications were submitted by Ukrainians and 55.3 % by 31 July 2015. The number of applications rose steeply in 2014 and this trend continues in 2015. Subsidiary protection has commenced to be granted since 2014. However, the amount of applications for international protection has been significantly lower than applications for visas and long-term residence permit.



The commencement of practice of granting subsidiary protection logically caused an increase of applications for prolongation of subsidiary protection.

## 4. Special programs

### I. MEDEVAC – humanitarian transportation to the Czech Republic

The Medevac program is a traditional Czech tool to help refugees and immigrants from conflict zones. The program enables temporary stay in the Czech Republic for the purpose of emergent medical treatment. Then, usually, the recovered patients are encouraged and assisted to return to their home country.

On 14 July 2015, the Medevac program assisted 9 patients from Ukraine, particularly patients from the conflict zones in the Eastern Ukraine, with different serious health problems. The patients were evacuated by the army plane and were offered the best available treatment in the Czech Republic. The first patient returned to Ukraine after 7 days from the surgery operation. The Medevac program is coordinated by the Ministry of Interior in cooperation with the Ministry of Foreign Affairs, and the Ministry of Defence and Caritas.

### II. Scholarships offered by the University in Olomouc

Having regard to the conflict situation in Ukraine, the Olomouc University decided to offer the possibility of yearly scholarships to Ukrainian students in the postgraduate study. The cost of one year study at the University is 150.000 CZK (app. 5.500 EUR)

### III. Special program for Ukrainian technicians

Simplified access of up to 500 technicians from Ukraine is the basic goal of the special program coordinated by the Ministry of Industry and Commerce, which

was approved by the Czech Government on 9 November 2015. The project is called “Special procedures for highly qualified employees from Ukraine” and the aim is to proceed faster the employment and blue card visa requests of highly qualified workers without need to register an appointment through the dysfunctional Visapoint systems at the Czech embassies for the purpose of applying a visa.

#### IV. Compatriots

Currently, there are around 6,000 Czech compatriots living in Ukraine. Most of them are Ukrainians citizens whose Czech ancestors came to Ukraine in 19<sup>th</sup> century.

During 2014, Czech compatriots in Ukraine have started to make lists of those who are interested in relocating to the CR. Regarding the increasing amount of applicants and situation in the region, Czech government adopted on 8 December 2014 a resolution<sup>15</sup> creating legal and organizational frame for a relocation program. Czech compatriots are allowed to apply for permanent residence permit without needing to fulfil the condition of 5 years continuous stay at the territory of the CR. Compatriots are also provided special assistance concerning the transport to the CR and settling here. In 2015, Czech government decided on providing 66,000 CZK for relocation program.<sup>16</sup>

Relocation program is designed for Czech compatriots from all countries. However, it has been only used by Ukrainian citizens so far. In 2014, Ukrainians submitted 554 relocation applications in total. Minister of Interior contacted all the applicants with questionnaires for obtaining more information.<sup>17</sup>

Compatriots can take part in relocation program regardless of the part of Ukraine from which they come.

### 5. Practice and problems

This chapter describes typical features of migration from Ukraine to the CR and problems accompanying it.

Foreign nationals applying for visas or residence permits are obliged to register via **VISAPOINT system** to make an appointment at the consular office to lodge an application. VISAPOINT is an internet system run by Ministry of Foreign Affairs via which applicants submit their applications. If the VISAPOINT is used by a particular consular office, all foreign nationals applying at that office have to register at

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15 Resolution of Government of the Czech Republic No. 1014 of 8 December 2014 on principles of the Government of the Czech Republic policy in relation to relocation of foreign nationals living abroad with proved Czech origin.

16 Resolution of Government of the Czech Republic No. 32 of 14 January 2015 on release of finance for relocation assistance in 2015.

17 Migration and Integration Report 2014 (n 10), 166-177.

VISAPOINT. At present, VISAPOINT is used by both consular offices in Ukraine. If there are no appointment dates available at VISAPOINT at the given moment, the applicant has to wait and try to register later.<sup>18</sup> The purpose of VISAPOINT is to raise the effectiveness and transparency of application process and to eliminate space for corruption.<sup>19</sup>

VISAPOINT is used for all types of visas and residence permits. However, consulates can only set an obligation for applicant to make an appointment to for the purpose of filing an application in case of long-term visa.<sup>20</sup> The obligation to make an appointment for filing long-term and permanent residence permit application is not set by law.

The number of applicants is higher than number of available appointment dates.<sup>21</sup> An increased amount of complaints on VISAPOINT in Ukraine has been reported since the second term of 2014. Ministry of Interior claims that problems are caused by enormous amount of applications and insufficient personal and space capacity of consulates. Main reasons of lacking appointment dates are claimed to be closing of General consulate in Donetsk and the new type of residence permit – Employee Card.<sup>22</sup>

VISAPOINT and consulates in Ukraine have currently no capacity for intake of applications.<sup>23</sup> No free appointment dates are available for short-term visa, long-term visa, long-term resident permit or permanent resident permit applications either at consulate in Kiev or in Lvov.

Ukrainians who do not succeed to obtain an appointment date via VISAPOINT are deprived of possibility to lodge an application for visa or residence permit in the CR. Right to lodge an application and right to access to administrative authority are an essential part of right to a fair trial. This is especially alarming for residence permits for the purpose of family reunification.

Security Information Service of the CR reported exploiting of VISAPOINT. Cybercriminals occupy all the appointments dates and applicants are forced to pay considerable amount of money to middlemen for arranging a VISAPOINT appointment. Several new features were added to the VISAPOINT and temporarily improved the situation. However, cybercriminals adapted to these measures and continue exploiting the system.<sup>24</sup>

18 Available at <[http://www.mzv.cz/jnp/en/information\\_for\\_alien/general\\_visa\\_information/visapoint/frequently\\_asked\\_questions.html](http://www.mzv.cz/jnp/en/information_for_alien/general_visa_information/visapoint/frequently_asked_questions.html)> accessed 15 October 2015.

19 Ministry of Interior of the Czech Republic, Migration and Integration report 2014, 23.

20 Sec. 170 subs. 2 Act No. 326/1999 Coll.

21 Available at <[http://www.mzv.cz/jnp/cz/zahranicni\\_vztahy/vyrocní\\_zpráva\\_a\\_dokumenty\\_poskytnuté\\_informace/visapoint\\_zaslání\\_přihlášky\\_pro\\_vyřízení.html](http://www.mzv.cz/jnp/cz/zahranicni_vztahy/vyrocní_zpráva_a_dokumenty_poskytnuté_informace/visapoint_zaslání_přihlášky_pro_vyřízení.html)> accessed 10 October 2015.

22 Migration and Integration Report 2014, (10) 23-24.

23 The availability of appointment dates was checked on 28th October 2015.

24 Security Information Service, Annual report 2014 <<http://www.bis.cz/vyrocní-zprávaEN6c8d.html?ArticleID=1096>> accessed 25 October 2015.

NGOs and Ukrainians reported that VISAPPOINT is overcrowded and waiting periods to obtain an appointment are very long. Appointment dates trafficking have been reported as well.

Another serious discriminatory legislative measure for third country nationals is the obligatory commercial health insurance for holders of long-term permits (with exception of employment cards). The commercial insurance is a legal requirement for granting and extension of long-term permits. Since the insurance providers of the obligatory health insurance could only be insurance companies registered in the Czech Republic, the contract conditions with numerous exclusions from the insurance scope create a serious obstacle for migrant workers to receive proper health care. Basically, long-term residence holders are very often obliged to pay in advance insurance fees but often receive no treatment in case of any more serious sickness or accident, leaving behind huge debts at the hospitals. As a result, third country nationals, often Ukrainians, are for financial reasons usually unable to bring their family members to the Czech Republic or give birth to their child in the Czech Republic. The unfair system has been criticized for years by the Consortium of migrant assisting NGOs – an umbrella organization comprised of 18 Czech NGOs in the Czech Republic.

Short-term and long-term visa include special institute of **invitation**. The invitation enables the inviting person to take charge of certain the duties of the person applying for visa. In case of short-term visa, inviting person has to take charge of all the expenses concerning the stay of the invited person or expenses concerning the accommodation. In case of long-term visa, inviting person has to take charge of expenses of subsistence, accommodation and health care of the invited person in duration of the stay in the territory of CR. In 2014, the majority of invited foreign nationals were Ukrainians (20 420 invitations, i.e. 45.2 % of all the invitations). The number of invitation for Ukrainians increased in 2014 by 30.4 % compare to 2013. Most of the inviting persons were also Ukrainian nationals (even more than Czech nationals) with 16 233 invitations (36% of all the inviting persons). The reason is the situation in Ukraine and large Ukrainian community in the CR.<sup>25</sup>

Ukrainians coming to the CR with Schengen short-term visa often apply in the territory of the CR for a special type of long-term visa, a **tolerance visa**. Tolerance visa is a visa granted up to 6 months for a foreign national for reasons stated by Act No. 326/1999 Coll. Ukrainians are being granted a tolerance visa pursuant to sec. 33 subs. 1 para. A Act No. 326/1999 Coll., under which the tolerance visa is granted to foreign nationals who cannot leave the territory of the CR for an obstacle independent on his/her will or if there are reasons preventing foreign national from leaving the territory of the CR pursuant sec. 179 subs. 5 Act No. 326/1999 Coll. As the tolerance visa is granted for objective obstacles with leaving the CR,

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25 Migration and Integration Report 2014, (n 10) 36.

only Ukrainians coming from the part of Ukraine affected by the conflict are being granted tolerance visa. Person granted tolerance visa can apply for long-term residence permit for the purpose of tolerance. Ukrainian nationals submitted 1 309 applications for tolerance visa in 2014 and 1 483 applications from 1 January until 31 August 2015. 877 Ukrainians were granted tolerance visa in 2014 and 693 Ukrainians until 31 August 2015.<sup>26</sup>

Coming to the CR with short-term visa and applying for tolerance visa is in practice more common than coming to the CR and applying for international protection. Persons granted with tolerance visa can apply for another type of stay in the CR (for example for an Employee Card if he/she finds a job) which makes his/her stay in the CR independent of the development of situation in Ukraine.

The disadvantage of tolerance visa is the length of procedure to obtain the visa. While the applicant is waiting for the decision on tolerance visa to be issued, the visa enabling him/her to stay legally in the territory of the CR may expire. Tolerance visa applications do not establish a fiction of legal stay until the decision is made. If the visa expires before the decision of tolerance visa is issued and the foreign national does not have valid permission for his/her stay anymore, he/she can request an exit order with a deadline for leaving the country. If a positive decision on tolerance visa is made within the deadline for leaving the country, the foreign national can stay in the country. If not, he/she has to leave.

Young Ukrainians are often coming to the CR with **long-term visa for the purpose of studies**. The advantage of this visa is a free access to Czech labour market. Foreign national can conclude a labour contract or terminate it without notifying any public authorities or changing any documents (unlike Employee Card which is issued for a particular work position). However, Ministry of Interior has started to calculate and cover the actual purpose of stay when considering applications for this type of visa and residence permit. Therefore the Ministry conducts very detailed interviews with applicants, asking all kinds of details concerning their studies in the CR.

Ukrainians whose family member is an **EU citizen** are allowed to stay in the territory of the CR on the basis of **temporary residence permit**. Family members of Ukrainians who have been granted residence permit are allowed to apply for **long-term residence permit for the purpose of family reunification**. Ukrainians having a family member who is an EU citizen or who was granted residence permit often use these possibilities to obtain a residence permit in the CR. These possibilities are commonly used in the time of Ukrainian crisis as well as they were used before the crisis.

Regarding international protection, Ukrainians are currently only granted asylum exceptionally. Ukrainians coming to the CR seeking for international protec-

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26 This information was provided by the Ministry of Interior, Department of Asylum and Migration Policy upon request.

tion have much higher chance to be granted **subsidiary protection**. Reasons why Ukrainians apply for international protection vary. Young men often apply to escape the military service from fear of fighting in a conflict the cause of which they do not identify themselves with, or simply from fear of being wounded or killed. Ukrainians from Eastern Ukraine apply because of the humanitarian catastrophe and threat to their health and lives. Minor reasons are destitution, impossibility to find a job, problems with Ukrainian mafia and bad health condition.

Subsidiary protection is granted to Ukrainians generally for two years. Whether it is prolonged or not will depend on the development of the situation in Ukraine. Subsidiary protection is only strictly given to the applicants coming from the parts of Ukraine affected by the conflict. At the beginning of the conflict, Ministry of Interior considered the affected area to be wider than that considered nowadays. Currently, only Ukrainians from Donetsk and Lugansk area are being granted subsidiary protection. Since only a part of the territory of Ukraine is affected by the conflict, the application for international protection can be rejected by claiming that the applicant should have moved to a safe part of the country.

It is worth noting that Ministry of Interior does not grant the subsidiary protection for the reason of serious threat to life or human dignity by reason of malicious violence in situations of an international or internal armed conflict pursuant to sec. 14a subs. 2 para. C Asylum Act. Ministry of Interior does not recognize the conflict in Ukraine either as an international armed conflict or an internal one. Subsidiary protection is granted for the reason of torture or inhuman or degrading treatment or punishment pursuant to sec. 14a subs. 2 para. B Asylum Act.

The advantage of subsidiary protection is that the applicant obtains a permission to stay in the territory immediately after the submitting an application for international protection. The applicant is also provided health care for free to the extent as if he/she was a member of public health insurance.<sup>27</sup>

The law does not allow persons applying for international protection to be employed for up to 12 months from the date of filing the application.<sup>28</sup> This is considered the greatest disadvantage of international protection compared to residence permissions.

One of the main problems regarding all types of stays in the territory of CR is the **length of procedure**. In 2014 as well as in previous years, the majority of the actions brought to the courts regarding foreign an asylum agenda were actions for the protection against inactivity of the Department for Asylum and Migration Policy of the Ministry of the Interior (hereinafter DAMP).<sup>29</sup>

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27 Only foreign nationals holding permanent residence permit are members of public health insurance system. Foreigners with any other type of stay are excluded from public health insurance system and are obliged to conclude private insurance contract.

28 Sec. 97 subs. E Employment Act No. 435/2004 Coll.

29 Migration and Integration Report 2014, (n 10) 53-54.

Deadlines for issuing decisions in foreign agenda are regulated by Act No. 326/1999 Coll. The period varies with different types of residence permit from 60 up to 270 days. Notably, one of the longest procedures took more than two years.<sup>30</sup> In 2013, more than 16,000 files of application for long-term residence permit were reported to be after the deadline in the region of Prague.<sup>31</sup>

Nevertheless, inactivity is not only a problem of DAMP but also of the Commission which decides on appeals in visas and residence permissions matters. The Commission typically issues a decision in one or two years from the date of filing the appeal.<sup>32</sup>

Sec. 27 subs. 1 Asylum Act enables DAMP to extend the 90 days period for issuing a decision on international protection if the decision cannot be made within this period of time with respect to the nature of the matter. In practice, the decision is rarely issued in 90 days and the extension is not always proportional to the nature of the matter.<sup>33</sup>

Another problem extending the procedure is an appellation practice. Persons whose international protection application was rejected by the decision of the DAMP is entitled to bring an action to the administrative court. The court cannot change the decision itself. However, the administrative court is allowed to cancel the decision and return it to the DAMP to issue a new decision. DAMP is bound by the legal opinion of the court while making new decision.<sup>34</sup> Nevertheless, in practice, DAMP does not always follow the opinion of administrative court. In such case, the applicant has to bring an action against the new decision of DAMP which might extend the time of procedure by years.

## 6. Conclusion

Ukrainian nationals are the largest national minority in the CR and together with Russians are the most represented applicants for all types of stays in the CR.

Total number of Ukrainians holding residence permit in the CR has not changed with the crisis. The total number of Ukrainians is slightly decreasing and, within the total amount, the number of permanent residence permit holders is increasing.

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30 Pavel Šejnoha, Jan Juránek, Peter Chmeliar, *Administrative Authorities Practice in Migration Law*, 2014, 30.

31 Foreigner rights Committee sessions report on 29th August 2013, available at <<http://www.vlada.cz/cz/ppov/rlp/vybory/pro-prava-cizincu/ze-zasedani-vyboru/zasedani-vyboru-29--srpna-2013-110389/>> accessed 28 October 2015.

32 *Administrative Authorities Practice in Migration Law*, (n 30) 35.

33 *ibid.* 31.

34 Sec. 78 subs. 5 Code of Administrative Procedure No. 500/2004 Coll.

What has changed since 2014 is the distribution of applications. Short-term visa and long-term residence permit for family members of EU citizens remain constant. Number of applications for permanent residence permit and prolongation of long-term residence permit have been decreasing in the long term. Number of long-term visa and long-term residence permit applications has increased significantly since the beginning of the conflict which is caused mainly by the amount of tolerance visas, Employee Cards and long-term visas/residence permits for the purpose of studies.

Neither Ministry of Interior nor Ministry of Foreign Affairs provides any closer data of the origin of applicants than the citizenship. Therefore, it is not possible to say whether Ukrainians coming to the CR originate from Western and Central Ukraine or from the East. Furthermore, not all Ukrainians coming from the Eastern part are necessarily fleeing from the conflict. Their migration might be caused by other reasons. On the other hand, people from regions apart from the East might also be escaping from the situation.

The only two categories clearly reflecting the migration caused by crisis are international protection and tolerance visa. Tolerance visa and subsidiary protection had almost never been granted before 2014. Much more Ukrainians applied for tolerance visa than for international protection. The main reason discouraging them from applying for international protection is the 12 months long ban to be employed.

As a reaction to the crisis, Czech government launched a compatriot repatriation program. Despite being designed for all compatriots only Ukrainians have taken part in this program so far.

The biggest problem regarding migration from Ukraine to the CR is VISAPPOINT system, mainly its business but also its protection against cybercriminals. Currently no one can make an appointment on Czech consulates in Ukraine to apply for any kind of stay in the CR. The situation of VISAPPOINT at consulates in other countries is completely different. For instance consulates in Astana or Moscow offer enough free appointment dates.

Another considerable problem concerning all types of visas and residence permits is the length of procedure. However, this is not related only to applications submitted by Ukrainians but to all foreign and asylum procedures.

## **7. Recommendations**

The most acute problem concerning migration from Ukraine to the CR is the absolute impenetrability of VISAPPOINT. Ministry of Interior argues that the busyness of VISAPPOINT is caused by enormous amount of applications and insufficient personal and space capacity of consulates. Regarding the situation in Ukraine, the

probability of re-opening Czech consulate in Donetsk any time soon seems rather low. As a reaction to this state, Ministry of Foreign affairs should increase personal and space capacity of consulates in Lvov and Kiev to be able to accept new applications.

All necessary measure shall be taken to protect VISAPOINT from attack of cybercriminals and to prevent VISAPOINT appointments from being subject of trafficking.

As mentioned above, VISAPOINT is used for all kinds of visas and residence permits. However, the requirement to make a VISAPOINT registration has no legal basis for long-term and permanent residence permit. Czech Human Rights Committee recommended long-term and permanent residence permit applications to be accepted outside VISAPOINT system.<sup>35</sup>

Furthermore it is necessary to shorten the length of residence permit procedures. Alarming has been especially the situation in Prague. As a reaction, Ministry of Interior improved the insufficient personal capacity and promised to improve also the insufficient space capacity by 2016.

A certain improvement of the length of the appellation procedure in international protection agenda is a new proposed law No. 1551/14<sup>36</sup> implementing Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. This law proposes that the appeal against first instance decisions shall be decided within 60 days if the appellant is a person limited in his/her freedom of movement<sup>37</sup>. These two measures seem to be a step in right direction to shorten the length of procedure. However, the practice will show if sufficient or not.

A serious shortcoming for stay of third country nationals including Ukrainians is the unfair system of obligatory commercial health insurance which makes often impossible for Ukrainian couples to give birth of children in the Czech Republic.

Another thing, which does not seem to be proportional and shall be changed is the prohibition of international protection applicants to carry out economic activity within first 12 months after the commencement of the procedure. The proposed law No. 1551/14 is changing this period to 6 months which can be considered proportional.

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35 Available at <<http://www.vlada.cz/cz/ppov/zmocnenec-vlady-pro-lidska-prava/aktuality/rada-vlady-pro-lidska-prava-se-venovala-pravum-cizincu-111850/>> accessed 29 October 2015.

36 Available at <<https://apps.odok.cz/kpl-detail?pid=KORN9NRCXV6W>> accessed 29 October 2015.

37 Sec. 32 subs. 6 Asylum Act

## 2. Situation in Hungary

*By Dorottya Kósa, Subjective Values Foundation*

### 1. Introduction

Migration is the temporary or permanent movement of population. The potential factors of migration can be very different. It may be motivated by employment, political or economic conditions, education, etc. It may involve movement over long distances and across political borders. However, internal migration – without crossing borders – is also ubiquitous.

The report aims to uncover the social, economic, geographical, cultural and labor market conditions regarding Ukrainian migration in recent years. They are based on locational surveys and statistics.

We will map the migration process affecting Hungary targets, the main migration routes and describe the number of Ukrainian citizens living permanently or temporarily in Hungary. We will also examine the basic demographic characteristics of the migrants, such as gender, age, education, social and economic status in order to clarify the factors affecting the migration potential.

It is very important to consider the mother tongue, the religion, the nationality of the migrants, because it will greatly affect the integration ratios.

Apart from the characteristics of migrants, the types of migration are also varied. The migration can be examined in terms of the individual's intention; it can be voluntary or involuntary. Migration for the purposes of changing one's school or job is considered voluntary migration. Involuntary migrations are usually motivated by natural or industrial disasters, political, religious or ethnic reasons.

Apart from an individual's intention, migrations can also be distinguished geographically. We can talk about migration within and between countries as well. Internal migration – migration within the country – can be traced back to economic or social reasons. Political or environmental factors may also be responsible. As for external migration, generally the migrants travel from underdeveloped countries towards developed countries or territories.

## 2. Legal Background

Central European countries started becoming potential-host countries from the mid-90s due to the regime changes. In particular, movement between Ukraine and Hungary started quite early in the beginning of the 90s as a result of visa-free movement and the abolishment of passport restrictions.

As a condition of joining the European Union, in 2003 Hungary had to impose visa requirements for citizens of Ukraine. However, some simplifications were made for the Hungarian minority, for example, by obtaining letters of recommendation from the cultural institutions accepted by the Hungarian consulate.

In 2008, after Hungary joined the Schengen zone, its rules became more complicated and fees were introduced. New border and immigration policies came into effect. This is because countries participating in the convention, including Hungary, undertook the elimination of internal border controls and fixed the control of common borders. Despite these changes in the border crossing and visa, the Ukrainian migration continued both in legal and illegal forms. Most of the labour and circular migrants from Ukraine come from Transcarpathia, a Hungarian minority area. A large amount of migrants also come from Beregovo/Beregszász.

In 2011 a new citizenship law went into effect. In particular, the law on dual citizenship stipulated that Hungarians abroad can obtain citizenship without having to move to Hungary. This resulted in many Hungarians beyond the border receiving dual citizenship. Instead of being considered as a migrant, after 2011 large part of Ukrainian migrants are likely simply considered Hungarians and disappeared from registered statistics.

## 3. Ukrainian citizens in Hungary

In Hungary, people from Ukraine make up the second largest group of foreign citizens after Romanians (HALMI et al. 2006 in KARÁCSONYI, 2011). The foreign citizens are persons living in Hungary whose immigration or permanent residence permits were held on 1 January of the current year.



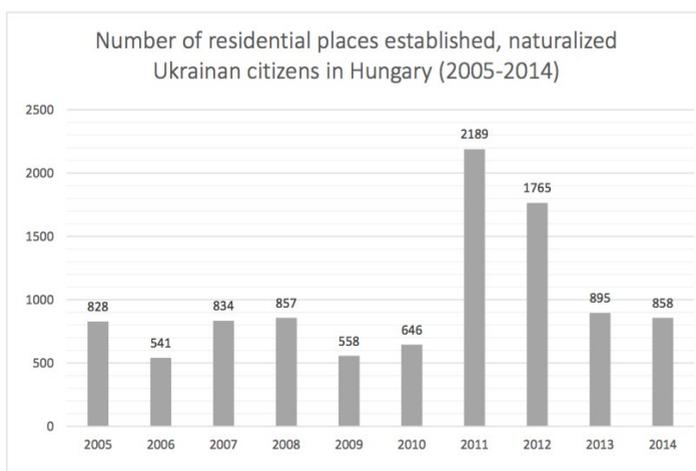
For the following analysis the resources of KSH (Központi Statisztikai Hivatal – Central Statistics Office of Hungary) and BÁH (Bevándorlási és Állampolgársági Hivatal – Bureau of Immigration and Citizenship) were used among others. According to the KSH data, on January 1<sup>st</sup>, 2015 the number of Ukrainian citizens was 6906. 3997 were women and 2909 were men.



In terms of age groups the number of those between 30 and 39 years is the highest. It can be concluded that the highest proportion of those who come to our country come in order to work.

Based on KSH statistics we can see the changes in number of residential places established, naturalized citizens of Ukraine between 2005 and 2014. In the diagram the number of naturalized citizens of Ukraine in 2006 was the lowest and in 2011 and 2012, the highest.

The high values may be due to a new law on citizenship adopted in 2011, which resulted many Hungarians beyond the border receiving dual citizenship. The law on dual citizenship defined that Hungarians abroad can obtain citizenship without having to move to Hungary. Incidentally, the acquisition of Hungarian citizenship encouraged many Hungarians living abroad to establish residence within the borders of Hungary too.



From the inclusion of data of BAH we can see the applications for establishment and applications for temporary stays in recent years.

REQUESTING (2013)	TOTAL	Permitted
Application for National Settlement Permit	66	40
Application for Residence Permit	1485	1296
Application for Permanent Residence Card	484	459
Application for visa less than 90 days	153 402	151 109
Application for visa more than 90 days	642	605

Between 2013 and 2014 the number of those seeking residence permits and of those who applied for visa for more than 90 days increased. The number of national settlement permit, the number of applicants for permanent residence card, and the number of applications for visas less than 90 days all decreased. In addition, around 10% of those who seeking for permission were rejected.

REQUESTING (2014)	TOTAL	Permitted
Application for National Settlement Permit	53	34
Application for Residence Permit	1859	1450
Application for Permanent Residence Card	247	240
Application for visa less than 90 days	119 691	117 603
Application for visa more than 90 days	884	726

## The factors influencing the migration potential

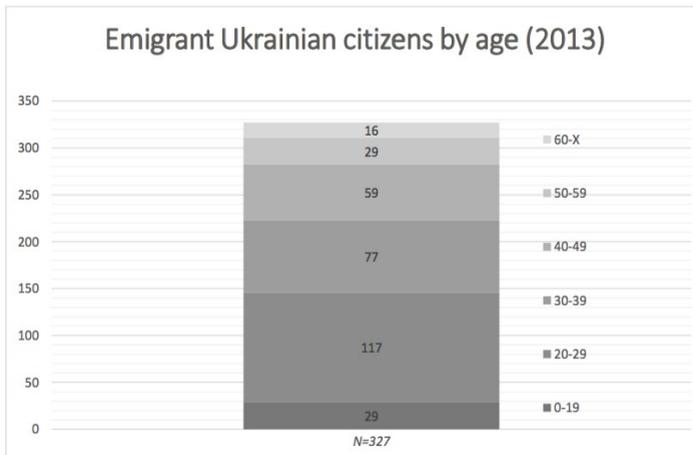
Migration potential is defined as the willingness of someone to go abroad, whether to take a job or to emigrate. Behind the migration process is there are underlying causes. Unemployment, poverty or ethnic tensions increase the potential for migration. This is because the poor conditions can motivate people to change and to migrate.



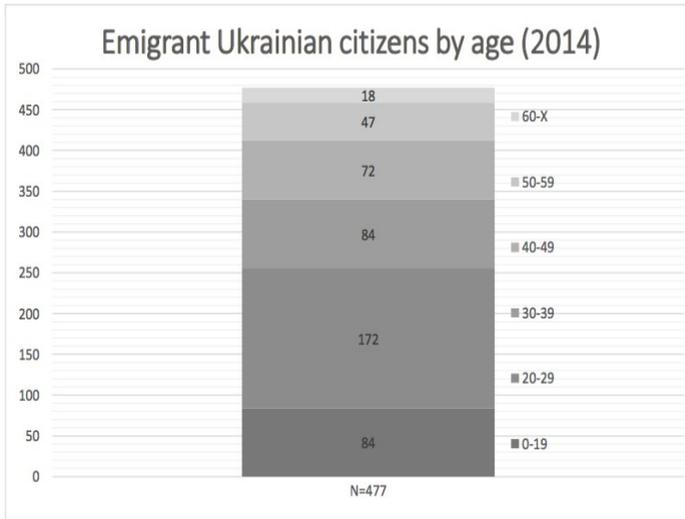
Based on KSH data the emigration rate between 2005 and 2014, the highest was in 2009. The crisis in 2008 may play in role. For the increase in 2014 the Ukrainian political and economic situation provides a possible explanation



The KSH researches in 2013 and in 2014 shows that more than half of migrant Ukrainian citizens are males in both years. The reason for the higher mobility among men may be attributed to social norms. Men are usually characterized by higher migration potential than women.



The increasing age decreases the migration potential.



According to the statistics the younger you are the higher migration potential you have. This is explained by the fact that young people often arrive to the destination country to study and to work. Young people can be encouraged by the spirit of adventure, appetite for secession from home, and the hope to create their own households.

Both chart shows that the highest emigration is among the young people (20 to 29 years). Compared to the 2013 data, there are significantly more people in almost every category in the data 2014. The high proportion of young people may be explained by the emigration of jobs and further education opportunities.

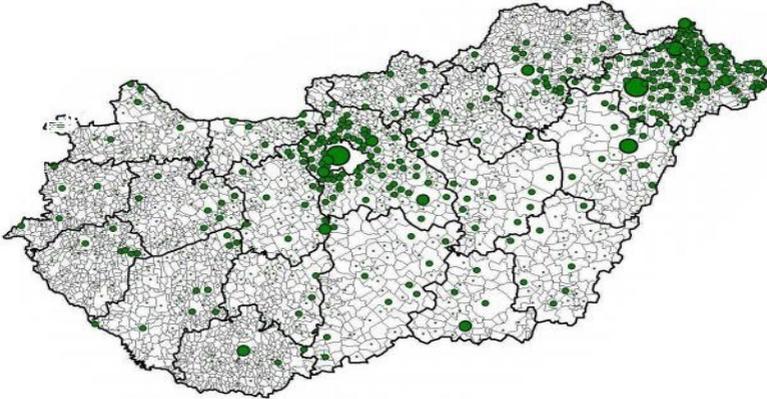
#### 4. Migration destinations

Economically underdeveloped regions are mostly areas in which the emigration level is high. From these areas, many people migrate because of the hope to better standard of living, better conditions, or more employment opportunities.

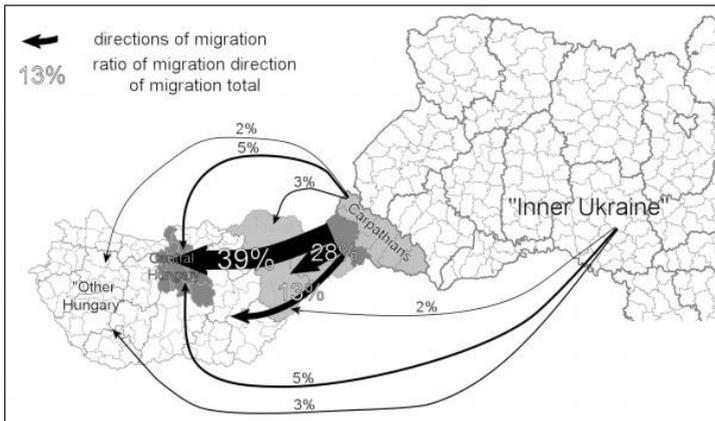
The primary destination of the Ukrainian ethnic Hungarians is the „mother country“, Hungary. For the Transcarpathians Hungary is almost the only country where they want to go. (Sik, 2015).

The primary destinations of Ukrainian migrants are the big cities, the capital and the centrum areas. In these areas it is the easiest to find a good job, or a school. In addition, the cities are culturally and ethnically diverse and varied, therefore the integration can be achieved more easily. In Hungary, the most popular and the most attractive destination is Budapest and Pest county. However, foreigners from

neighboring countries prefer more cities nearest to their country of citizenship. Hence besides Budapest popular migration destinations are Debrecen, Nyíregyháza and Miskolc. The most popular counties are Szabolcs-Szatmár-Bereg, Pest and Hajdú-Bihar, where 77% of the Ukrainian migrants live (Kincses, 2011). Thus, the Ukrainian migrants mainly settle in the capital agglomeration in Pest County and along the border with Ukraine.



*Ukrainian citizens living in Hungary, according to the current Hungarian towns  
Edited by: Kincses Áron és Karácsonyi Dávid. (2011)*



*Edited by: Kincses Áron és Karácsonyi Dávid. (2011)*

Most of the Ukrainian migrants came from Transcarpathia. The most popular destination are Budapest and Pest county and the areas of North-East Hungary.

## 5. The labor market situation of migrants

Most of the migrants coming to work to Hungary come from neighboring countries. With the adoption of the law of free movement of persons and labor in 2007, the legal possibilities of employment have changed as well. Based on sources of the Ministry of National Resources the number of work permits in the first quarter of 2009 indicate that high number of Ukrainians worked in our country. The majority of Ukrainian workers were located in Central – Hungary. In the first quarter of 2009 Ukrainian migrants mostly worked in Budapest or in the agglomeration. The second most popular area was Southern Great Plains because this area is very close to the Ukrainian border.

	Central Hungary	Central Transdanubia	Western Transdanubia	South Transdanubia	South Transdanubia	Northern Great Plains	Southern Great Plains	TOTAL
Ukrainian employees	1024	73	41	4	59	52	83	1336

Source: Ministry of National Resources, the first quarterly of 2009

We can distinguish the Ukrainian employees who were worked in Hungary in 2009 based on their professions. The following chart shows the twelve most common occupations among the citizens of Ukraine in 2009.

Job Title	The number of permits issued
construction laborer	1547
unskilled workers	572
seasonal agricultural worker	257
semi-skilled construction laborer	118
bricklayer	70
cleaning	61
packer	57
kitchen helper	55
assembler	42
gardening laborer	37
pilot	35
aircraft mechanic	34
other jobs	1435
TOTAL	4320

Ministry of National Resources, 2009

A large percentage of the Ukrainian employees are physical workers. The biggest working group is made up from construction workers. This category makes up 35% of the total. The important sectors of immigrant work are the agriculture, the construction industry and the hard physical work.

“Illegal work” is also a popular “migrant work” in Hungary. Many Ukrainian migrants work on the black labor-market. Many migrants do for example seasonal works illegally.

ECONOMIC STATUS	THIRD COUNTRIES	UKRAINE	SERBIAN	RUSSIAN	CHINESE	VIETNAM
Employees	21 316	7957	1514	755	3575	779
Entrepreneurs, private payers' contributions	7339	1229	256	443	2017	679
Unemployment benefits	534	235	24	33	10	2
Other recipients	2021	731	67	102	126	95
Students	1183	364	132	92	38	67
Pensioneers	2580	1837	7	349	4	3
Minors	5193	1224	181	271	1296	525
<b>TOTAL</b>	<b>40116</b>	<b>13577</b>	<b>2181</b>	<b>2045</b>	<b>7066</b>	<b>2150</b>
<b>SARE %</b>	<b>100%</b>	<b>33.8%</b>	<b>5.4%</b>	<b>5.1%</b>	<b>17.6%</b>	<b>5.4%</b>

Source: Hárs Ágnes and Tóth Judit calculations based on National Health Insurance data (in.: “Circular Migration Patterns Migration between Ukraine and Hungary”, Ayse Caglar, Tibor Silló, Ignacy Józwiak, Kornélia, Hires-László, 2011)

The table shows the number and the distribution (%) of migrants from third countries (person) economic status based on OEP-data in 2009. We can see that, overall, the highest migrant-emitting country is Ukraine among the listed third countries. From the examined third countries Ukraine has the biggest proportion (33.8%).

	Ukrainian migrants
Employees	<b>58,6%</b>
Entrepreneurs, private payers' contributions	<b>9.1%</b>
Entrepreneurs: assets ratio	<b>14.5%</b>
Unemployment benefits	<b>1.7%</b>
Other recipients	<b>5.4%</b>
Students	<b>2.7%</b>
Pensioneers	<b>13.5%</b>
Minors	<b>9%</b>

TOTAL	100%
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Source: Hárs Ágnes and Tóth Judit calculations based on National Health Insurance data (in. "Circular Migration Patterns Migration between Ukraine and Hungary", Ayse Caglar, Tibor Sillo, Ignacy Józwiak, Kornélia, Hires-László, 2011)

Unfortunately, we face the difficulty that distribution of the employment of migrants by gender rarely appears in Hungarian statistics. Information on female Ukrainian migrants in Hungary is very poor.

## 6. Summary

Overall, we can say that the largest proportion of Ukrainian migrants in Hungary are middle – aged men. They come to our country because of the job opportunities. Also in Hungary, people from Ukraine make up the second largest group after Romanians.

In 2011 a new law went into effect regarding citizenship, which resulted in many Hungarians beyond the border receiving dual citizenship. Therefore from 2011 many Ukrainian migrant disappeared from the migrant statistics.

The primary destination of the Ukrainian ethnic Hungarians is the „mother country“, Hungary. For the Transcarpathians Hungary is almost the only country where they want to go. Most of the Ukrainian migrants came from Transcarpathia. The most popular destination are Budapest and Pest county and the areas of North-East Hungary. Beside Budapest, popular migration destinations include Debrecen, Nyíregyháza, and Miskolc. Southern Great Plains is also a popular area, because this territory is very close to the Ukrainian border.

A large percentage of the Ukrainian employees are physical workers. The biggest working group is made up from construction workers. The important sectors of immigrant work

## 3. Situation in Poland

*By Monika Przybylska, Halina Niec Legal Aid Centre*

### 1. Introduction

Poland, as a neighboring country to Ukraine, has been an object of interest to immigrants especially after it joined the European Union. For years in the Polish labor markets, there were many Ukrainian citizens working not only as temporary workers and doing odd jobs, but also as specialists in business, accountancy or informatics fields. Conflict in eastern Ukraine and annexation of the Crimea led to a further increase of Ukrainian immigrants in Poland. After Russian Federation and Belarus, Poland became the third country with the biggest amount of asylum seekers from Ukraine. Citizens of Ukraine in 2014 became the second largest group seeking international protection in Poland. Also the amount of applicants for temporary and permanent residence permits increased, which were also influenced by changes in The Foreigners Act that came into force on the 1<sup>st</sup> of May, 2014. One of the aims of this new regulation was to fasten and simplify procedures of legalizing stay for foreigners.

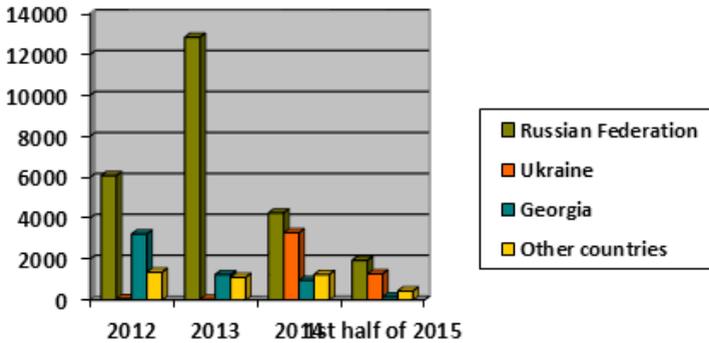
Because of political situation in the region and the growing amount of asylum seekers and migrants from Ukraine, it is necessarily to analyze what the main migration trends are and how the State deals with this huge challenge and what are the policies towards Ukrainian citizens.

The report concentrates on possibilities of legalizing stay in Poland for Ukrainian citizens, government policy in this field and social attitudes regarding foreigners from Ukraine. It also contains some recommendations, which could make the immigration policy more consistent, considered and responsible.

## 2. International protection: refugee status, subsidiary protection

### I. Profiles of applications for international protection

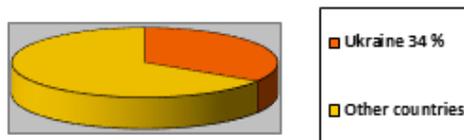
In the beginning of March 2014 groups of Ukrainian refugees first arrived in Poland. They were mainly Tatars and Baptists from the Crimea region. Soon they were followed by refugees from Eastern Ukraine. In 2014, 3294 Ukrainian citizens applied for the refugee status on the territory of Poland. It is a significant increase, especially compared to 46 such applications in 2013.



Amount of applications in 2012 – 1st half of 2015, by country

Data: Office for Foreigners

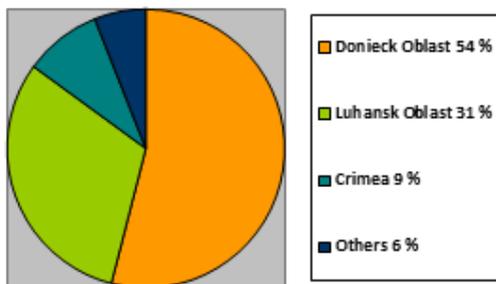
In 2012, 0,63 % of all the refugee status applications belonged to Ukrainian citizens, and it decreased to 0,3 % in 2013, but then soared to almost 34 % in 2014 and in the first half of 2015.



Amount of applications in 2014 from Ukraine in comparison to other countries

Data: Office for Foreigners

After citizens of the Russian Federation, Ukrainian citizens currently comprise the second largest refugee group applying for refugee status in Poland. It is worth noticing that not only inhabitants of Crimea or Eastern Ukraine filed motions for international protection in Poland, but also political activists who participated in Euromaidan events and other Ukrainian citizens such as those who were placed in detention centers due to their stay on the Polish territory without valid documents did. Residents of Donetsk Oblast constitute the biggest group of applicants for international protection, followed by residents of Luhansk Oblast.



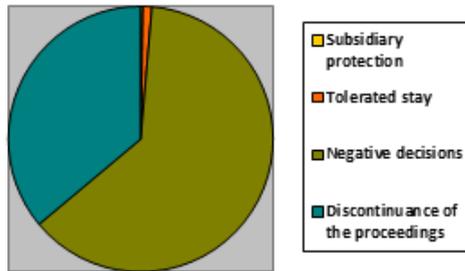
*Applicants for international protection by region*

*Data: Office for Foreigners 2015*

Most of the applicants have secondary or higher education degree. The most common reasons of applying for protection in Poland are: fear of persecution related to political activities during the Euromaidan in Kiev, expressing support for the Euromaidan participants in applicants' places of residence, showing support for Ukrainian army in Eastern Ukraine (food, medicines), fear of persecution due to religious reasons (Crimea Tatars, Baptists, protestants), refusing to accept Russian citizenship (Crimea), opposing the annexation of Crimea by Russian Federation, fear of serious harm due to conflicts in Eastern Ukraine, escaping conscription, and lack of opportunity to receive effective support (flat, work, treatment) in other regions of Ukraine.

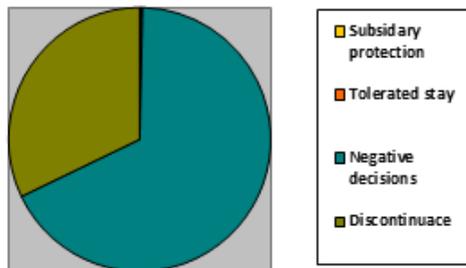
## II. Decisions of Head of the Office for Foreigners

Some of the applicants received first instance decisions (Head of the Office for Foreigners) a few months (5-6) after applying for the refugee status. Proceedings of others were prolonged. In 2014 there were 14 positive first instance decisions for Ukrainian citizens: 3 were granted subsidiary protection and 11 were granted tolerated stay. No one was granted a refugee status. Most protection decisions in Poland were either negative or on discontinuance of the proceedings.



*Decisions of Head of the Office for Foreigners 2014*  
 Data: Office for Foreigners 2014

In the first half of 2015 Head of the Office for Foreigners issued 2 decisions on granting a subsidiary protection and 3 on granting a tolerated stay.



*Decisions of Head of the Office for Foreigners, first half of 2015*  
 Data: Office for Foreigners 2015

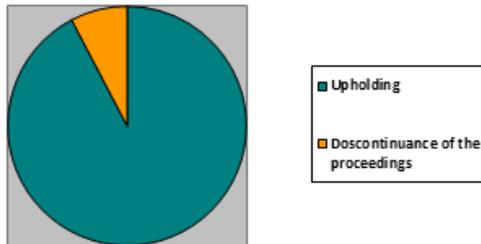
The most common reason for issuing negative decisions is that it is possible to find protection in other regions of Ukraine controlled by the government in Kiev.

However, analyzing internal displacement situations in Ukraine only raise doubts about such possibilities. The Head of the Office for Foreigners claims that although Internally Displaced Persons face problems with accommodation, work and discriminative attitudes of local residents, they still receive some financial support from the state, and aid from international humanitarian organizations, religious communities and non-governmental organizations (as the state can provide accommodation for 25 % of IDPs only).

### III. Decisions of The Refugee Council

The second instance (The Refugee Council) in 2014 issued 156 decisions in accordance with the first instance and 13 decisions of discontinuing the proceedings.

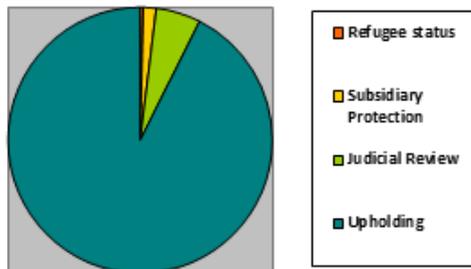
*Decisions of The Refugee Council 2014*



*Data: Office for Foreigners 2014*

In the first half of 2015 The Refugee Council issued 2 refugee status decisions, 8 subsidiary protections, and 28 judicial reviews by the Head of the Office for Foreigners.

*Decisions of The Refugee Council, first half of 2015*



*Data: Office for Foreigners 2015*

The Refugee Council repeated the reasons given by the first instance, reiterating the possibility of internal displacement in Ukraine. Only in few cases did the second instance overturn the decision made by the first instance, and only so because of the poor health conditions of the applicants, as it is revealed by The Halina Niec Legal Aid Center's experience. In one case, a minor daughter of an applicant witnessed the violence in Eastern Ukraine, fell ill, and the applicant's other child had just been born; the family was granted a subsidiary protection. In another case, three of five minor children of an applicant were suffering from rather serious diseases, and the case was to be reviewed by the first instance since the children were not yet officially diagnosed. Unfortunately not all of the cases are examined so thoroughly. For example, an applicant suffering from advanced diabetes was rejected from receiving protection. He is not able to work, needs professional and intensive medical care, and is also a father of minor children. His case is now being heard at The Administrative Court. Lawyers of the Halina Niec Legal Aid Center also helped a single mother of a minor child, who was placed in a detention center with her 4-year-old daughter as a result of having been transferred according to the Dublin III regulation. The woman's applications for a refugee status and a subsidiary protection were refused in December, 2014. She was afraid of the heavy winter and poor conditions in Ukraine, and since she did not have any relatives or friends in Ukraine, she decided to leave to Germany. This example shows the importance of taking a more individual-oriented approach especially when dealing with vulnerable people – those who are seriously ill, senile, or are single parents.

Therefore, it is necessary to stress that decisions issued by The Refugee Council often do not meet the requirements of two-instance proceeding. Although UNHCR in operational updates regularly emphasizes obligation for the states to examine applications of vulnerable groups individually, not all decisions are issued in accordance with these principles.

Moreover, UNHCR regularly (also in operational updates from September to October) points out the housing crisis in Ukraine<sup>38</sup>. Most of IDPs, especially those who cannot rely on their relatives and friends, are offered only temporary accommodation. This solution lacks relevance and reasonableness, which are qualities that are required in order<sup>39</sup> to claim that internal displacement is possible.

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38 UNHCR, International Protection Considerations related to developments in Ukraine – Update III, September 2015, <http://www.refworld.org/pdfid/54c639474.pdf>

39 GUIDELINES ON INTERNATIONAL PROTECTION: “Internal Flight or Relocation Alternative” within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, <http://www.unhcr.org/3f28d5cd4.html>

### 3. Humanitarian stay and tolerated stay permits

Citizens of Ukraine can also be granted permits for humanitarian stay or tolerated stay. Since the 1<sup>st</sup> of May, 2014 such permissions are given during the procedure on obligation to return. Previously there was one, common permission: a tolerated stay. Grounds for this permission were examined by the Head of the Office for Foreigners during the refugee procedure or by the Voievodian Office.

Currently, during the proceedings, Polish Border Guards check whether returning to the country of origin violates the right to private life of a foreigner and members of his/her family (humanitarian stay), whether the return to the country of origin is possible, and violates foreigner's rights (to freedom, court etc.) and whether it threatens her/his life or health.

A foreigner can file a motion for humanitarian stay or tolerated stay on his own, or the proceedings can be started by the Border Guards. Usually obligation-to-return procedure is started by Border Guards when a foreigner stays on the territory of Poland without any permission to stay, or he/she applied the second time for the refugee status (so he/she was issued a final decision in the refugee procedure, and the motion is similar to previous grounds).

In 2014 there were 16 decisions on granting permission for humanitarian stay issued by Border Guards. In the 1<sup>st</sup> half of 2015 there were 32 decisions on granting permission for humanitarian stay. Usually such decisions are issued for foreigners who are married to a Polish citizen, or who are in a long-term relationship with a Polish citizen, or whose children integrated to society to the extent that the return could violate their rights.

Refugees from Ukraine are not willing to start these proceedings, because they have been staying on the territory of Poland usually for 1 year, or less, which is too short to integrate according to officers conducting the proceedings. There is also a risk that Border Guards may place a foreigner in a detention center to conduct the return proceedings, although in such cases alternatives to detention means shall be used first. On the other hand, sometimes foreigners have to file the second motion for the refugee status. After a final decision of the second instance, an applicant can file an appeal to the Voievodian Administrative Court in Warsaw within 30 days. Unfortunately a foreigner is no longer allowed to receive financial support from the state, when his/her case is in the Court (examination of the appeal takes about at least 6 months) so if he/she does not have his/her own fund, usually files another motion for the refugee status, just in order to be provided with a right to live in a center for foreigners, or receive financial support. This may also result in starting the obligation-to-return-procedure. After applying for the refugee status for the second time, no detention was used in Ukrainian citizens' cases so far. However, some applicants have already received a decision on obligation to return to Ukraine, due to the fact that they filed another motion for the refugee status and in the interpretation of Border Guards they abused the law. Some of such applicants

have also been informed by Border Guards that they should return to Ukraine and that they may ask for help from the International Organization for Migration, and that their further stay on the territory of Poland will result in issuing a decision on obligation to return.

#### 4. Other forms of stay on the territory of Poland (temporary, permanent, long-term EU residence permit)

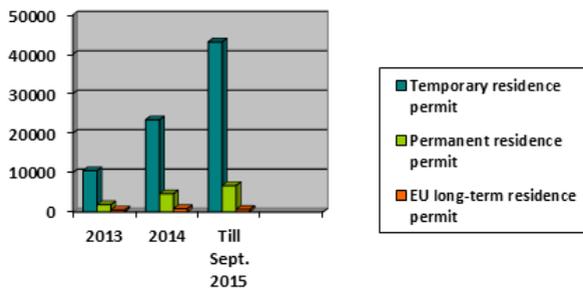
Applicants from Ukraine in Poland can also apply for different kinds of stay:

Temporary residence permit (to work, for the purpose of business activity, to study, for the purpose of conducting scientific research, for family members of Poland citizens, and family members for foreigners), stay for foreigners who are the victims of trafficking in human beings, short term resident permit, temporary resident permit due to other circumstances (for example family or health reasons, foreigners who graduated from Polish universities, looking for work in Poland).

Permanent stay residence permit is issued among others to spouses of Polish citizens, holders of Polish Card, children and foreigners who have the permanent right of residence in Poland or long-term EU residence status.

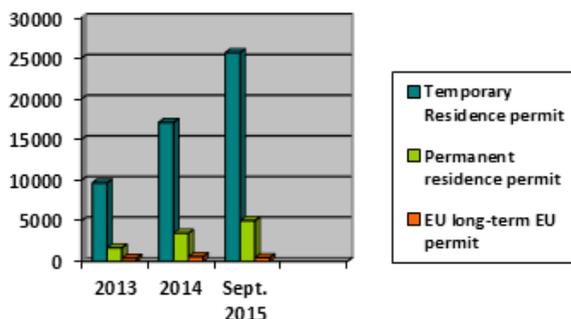
EU long-term residence permit is issued for those staying in Poland for at least five years, having insurance and a stable source of income in Poland.

In 2014 there was a huge increase in amount of applications for these forms of stay. In 2015 this tendency continues.



*Data: Office for foreigners*

Proportionally, the amount of positive decisions increased in these years.

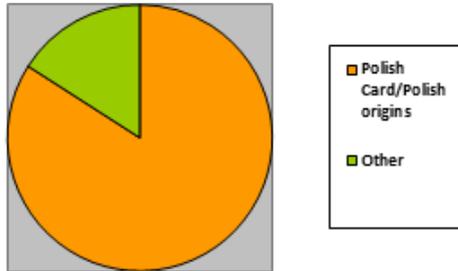


*Data: Office for foreigners*

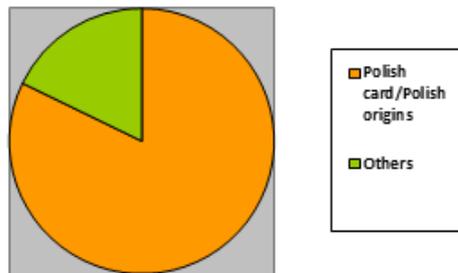
Most of applicants were issued positive decisions and were granted one of the forms of stay mentioned above. In comparison to previous years, the amount of positive decisions increased almost twice. However, it seems that it is more difficult to receive a positive decision from the point of view of an applicant, because in 2013 almost 92% of applicants received positive decisions on temporary residence permit, while in 2014 there were 73 % and in 2015 only 60 %. Positive decisions on permanent stay in 2013 amounted to 89 % of applicants, whilst in 2014 and 2015 – 75 % of them. EU long-term residence permit was obtained by 72 % of applicants in 2013 year, 67 % in 2014 and 71 % in 2015. It suggests that it is easier to be granted a residence permit for foreigners who have already been in Poland, or for those who meet the conditions to receive a permanent residence permit.

One of the most significant changes in The Foreigners Act is that it is possible to be granted a permanent stay permit for holders of Polish Card if only he/she declares that he/she has the intention of permanent residence on the territory of Poland. There is also a possibility to be granted such permit if a foreigner does not have a Polish Card, but can prove that he/she has Polish origins and proves his/her connections with Poland (culture, traditions, etc.).

In 2014 and 2015 most of the permanent residence permits were issued for holders of the Polish Card or on grounds of Polish origins (84 % in the year 2014 and 82 % in 2015).



*Data: Office for foreigners 2014*



*Data: Office for foreigners 2015*

Poland definitely promotes foreigners of Polish origin. This tendency also proves that the Polish authorities organize the evacuation of people with Polish origins or holders of Polish Card with their closest family from Donbas. In the beginning of 2015 arrived about 200 people. They were granted permanent residence permits. Interior Ministry provided them with a place for living, offered help in finding work and learning Polish, and they received even stronger support than foreigners who were granted a refugee status or a subsidiary protection benefit from integration assistance.

## 5. Accessibility of different forms of stay

### I. The refugee status applications

Citizens of Ukraine, who decide to apply for a refugee status, can file a motion on the border of territory of Poland, in Border Guards Post in Warsaw or in a detention center if they were placed there. The Halina Nieć Legal Aid Center monitors Border Crossing in Medyka, through which most of applicants arrived. No problems with access to the refugee procedure were observed there. There also

were no signals of any difficulties in other Border Guards Posts or in detention centers for foreigners. Citizens of Ukraine can apply for international protection in Poland, but most of them are denied from receiving a positive decision in these proceedings.

## II. Visa applications

Most of asylum seekers from Ukraine decide to come back to their countries of origin after the second instance issues a final negative decision on international protection in Poland, and on the application for a visa. Unfortunately obtaining a visa is problematic. They have to wait in long queues and currently (October) are not even able to register in a system of Visa Support Center due to lack of free terms.

The biggest difficulties were in Kharkov, Kiev and other big cities, because most of IDPs live there, as it is easier for them to find work and receive support in bigger urban centers. IDPs can also apply for visa in any of the Polish consulates they choose on the territory of Ukraine, but even then they still have to wait for excessively long times. It is also commonly known that one has to pay about 500 hryvnia to the Visa Support Center to accelerate the process. However, currently the queues are so long that even if someone tries to bribe, there is no free terms to sign in.

Many male asylum seekers who are afraid of receiving a call from the army when they return to Ukraine, decide to stay in Poland against all odds and file another motion for the refugee status (which results in issuing a decision on obligation to return) or stay in Poland without any right to stay. Ukrainians with Polish origins, who are able to prove them (Polish nationality of at least one grandparent, or two great grandparents) or holders of Polish Card can apply for a permanent residence permit during a refugee procedure. One should file such motion in one of sixteen Voievodian Offices on the territory of Poland. Although all of Voievodian Offices accept applications for such permits, there are different practices depending on the time when an applicant can file a motion. Some of them allow the applicants to submit an application for permanent residence permit only during a refugee procedure (for example Voievodian Office in Szczecin, Voievodian Office in Katowice). The others accept such motion even if they are submitted during 30 days after receiving a decision of second instance only if his/her stay is legal. This solution raises concern if the 30-day period after receiving final decision may be considered as legal, especially when the applicant decides to appeal to Voievodian Administrative Court and is issued by the Court a decision on stopping his/her obligation to return.

Asylum seekers cannot apply for a temporary residence permit with a view to work, or study during, or directly after their refugee procedures are finished. In such situation they can also not obtain a temporary residence permit due to other

circumstances (such as health or family reasons), which is originally allowed even when a foreigner stays without any permit to stay, according to the Polish law. Only Voievodian Office in Łódź states, that if the final decision refuses to grant international protection in Poland, there is no obligation to return to a country of origin (according to previous regulations, Head of The Office for Foreigners imposed an obligation to return after refusing to grant a refugee status or international protection), and he/she could file such motion and receive a positive decision. However, no such applications have been filed yet.

## **6. Social attitudes toward asylum seekers and migrants from Ukraine**

### **I. Polish media on Ukrainians and conflict in Ukraine**

As a neighboring country, Ukraine is of constant interest in Polish media. Since the beginning of conflict in Ukraine Polish press regularly reported on subsequent stages of military actions in the east of Ukraine and Crimea. Because of past history and fear of spreading the conflict even to the territory of Poland, media (excluding some far-right and media) mostly expressed sympathy and support for Ukraine.

In general the language of media in relation to Ukrainians is neutral – positive. For example there are no branding statements such as ‘illegal immigrants’, as they are used in relation to migrants and refugees from Middle East and African countries. If Ukrainians happen to be on the territory of Poland without valid documents, it is stated that they have no work permission, or that their visa expired, rather than stating that they are staying against the law.

Moreover, there were a lot of supportive articles on individual cases of asylum seekers from Ukraine who struggle to receive protection in Poland. Media also informed details about the tough situations of internally displaced people controlled by the government in Kiev areas. It seems that media expressed favorable attitudes in regards to Ukrainian citizens at the time of conflict.

### **II. Social attitudes and initiatives**

Society in Poland is rather inclusive, ethnically homogenous, with ethnic minorities oscillating between 2-3 % of population. According to Centre for Public Opinion Research, Polish<sup>40</sup> usually express respect towards nations that have higher standards of living (countries in Western Europe, which are positive reference groups for Polish). On the contrary, nations with lower standards of living (mainly post-Soviet countries or those from another cultural circle) are negative reference

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40 Centrum Badań Opinii Społecznej, [http://www.cbos.pl/SPISKOM.POL/2014/K\\_020\\_14.PDF](http://www.cbos.pl/SPISKOM.POL/2014/K_020_14.PDF)

groups. However, after Lithuanians, Ukrainians are the second most liked nation from all the post-Soviet countries. Increasing sympathy and respect towards Ukrainians in recent years is related to political events. It was clear that sympathy significantly surged in 2004 (Orange Revolution), 2010 (presidential election) and 2014 (Euromaidan protests, beginning of military actions in eastern Ukraine and Crimea). During Euromaidan protests there were manifestations of support on the streets of Polish cities, many people lit candles by the Ukrainian embassies. Also after annexation of Crimea and the beginning of conflict in Donbas, many aid actions were held. Money, food and medicaments were collected and transported to Ukraine not only by widely known organizations such as the UNHCR, Polish Humanitarian Action, Polish Red Cross and Caritas, but there were also numerous smaller organizations or private initiatives. Polish society fosters Ukrainians, seeing Orange Revolution and Euromaidan as turning points in history of Ukraine, and a parallel to Polish ‘Solidarność’ democratic movements in the 80s. It needs to be emphasized that the overall society is more positive about Ukrainians than any other migrants, also because of their wide representation on Polish labor markets.

## 7. Summary

After beginning of political changes in Ukraine, Poland became the third country with the biggest amount of asylum seekers from Ukraine. Citizens of Ukraine in 2014 became the second largest group seeking international protection in Poland. Almost all of the applicants were issued a negative decision on granting a refugee status or a subsidiary protection. The most common reason for issuing negative decisions is that it is possible to find protection in other regions of Ukraine that are controlled by the government in Kiev. However, analyzing the situations of Internally Displaced Persons shows that they – especially the vulnerable groups – are prone to lack of permanent access to accommodation, labor market, and insufficient financial support. Moreover, not all cases of vulnerable people, such as seriously ill people (advanced diabetes, serious cardiovascular problems) or single parents with minor children, were recognized thoroughly. They are threatened by serious harms when they are obligated to return to Ukraine.

Citizens of Ukraine can also be granted permissions for humanitarian stay or tolerated stay. The procedure is conducted by Border Guards and may result in issuing a decision to return to the country of origin, imposing a Schengen ban and placing applicants in a detention center to carry out the deportation, so the applicants are not willing to start it.

Moreover, there is no possibility to apply for another form of residence permit just after finishing the refugee procedure (for example a temporary stay with a view to work). Applicants have to return to their country of origin to obtain

a visa. Most of asylum seekers decide to do so. However, they encounter difficulties due to long queues and huge amount of people willing to come to Poland (especially in Kharkiv and Kiev). Those who can afford to pay a bribe of 500 hryvnia also have to wait about 2-3 months. Young men are afraid of being called from the army when they return to Ukraine, so they often decide to stay in Poland without any permit. This situation may expose the fact that citizens of Ukraine are susceptible to becoming victims of human trafficking. According to HNLAC report on human trafficking, the amount of Ukrainian victims increased from 20 in the year 2013 to 30 recognized cases in 2014.

Since 2014 the amount of applicants for temporary and residence permits increased. Proportionally, the amount of positive decisions also grew. Although the total number of permissions issued in 2014 and 2015 is higher in comparison with previous years, there is a tendency to rather grant a permanent or EU-long term residence permit, than to new-comers who apply for a temporary residence permit (only 66% of applications were recognized positively).

There is also a strong tendency to support foreigners with Polish origins. They can apply for a permanent residence permit even during a refugee procedure and receive such permit if only they are able to prove they have Polish ancestors (one grandparent, or two great grandparents). In addition Polish government organized evacuation of about 200 Ukrainians from Donbas with Polish origins. In addition, Poland is going to increase spending on repatriation of people with Polish origins from post-Soviet republics. A government program called the "Come back to home" starts in November 2015, which aims to bring to Poland about 2,5 million Polish till the end of 2020 and will cost 30 million zlotys per year. At the same time Poland is skeptical about accepting refugees according to quotas, which is a guideline adopted by the European Commission. The most common argument is that Poland helps victims of Ukrainian conflict. Unfortunately, data analyzed in this report show that Poland actually supports people with Polish origins, or those who have already been in Poland. It is almost impossible to receive international protection in Poland and rather difficult to be granted a temporary residence permit, especially for a foreigner who does not have any ties in Poland. The most alarming fact is that such politics violates the rights of vulnerable persons who are not identified properly during the refugee procedure, and who cannot legalize their stay another way; also obtaining a visa for them is very problematic. They can be threatened by serious harms when they come back to their country of origin, as support for IDPs in Ukraine is not sufficient.

It must be stated that whereas the Polish societies have rather positive attitudes towards Ukrainians, Poland could do much more to help victims of conflict in Ukraine.

## Recommendations

- administrative authorities should conduct refugee applications more thoroughly, especially taking into account special needs of vulnerable persons
- the authority of the second instance in the refugee procedure should present more individual approach, and re-examine all circumstances of the case, not only check if the decision of first instance does not violate procedural law (as in Poland this is the role of Administrative Courts)
- greater recognition of applications for international protection, especially for those due to health conditions, is required
- financial support for refugee applicants should be continued also after their appeal to the Administrative Court
- higher number of positive decisions on granting a humanitarian stay is also required, as children even after one year are well integrated thanks to language and cultural similarity
- it is necessary to withdraw from issuing negative decisions on protection for IDPs from Ukraine during winter period, since they are susceptible to accommodation problems (especially in vulnerable persons cases)
- Poland should change its immigration policy towards Ukrainians from conflict areas, or at least allocate funds directly to people affected by conflict, who – not receiving any kind of protection – are obliged to return to their country

## 4. Situation in Slovakia

*By Katarína Hudecová, Human Rights League*

### 1. Introduction

International organization for migration (IOM) defines migration as movement of a person or a group of persons, either across an international border or within a state (international/internal migration), encompassing any kind of movement of people, whatever its length, composition and causes. This broad definition covers all forms of migration (voluntary / forced migration, internal / international migration, long-term / short-term migration), different motives for migration (migration because of political persecution, conflicts, economic problems, environmental degradation or a combination of these reasons or migration in search of better economic conditions or conditions of survival or well-being, or other motives such as family reunification) and irrespective of the means used to migrate (legal / irregular migration). Thus it includes migration of refugees, displaced persons, economic migrants and persons moving for other purposes, including family reunification.

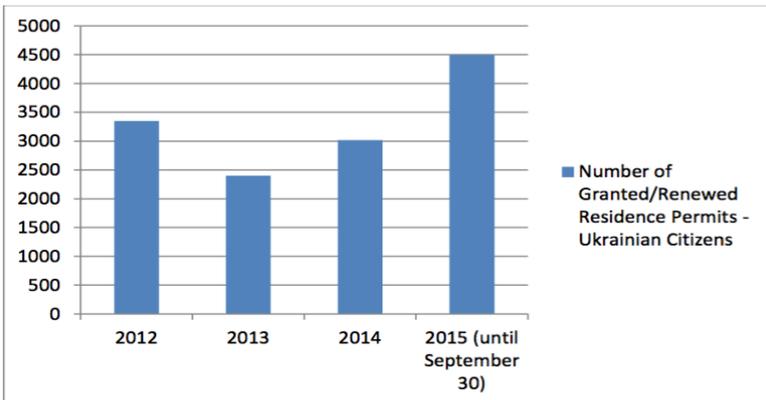
The aim of this study is to provide an overview of information related to the migration from Ukraine following the outbreak of the crisis in November 2013. It describes the options for Ukrainians to acquire legal residence in the Slovak Republic as well as measures of the Slovak authorities regarding potential and real migration from Ukraine.

The Ukrainian crisis started in November 2013 when president Janukovych refused to sign an association agreement with the European Union (EU) which resulted into mass demonstrations by his opponents in Kiev. Tension between western and eastern parts of Ukraine resulted in the annexation of the Crimea by the Russian Federation and subsequently, unrest in Donetsk and Luhansk oblasts of Ukraine evolved into a war between the post-revolutionary Ukrainian government and pro-Russian insurgents supported by the Russian Army.

302,772 Ukrainians received first residence permits in EU Member States in 2014 according to Eurostat News Release from October 2015. That makes Ukraine the country which citizens received the most EU residence permits last year. Poland issued more than 80 % of the first residence permits within the EU for Ukrainian nationals in 2014 (247,400 permits). Compared to Eurostat statistics for 2013 we can recognize the increased flow of Ukrainian citizens into EU after crisis started. In 2013 236,700 citizens of Ukraine obtained a first residence permit within EU which is about 30% less than in 2014. Poland issued more than 70% of the first residence permits within the EU for Ukrainian nationals in 2013 (171,800 permits). It proves that Poland was, and still remains the main destination for

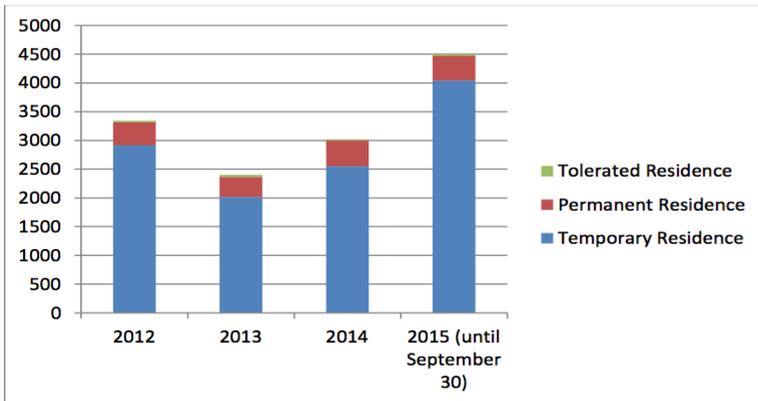
Ukrainians. Slovakia with geographical, cultural and linguistic proximity to Ukraine falls considerably behind.

9,000 Ukrainians with a valid residence permit is currently living in the Slovak Republic and last year Slovakia issued 3,018 residence permits for Ukrainian citizens. Numbers do not show any relevant growth in 2014; however in 2015 the increase is evident. Number of residence permits issued this year will be approximately twice of that in 2013 and by more than one third higher than in 2014. According to Annual Report of the Bureau of Border and Alien Police Ukrainian nationals were granted 3,349 residence permits in 2012, 2,402 residence permits in 2013, 3,018 residence permits in 2014 and 4,495 residence permits as of September 30, 2015. According to the information obtained during our interviews with officials from the Ministry of Foreign and European Affairs of the Slovak Republic as well as the Bureau of Border and Alien Police the authorities haven't noticed any increase in numbers of Ukrainians requiring information about the residence possibilities in the Slovak Republic. Furthermore, they consider the numbers of Ukrainians coming to Slovakia as stable, showing no significant growth.



**Number of residence permits granted/renewed to Ukrainian citizens**

Data: Bureau of Border and Alien Police



**Number of residence permits granted/renewed to Ukrainian citizens**

Data: Bureau of Border and Alien Police

According to the IOM Migration Information Centre (MIC), which provides legal, labor and social counseling to the third country nationals personally, via phone or email, the increase of clients is evident. In 2013 MIC consulted 253 individual clients from Ukraine, in 2014 the number increased to 368 and in 2015 only during the first eight months of the year the number exceeded the total amount of individual clients consulted in 2013, and reached 267 individual clients as of August 31, 2015. It may lead to a conclusion that Ukrainians prefer to obtain information from independent institution rather than through official channels of the diplomatic missions or the Departments of the foreign police. It may also mean that advertisement of the International Organization for Migration is more visible or that MIC is more easily accessible because its employees are able to explain legal possibilities in English or Russian language.

## 2. Legal Residence in the Slovak Republic

The third country nationals (i.e. citizens outside of the EU) can legally enter or are entitled to reside in the Slovak Republic if:

1. they obtained a Schengen visa or a National visa
2. they were granted a temporary, permanent or tolerated residence in the Slovak Republic
3. they have residence in another EU Member State.

Moreover, under the Convention relating to the Status of Refugees (1951 Geneva Convention) everyone has a right to seek international protection in the territory of the Slovak Republic.

According to the official document “Migration Policy of the Slovak Republic Perspective until the year 2020” Slovakia wants to manage economic migration and to attract qualified foreigners from culturally similar countries of origin. This makes Ukrainians likely candidates for obtaining residence in the Slovak Republic. Unfortunately numbers prove that it is not the case. Reasons may vary from doubt about whether we even want migrants in Slovakia to inexistent migration management with precisely specified competencies and financial resources for relevant institutions. Another important question is if Slovakia is willing to do anything to attract migrants, even from culturally similar countries of origin as Ukraine, and to encourage them to migrate to Slovakia. Ukrainians whom we interviewed during our research pointed out a few key points why migration to the Slovak Republic in time of crisis is not happening. Fact is that most of the young people prefer to stay in Ukraine and help to rebuild their country from inside; however they may change their mind if conflict drags on for longer time. Another point is that Slovakia simply is not attractive enough for Ukrainians compared to other neighboring countries such as Poland. Poland intentionally attracts migrants from Ukraine through advertisements and promos in cities of Ukraine, provides long-term visas and scholarships for students. Also according to Ukrainians the standard of living in Poland is higher and it is easier for them to secure jobs.

### I. Schengen Visa

After Slovakia joined the European Union in 2004, consequently became member of the Schengen Area in December 2007. The European Union guarantees free movement of persons, goods, services and capital. The free movement of persons entitles every EU citizen to travel, work and live in any EU country without special formalities. Schengen cooperation enhances this freedom by enabling citizens to cross internal borders without being subjected to border checks. EU legislation stipulates the main rules for existence and functioning of the Schengen Area

e.g. in Visa Code and Schengen Borders Code. The issuance of the short-stay Schengen Visa is governed by the Visa Code (EU regulation).

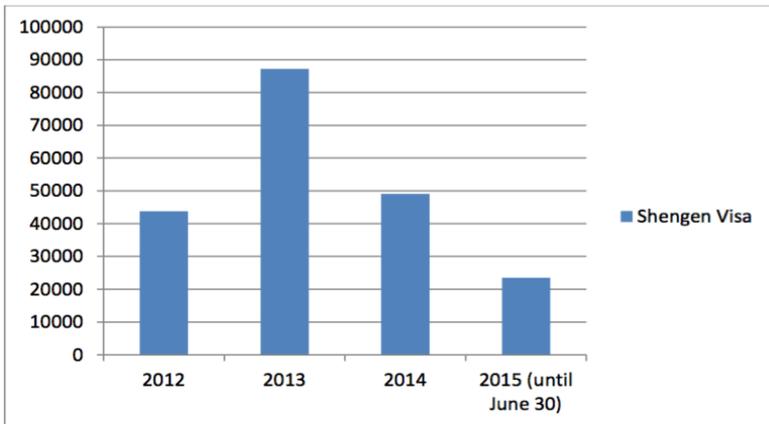
All Ukrainians must follow the standard procedure to obtain the Schengen Visa to the Slovak Republic, even though there are some exemptions which make the process a little easier. The Schengen Visa provides only short-term residence up to 90 days. This period cannot be prolonged and there is no legal entitlement to obtain the visa even if the applicant provides all the required documents. The Schengen Visa application needs to be submitted at the Embassy of the Slovak Republic in Kiev or at the General Consulate in Uzhgorod or through several travel agencies. Official application form filled in the Slovak language must be submitted in person together with

- Valid passport
- One color photograph
- Documents proving purpose of the visit: for example invitation or voucher from a travel agency
- Return ticket
- Documents proving accommodation
- Documents proving financial coverage of the visit
- Medical health insurance valid for the whole Schengen territory
- Administrative fee

For the Ukrainians it is not necessary to obtain invitation verified by the Foreign Police Department and for the most cases should be sufficient to provide original of the invitation signed by relative in front of the Slovak Notary. Administrative fee is also reduced from EUR 60 to EUR 35. The embassy will issue a decision within 10 days.

In December 2012 the Slovak Republic introduced simplification of the visa regime for the Ukrainian citizens. This simplification concerns only the result, not the process of the visa issuance. This means that the applicant must provide all the documents as before, but as a result he/she will receive multi entry visa for 2 years (or for 5 years in case that he/she was granted the Schengen Visa in the past and the visa was used according to its purpose and on time). The simplified regime is applied to the Schengen Visa issued for the purpose of tourism, family visit and business.

The result of the simplified visa regime was increased interest from the Ukrainians. According to the Annual Reports of the Bureau of Border and Alien Police in 2013 the Slovak Republic issued 87,206 Schengen Visas compared to 43,742 issued in 2012 and 49,045 in 2014 (23,517 Schengen Visas issued as of June 30, 2015).



**Number of Schengen Visas granted to Ukrainian citizens**

Data: Bureau of Border and Alien Police

According to the Slovak officials from the Ministry of Foreign and European Affairs of the Slovak Republic the simplified visa regime is still in force, but some Ukrainians we discussed had different experience and they currently obtained only one entry visa and only for a specific period of time. The reason for different experience is that it is always up to the consul's decision whether he/she grants a multi entry visa or not.

## II. National Visa

National visa is a special type of visa issued by the Slovak Republic in case a Ukrainian was already granted a temporary or permanent residence in Slovakia and needs to enter its territory or in cases resulting from international agreements or in special cases of people who represent a benefit for the Slovak Republic. The consulate may require all the documents that are needed for Schengen Visa while the decision will be issued within 30 days from the date of the submission. Administrative fee is EUR 9.50.

## III. Temporary Residence

If a Ukrainian wants to stay in the Slovak Republic longer than 90 days, it will be necessary to apply for a temporary or permanent residence. The issuance of any type of residence in Slovakia is governed by Act No. 404/2011 Coll. on Residence of Foreigners. Permanent residence is a more stable type of residence, whilst the temporary residence is always connected with a specific purpose and once this

concrete purpose terminates so does the residence. There is no legal entitlement to obtain the residence in the Slovak Republic even if the applicant provides all the required documents.

Temporary residence may be granted for a specific purpose stipulated by law. When applying for the temporary residence, the third country national needs to prove one of the following purposes:

- Business
- Employment
- Study
- Special activity (for example lecturing, art activities, sport activities, internships, volunteering, medical treatment)
- Research and development
- Family reunion
- Status of the Slovak living abroad
- Long-term residence in another EU Member State

The application needs to be submitted at the Embassy of the Slovak Republic in Kiev or at the General Consulate in Uzhgorod or at the competent Foreign Police Department according to the place of residence, if the Ukrainian resides in Slovakia legally. Official application form filled in the Slovak language must be submitted in person together with:

- Valid passport
- Two color photographs
- Documents proving purpose of the residence, e.g.: trade license, written promise of employment together with verified diploma of the highest level of education, letter of admission from school, birth/marriage certificate, certificate of a Slovak Living Abroad
- Criminal Report from the country of citizenship and from the countries where he/she resided in the last three years for more than 90 days during 6 consecutive months
- Documents proving accommodation
- Documents proving financial coverage of the stay (and financial coverage of business activity in case of temporary residence for the purpose of business)
- Administrative fee according to the purpose of residence.

Temporary residence is the most widely used type of residence in the Slovak Republic. According to the Annual Report of the Bureau of Border and Alien Police the Ukrainian nationals were granted/renewed 3,349 temporary residence permits in 2012, 2,019 temporary residence permits in 2013, 2,549 temporary

residence permits in 2014 and 4,039 temporary residence permits as of September 30, 2015. Statistics show growth in numbers of residence permits in 2015, however an increase is not as drastic as one may expect taking into account the continuing Ukrainian conflict. It will be interesting to see how migration flows will develop in 2016 and if the numbers will stabilize or will continue to increase.

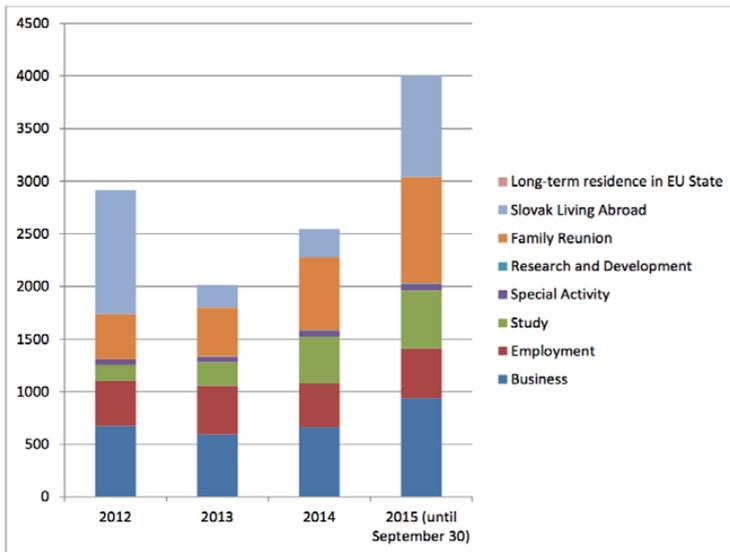
In 2015 (as of September 30) the temporary residence was granted to Ukrainian citizens most frequently for the purpose of family reunion (1,012 permits), Slovak Living Abroad (963 permits) and business (936 permits) followed by study (551 permits) and employment (474 permits).

In 2014, the temporary residence was granted to Ukrainian nationals most commonly for the purpose of family reunion (694 permits), business (662 permits) and study (443 permits) followed by employment (418 permits) and Slovak Living Abroad (266 permits).

In 2013, the temporary residence was granted to Ukrainian citizens most frequently for the purpose of business (592 permits), family reunion (465 permits) and employment (462 permits) followed by study (225 permits) and Slovak Living Abroad (214 permits).

In 2012, the temporary residence was granted to Ukrainian nationals most commonly for the purpose of Slovak living abroad (1,176 permits), business (674 permits), family reunion and employment (both 429 permits).

The most significant change is an increase of temporary residence permits for the purpose of the status of the Slovak Living Abroad in 2012 and then in 2015, when numbers more than tripled. The increase in 2012 was due to a new legislation coming into effect in January 2012, which changed the conditions for the residence of the Slovaks Living Abroad obliging them to apply for a new type of temporary residence. In 2015, however, an interpretation is needed.



Number of the temporary residence permits granted/renewed to Ukrainian citizens  
Data: Bureau of Border and Alien Police

Looking at the statistics of Certificates of the Slovak Living Abroad issued to Ukrainians by the Office of the Slovaks Living Abroad in 2015, no change in numbers is visible. In 2012 Office of the Slovaks Living Abroad received 158 applications and granted 162 certificates, in 2013 it received 145 applications and granted 249 certificates, in 2014 it received 235 applications and granted 101 certificates, as of September 30, 2015 it received 210 applications and granted 51 certificates. Numbers are stable with exception of the year 2013. Officials from the Office of the Slovaks Living Abroad were not concerned by this change and they explained it by completion of the cases after a deceased colleague.

This can mean that Ukrainians had obtained certificates of the Slovak Living Abroad longer before they actually decided to apply for a residence in Slovakia. It may also mean that many Ukrainians with Slovak background and who are issued Certificate decided to take an opportunity and move to Slovakia from their war-weakened country in 2015.

We are analyzing the status of the Slovak Living Abroad more closely in chapter Slovaks Living Abroad.

#### IV. Permanent Residence

Permanent residence is the most stable type of residence and in most areas provides a foreigner equal rights and obligations as Slovak citizenship. Slovak legislation recognizes three types of permanent residence:

- Permanent residence for 5 years – e.g. applicant needs to be spouse or child of the Slovak citizen
- Permanent residence for unlimited period of time – after 4 years of permanent residence for 5 years may a foreigner apply for a permanent residence for unlimited period of time
- Long-term residence – after 5 years of specific type of residency (e.g.: temporary residence for the purpose of employment, business or family reunion, subsidiary protection) a foreigner may apply for a long-term residence.

The application for permanent residence for 5 years needs to be submitted at the Embassy of the Slovak Republic in Kiev or at the General Consulate in Uzhgorod or at the competent Foreign Police Department according to the place of residence, if the Ukrainian resides in Slovakia legally. Official application form filled in the Slovak language must be submitted in person together with:

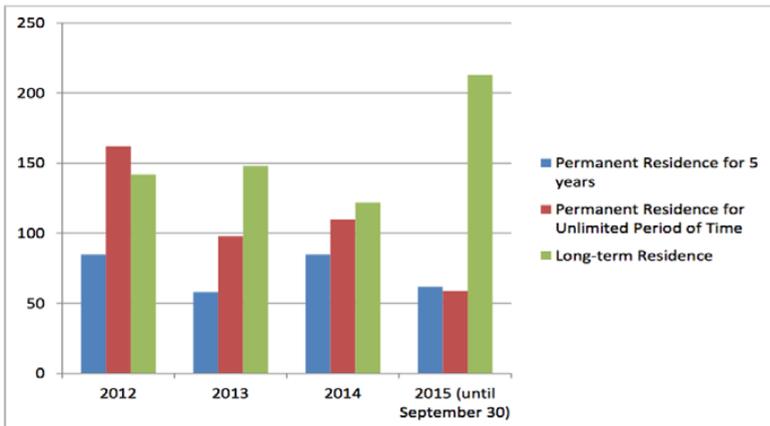
- Valid passport
- Two color photographs
- Documents proving purpose of the residence, e.g.: marriage certificate issued in Slovakia and document proving permanent residence of the Slovak spouse
- Criminal Report from the country of citizenship and from the countries where he/she resided in the last three years for more than 90 days during 6 consecutive months
- Documents proving accommodation
- Documents proving financial coverage of the stay
- Administrative fee

To apply for the permanent residence for unlimited period of time and long-term residence is easier and needs to be done at the competent Foreign Police Department according to the place of residence in Slovakia. It is still necessary to provide valid passport and documents proving health insurance and financial coverage of stay or fixed and regular income. These documents can be difficult to obtain for some foreigners especially for those who were granted asylum or subsidiary protection.

According to the Annual Reports of the Bureau of Border and Alien Police Ukrainian nationals were granted/renewed 398 permanent residence permits in 2012, 347 permanent residence permits in 2013, 451 permanent residence permits in 2014 and 431 permanent residence permits in 2015 (as of September 30, 2015.)

Numbers of permanent residence permits issued by the Slovak Republic to Ukrainian citizens are stable and do not show any significant change after the war in Ukraine started.

Numbers of permanent residence permits issued by the Slovak Republic to Ukrainian citizens are stable with visible increase of long-term residence permits. Long-term residence can be granted to a third country national after residing legally on the territory of the Slovak Republic for at least 5 years, therefore we can conclude that Ukrainians nationals with temporary residence changed their residence status to permanent in 2015.



Number of the permanent residence permits granted/renewed to Ukrainian citizens  
Data: Bureau of Border and Alien Police

## V. Tolerated Residence

Foreigner may apply for a tolerated residence if he/she finds himself/herself illegally on the territory of the Slovak Republic and he/she fulfills at least one of the conditions stipulated by law. Therefore an applicant needs to undergo a risk of not being granted a tolerated residence. Tolerated residence can be granted up to 180 days and may be renewed. The foreigner may apply in person at the competent Foreign Police Department according to the place of residence in Slovakia if:

- there is an obstacle to administrative expulsion
- departure from the country is not possible and detention is inefficient the foreigner is a minor child found in the territory of Slovakia
- it is required due to respect for his/her personal and family life and he/she does not
- threaten the state safety or public order
- the foreigner is a victim of human trafficking and is at least 18 years old.

The criminal authority applies for a tolerated residence on behalf of a foreigner if:

- the foreigner was illegally employed under particularly exploitative working conditions or to an illegally employed minor person or
- he/she is the victim of the trafficking in human beings and is at least 18 years old.
- 

According to the Annual Reports of the Bureau of Border and Alien Police the Ukrainian nationals were granted/renewed 27 tolerated residence permits in 2012, 36 tolerated residence permits in 2013, 18 tolerated residence permits in 2014 and 25 tolerated residence permits in 2015 (as of September 30, 2015).

Statistics of tolerated residence permits issued by the Slovak Republic to the Ukrainian nationals are stable and do not show any significant change after the war in Ukraine started.

## **VI. Asylum and Subsidiary Protection**

The provision of asylum and subsidiary protection in Slovakia is governed by Act No 480/2002 Coll. on Asylum. Following the statistics and interviews we observe that Ukrainians do not consider asylum or subsidiary protection as a relevant option for obtaining legal residence in the Slovak Republic in time of crisis. According to the Migration Office of the Ministry of Interior of the Slovak Republic some Ukrainians from eastern Ukraine expressed their interest in asylum procedure, but after obtaining information about the process and likelihood of the result, they probably changed the plan. There are only few people applying and even fewer Ukrainians granted with some kind of international protection in Slovakia. At the time of writing the Slovak Republic granted zero asylums from the start of Ukrainian crisis to the Ukrainian citizens and for the first time Slovakia granted 12 subsidiary protections to Ukrainians from eastern Ukraine (Donetsk and Luhansk oblasts) in 2015, however applicants from Crimea were refused. Subsidiary protections were granted for one year and on the end of the one-year period cases will be reviewed again and possibly extended for another two years.

Slovakia shares a border with Ukraine and still there were as few applications for asylum submitted by Ukrainian nationals as 14 in 2013, 24 applications in 2014 and 15 applications in 2015 (as of August 31). These numbers prove that Ukrainians are not interested in applying for asylum in the Slovak Republic. The reasons may vary depending on individual preferences. The fact is that on the beginning of an asylum proceeding an applicant is forced to stay in the detention center and only afterwards is moved into residential center and also result of the asylum process may occur unsatisfactory. Asylum in the Slovak Republic can be granted only on the grounds of personal persecution in the country of origin. War or other violent conflict does not provide foundation for granting the asylum and in cases as these the Migration Office exceptionally grants the subsidiary protec-

tion for one year with the possibility of extension if the reasons last. The subsidiary protection can be viewed by many foreigners as uncertain type of residence with unstable future in the hosting country. The Asylum Act also recognizes asylum granted on humanitarian grounds, but the Slovak Republic chooses to grant it only in cases of severe medical conditions, recognized psychological trauma or high age of applicants. Other reasons why the Ukrainians do not apply for the asylum in Slovakia can be small Ukrainian community, lack of connections and background, difficult situation on the Slovak labor market and high unemployment or better economical conditions in other EU Member States.

The Centre of the Legal Aid (CPP) provides free legal counseling and representation in court for people (also foreigners) in material need in various areas among others also in asylum procedures. CPP Office in Košice filed to Regional Court Košice an appeal against the decision of the Migration Office in which the Migration Office denied granting asylum or providing subsidiary protection to a woman from eastern Ukraine. In February 2015 the Court ruled that situation in the eastern Ukraine needs to be reviewed by Migration Office more closely with detailed description of situation in place of residence of applicant and in time of decision making with applied principle “benefit of doubt” (in doubt in favor of applicant for international protection) and the Court returned the decision to the Migration Office for a new proceeding. In the new decision the Migration Office provided the woman humanitarian asylum based on her medical condition (this decision is not yet in statistics) and afterwards also provided subsidiary protections to other clients of the CPP from eastern Ukraine. This decision may be the reason why the Migration Office of the Ministry of Interior of the Slovak Republic started to provide Ukrainian citizens from eastern Ukraine with subsidiary protection from April 2015 (in previous years the Slovak Republic granted neither asylum nor subsidiary protection to the Ukrainian citizens).

### **3. Slovak Living Abroad**

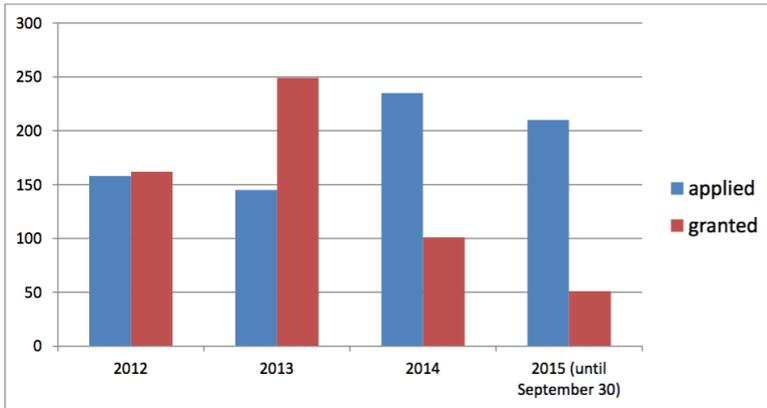
The Status of the Slovak Living Abroad is proved by Certificate of the Slovak Living Abroad and governed by Act No. 474/2005 Coll. on Slovaks Living Abroad. Conditions for a foreign national to obtain the Certificate are as follows: the foreign national is not a Slovak citizen and does not have a permanent residence in Slovakia, but she/he still maintains the national awareness, and she/he or her/his ancestor in the direct line (parent, grandparent or great-grandparent) has/had Slovak nationality.

The Slovak Living Abroad status is a very popular way of obtaining legal residence in Slovakia. After obtaining the Certificate a process of applying for a temporary residence is the easiest and the most foreigner-friendly. Also a temporary

residence for the Slovak Living Abroad is not strictly linked with any specific purpose (except for being the holder of the Certificate) and therefore the foreigner can either work without any other requirements, or/and do business or/and any other legal activities without the need to change the purpose of the residence. This is convenient and unique in the Slovak residence legislation and a foreigner who has a proof of her/his ancestors being of Slovak nationality usually considers this option.

The authority that is responsible for making decisions on applications and issuing the Certificates is the Office of the Slovaks Living Abroad. Applications may be addressed directly to the Office or via a diplomatic mission of the Slovak Republic abroad and all required documents need to be enclosed. Statistics state that Ukrainians are the second largest group of Slovaks Living Abroad (after Serbian nationals) with 1,904 issued Certificates (as of September 30, 2015).

According to the law the Office of the Slovaks Living Abroad will issue a decision within 60 days from the day of delivery of the complete application. However, a standard practice of the Office is that they send enclosed documents to another institution to examine and affirm their authenticity. This undefined time however does not count into the 60 days period. Consequently it is not clear how long the whole decision making process usually takes. This problem is also reflected in the statistics: in 2014 there were 235 received applications from Ukrainians, but only 101 issued Certificates of the Slovak Living Abroad; as of September 30, 2015 there were 210 received applications from Ukrainians, but only 51 certificates so far issued. According to the statement provided by the officials on the disproportion between submitted applications and issued Certificates the applications are still being reviewed and decisions were not yet made.



Number of the Certificate of the Slovak living abroad granted to Ukrainian citizens

Data: Office for Slovaks living abroad

It is worrying because for Ukrainians with Slovak roots it is the easiest way to obtain residence in the Slovak Republic and be able to legally live and work in Slovakia. Our suggestion would be to invest into capacities of the Office and employ expert/experts to review applications directly, because the outsourcing prolongs the time period of decision-making process and probably also increases the financial costs. Probably due to staff shortage there is no capacity to consider specific repatriation measures for Slovak living abroad and enforce them on governmental level. In other V4 counties governments launched campaigns for repatriation programs at the time of Ukrainian crisis.

#### 4. Recognition of Diplomas

Recognition of the diplomas may be considered as one of the most complicated parts of the process of obtaining legal residence in the Slovak Republic especially for highly qualified foreigners. According to the official governmental document “Migration Policy of the Slovak Republic Perspective until the year 2020” Slovakia wants to manage economic migration and to attract qualified foreigners from the culturally similar countries of origin. This may happen only if foreigners are able to legalize their education and their diplomas are recognized by Slovak institutions. Only then foreign nationals will be able to find a job matching their education, practice and financial expectations.

The Ministry of education, science, research and sport of the Slovak Republic established the Centre for Recognition of Diplomas, which is responsible for the

process of recognition of diplomas in case of regulated professions. Regulated profession is profession or professional activity which performance is to some degree regulated by law or administrative regulations. The recognition is usually achieved through ministries, professional associations (for example Slovak Medical Association or Slovak Association of Nurses and Midwives) or authorized private institutions. In case of unregulated professions the recognition process is carried out by a university with the same or similar study program.

For successful recognition of diploma or certificate it is necessary to submit notary authenticated copy of the diploma and transcript of the exams and their results or amendment to the diploma together with translation into the Slovak language. These documents may not be available for a refugee who is fleeing war and therefore cannot perform his/her profession. This process and requirements are at least clear, even if not accessible for everyone. Situation is worse with recognition of diploma for unregulated professions and recognition of practice. Without proper guidelines universities may require anything they want for significant fees – preparing and submitting final paper, taking various exams or even taking final exams again.

Good news for Ukrainian students appeared on November 1, 2015 when became valid bilateral agreement between the Slovak Republic and Ukraine on mutual recognition of equivalence of academic qualifications. This agreement, which only covers recognition of diplomas for academic purposes, will make the recognition easier for students from Ukraine continuing their studies in Slovakia. In case of regulated professions the procedure remains the same carried out by the Centre for Recognition of Diplomas.

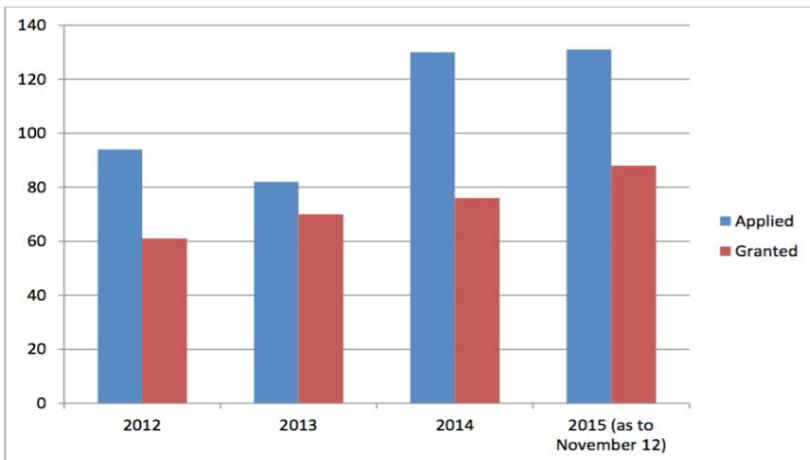
## **5. Citizenship of the Slovak Republic**

Citizenship is a permanent legal union between the state and a natural person with mutual rights and obligations. One of the results of acquiring citizenship of the Slovak Republic is the fact that foreigner is no more considered a foreigner and he/she does not need to obtain or renew his/her residency in the territory of the Slovak Republic.

Legal framework regulating process of obtaining the Slovak citizenship governed by Act No. 40/1993 Coll. on citizenship of the Slovak Republic is quite strict. The general rule requires 8 years of the permanent residence in Slovakia and a child born in Slovakia does not obtain the Slovak citizenship if one of the parents is not a Slovak citizen (or both parents are stateless or child does not acquire citizenship of either parent by birth). Also there is no legal entitlement for being granted the Slovak citizenship even if the applicant meets all the requirements and submits all the required documents. Another complication may be the administrative fee for

granting the citizenship of the SR (EUR 700 for adults) which may be too high for some families and also the period of 24 months which the Ministry of Interior of the Slovak Republic has to issue a decision. If an opinion of other state authority is needed and the decision of the Ministry of Interior of the Slovak Republic is dependent on them, the decision process is suspended and the time period does not lapse. This can cause the decision making to last even longer.

In 2012 the Slovak Republic has granted 61 citizenships to Ukrainian nationals, 70 in 2013, 76 in 2014, and 88 Slovak citizenships to Ukrainian nationals in 2015 (as of November 12, 2015). Ministry of Interior of the Slovak Republic is still processing 171 applications from Ukrainian nationals. A statistics show continuously growing interest of the Ukrainian nationals in applying for citizenship in the Slovak Republic as well as growth of the numbers of granted citizenships. However the increase is up to ten per year, which indicates a tendency, but does not make a significant change. Applying for Slovak citizenship can be more difficult for Ukrainian nationals because they are not allowed to have dual citizenships. Another point is that since citizenship of the Slovak Republic is usually connected with several years' residence, therefore the effect of a crisis is not yet shown in the statistics.



**Number of the citizenships of the Slovak Republic granted to Ukrainian citizens**

Data: Ministry of Interior of the Slovak Republic

## 6. Counter -Trafficking in Human Beings

According to UNHCR, Ukraine is country of origin, transit and destination for trafficking in men, women and children. Special concern is needed with 1,46 million (UNHCR as of September 2015) internally displaced persons being particularly vulnerable to exploitation due to economic hardship and weak ties with host communities. For mentioned reasons we tried to focus also on this part of migration from Ukraine and contacted the institutions involved in counter-trafficking in human beings.

Ministry of Interior of the Slovak Republic acts as a cooperating body of comprehensive care provided to the victims of the human trafficking through the Information Centre Combating Human Trafficking and Prevention of Criminality, which collects statistics and prepares analysis dealing with counter-trafficking. According to the Centre, a Ukrainian woman was identified as victim of human trafficking in 2012, but she refused to be a part of Program of Protection and Support for Victims of Human Trafficking. Also in 2013 another Ukrainian woman was identified as a victim of the human trafficking who agreed to be a part of the Program of Protection and Support for Victims of Human Trafficking and she received benefits linked with her status.

International Organization for Migration (IOM) Office in Bratislava operated the National Helpline for victims of Trafficking in Human Beings 0800 800 818 from July 1, 2008 to December 15, 2014. From December 2014 the National Helpline is operated by the Slovak Crisis Centre Dotyk. Both organizations agreed that the National Helpline has not been contacted by Ukrainian citizens since 2008. IOM continues to provide educational activities and preventive information, which may help public to protect against human trafficking. Experts from IOM informed us that there were no Ukrainian victims of human trafficking under their care in 2014 and 2015. However low numbers do not prove that trafficking is not happening at all, only that identification of the victims is not as effective as we hope would be. According to IOM Mission in Ukraine Statistics Report on Combating Trafficking in Human Beings in Ukraine (as of June 30, 2015) a forced labor as type of exploitation is the most common in recent years. Their victims tend to suffer the exploitation in fear that local state authorities instead of helping them will just send them back home.

## 7. Humanitarian aid and development assistance

The Slovak Republic has started to provide humanitarian aid and development assistance since 2003 under the brand **SlovakAid**. This year Slovakia has become a donor instead of being recipient of the development assistance as in the previous years. Competent state institution responsible for the coordination of the Official Development Assistance of the Slovak Republic (ODA) is Ministry of Foreign and European Affairs of the Slovak Republic, which created territorial and sectorial priorities of ODA. Ukraine is one of the Slovak ODA project countries as part of the Eastern Partnership programs, which focuses on support of the democratic and reform process in Ukraine. Slovakia provides its experience with political and economic transformation through financial support of projects prepared by Slovak organizations and implemented in Ukraine.

Funding from the Ministry of Foreign and European Affairs received: received Centre for European Policy and Carpathian Foundation (together EUR 193,393) in 2013, People in peril and Centre for European and North Atlantic Affairs (together EUR 174,351) in 2014 and PDCS, INEKO, Carpathian Foundation and Slovak Foreign Policy Association (together EUR 389,414) in 2015. Projects chosen this year will be implemented until 2017 and an interest in Ukrainian development is noticeable through higher financial support in 2015.

Long – term component of the Slovak ODA are **Scholarships** of the Government of the Slovak Republic which annually provide students from all over the world opportunity to study in Slovakia. Three Ukrainian nationals were granted scholarships **for the Bachelor or Master Studies and one for PhD. Study in the academic year 2015/2016 as a part of the governmental scholarships for students from developing countries and four Ukrainian students were granted scholarships for the Bachelor or Master Studies in the academic year 2015/2016 as a part of the governmental scholarships for Slovaks living abroad**. The scholarship of the Government of the Slovak Republic is not the only opportunity for Ukrainians to study in Slovakia. Scholarships are available also through Ministry of Education, through bilateral programs or National Scholarship Program. Students and young teachers and researchers need to be active and check the relevant websites regularly for offers and deadlines.

**The International Visegrad Fund** is an international organization founded by the governments of the Visegrad Group (V4) countries—the Czech Republic, Hungary, the Republic of Poland, and the Slovak Republic in 2000. The fund facilitates the development of closer cooperation in the V4 region and other countries, especially in the Western Balkan and Eastern Partnership regions. Ukraine is a part of the Eastern Partnership and fifth by the Fund financially most supported country (following the V4 countries). The Fund operates grant programs for joint projects implemented by organizations from the V4 together with organizations from Ukraine, and also awards individual scholarships to students and research-

ers. From 2014 the Fund doubled the number of scholarships for Ukrainians in the V4 countries as well as increased the share from Eastern Partnership Program for Ukraine (Ukrainian projects consume over 50% of the program's financial resources). **In the Slovak Republic there are currently 15 students from Ukraine supported by the Fund compared to 19 in 2014 and 10 in 2013, 2012 and 2011.**

The most visible assistance of the Slovak Republic for Ukraine is provision of recreation for Ukrainian children and recovery and rehabilitation stay for wounded soldiers. These stays are organized and financed by non-governmental organization **Ukrainian-Slovak Initiative** with financial or other support from certain Slovak state institutions e.g. the Ministry of Foreign and European Affairs of the Slovak Republic or Chairman of the National Council of the Slovak Republic. According to Ukrainian – Slovak Initiative Slovakia hosted more than 250 children from Ukraine in 2015 and sponsored either part of the expenses of their stay or provided accommodation and meals in state facility in Častá – Papiernička. In 2014 and 2015 Slovakia provided with recreations or with medical treatment around 130 wounded Ukrainian soldiers.

**UNICEF Slovakia** runs a public financial collection for Ukraine, which is part of the international aid for Ukrainian children under supervision and redistribution of UNICEF, the United Nations Children's Fund.

During our research we spoke to many representatives of Slovak non-governmental organizations with experience with humanitarian and development assistance. Just a very few of them were implementing projects for Ukraine at the time of writing this research; some of them have already finished their projects, which started after the crisis began, some of them are waiting for new projects to obtain funding for their implementation in 2016.

Ukrainians we talked to during our research stressed out one mutual point as the most important thing; that the most valuable help from Slovakia would be political and verbal support for Ukraine in light of ongoing war. Ukrainians do not expect financial support but they very much appreciate projects focused on youth and education. Young people in Ukraine do not have opportunity to learn from experience how to build their country on democratic foundations.

They need to experience exchange programs or study visits, obtain education and participate in capacity building to see how things work in democratic Europe. Afterwards they can help to improve politics in Ukraine and use their newly acquired knowledge for the benefit of Ukrainians. Some Slovak non-governmental organizations answer this need precisely. For example **People in Peril** continue to help through humanitarian aid (they run public financial collection for Ukraine) as well as development project. Participants from communities undertake trainings and study visits in the Slovak Republic. During the training they receive valuable education, opportunity to visit Slovak NGOs and learn from their work and it is great opportunity for networking with colleagues from Ukraine and Slo-

vakia. Another Slovak organization that managed to start a development project in Ukraine is **Adra Slovensko**. Together with other V4 countries they cooperate with Ukrainian organization Adra Ukraine on development project for NGOs employees. Participants will gain information about project management, volunteer management, need assessment and monitoring and evaluation. **Caritas Slovakia** carries out (except for humanitarian aid in the form of financial collection for Ukrainian partners) project Adoption from Afar, which is focused on support of education for poor children or orphans in Ukraine. Participants can donate either to an educative institution or monthly on a long – term basis support a specific child (pre-school, elementary school or even university students).

## 8. Conclusions

The goal of our report was to look into and analyze how the migration flows to Slovakia from Ukraine have been affected by the current crisis in Ukraine with special focus on Ukrainian citizens. We analyzed in detail arrivals of the Ukrainian citizens into the Slovak Republic in the context of international protection (asylum and subsidiary protection) as well as their arrivals in the context of regular economic migration.

Another part of our report deals with particularities of the response of the Slovak authorities and of their reception or rejection of Ukrainians in our region. The Slovak State Institutions do not show specific interest in creating concrete response to the crisis or potential migration. Immediately after the crisis in Ukraine deepened in the middle of 2014, ministries and other competent state authorities held meetings on which strategies for critical numbers of migrants as well as public security, protection of borders and the Slovak capacity to deal with migrants were discussed. During 2015, however, as the situation in eastern Ukraine did not escalate the Slovak authorities settled for business as usual. Slovakia has not taken proactive approach and has not tried to attract the best professionals from Ukraine who may be tempted by unstable situation in their homeland to move to EU country. Slovakia is not that economically attractive in the eyes of the potential migrants as to be passive, or may be sometimes a little unfriendly toward foreigners (Slovak language as a state language used at the Departments of Foreign Police, etc.).

As the result the Slovak Republic is not using its whole potential of migration. In official governmental document called “Migration Policy of the Slovak Republic Perspective until the year 2020” Slovakia aims to manage economic migration and to attract qualified foreigners from culturally similar countries of origin, but in reality not much to attract migrants is done. By this uncreative approach we are missing the opportunity to gain professionals from many fields who could be great assets to Slovak economy. Small enterprisers from Ukraine may also take op-

portunity to move their businesses from unstable country into the Slovak Republic if properly encouraged. Experienced entrepreneurs may provide jobs for majority and help to increase economic grow and to reduce unemployment in Slovakia.

## 9. Recommendations

The Slovak Republic does not utilize the full potential of migration. In official governmental document called “Migration Policy of the Slovak Republic Perspective until the year 2020” Slovakia aims to manage economic migration and to attract qualified foreigners from the culturally similar countries of origin, but in reality not much to attract migrants is done. Slovakia needs to be more creative and active.

- “Migration Policy of the Slovak Republic Perspective until the year 2020” shall be either properly implemented including timetable to achieve its aims and goals; or new migration policy shall be prepared in order to identify and declare real aims, goals and commitments which shall be achieved by Slovakia with regard to migration.
- Creation of Immigration and Naturalization Office as proposed by Migration Policy shall be translated into reality in order to establish office with authority to deal with migration, asylum and integration policies based on holistic approach, objective information and data analysis.
- Promotion of the Slovak Republic in Ukraine together with all the relevant and accurate information about immigration to Slovakia is needed
- Establishment of centers on the territory of Ukraine that would provide information about conditions of residence in Slovakia. This goal can be also achieved through diplomatic missions and Visa Centers or through promoting already existing institutions in Slovakia where foreigners can obtain information about residence and employment in Slovakia via email or phone and in foreign language – e.g. Human Rights League or IOM Migration Information Centre.
- Better promotion and wider offer of scholarships at Slovak Universities for more students from Ukraine particularly from Donetsk and Luhansk oblasts and Crimea with free of charge Slovak language course.
- Simplification of recognition of diploma for highly qualified employees (e.g. doctors, nurses, etc.).
- Changes to Blue Card for highly qualified employees are necessary in order to attract highly qualified immigrants. Slovakia shall use the opportunity to influence the change of EU directive on Blue Card during its EU presidency in order to enable its functioning and real benefit.
- To promote entrepreneurship and programs for small enterprisers from Ukraine and other foreign countries to establish business in Slovakia.

- Support establishment and use of tools to fight prejudice against Ukrainian and other migrants among public in order to prevent and fight xenophobia and extremism.
- Experts for recognition of authenticity of documents shall work directly for the Office of the Slovaks Living Abroad. Current situation, when documents are being sent to another institution to analyze, prolongs the whole process.

## 5. Final conclusions and recommendations

The analysis of immigration from Ukraine to V4 countries has been conducted in second half of 2015, during the time when EU countries were experiencing so-called “refugee crisis”. In all V4 countries, migration has become number one topic of public discussion. However, in many cases the rhetorics of all, including political leaders, has included xenophobic, islamophobic and extremists narratives. This has lead to situation, when to large extent; public opinion has been very negative towards immigrants. Positive attitude to Ukrainian immigration in particular has been reported in Poland only.

In the same time, according to prognosis, all four countries start to face aging and shrinking of population, which may lead to economic stagnation and significant losses. Also, business in several countries report lack of available work force on the market, which – if unchanged – may lead to situation when businesses will be forced to look for new destinations. Therefore, suggestions for available solutions include the proposals to open the countries to flexible legal immigration.

With regard to practical aspects of Ukrainian immigration, the analysis shows that V4 countries do not share common approach and there are differences among the treatment of Ukrainians wishing to settle down in these countries. Moreover in all four countries, legal channels of immigration for Ukrainians are rather complicated with many administrative and technical barriers, making it unreasonably difficult for Ukrainians and countries to enjoy benefits of legal migration.

The analysis proved that most developed and organized State programs for Ukrainian immigration include repatriation of compatriots from Poland, Czech Republic and Hungary<sup>41</sup>, Slovakia being the only one country not having such targeted program. On the other hand, Slovakia has the legislation allowing compatriots living abroad to receive document certifying Slovak background, which can be used to facilitate immigration into the country significantly easier than with other third country nationals.

From the point of view of Ukrainian citizens, analysis shows that for various reasons Ukrainians themselves do not consider all V4 countries equally attractive for immigration. Some countries – Poland and Czech Republic seem to be more attractive for Ukrainian immigrants than the others – Slovakia and Hungary.

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41 Hungary facilitates the repatriation through access to citizenship

With regard to preferred channels of legal migration, we found student visa programs to be very attractive for young generation of Ukrainians. The possible explanation may be that student programs provide better education prospects for young Ukrainians than at home and in the same time provide the opportunity to escape the dire situation in home country.

Briefly, we were analyzing situation of human trafficking and labour exploitation in connection with Ukrainian immigration. Since the beginning of the conflicts, there are reports and estimates that risk of trafficking in human beings has been on the rise with regard to Ukrainians. IOM reports that vulnerability of Ukrainians to human trafficking has been growing and increasing number of people admitted their willingness to work abroad unofficially or accept risky job offers.<sup>42</sup>

Our analysis shows that despite of the increased risks, States have not been doing much in the terms of targeted programs to prevent, detect and fight labour exploitation and human trafficking with regard to Ukrainians. Awareness raising campaigns targeted on diaspora, employers, but also on officers from police and labour offices/inspections were rare. Numbers of convicted human traffickers remain very low in all four countries and awareness among migrants on their rights is limited. In some states, labour inspections are carried in cooperation with immigration police, which does not provide safe environment for immigrants to reveal possible infringements with their labour rights. It must be highlighted that European Court of Human Rights in *Rantsev* case stressed that States are responsible also to prevent trafficking in human beings.

Based on the above mentioned findings and outcomes of the analysis, we propose following recommendations for all four Visegrad countries:

### **Public opinion:**

Negative rhetorics on immigration do have very negative impacts on social cohesion. In all V4 countries, public perspection on migrans have worsened significantly. Also, extremists and far-right radicals are on the rise, gaining significant political victories, including entering national parliaments as is the case in Slovakia in 2016. Also, hate speech, including online hate speech and hate crimes are reportedly on the rise, causing the risks to safety of individuals and society at large. With regard to migration and asylum, public space is filled by information lacking any objective or credible sources, sometimes being completely false and misleading.

Therefore we recommend that with regard to public opinon on migration, **governments shall focus on presentation of positive examples and benefits of mi-**

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42 IOM Ukraine: „IOM responds to growing human trafficking threat in Ukraine“, published on 20 October 2015, available online [<https://www.iom.int/news/iom-responds-growing-human-trafficking-threat-ukraine>]

**gration and integration including objective information being provided to public on regular basis. Immigration and asylum politics shall be driven by expert opinion, objective information and data analysis. Holistic approach to governance of migration, asylum and integration is needed. De-humanisation of migrants shall be avoided.**

To achieve this, several tools may be used:

- Expert discussions, roundtables and expert dialogues providing objective information shall be organized on regular basis.
- Politics on migration shall focus on flexible forms of legal migration with the aim to use benefits of immigration for the profit of societies and migrants.
- V4 countries shall focus on building of welcoming inclusive societies including continuous support to integration/inclusion programs for migrants to become part of the society.
- Communities of migrants established in the V4 countries shall be regularly consulted and supported by V4 countries in order to maintain social cohesion, regular dialogue and mutual trust.
- V4 countries shall change their position towards migration and establish immigration policies beneficial for societies and migrants, based on objective information, analysis of data and existing needs. Promotion of V4 countries abroad to attract legal immigration shall be supported (including specialized info centers providing accurate information in country of origin, campaigns, etc.)

### **Legal Migration:**

1. To enable and facilitate flexible legal migration schemes for Ukrainian citizens (and other countries) into V4.

### **In particular, following steps are necessary:**

- Visa system shall be accessible and where electronic appointments are in operation, systems shall be adjusted to maintain large number of applications
- V4 countries shall start to manage migration effectively, most importantly and urgently the legal economic migration, including small bussiness sector. Regular analysis of labor market and its needs with regard to migration shall be conducted and legal economic migration shall be managed in a way to be flexible, effective and beneficial. Unnecessary administrative barriers shall be dropped

- V4 countries shall support as much as possible circular migration programs, including programs for students, internships, apprenticeships, trainings and other possibilities to build capacities of Ukrainians and to extend such programs to other countries as well and to encourage universities, academia and NGOs to take more active part in such programs and exchanges
- The dialog on visa-free regime for Ukraine shall continue and V4 governments shall assist and support Ukraine to achieve necessary legislative changes and maintain rule of law.

### **Asylum and subsidiary protection:**

- V4 countries shall provide more sympathy towards refugees and persons in need of international protection, including IDPs from Ukraine who can not return home into safety
- Authorities should more thoroughly conduct refugee applications, especially taking into account special needs of vulnerable persons and IDP's
- Special programs for resettlement/relocation or repatriation, including humanitarian admissions shall be created in V4 countries in order to channel people in need to safe legal routes (including people in need of international protection from Ukraine and other war zones)

### **Trafficking in human beings and labour exploitation:**

- More attention and focus shall be paid to awareness raising and prevention programs targeting Ukrainian diaspora and immigrants

- Embassies and consulates shall receive regular training on prevention and detection of cases of human trafficking and labour exploitation with particular focus on Ukrainian immigration
- Police, labour offices and labour inspectorates shall build safe environments enabling victims of trafficking and labour exploitation to report crimes and violations of rights without having fear from immigration control measures
- Awareness raising campaign among employers on rights and duties of foreign workers shall be supported in order to prevent labour exploitation
- Legal assistance programs for victims of trafficking and labour exploitation shall be supported in order to provide access to justice and redress.

### **Humanitarian assistance and development:**

- V4 countries shall provide targeted humanitarian assistance and development aid to Ukraine and to IDPs in Ukraine, reflecting their current and specific needs, including programs which enable young Ukrainians to learn directly about the rule of law and democracy (exchange programs)
- Programs to aid Ukraine shall be actively promoted by governments in all V4 countries in order to provide public with understanding of situation in Ukraine and population affected by the war and in order to increase public sympathy with victims of wars. This may help to prevent xenophobia, hate speech and sympathy towards extreme movements among public.
- Stabilization of the situation in Ukraine shall be the priority.

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**Migration from Ukraine to V4 in the time of crisis  
Final reports from Czech Republic, Hungary, Poland and Slovakia**

Organisation for Aid to Refugees (Czech Republic), Subjective Values Foundation  
– Szubjektív Ertekek Alapítvány (Hungary), Human Rights League (Slovakia)  
and Halina Niec Legal Aid Centre (Poland)

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