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**International migration in contemporary Ukraine:
trends and policy**

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Global Commission on International Migration

In his report on the 'Strengthening of the United Nations - an agenda for further change', UN Secretary-General Kofi Annan identified migration as a priority issue for the international community.

Wishing to provide the framework for the formulation of a coherent, comprehensive and global response to migration issues, and acting on the encouragement of the UN Secretary-General, Sweden and Switzerland, together with the governments of Brazil, Morocco, and the Philippines, decided to establish a Global Commission on International Migration (GCIM). Many additional countries subsequently supported this initiative and an open-ended Core Group of Governments established itself to support and follow the work of the Commission.

The Global Commission on International Migration was launched by the United Nations Secretary-General and a number of governments on December 9, 2003 in Geneva. It is comprised of 19 Commissioners.

The mandate of the Commission is to place the issue of international migration on the global policy agenda, to analyze gaps in current approaches to migration, to examine the inter-linkages between migration and other global issues, and to present appropriate recommendations to the Secretary-General and other stakeholders.

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Introduction

Ukraine emerged on the European political map in 1991 as one of the largest European countries with a considerable population and a total land area of 600 thousand sq. km. A former Soviet republic, once separated from the world by an “iron curtain,” Ukraine gradually became an independent actor in European economics and politics, joining the ongoing global processes, including migration.

At the time of the first national census in 2001 there were 48,457 million people living in Ukraine. Compared to the results of the last Soviet national census dated 1989 which counted 51,706 million, the population had substantially decreased. Nevertheless, for a long time after Ukraine reached independence, its population was increasing despite a negative birth rate and in 1993 it reached 52,242 million.

Comparison of data from the census also demonstrates noticeable changes in the ethnic structure of the population. For example, the share of Ukrainians in 1989 was 72.7%, but in 2001 it was 77.8%. On the other hand, the number of Russians decreased by 4.8 % and constituted 17.3% of the total population. The number of Jews in 2001 decreased five fold compared to 1989 and constituted only 103,000 at the time of the national census. At the same time number of Crimean Tatars increased 5.5 times.

The census registered 248,200 persons of Crimean Tatar nationality. The Azerbaijani population in 2001 increased by one fifth (45,200) compared to 1989, the Georgian population increased by almost 1.5 (34,200) and the Armenian population increased by 1.8 (99,900). There were also noticeable increases in the share of some other ethnic groups. For example, the number of Koreans increased by 50% (12,700), the number of Turks increased some 30 times (8,800), the number of Kurds increased 9 times (2,000) and the Vietnamese population increased 8 times (3,900).¹

These changes can not be explained only in terms of the peculiarities of natural population growth in certain ethnic groups. Obviously, migration was an important factor which influenced the population figures of the titular nation – Ukrainians and the national minorities.

The opening up of borders has enabled Ukrainian citizens’ access to the international and in particular European labor markets. It also allows cross-border family reunification and ethnic migration. At the same time, Ukraine has become open to excessive immigration, previously restricted by administrative measures, has allowed for the repatriation of hundreds of thousands of those who were subject to repression, as well as those who were expelled during totalitarian times. It also facilitated the repatriation of Ukrainians who were sent by the former regime for military service and to work in other places in the USSR and even beyond it.

¹ Pro kil’kistj ta sklad naselenja Ukrainy za pidsumkamy Vseukrajinsjkogo perepusy naselennja 2001 roku (Quantity and composition of the population of Ukraine according to Allukrainian census of population 2001). “Urjadovyj kur’er”, 2002, Dec. 28, p.11.

Another result of the country's opening had been impossible in Soviet times, namely immigration from other, non-Soviet countries. These included specialists of international organizations, businessmen, employees of foreign and joint enterprises and also refugees, illegal immigrants from different countries, including distant African and Asian countries.

Having found itself on the crossroad of migration flows of a different character and direction, the young state had to develop its own migration policy and create, together with other elements of the state administration, a system for the regulation of migration processes. It was not an easy task. In Soviet times, migration, as it is generally understood, did not exist (emigration was tantamount to parricide and internal migration was treated as the organized movement of labor for the satisfaction of production needs) and consequently there was no experience of regulating migration process in the context of the free movement of people.

Migration problems had to be tackled in the face of massive population movements resulting from the collapse of the Soviet empire and often forced by military conflicts and international tension. The formation and implementation of migration policy was complicated by a profound economic crisis. Besides that, Ukraine joined the international migration process at height of its development under globalization.

Nevertheless during the years of independence, Ukraine adopted modern migration legislation, created a migration service, incorporated international agreements on human rights into its national legislature and developed international cooperation in the sphere of migration.

The objective of this article is to analyze the migration situation in Ukraine, the principal migration flows, migration policy during the years of independence, the various stages of its formation, main directions and tendencies of development. The article is based on an analysis of state migration statistics which includes data on registration at arrival or departure of individuals to certain areas, data statistics from the border services, data from police and organs for dealing with migration and refugees, results of sociological research among different categories of migrants, national legislation, and the works of Ukrainian scientists and press articles.

In this article international migration and migration policy are viewed as important elements in the formation of the Ukrainian population, as an indicator of the level of democratization and guarantee of human rights, and as a form of interaction with the surrounding world.

Migration between Ukraine and post-Soviet Countries

During the era of independence as well as during the previous period, post-Soviet countries and particularly Russia were Ukraine's main partners in terms of population exchange. However, as a result of fundamental transformations in the world and in Ukraine, migration flows changed significantly. The development of migration was influenced on the one hand by traditional migration relations, but on the other hand it was developing amidst new geographic, legislative and economic conditions created by the emergence of new countries, market reforms and through the democratization of social life.

One of the “heritages” of the past which influences migration flows is the significant volume of cross-border movement between Soviet republics. Just before the collapse of the USSR, annual migration turnover between Ukraine and other parts of the USSR constituted an average 1.5 million people. Ukrainian labor was widely used for developing virgin lands in distant Siberian regions, the Far North, and in the Far East. Military service also usually took place outside the “native” republic. Organized labor recruitment, the recruitment of young workers for new building projects and the assignment of young professionals was common.

A certain number of migrants eventually returned home. But for some of them repatriation was impossible. For example, Ukrainians subject to repression and exile in 1930-50s, Crimean Tatars and representatives of German, Polish and other national minorities.

A constant migratory surplus in Ukraine was another important feature of inter-republic migration. In the 1960s, migratory growth constituted 12% of the total population growth in Ukraine. In the 1970s, Ukraine ranked second on this indicator after Russia, who was repatriating the Russian population from Transcaucasia and Central Asia. In the 1980s, migratory growth constituted 8% of the total population growth. A large migratory surplus remained under conditions while it changed to negative migratory growth in most other Soviet republics².

Differences in the ethnic structure of the incoming and outgoing migration flows were also typical in Soviet times. There were significantly more Ukrainians among emigrants than among immigrants. Most nationals were leaving the country for other republics of the USSR and were to be replaced with a population composed of multiple nationalities. According to the national census dated 1989, there were almost 7 million Ukrainians, or 15.4% of Ukrainian nationals residing outside Ukraine in other Soviet republics as opposed to 13.8% according the national census dated 1979. At the same time, in 1989, 43.3% of Russians residing in Ukraine were born outside its borders. Between 1979 and 1989, the number of Uzbeks and Azerbaijanis in Ukraine increased by 2.1%, Turks by 2%, Tajikistanis by 1.8%, Armenians by 1.4%.³

The policy of population “mixing” in the Soviet era after the collapse of the USSR enabled masses of potential migrants to repatriate to their historical homeland. Military conflicts and international tension within some post-Soviet countries were additional so-called “shock” factors that were “pushing out” migrants.

At the same time, the collapse of the USSR left such channels of mass migration as military service and organized labor recruitment. Inter-republic or internal migration turned international. Even though visa-free travel regimes often remained in place, there appeared such obstacles as the use of different national documents and currencies, special residence, employment, and regulations governing access to property and social welfare for foreigners.

² Demograficeskoje razvitije Ukrainskoj SSR (1959:1970) (Demographic development of the Ukrainian SSR). Kiev, 1977, p.14:15; Russkije. Etnosociologičeskije očerki (Russians. Ethnosociological issues). Moscow, 1992, p.92.

³ Nacionalnyj sostav naselenija SSSR (po dannym Vsesojuznoj perepisi 1989 goda) (Ethnic composition of the population of the USSR (according the Census of population of 1989), Moscow, 1991, p.5:19.

Economic factors such as the pauperization of the population, the devaluation of savings, the rise in transportation prices, unemployment, restricted access to foreign education due to its high cost and high accommodation prices also negatively influenced migration. All these factors caused a dominating countertendency leading to a decrease in migration flows among the former USSR republics.

The total number of the migrating population between Ukraine and CIS and Baltic states has decreased significantly according to official statistics that register changes of residency. Already in the early 1990s, migration turnover - the sum of incoming and outgoing migrants - was practically half the average for the previous decade and did not exceed 700,000 per year. Later this tendency strengthened. In 2002, the volume of gross-migration was eight times less than in the early 1990s and constituted only 85,800, (Exhibit 1).⁴

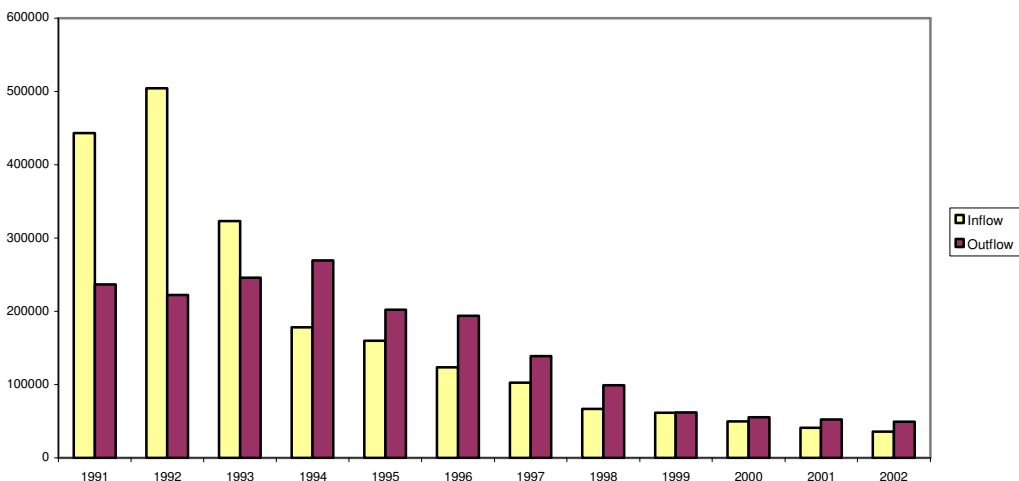


Exhibit 1. Migration between Ukraine and CIS and Baltic states, thousands

At the same time there was a significant change in the character of migration, its direction and results. For instance forced migration, flights and the repatriation of people who found themselves outside their historical motherland during the Soviet era began to take place. Due to these factors, migration became more socially important in the post-Soviet countries.

One of the features of migration between Ukraine and post-Soviet countries on the eve of change was the growing prevalence of incoming over outgoing flow, i.e. migratory surplus. This surplus could already be observed in the late 1980s (in 1989, due to migration, the population of Ukraine increased by 44,300 and in 1990 by 79,300), but after Ukraine gained independence, this

⁴ The data of the State Committee of Ukraine for Statistics.

surplus increased significantly. In 1991, the migratory surplus was 206,500, in 1992 it reached 288,100.

There were also distinct changes in the ethnic structure of migratory flows. The share of Ukrainians increased among immigrants, whereas it decreased among emigrants to the CIS and Baltic states. There was an increase in outflow from almost all the main nations of the new independent states. In the early 1990s, a migratory surplus was registered only for Azerbaijanis and Armenians, citizens of countries at war. Later, the influx of Georgians and Tajikistanis to Ukraine also outgrew the outflow; which was certainly connected with conflicts in the North Ossetia and Abkhazia, civil war in Tajikistan.

The age and sex of migrants also changed. In earlier years, youth was a prevailing characteristic of migrants; they constituted the bulk of educational and labor migration and also migration related to military service. There was a significant percentage of male migrants (army), whereas in the 1990s, migration became more family-based, causing an increase in the average age of migrants and a more equal sex structure.

The above mentioned features have not been constant. They have changed depending on the situation in Ukraine and other post-Soviet countries. We can break up the development of migration into three phases in line with its volume, direction and results. The first phase covers the period of 1991-1993, the second – 1994-1998, the third started in 1999 and is ongoing.

The first of these phases is characterized by massive migratory movements, or so-called stress migration caused by the collapse of a once united country, by the worsening of the internal political situation in a number of the new independent states, which even included military conflicts in some of them. During this phase, there was a strong increase in migratory surplus as a result of which the Ukrainian population kept growing despite a negative birth rate.

Migratory growth was primarily driven by Ukrainians who wanted to live in their own country and were repatriating from the North of Russia, the Far East and Kazakhstan, as well as repatriation of those subject to repression and exile in totalitarian times and which became possible after Ukraine became independent. It was also led by the influx of both Ukrainians and authentic population from places of conflicts in Central Asia and Transcaucasia.

The ethnic structure of migrants proved that there existed a powerful repatriation movement. In 1989, Ukrainians constituted only 35% of the total migratory influx from the USSR republics, whereas in 1991 and 1992 they rose to 38.9% and 46% respectively. 40% of the migratory surplus in 1991 was formed by ethnic Ukrainians. The record-breaking migratory surplus in 1992 included 60% of ethnic Ukrainians.

In contrast, among emigrants, the share of Ukrainians decreased and comprised 37.7% in 1991 and 28.8% in 1992. The largest share of Ukrainians was among immigrants from the Baltic States; between 1992 and 1993 it exceeded 60%. 54% of immigrants from Turkmenistan were Ukrainians. Ukrainians constituted half of immigrants from Belarus, Russia and Kazakhstan.

There was also the active repatriation of Crimean Tatars, Armenians, Greeks, and Germans who were illegally exiled by the Stalinist regime in 1944. Repatriation started at the time of perestroika, when over 30,000 of those previously deported returned to Crimea. According to the national census, in 1989 there were 38,400 Crimean Tatars in Crimea. But between 1991 and 1993, about 88,500 people of Crimean Tatar nationality arrived in Ukraine, amounting to almost 7% of the total number of immigrants.

In addition to the natural wish to live in one's motherland, a significant number of immigrants had other reasons which forced them to move. According to the poll results obtained by state statistics in 1991, even though almost half of immigrants were motivated by family related issues, 12.6% were forced to move because of worsening of international relations and 2.0% because of a high crime rate. That means that almost 15% of 1.27 million people who migrated to Ukraine for the period 1991-1993 could be called forced migrants or refugees.

These people include both ethnic Ukrainians and representatives of nationalities from conflict zones. The status of some of those people was confirmed by documents. In the summer of 1992, Ukraine granted asylum to 60,000 victims of conflict in Transnistria in Moldova Republic. Refugees from the conflict zone of Abkhazia were also seeking shelter in Ukraine. According to the estimates from Georgia, there were no less than 15,000 of these,⁵ however official government decrees refer to the provision of help to only 3,000 refugees from Abkhazia.

The second phase which lasted from 1994 until 1998 is characterized by a drastic decrease in the flow to Ukraine from former USSR republics with a steady or even increasing volume of outflow which caused a migratory deficit in Ukraine totaling 91,600 in 1994. Altogether, over five years, more than 900,000 people migrated from Ukraine to CIS and Baltic states, whereas 630,000 immigrated.

Because of the profound economic crisis, the attractiveness of the country as a destination for immigrants decreased. Due to the ceasefire and armistice in most conflict zones in the territory of the CIS, the "pushing out" factor which caused forced migrations diminished. Besides that, the majority of those who were willing to repatriate to Ukraine, who were hurrying up to settle citizenship or property issues, had already done so; thus the migratory potential of the "eastern" diaspora was gradually weakening.

The unfavorable economic situation not only frightened immigrants, but also motivated a number of Ukrainians to seek better living conditions abroad. The lion's share of emigrants in 1994 to 1998 went to Russia (636,000 people in five years or 70% of those who went to the post-Soviet countries), where the economic situation was better, wages and the standard of living higher and entrepreneurial conditions more favorable. Only 270,000 people arrived from Russia, i.e. the migratory deficit caused by migration to Russia in 1994-1998 comprised 366,000 persons.

⁵ Stadilna J. Nam ci problemy zrozumili (We understand this problems) "Golos Ukrainy", Kyiv, 2003, March 20, p.13.

However, this deficit was partially compensated by the influx from other post-Soviet countries: the population exchange with Uzbekistan created a migratory surplus of 35,700, with Kazakhstan: 20,700, with Georgia, 10,500, with Armenia, 9,000.

The population decrease during this phase was in most part explained by the migration of Russians. Between 1994 and 1998 the number of Russians in Ukraine due to migration decreased by almost 240,000. 85% of the deficit was comprised of migration to Russia. A part of the migratory flow previously directed to Ukraine from non-Slavic countries has also changed direction towards Russia. This flow consisted not only of Russians but also of Ukrainians and representatives of other nationalities. Despite that, Russians continued to constitute a substantial part of the influx to Ukraine from all republics of the former USSR. For example, in 1994, Russians constituted 20% of migrants from Uzbekistan, over 50% of migrants from Kyrgyzstan.

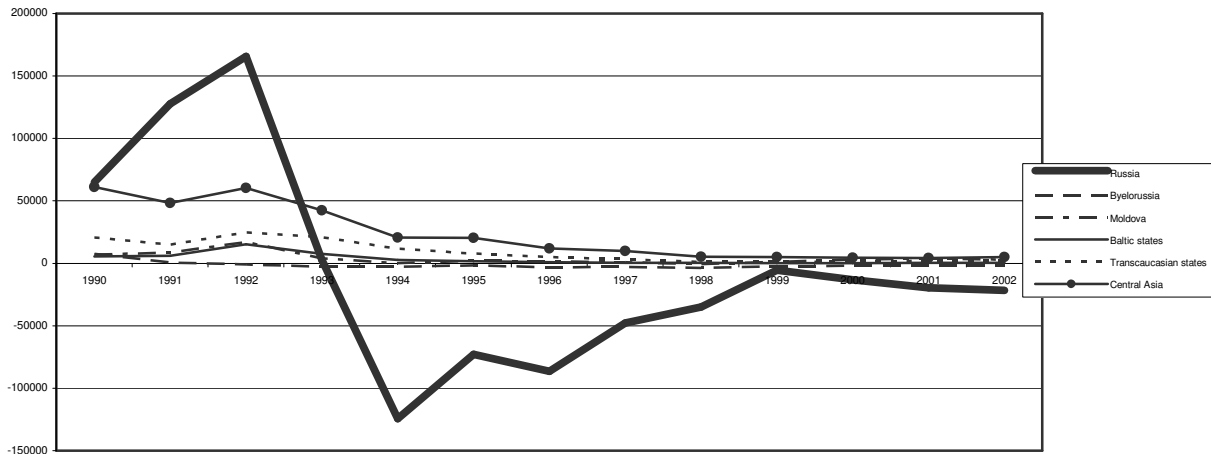


Exhibit 2. Migratory surplus (deficit) due to migration between Ukraine and the CIS and Baltic states, thousands

As for Ukrainian ethnic groups, there was a migratory surplus with most of the former USSR republics. The influx of Ukrainians was tenfold the outflow to Azerbaijan; it was 11 times bigger for Kyrgyzstan and Lithuania; 15 times for Latvia, 21 times for Georgia and 33 times for Armenia. At the same time, statistical data registered quite a significant outflow of Ukrainians to Russia. Due to that, over five years there was a 38,000 migratory deficit with CIS and the Baltic states for the Ukrainian ethnic group.

The repatriation of Crimean Tatars was ongoing. During the five years of the second phase 36,000 people of this nationality migrated to Ukraine. Difficult economic conditions in Ukraine and settlement problems in Crimea, caused by the lack of jobs and housing were slowing down repatriation but never stopped it.

The third phase started approximately in 1999 and is still ongoing. This phase is distinguished by a quieter character. As well as other social processes, migration, after some drastic changes,

has returned to its normal course, which is determined mostly by socio-economic indicators rather than political events. The volume of migratory movement continues to decrease as well as the difference between the influx and the outflow. Migratory deficit with CIS and Baltic states is not significant, which allows us to speak about a certain parity (in 1999 it comprised 5,500, in 2000 - 13,100, in 2001 - 19,500 and in 2002 - 21,600).

Since most migrants were, as before, moving between Ukraine and Russia the result of migration was influenced first of all by the decrease of outflow from Ukraine which in turn was caused by a certain stabilization of the Ukrainian economy, a decrease in the income gap for citizens of the two countries, the financial crisis in Russia in 1998 and by the Chechen war. There is still a migratory deficit between Ukraine and Russia but it is significantly less than in earlier years. As before, the outflow to Russia and Belarus was partially covered by the influx from other post-Soviet countries. Migratory surplus for those countries comprised over 15,000 in 1999, over 9,000 in 2000 and over 10,000 in 2001 and 2002.

The population exchange with the most ethnically and geographically close countries of the former USSR – Russian Federation, Belarus and Moldova was quite active, whereas migration to and from Baltic States practically ceased. Contacts with Transcaucasian and Central Asian countries acquired a one-sided character, while there exists a stable, although not numerous influx from those countries, repatriation is ongoing.

This statement is confirmed by the fact that even though the total number of immigrants is decreasing, the share of those who were born in Ukraine is increasing. In 1995 it comprised 47.1%, in 1996 - 48%, in 1997 - 48.4%. In 2000 this indicator reached 51% and in 2002 - 64%, i.e. repatriates comprised the major proportion of immigrants from the post-Soviet countries.

A substantial part of the repatriation process is the ongoing repatriation of those who were subject to exile. Only in Uzbekistan, according to calculations based on research conducted there, are there over 180,000 Crimean Tatars who are willing to return to Ukraine.⁶ A certain number of repatriates will return from other Central Asian countries and from the Russian Federation. According to the forecast of the Crimean Cabinet, one can expect the repatriation of another 250-300,000 deported Crimean Tatars, Bulgarians, Armenians, Greeks and Germans⁷.

The total result of migration between Ukraine, CIS and the Baltic states between 1991 and 2002 is positive for the country, though not significant. About 2.1 million people migrated to Ukraine, more than half of them between 1991 and 1993, 1.8 million migrated, of which the most substantial part in 1994. The influx was larger exceeded outflow by 260,000. We can therefore conclude that migration between Ukraine and post-Soviet countries did not greatly influence the population numbers in Ukraine. At the same time, migration affected the ethnic structure of the

⁶ Pribytkova I. Emigracionnyj potencial raneje deportirovannyh krymskih tatar v Respublike Uzbekistan (Emigration potential of former deported Crimean Tatars in Republic of Uzbekistan). Kiev, 1998. p.41.

⁷ Ovod V. Migracionnye processy v Krymu: istorija, problemy, perspektivy (Migration processes in Crimea: history, problems, perspectives). Simferopol, 1997, p.22.

Ukrainian population. The increase in the share of Ukrainians and Crimean Tatars is a direct consequence of the repatriation processes. Forced migrations of the post-Soviet era caused an increase in the number of Azerbaijanis, Armenians, Georgians, Tajikistanis and Turks in Ukraine, nations which suffered from inter-ethnic and civil conflicts.

Migration between Ukraine and “old” foreign countries

The outflow of the Ukrainian population to so-called “old” foreign countries, i.e. countries which were not part of the USSR, had a decisive impact on the volume of the migratory deficit in Ukraine. The outflow to that region constantly exceeded the influx almost tenfold.

More or less numerous migrations started only in 1970s when at the period of liberation Soviet government under pressure of the world community had to somewhat loosen migration restrictions. For example, during the whole period after the Second World War up until 1970 just over 2,000 people emigrated from Ukraine to Israel, whereas in 1970 – almost 81,000, two thirds of them between 1975-1979.⁸

With the beginning of perestroika, the scale of migration increased. Starting from 1987 in the USSR a directive came into effect which gave permission to leave the country not only on the basis of invitation from close relatives (father, children, and spouse), but also from other relatives (brother, sister). This significantly broadened opportunities for family reunion based migration.

In 1987 organs of domestic affairs issued permission to leave the country for permanent residence to 5,400 thousand Ukrainians (3,000 for Israel), in 1988 - 13,000 (10,000 for Israel), in 1989 - 36,5000 (33,2000 for Israel). The largest number of permissions was issued in 1990 - 73,000 (68,000 for Israel). Together with parents, permission documents were issued to 22,000 children, i.e. the total number of emigrants exceeded 90,000.

This wave of migration had a pronounced ethnic character which was explained by the fact that it was primarily ethnic minorities – Jews, Germans, Greeks, and Poles – who had relatives abroad, and by the fact that Germany and Israel were encouraging repatriation.

In 1991 migration from Ukraine changed somewhat. Including children, approximately 70,000 permissions were issued (48,500 or 70% for Israel). Some of those permits have never been utilized. Migration slowed down because of the Gulf War and the worsening international situation. Besides, the collapse of the Soviet Union and declaration of independence of Ukraine also influenced the intensity of migration. Hopes for better life slowed down the rate of migration.

In 1992 the number of migration documents issued was one third less than in 1991 and comprised 44,000. In the following years the rate of migration grew slightly, though it never reached the numbers of 1990. In 1994 it comprised 58,700 people, which was the largest rate in

⁸ 1993:2002 – the data of the State Committee of Ukraine for Statistics; Earlier period – the data of the Ministry of Interior of Ukraine.

the history of independent Ukraine. As well as in the case of migration to the CIS and Baltic states, migration to the “old” foreign countries was determined by the profound economic crisis.

After 1994 migration to the “old” foreign countries was constantly diminishing and in 2002 it comprised 26,700 which was almost three times less than in 1991 (Exhibit 3).

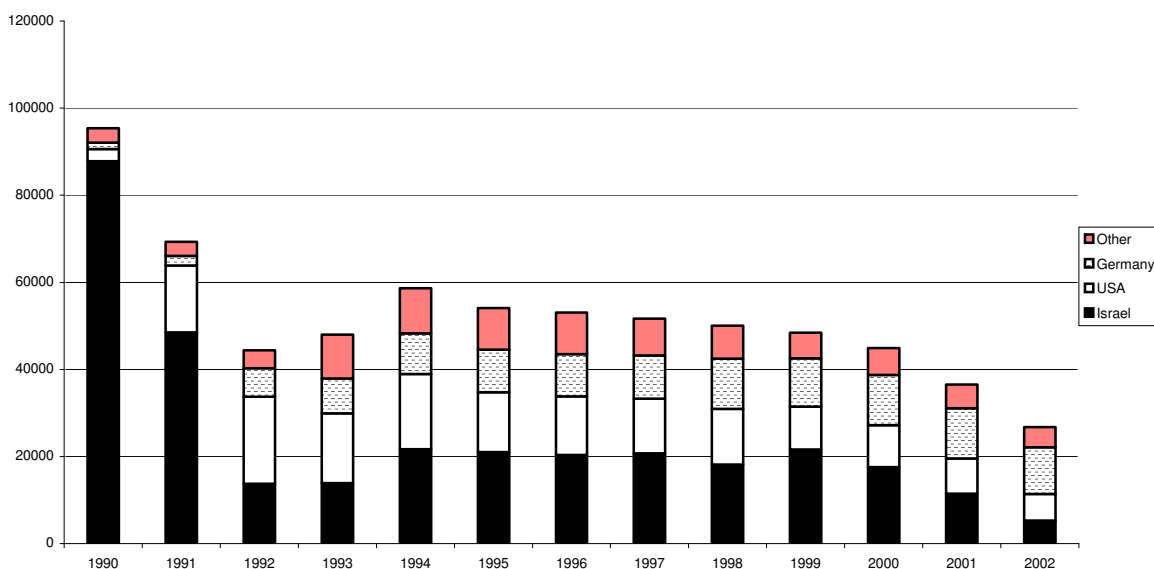


Exhibit 3. Emigration from Ukraine in 1990:2002, thousands

Israel, Germany and the USA were and remain the main countries of immigration. There are also significant flows of migrants going to Canada, Hungary and Czech Republic. The share of migrants going to Israel gradually decreased (38.9% in 1995, 31.3% in 2001). In 2002 less than one fifth of migrants went to Israel (19.7%). Instead, the number of migrants to Germany, the USA and other countries increased.

The number of migrants to Germany increased both in absolute and in relative figures. Germany not only reached Israel’s numbers but took a significant lead over them. In 1991, over 2,000 people migrated to this country but in 1995, this figure reached 9,800, and in 2002 -10,700.

The ethnic structure of migrants proves migration to the “old” foreign countries gradually loses its ethnic character. In the early 1990s, about 60% of people who received permission to leave the country belonged to a Jewish ethnic group, whereas in 1993 the share of Jews among migrants shrank to 46%. Instead, 20% of migrants were Ukrainians, and 13% were Russians.

The share of Jews among migrants continued to shrink thereafter. In 2002 Jews constituted less than 15% of migrants going to the “old” foreign countries. Ukrainians became the most numerous group, constituting 50% (compared to 14.8% in 1991) Russians had a 15.4% share among migrants (compared to 10.4% in 1991) (Exhibit 4).

Worth noting is the structure of migrants in terms of countries of destination. In 1995, 57% of persons who migrated from Ukraine to Israel were Jews, in 1996 -50%, in 1998 - 31%, in 1999 - 30%. In 2000 their share shrunk to 28% and in 2002 to 23%. On the other hand, Ukrainians and Russians were respectively 47.8% and 22.5% of migrants to Israel.

Let us consider that the portion of Jews among migrants to Germany in 2002 was larger then among migrants to Israel and constituted 23.4%. The share of Ukrainians among migrants to this country comprised 41.1%, the share of Russians, 16.9%. The share of Germans was only 11.2%.

The share of Ukrainians among migrants to the USA was even greater, amounting to 76.7%. Russians constituted 10.4% of the migrant outflow in 2002, Jews only 3.5%. Canada is almost among the countries of destination were Ukrainian migrants had a majority. In 2002 Ukrainians constituted 70% of the migrants to this country.

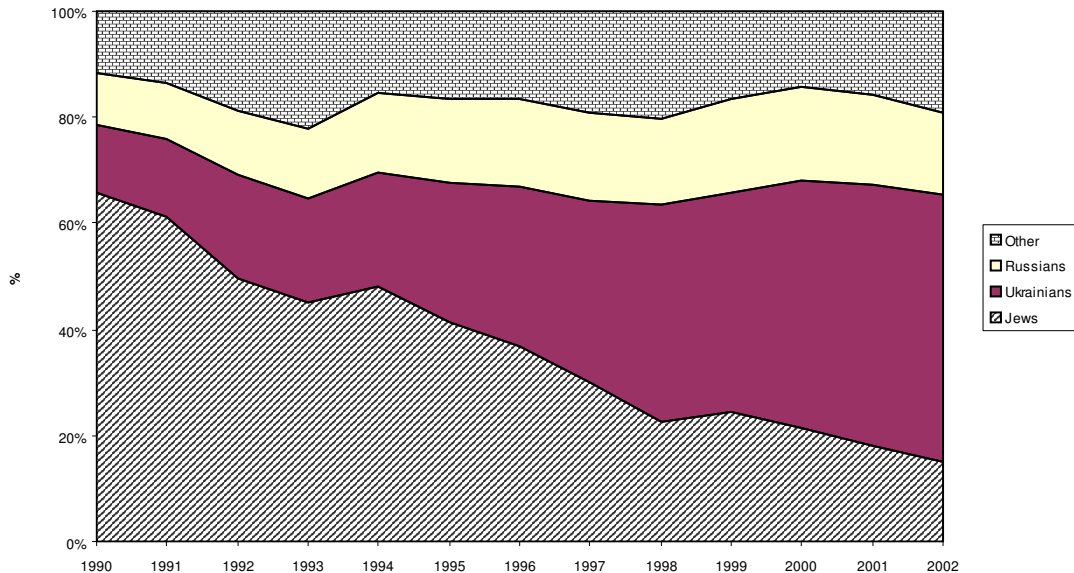


Exhibit 4. Ethnic structure of emigrants going to “old” foreign countries in 1990:2002, %

Together with the decrease in the share of Jews that can be explained by a gradual exhausting of the demographic basis for ethnic migration, there was a continued redistribution of Jewish migrants in favor of countries other than Israel. In 1993 - 47% of Jewish migrants went to Israel, whereas 54% went to the USA and Germany. In 2002, the numbers were 30.6% and 63% respectively.

Reasons for migration, according to different polls, are economic in their nature. Small and decreasing numbers of migrants going to the “old” foreign countries are also explained by economic factors. On the one hand, the introduction of a free cross-border movement after Ukraine became independent had to encourage the growth of migration. But the democratization

of social life removed political, ethnic, religious and other similar reasons for migration, together with other grounds which in totalitarian times allowed refugees to obtain asylum in the Western world.

On the other hand, opening borders once Ukraine became independent provided an opportunity to achieve the main goal of migration, i.e. to improve the standard of living by means of temporary labor trips without abandoning the homeland forever and without ruining important social and emotional relations.

In Soviet times, trips abroad were a privilege for all but a chosen few, but in the 1990s they became available to regular citizens. According to the Ukrainian Interior Ministry, in 1986, at the dawn of perestroika, the number of trips abroad for private affairs did not exceed 43,000. In 1991 it reached 232,700 an increase of 54 times its original figure. A significant part of those trips was not connected to tourism, recreation or visits of relatives and friends, but had the purpose of gaining an income.

According to state statistics, the volume of officially registered labor migration is constantly growing. In 1996 it comprised 11,800, in 1998 - 22,400 and in 2001 - 36,300.⁹ In 2002 - 40,683 people obtained employment from foreign employers through official mediators. However, the above mentioned numbers do not even closely reflect the real scale of labor migration, which can only be assessed through different calculations and observations.

For instance, according to research conducted by the State Committee of Statistics of Ukraine in 2001, the number of Ukrainian citizens who work abroad comprises at least 1 million people. This result is quite reliable, since it is based on one of the most large-scale research programmes into labor migration, and one which covered 8,000 households in 8 oblasts of the country.¹⁰ It is possible however, that the real number of labor migrants is even larger, since people tend to hide their additional incomes, especially non-official ones.

According to the results of the all-nation sociological monitoring performed by the Institute of Sociology of NAS Ukraine, 10.2% of members belonging to Ukrainian households have experience of temporary labor migration.¹¹ There are about 13 million households in Ukraine, which means that at least 1.5 million people went abroad with the purpose of gaining an income. In reality the number of labor-migrants is even larger, since in each household there could be several persons who participate in labor-migration.

⁹ *Pracevlashtuvannya hromadjan Ukrainy za kordonom u 2001 roci (Employment of citizen of Ukraine abroad in 2001)*, "Informacijne zabezpečenja rynku praci v Ukraini", Kyiv, 2002, p.177.

¹⁰ *Libanova E. Poznjak A. Formirovanije potokov trudovyh migracij v pogranichnyh regionalh Ukrainy (Formation of the labour migration flows in border regions of Ukraine)*. " Migration and border regime: Belorussia, Moldova, Russia and Ukraine", Kiev, 2002, p.134.

¹¹ *Pribytkova I. Trudovyje migranty v social'noj ijerarhiji ukrainskogo obshchestva (Labour migrants in social hierarchy of Ukrainian society)* "Sociologija: teorija, metody, marketing", Kyiv, 2002, № 4, p.159.

Based on the research conducted by a number of oblast centers for employment in accordance with the directive of the Ministry of Labor and Social Policy of Ukraine, the total number of labor migration in Ukraine does not exceed 2 million people.¹²

In addition to these figures, there exist estimates that essentially exceed the abovementioned data. Some economists claim there are up to 5 million people¹³. Politicians raise the number even higher. For instance, the commissioner for human rights in the Ukrainian Parliament believes up to 7 million Ukrainian citizens have moved to find work abroad.¹⁴

According to the information from Ukrainian embassies, Ukrainian labor migration has the following structure in terms of countries of destination: in Poland there are 300 thousand labor migrants, in Italy and the Czech Republic, 200,000 (each), in Portugal, 115,000, In Spain, 100,000, in Turkey, 35,000, in the USA, 20,000. The number of Ukrainians who work in the Russian Federation is estimated to be 1 million people.¹⁵

Despite the differences in estimates, they prove that labor migration has become a typical and widespread additional or primary source of income for many Ukrainians. Labor migration therefore is of great socio-political importance.

The migratory behavior of Ukrainian citizens has changed significantly over the last decade. Right after the borders were opened, the first labor migrants started to go abroad with cheap domestic goods. They made money selling those goods abroad and buying and importing into Ukraine other commodities. This so-called “boat” migration not only helped many Ukrainians to survive through the most difficult period of reforms, but also allowed them to gain economic experience in market conditions and made it possible for some of them to become entrepreneurs.

It also played significant role in filling the consumer market with cheap imported goods at a time when domestic production was in crisis and popular purchasing power was low.

Later on, the experience and connections obtained from such commercial trips were used to arrange trips with the purpose of finding employment, which usually provided a higher and more stable income. Labor migration was becoming increasingly common among the Ukrainian population. Citizens from the capital and other major cities, who were better informed, more mobile and had more relations with foreign countries, were the first to get involved in labor migration. Gradually citizens of smaller towns became more active too. According to all- nation

¹² Trudova migracija naselenja Ternopiljskoji oblasti: kil'kisnyj ta geografichnyj aspekty (Labour migration of the population of Ternopil oblast: quantity and geographic aspect) Ternopil, 2002, p.41.

¹³ Hnybidenko I., Problemy trudovoji mihraciji v Ukraini ta jih vyrisshennja (Problems of Labour Migration in Ukraine and its Solution), "Ekonomika Ukrainy" 2001, No. 4, p. 19.

¹⁴ Za granicej rabotajut bolee semi millionov (!) grazdan Ukrainy (Seven millions (!) citizens of Ukraine work abroad). www.facts.kiev.ua/ sept2002.

¹⁵ Ivashko I., Benj A. P'jatj mil'joniv na zakordonnyh zarobitkah (Five millions work abroad). "Golos Ukraine", 2003, April 3, p.2.

sociological research, citizens of small towns and villages are well represented in labor migration flows. 33% of households with labor migrants are located in small towns and 28% in villages.¹⁶

The scope of countries of destination for labor migrants also increased. Though Russia and Poland as neighboring countries with a simplified visa regime (the latter until October 2003) remain the most popular among labor migrants, the number of Ukrainian labor migrants is on the increase in Southern Europe, in some Asian and even in Latin American countries. For example in Portugal there were only 127 official immigrants in 1999, but in 2002 their number comprised 65,500, a 400 fold increase.¹⁷

This new character of trips to foreign countries and the type of employment there conditioned changes in the structure of migration. Comparison of data from modern research into labor migration with the data from early 1990s shows¹⁸ that now there are significantly more males among labor migrants. The average age of labor migrants decreased. A twofold decrease in the number of labor migrants with higher education. In contrast the number of labor migrants with secondary education, and production workers grew. Whereas previously labor migrants retained at least formal employment relations with their homeland, at present they more often refuse them meaning that systematic labor migration becomes their main occupation and way of life.

Remittances abroad are very important for the wellbeing of citizens. Sociological research proves that households of migrants are relatively better equipped with modern household goods, furniture, cars, etc. For instance there are 55 videotape recorders per 100 migratory households compared with 13 videotape recorders per 100 average Ukrainian households. Microwave ovens per household compare at 25 to 2, computers – 24 to 2. On average there are 12 cars per 100 Ukrainian households compared with 36 per 100 migratory households¹⁹. Families of migrants are 2.3 times more likely to wear fashionable clothes, far fewer suffer from a lack of basic consumer goods²⁰.

Volumes of investments received by Ukraine due to labor migration are hard to assess. Unfortunately no serious research of this issue has been done yet. According to some estimates, the monthly average income of migratory households approaches 2 billion hryvnas, approximately one third of the total nominal income of the population²¹. According to other

¹⁶ Pribytkova I. Trudovyje migranty v socialnoj ierarhii ukrainskogo obshchestva (Labour migrants in social hierarchy of Ukrainian society) "Sociologija: teorija, metody, marketing", Kyiv, 2002, № 4, p.160.

¹⁷ Susak V. Ukrainski gostjovi robotnyky ta immigranty u Portugaliji (1997:2002) (Ukrainian guest workers and immigrants in Portugal (1997:2002) "Ukraina u suchasnomu sviti", Kyiv, 2003, p.194.

¹⁸ S.Pyrozkov, O.Malynovska, N.Marchenko. Zovnishnja migracija v Ukraini: prychny, naslidky, strategiji (International migration in Ukraine: causes, consequences, strategies). Kyiv,1997; In:depth studies on Migration in Central and Eastern Europe: The Case of Ukraine. UN, 1998; S.Pyrozkov, O.Malynovska, O.Khomra. Vneshnije trudovyje migraciji v Ukraine: socialjno:ekonomicheskij aspect (International migration in Ukraine: socio:economic aspects) Kyiv, 2003.

¹⁹ S.Pyrozkov, O.Malynovska, O.Khomra. Vneshnije trudovyje migraciji v Ukraini: socialjno:ekonomicheskij aspect (International migration in Ukraine: socio:economic aspects) Kyiv, 2003; Statistychnyj shchorichnyk Ukrainy 2001 (Statistic yearbook of Ukraine 2001) Kyiv., 2002, p.442.

²⁰ Pribytkova I. Trudovyje migranty v socialnoj ierarhii ukrainskogo obshchestva (Labour migrants in social hierarchy of Ukrainian society) "Sociologija: teorija, metody, marketing", Kyiv, 2003, № 1, p.112.

²¹ Hnybidenko I., Problemy trudovoji migraciji v Ukraini ta jih vyrishennja (Problems of Labour Migration in Ukraine and its Solution), "Ekonomika Ukrainy" 2001, No. 4, p. 19.

specialists, this income comprises 4 - 6,000 US dollars per annum²². If we multiply this figure even by the minimum estimated number of labor migrants that would give us the result of 5 billion US dollars. According to the estimates of local authorities, only in Ternopil oblast annual transfers from labor migrants constitute about 100 million US dollars. In contrast, the oblast investment program for 2002-2005 aims to attract from foreign investors 13.4 million, i.e. only about 2% of the aforementioned sum.²³ Real incomes of labor migrants are even higher because, according to specialists, no more than one third of them are transferred through banks.²⁴

Money transferred by labor migrants increases effective demand and in such a manner stimulates production. It also fosters small business development and stimulates the formation of the middle class. Goods imported by “boat” migrants fill the domestic market. Foreign labor migration is also a source of experience, knowledge, personal contacts; it is school of business and market behavior. Labor migration has positive impact on labor market.

At the same time, the consequences of labor migration are not very straightforward. An increase in the money supply leads to inflation; cheap goods imported by migrants compete with domestically produced goods. Money brought by labor migrants is spent mainly on consumption and has little or no investment or credit use. Labor migration can cause a deficit of labor in certain industries and regions. It also causes a loss of qualification, since well-trained professionals tend to do have low-skilled jobs abroad.

The outflow of youth has negative demographic consequences; it ruins family relations and children may remain without parental care. A major part of labor migrants travel abroad on tourist and private visit visas; they work illegally without the necessary permits and without official contracts which often leads to serious violations of their labor and human rights.

We may conclude that the major problems related to labor migration are the following: Ukrainian labor migrants are not protected abroad; Ukraine loses significant labor potential, especially in cases where temporary labor migration becomes permanent.

The transformation of temporary labor migration into permanent migration is one of the reasons why the outflow to “old” foreign countries significantly exceeds the inflow. The inflow is extremely insignificant and comprises approximately 5,000 people per annum. During the first few years of independence, the rate of immigration was much higher (73,600 in 1991, 53,900 in 1992, 47,900 in 1993), caused by the withdrawal of Soviet troops from the former socialist countries, rather than by an inflow of foreigners.

²² Stan dotrymanja ta zahystu prav hromadjan Ukrainy za kordonom: Vystup Upovnovazhenogo z prav jjudyny Niny Karpachovoji u Verhovnij Radi Ukrainy (Situation with the guarantees and protection of rights of citizens of Ukraine abroad: Report of the Ombudsmen Nina Karpachova in the Verhovna Rada), “Golos Ukrainy”, 2003, April 15, p.15.

²³ Trudova migracija naselenja Ternopiljskoji oblasti: kil’kisnyj ta geografichnyj aspekty (Labour migration of the population of Ternopil oblast: quantity and geographic aspect) Ternopil, 2002, p.44.

²⁴ Levytsjka L. Zarobitchanstvo: svitla malo, tinej bagato (Labour migration: little light and much of shadow). “Golos Ukrainy”, 2003. Febr. 7, p.15.

Migration between “old” foreign countries is the crux of Ukraine’s migratory deficit. 600,000 people migrated from Ukraine to “old” foreign countries from 1991 to 2002, and only 150,000 immigrated, as a result of which, the population decreased by 450,000.

At present Ukraine attracts only few immigrants. At the same time due to opening of the borders there appeared absolutely new categories of migrants, i.e. refugees and illegal migrants, who usually exploit openness of borders between former USSR republics and try to get through the territory of Ukraine to the West.

Officially there are about 3,000 refugees residing on the territory of Ukraine. There are citizens from over 40 countries, but most come from Afghanistan²⁵. As for illegal migrants, their number is, of course, not registered statistically. There are only some very controversial and doubtful estimates. Some experts say there are up to 60,000, others put the figure at 120 – 130 - 800,000, 1 million²⁶, even 1.6 million.²⁷ The most common estimate is that there are half a million illegal migrants in Ukraine. This estimate is given by the experts of the International Organization for Migration and by officials of Ukrainian frontier security authority.²⁸

According to official data, 85,000 illegal migrants were arrested on Ukrainian borders between 1991 -2001. The number of trespassers increased 100 times from 148 in 1991 to 146,460 in 1999. Decisive measures taken to improve border guarding, especially on the north-eastern part of the state border line, together with the improvement of visa control led to a significant decrease of the number of arrests. There were 5,422 trespasser arrests in 2000, 4,621 in 2001 and 2,605 in 2002.²⁹ At the same time, according to the Ministry of Internal Affairs, they uncover 25 – 28,000 illegal migrants per annum.³⁰

The quantity and composition of these flows are not constant. Most of the migrants in this category intend to reside only temporarily on Ukrainian territory while on their way to the West. At the same time, certain groups of illegal migrants can not leave the country or be deported for various reasons and stay for a longer period of time, create families, work and transform into a part of Ukrainian population. (e.g., according to a survey among undocumented immigrants in Kyiv, they stay an average 6 years³¹).

²⁵ Malynovska O. Bizenci v sviti ta v Ukraini: modeli vyrishennja problemy (Refugees in the world and in Ukraine: models of problem’s solution) Kyiv, 2003, p. 203:204.

²⁶ Shuljga N. Velikoje pereselenije narodov: repatrianty, bezency, trudovyje migranty (The great resettlement of the peoples: hepatriants, refugees, labour migrants). Kiev, 2002, p.192.

²⁷ Zakon pro immigraciju: gostepriimstvo zdesj ni pri chem (The Law on immigration: hospitality is not in a matter). “Zerkalo nedeli”, 2000, Dec. 2, p.12.

²⁸ Marchenko B. Porushnykiv virtualnyh kordoniv ne sudjatj (Violators of virtual borders could not be persecuted). “Golos Ukrainy”, 2003, Febr. 27, p.18.

²⁹ Border guarding in Ukraine: Future perspectives. Presentation of the State program of action aimed at maintaining the regime of the state border, frontier regime and development of border guard troops of Ukraine for the period up to 2005. Brussels, 2002, p.9.

³⁰ Malynovska O. Novi vyklyky nacionajnij ta regionalnij bezpeci: teroryzm, organizovana zlochynnistj, nelegaljna migracija (New concerns for national and reginal security: terrorism, orgenized crime and illegal migration). “New security”, 2003, № 2, p.55.

³¹ „Netradycijni” immigranty u Kyevi / “Non:traditional” immigrants in Kyiv /Blair Ruble, Olena Malynovska (project leaders). Kyiv, p.102.

The formation of Ukraine's migration policy

The formation of Ukraine's migration policy can be traced back to the period when Ukraine was only beginning the state-building process. The Declaration of the State Autonomy, passed on 16 July 1990, proclaimed that Ukraine would "regulate immigration processes".³²

The control of inflows was a significant issue of public concern at that time. The People's Movement of Ukraine listed "migration policy, aimed at a continuous diminishing of absolute and relative numbers of Ukrainians in the population of Ukraine" along with forced collectivization, artificial famine, deportations and the Chernobyl tragedy, as the main crimes of the Soviet regime against the Ukrainian nation. At that time, the Movement thought it was necessary to support the repatriation of all Ukrainians, Crimean Tatars and other formerly repressed nations to their historical homeland.³³

The first Ukrainian law dealing with migration regulation, namely, the Ukrainian Law on Ukrainian Citizenship of 13 November 1991,³⁴ encouraged repatriation by granting the right to obtain Ukrainian citizenship to descendants returning to Ukraine. Later amendments to this legislative act (1993, 1994, 1997, and 2001) strengthened this orientation. Therefore, this document can be regarded as the first Ukrainian legislative act on regulating migration.

In order to support the re-settlement of Ukrainians who had been deported but were now able to repatriate, the government passed a number of special decrees; in particular, as early as January 1992 the Republican Board of deported nationalities of Crimea was created. This board's function was to coordinate the activity of the state bodies of Ukraine and the Crimean Autonomous Region (AR) in matters relating to repatriation possibilities for deportees from Crimean nations.³⁵

During the 1992 First World Forum of Ukrainians, a significant event in public life at that time, the question of immigration into Ukraine was raised by most speakers. Furthermore, it was resolved to provide support to those willing to resettle to their historical motherland and that,

³² "Deklaracija pro derzavnyj suverenitet" (Declaration of the State Autonomy of Ukraine), *Nacionalni procesy v Ukraini: istorija i suchasnist* (National Processes in Ukraine: History and Modernity). Documents and Materials. Kyiv 1997, p. 576.

³³ *Z prohramy Narodnoho ruhu Ukrainy* (From the Programme of the National Movement), *Nacionalni vidnosyny v Ukraini u XX st.* (National relations in Ukraine in XX c.) Collection of Documents and Materials, Kyiv, 1994, pp. 513:514.

³⁴ *Pro hromadjanstvo Ukrainy. Zakon Ukrainy* (About Citizenship of Ukraine. The Ukrainian Law), "Vidomosti Verkhovnoji Rady Ukrainy", 1991, No. 50, p. 701.

³⁵ *Pro zahody, pov'jazani z povernennjam krymskyh tatar do Krymskoji AR. Postanova Kabinetu Ministriv Ukrainy vid 28 sichnja 1992 r.* (About the Undertaken Measures in Return of Crimean Tatars to the Crimean AR. Decision of the Cabinet of Ministers of Ukraine of 28 January 1992), *Deportovani krymski tatory, bolhary, virmeny, greky, nimci.* Collection of Documents (1941:1998), Kyiv, 1999, p. 86.

therefore, there was a need to establish a State Committee on migration and immigration of Ukrainians into their homeland.³⁶

The establishment of the Ukrainian Ministry of Nationalities and Migration was a reaction to a societal need. This was the first specialized government body founded and charged with the responsibility to develop and implement a migration policy.

According to the statute of the ministry,³⁷ it had to coordinate the activities of government bodies within the sphere of planning and implementing measures taken to provide refugees, forced migrants and repatriates temporary accommodation, employment, financial aid, social and medical services. It was also authorized to supervise the organized voluntary repatriation of Crimean Tatar nationals together with Ukrainians and people of other nationalities who were illegally deported from Ukraine.

One of the activities of the Ministry was to establish relations with the Ukrainian diaspora abroad. The Ministry was the main developer of the State program “Ukrainian Diaspora for the period till 2000”. This document was based on the satisfaction of the cultural and educational needs of Ukrainians abroad. In addition, it also envisaged the creation of a data base of information relating to those Ukrainians abroad, who were willing to repatriate and provide possible variants of their settlement in Ukraine.

The migration situation grew more complicated at the beginning of the 1990s because a substantial number of refugees had been forced to flee their previous places of residence due to armed inter-ethnic conflict in some post-Soviet countries. That explains why the first act covering purely migration was the Ukrainian Law on Refugees, passed 24 December 1993.³⁸ In general, provisions of this law were in line with the 1951 Refugee Convention, though at that time, Ukraine had not yet joined the Convention or any other international Conventions.

The next stage in the formation of the state migration legislation was the Ukrainian law covering Ukrainian citizens' movement from and into Ukraine,³⁹ passed on 21 January 1994. The law guaranteed citizens the right of free entry and exit from and to their country (any restrictions of movement abroad were possible only on a clearly defined and temporary basis). For a country which not long previously was closed, it was, without exaggeration, a revolutionary law. It is also worth mentioning that it turned out to be one of the most stable legislative acts in the sphere of migration regulation; not a single amendment has been made to it yet.

³⁶ Rode Nash Prekrasnyy (Our Beautiful Kin), Materials of the First World Forum of Ukrainians of 21:24 August 1992, Ternopil 1993, p. 184.

³⁷ Pytannja Ministerstva Ukrainy u spravah nacionaljnostej ta migraciji. Postanova Kabinetu Ministriv Ukrainy vid 26 chervnja 1993 r. № 487 (Question of the Ministry of Ukraine for nationalities and migration. Decision of the Cabinet of Ministers of Ukraine of 26 June 1993 No 487). “Zibrannja postanov Urjadu Ukrainy”, 1993, № 11, p.246.

³⁸ Vidomosti Verhovnoji Rady Ukrainy, 1994, No. 16, p. 90.

³⁹ Ibid., 1994, No. 18, p. 101.

At the time of adoption of the Law of Ukraine on the Order of exit and entry into Ukraine of Ukrainian citizens, came into effect Article 11 of the Law of Ukraine on the Employment of the Population, which stipulated that citizens of Ukraine have the right to labor or entrepreneurial activity when they remain abroad. The Law on the Employment of the Population also contained other provisions concerning labor migration. In particular it allowed, (on a licensed basis), the creation of bureaus which would carry out job placement of citizens abroad. Agencies and other organizations need to have a certificate issued by the State Service for Employment.

The Ukrainian Law on the Legal Status of Foreigners, which was also based on democratic principles of equality and passed on February 4, 1994⁴⁰, indicated that foreigners and stateless persons have the same rights, freedoms and responsibilities as citizens of Ukraine. Furthermore, the document stated that foreigners are permitted to migrate to Ukraine and be granted refugee status as well.

International cooperation in the sphere of migration started to develop after Ukraine became independent. Already in 1993 Ukraine obtained observer status at the International Organization for Migration. In 1996 Ukraine signed an agreement with the IOM. In 1994, a representative office of the UN High Commissioner for Refugees was opened in Kyiv. On September 28, 1996 Ukraine signed an international agreement with the UNHCR.

These large international organizations had two main activities: to provide direct aid to migrants and refugees who needed it and to foster the development of migration regulation systems, assistance to government bodies and non-governmental organizations which work in the sphere of migration.

The International Conference on the problems of migration on the post-Soviet territory held in 1996 in Geneva under the auspices of the UN (with the participation of many other international organizations and interested governments) became an important event in the sphere of migration regulation, and simultaneously an impulse for its improvement. Ukraine took an active role in the organization of the Conference. The Conference adopted the Programme of Action in which participating countries formulated the basic principles of their policy in the sphere of migration. Respect of human rights and of international norms and standards were among the main principles of the Programme.

The international regulation of migration also was an important objective of international cooperation. In 1993-1996 agreements on the mutual employment of citizens were signed with the Russian Federation, Belarus, Moldova, Armenia, Latvia, Lithuania, Poland, Czech Republic, Slovakia and Vietnam. In 1994, Ukraine participated in the multilateral agreement of the CIS countries on labor activity and social protection of the citizens of the Commonwealth.

⁴⁰ Ibid., 1994, No. 23, p. 161.

The Constitution of Ukraine of 28 June 1996, which established basic approaches in the sphere of societal relations, was crucially important to the development of the country's migration policy. Moreover, the Constitution decreed that principles for regulation of migration processes and foreigners' legal status are determined solely by Ukrainian legislation (Points 2 and 10 of Article 92) and could not be regulated by other legislative acts.

According to Article 25, Ukraine is to ensure support and protection to its citizens abroad. Article 33 stipulates that the freedom of movement, free choice of place of residence, and the right of free exit from the territory of Ukraine are guaranteed to everyone legally residing in Ukraine. Article 26 states that foreigners and stateless persons legally residing within Ukraine are permitted to exercise equal rights and freedoms and to have the same obligations as citizens of Ukraine.

Moreover, they may receive asylum in accordance with the procedure prescribed by law. The Major Law forbids any curtailing of rights due to race, color, religion, language, etc. (Article 24) and guarantees other basic human rights and freedoms. Another very important norm is one which approves development and implementation of governmental programs concerning the return of members of deported nations (Point 1, Article 138).⁴¹

The main principles and approaches of migration policy were formulated most explicitly in the Decree of the President of Ukraine dated October 18, 1997 where migration policy (defined and treated as a part of a social policy) was required to be made consistent with the Ukrainian Constitution.⁴²

The decree declared that Ukrainian migration policy has to be based on the following main principles: free movement into and from Ukraine of its citizens, equality of legally resident foreigners and stateless persons, and a differentiated approach to the various categories of migrants according to Ukraine's national interests, legislation and international obligations. Furthermore, the Decree indicated that the main pillars of migration policy of the country are support for repatriations of ethnic Ukrainians, return of deported people, provision of aid to refugees and asylum seekers, and the regulation of immigration (including of stateless persons) to Ukraine.

The Presidential Decree, despite its severity and evident subordination of migration questions to social issues, considerably influenced the formation of migration policy. Indeed, this document played a founding role in the country's migration policy, the elaboration of which had already begun in 1993, although new documents on migration policy as such have not come into effect (because different governmental bodies did not manage to reach a common position). Besides core principles and directions of migration policy, specific tasks for its implementation through

⁴¹ See: *Konstytutsiya Ukrayiny (Constitution of Ukraine)*, Kyiv, 1997.

⁴² *Pro osnovni naprjamy socialnoji polityky na 1997:2000 rr. Ukaz Prezydenta Ukrainy vid 18 zhovtnja 1997 roku. No 1167 (On the Main Directions of Social Policy on 1997:2000. The President of Ukraine 's Decree of 18 October 1997, No. 1167), "Zbirnyk Ukaziv Prezydenta Ukrainy", 1997, No 4, p. 44.*

executive power for the next few years were defined in the Decree. Furthermore, the needs of repatriates to be provided the opportunity to obtain Ukrainian citizenship, for the restoration of rights and guarantees to deported persons, for the development of pertinent government programs, for becoming a signatory to international agreements protecting migrants' interests, for differentiated quotas in immigration regulation, for preventing illegal migration, for taking measures in order to join the 1951 UN Refugee Convention and the 1967 Protocol relating to the status of refugees and, finally, for continuing international cooperation with the UNHCR, IOM and OSCE, etc. in migration issues.

Recent and important steps that were undertaken to finalize the shape of Ukrainian migration legislation can be regarded as an outcome of the implementation of the Presidential Decree. In order to make international obligations consistent with the Constitution of Ukraine and in order to remove the faults of migratory legislation found after its practical use, amendments were made in 2001 to the following Laws: On the Citizenship of Ukraine, On Refugees, On Immigration and On Changes to Some Ukrainian Legislative Acts about Prevention of Illegal Migration.

This also determined the necessity of certain amendments to provisions of the Law of Ukraine on the Legal Status of Foreigners (2002, 2003) regarding rights and freedoms of foreigners and stateless persons in Ukraine and immigration procedure. For instance, the matter concerns the right to appeal to court a deportation decision, the setup of procedure for arrest and detention of illegal migrants.

The improvement of domestic legislation allowed Ukraine to join the 2002 Refugee Convention and Protocol,⁴³ as well as to gain membership in the International Organization for Migration starting from July 2002.

Faults and problems with Ukraine's migration policy

Even though Ukraine achieved some obvious success during the years of its independence in the development of migration policy, it is still too early to say that it has an sufficient system of regulation of migration issues, i.e. a system based on a scientific approach and forecasts of the situation, has clear goals and tasks, a legal and financial basis as well as mechanisms and instruments of regulation.

Firstly, there is no clear definition of either what Ukraine wants to achieve through its migration policy or what such policy is needed for exactly. Migration policy during the decade of independence was reactionary rather than the result of a comprehensive situational analysis and search for optimal methods to achieve predetermined goals. Although during times of rapid geopolitical transformations, including independence and reform of the social order, some confusion is understandable, such a state of affairs is now unsatisfactory. Nevertheless, Ukraine

⁴³ See: "Oficijnyj Visnyk Ukrainy", 2001, No. 8, p. 37; No. 9, p. 1; No. 27, p. 1; No. 29, p.58.

has so far elaborated no fundamental guidelines for its migration policy to guide a complex solution to migration issues in all areas of societal relations.

The absence of a recognized orientation or framework to realize Ukraine's migration policy has led to obvious disproportions. The most developed policy in the sense of legislation and organization covers the prevention of illegal immigration. Due to new legislative measures, including sanctions against human smugglers and traffickers, the liability facing organizers of and assistants in illegal migration and violators of the rules on entry and residence in Ukraine has increased.

Thanks to the mutual realization of special inter-governmental programs, the prevention of illegal migration is left to the permanent and coordinated control of frontier guards, police and local governments. Already in January 1996, the Ukraine Cabinet tabled the first program to prevent illegal migration in 1996 - 1997. Later, another similar three programs were passed, particularly, the Programme for the Prevention of Illegal Migration during 2001-2004, approved by Presidential Decree on January 18, 2001, No. 22/2001. Thanks to those measures, visible results were achieved: border and visa control is improving, the number of arrests of illegal migrants by frontier guards has significantly decreased, the deportation system for illegal migrants is also improving and cooperation with foreign countries in this matter is becoming smoother.

While not diminishing the importance of preventing illegal migration, it must be pointed out that the attention paid to this particular facet of international migration seems disproportionately great. During 1999, the peak of illegal migration, frontier guards arrested 14,600 illegal migrants. While the movement of people from the CIS countries into Ukraine, mostly due to repatriation, exceeded two million over ten years, on the other hand, the temporary labor migration of Ukrainian citizens abroad is counted in millions of people.

Nevertheless, the state migration policy, particularly immigration policy, is only of a restrictive and protective nature. To some extent, it is understandable by the old Soviet way of thinking, according to which all problems are resolvable by force and administrative methods. However, it is important to reach a social consensus on this question. The autarkical outlook, moulded over decades, lacking the experience of communication with representatives of other cultures and further exacerbated by the mass popularization of threats of an "invasion" of foreigners (a favorite topic of the Ukrainian media), provided general support for the prevention of illegal migration.

It seems that fear of an uncontrolled influx of foreigners is of deeper origin and is connected to the particularities of the present developmental stage of the Ukrainian nation and Ukrainian identity. Questions pertaining to the role of the "ethnic core," "other core nations" and national minorities in forming Ukrainian statehood and linguistic matters are uncomfortable and ignite debate that is, in fact, discussion of whether Ukraine should become a multicultural state as opposed to a one-nation state or even whether it should integrate itself into the European or

Eurasian area. In this situation, high immigration rates could disturb any tentative compromise reached by different political forces and regions and pose a danger for the country's stability and integrity.

The political battle around ethno-political questions is, probably, one of the main reasons why Ukraine, despite frequent declarations, provided almost no practical support for the repatriation of those, who for various reasons, often outside of their control, found themselves outside the country and wanted to return. In contrast to neighboring Russia, Ukraine has no special law that would provide material assistance to returning deportees and their descendants. The only support that repatriated persons receive from the state is assistance in receiving Ukrainian citizenship.

However, given the frequent forced movements of population in the first half of 1990s, it was insufficient. The Ukrainian Law on Refugees was better tailored to international legal principles than to the nature of phenomena occurring on the post-Soviet territory. The way the law was implemented in practice confirmed that forced migrants from the former Soviet countries could not receive, in the majority of cases, refugee status as construed by international law. Statistics on the granting of rights to those who, under the Ukrainian Law on Refugees, have a right to Ukrainian citizenship (i.e. migrants from Ukraine) is proof of this. Fewer than 300 such cases were registered, which represents less than 10 percent of the total number of officially recognized refugees.

Such a situation cannot be seen as anything but a serious failure of Ukrainian migration policy. In consequence, Ukraine experienced considerable losses. Besides damage to its image and moral authority, there were tangible human losses since many ethnic Ukrainians and other nationalities and one time emigrants from Ukraine, who left their places of previous residence in Transcaucasia and Central Asia wanting to return to their homeland, immigrated to Russia instead of Ukraine because in the former, despite numerous difficulties, they received support and help in resolving settlement and employment problems, etc. Therefore, most ethnic Ukrainians formerly residing in Kazakhstan and other CIS republics (who comprise the largest group of all immigrants in Russia from titular ethnicities of the newly-independent countries) migrated to the Russian Federation.

Furthermore, there was re-migration from Ukraine to Russia of between 1/4 and 1/3 of Ukrainians who were previously inhabitants of various CIS republics at various times.⁴⁴ Ukrainians from former Soviet countries when changing their country of residence obviously go to other destinations besides Russia and, when they do go to Russia, they do not do so solely because of the dire economic situation in Ukraine. The situation in Russia is not much better. Given the Chechen war and other factors, Russia was undoubtedly only attractive for migrants because of its state policy supporting immigrants. For Ukraine, whose population is in decline due to negative demographic tendencies, the loss of potential repatriates is all the more painful

⁴⁴ Naselenie Rosii 2000. Vojmoj ezegodnyj demograficheskij doklad (The Population of Russia of 2000. Eighth Annual Demographic Report / Ed. By A. G. Vishnevskiy), Moscow, 2001, p.110

since most migrants are well-educated or qualified workers and specialists who could be useful in building the Ukrainian state and who additionally are culturally and mentally related to the local population.

The wave of repatriation, once very intensive at the beginning of the 1990s, is decreasing each year. The opportunity to resolve demographic problems and to supplement labor resources has been lost. Moreover, only with great difficulty did the Parliament adopt in 2002 the Law on Foreign Ukrainian, which features at least the state's declared willingness to accept repatriates and to introduce a preferential order of entry to Ukraine for ethnic Ukrainians and for emigrants from its territory.

In fact, there is no legislative act yet by which deported persons could be rehabilitated and have their rights restored on the basis of their nationality/ethnicity. The reason for this is most likely political. However, people deported because of their nationality were the only group of repatriates who received real support from the state. Despite all the difficulties and unresolved problems, Ukraine's achievements in resettling former deportees are undeniable.

The programs and plans approved at the highest level were implemented and ensured financially and organizationally. The program of special actions for settling and finding accommodation for deported persons returning to the Crimea was passed as early as 1996.⁴⁵ Besides resolving accommodation and other social and financial problems, attention was paid to integrating and adapting repatriates to Ukrainian society. This experience could be implemented in the integration of other categories of migrants.

However, it must be noted that their successful settlement was to a large extent due to the deportees themselves, who were organized, defended their interests and became a noticeable element in the internal political life of both the Crimea and Ukraine. It once again confirms the fact that Ukrainian migration policy during the last decade was shaped by the pressure exerted by various circumstances rather than by deep and well thought-out calculations, assessments and forecasts.

Another political phenomenon is well illustrated by the experience of deportees' material status: Ukraine's migration policy was always separate from state plans for economic development. There was speculation about how much immigration costs or will cost the state, but the question of how the country could profit from immigration has never been raised. However, it is obvious, that Ukraine and, particularly, Crimea received one of the most valuable productive factors from the return of deportees: people. The construction sector boomed, agricultural production

⁴⁵ Pro zdijsnennja zahodiv dlja rozv'jazannja socialno:ekonomichnyh, etnichnyh ta humanitarnyh problem v Avtonomnij Respublici Krym. Postanova Kabinetu Ministriv Ukrainy vid 18 bereznja 1996 r. No 335 (On Realisation of Measures for the Solution of Socio:Economic and Humanitarian Problems in the Crimean Autonomous Republic. Decision of the Cabinet of Ministers of Ukraine of 18 March 1996, No. 335), Deportovani krymski tatary, bolhary, virmeny, hreky, nimci. Collection of Documents (1941:1998), Kyiv, 1999, p. 138.

increased due to newcomers' putting more land into production and industry and the service sector received a boost from repatriates creating an additional consumer market. The development of migration policy must acknowledge that immigrants create social prosperity that benefits all members of society. It has been unambiguously proven in international experience.

To sum up, the main achievement of Ukrainian migration policy over the last decade has been the creation of pertinent national legislation consistent with recognized international standards, legal norms and principles. The desire to build a civilized country and to return to the main fold of European civilization, despite the twists of history, united different political parties and allowed the adoption and ratification of, in fact, very liberal laws on Ukrainian citizenship and refugees. The same cooperation permitted the signing of most important international documents on human rights, including the 1951 UN Refugee Convention.

Opponents frequently criticized those decisions, claiming that Ukraine neglects its own interests by its eagerness to standardize Ukrainian law to international requirements. However, generally recognized international norms, included in the Ukrainian legislation, have created strong foundations for the construction of a complex and versatile state migration policy, which would suit contemporary requirements.

Conclusion

In contrast with the 1990s, it is obvious that Ukraine's main challenge will be not an influx of newcomers but a decline of population due to natural decrease and migration. For instance, neighboring Russia, which faces a similar demographic situation, has declared that immigration is the only possible way to replenish its demographic resources. It has been calculated that if current birth and mortality rates remain unchanged, Russia, simply to preserve its current population of 145 million, has to accept almost 70 million immigrants during the next 50 years.⁴⁶ This means that competition for potential immigrants will increase and Russia will become a strong rival to Ukraine. The possibility that some of the Ukrainian population will emigrate to Russia, especially if domestic social and economic conditions do not improve, constitutes a serious threat to Ukrainian society.

The main concern of the near future is not going to be forced migration or the return of masses of people to the motherland, but the labor migration of Ukrainian citizens abroad, including brain drain. There is a danger that the nation will experience considerable losses in labor and intellectual potential. These losses will be especially noticeable during periods of economic

⁴⁶ Naselenije i obshchestvo. Informcionnyj bjuletenj Centra demografii i ekologii cheloveka Instituta Narodnohozjajstvennogo prognozirovaniya RAN, 2001, No. 54, p. 4.

growth. The main goal of migration policy is to minimize these threats and simultaneously maximize the benefits connected to labor migration.

Migration policy will have to be formed and executed under the new conditions of an enlarged EU and increased obstacles confronting Ukrainians wanting to travel abroad arising from the expansion of the Schengen zone to Ukraine's western border. The regulation of movement inside the post-Soviet territory will also change. Russia's withdrawal from the Beshkek Agreement initiated the abolition of visa-free movement within the CIS, and this will require some action on the part of Ukraine.

It will be necessary to abandon old stereotypes. Particularly illusions that the state can and should decide questions about whether or not there is a need for immigrants and whether we have to accept them. Another illusion is that closed borders and rigorous laws will resolve all problems. Furthermore, Ukraine and other countries are powerless to use administrative methods to prevent external migration pressure which exists due to the imbalances of population and affluence between the North and the South of the planet. It must be made clear that the only effective means to prevent illegal migration is its legalization, i.e. the creation of legal conditions for migration movements.

Accepting migration as an ongoing phenomenon and not solely as a reaction to natural disaster or danger will permit the development of migration policy to go beyond trying to ensure control over immigration. Certainly, control of immigration will remain important; however, it will not be the main focus for state activity. Migration policy has to work toward creating prerequisites for immigrants' acceptance and settlement as well as establishing an uncomplicated, effective system to document them and to provide them with permits to allow them to find a home, work and to run small businesses, etc.

The above assumption does not mean that Ukrainian migration policy has to move towards complete liberalization. Ukraine's demographics show that it will certainly need immigrants, whether we like it or not. However, the state's duty is to define precisely how many and what kind of immigrants are needed and then to develop a system for their selection. It is important to anticipate the possible consequences of immigration, be they ethnic, cultural, religious or psychological. It is necessary to prepare and learn how to react to those problems not through preventing immigration but by anticipating and resolving them at minimal cost.

The creation of attractive conditions for immigration for people from the CIS region has to be an urgent assignment of Ukrainian migration policy. First of all, support has to be provided to repatriates and others. The important fact is that immigrants from the post-Soviet countries are former co-citizens and, therefore, the cultural distance between them and Ukrainian citizens is less than as between other foreigners.

The liberalization of regulations regarding immigrants from other countries is also needed. The granting of refugee status according to the 1951 Convention can be the grounds for assigning

legal status to only a limited number of people. There exists a need for other mechanisms and more flexible forms of legalization. Plenty of such examples exist in international practice: granting residence permits on humanitarian principles, temporary asylum and immigration amnesty. Indeed, legalization is a guarantee of controllability and less criminal activity in this sphere.

The globalization of migration has meant the formation of a tolerant attitude towards migrants in society is extremely important. There is a need for specific and continuous work in this direction, in which the mass media plays a leading role.