

Legal Framework for Regulation of Labor Migration From Ukraine to the Republic of Poland in the Conditions of COVID-19

The authors analyse the problem of normative and legal regulation of labor migration from Ukraine to the Republic of Poland in the conditions of COVID-19. They study the phenomenon of legislative regulation of migration policy in the examples of Ukrainian and Polish experiences. They especially consider the extensive, but at the same time insufficiently, developed the regulatory framework of Ukraine on migration issues. In addition, they highlight the consequences of the impact of the COVID-19 pandemic on the formation of normative and legal support for the labor migration of Ukrainians to Poland. The authors also discuss Polish successful practices in ensuring orderly and secure migration, and bilateral cooperation between Ukraine and Poland in the field of settlement of migration flows and threats. The difference in the national approaches of migration policies of Ukraine and Poland regarding the prompt solution of urgent problems of the migration sphere in a pandemic is highlighted. The authors conclude that it is necessary to form a new integrated migration policy for Ukraine taking into account the positive practices of the Polish approach in this area.

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1. Introduction

In the face of current migration processes, national governments have developed specific requirements for their activities and decision-making. Undoubtedly, the peculiarities of migration as a social phenomenon that change almost daily must be taken into account when developing strategies for the socio-economic progress of modern states. Migration processes often cause various problems at both the national and global levels and therefore need to be regulated under national and international law. Given this, the existence of an effective system of normative and legal mechanisms that copes with migration challenges can be considered a guarantee of effective migration policy of the state. The

need for clearly defined rules for settling migration issues has become significantly more important under the influence of the COVID-19 pandemic, the consequences of which are present in all spheres of public life. In the context of migration issues, the agenda includes issues of closing borders, the possibility of returning migrants to their homeland, lockdown, loss of work and livelihood, complicating the procedure for extending the stay of migrants abroad, and more.

As for Ukraine, it is important to study the international experience in the formation of the normative and legal framework in the field of migration because of the declared European integration course, the approximation of internal standards to the norms of the European Union, and neighboring countries. Taking into account the examples of other countries and the socio-economic and political realities of today, the national government must improve Ukrainian migration legislation in line with international standards, taking into account national specifics in this area. The research hypothesis is that the domestic Ukrainian legislation does not fully meet European standards (in particular the Republic of Poland) for the implementation of migration policy and protection of the rights of migrant workers. The main research issues are: 1) to outline the national normative-legal and institutional support for the migration policy of Ukraine and the Republic of Poland; 2) to analyze bilateral agreements between Ukraine and the Republic of Poland on cooperation in the area of migration and ensuring the rights of migrant workers; 3) to monitor changes in the normative-legal framework and specific actions of the national governments of Ukraine and Poland to address the migration problems caused by the coronavirus pandemic; 4) to conduct a comparative analysis of the main components of migration policies of Ukraine and Poland to identify best practices and shortcomings.

First of all, there is a need to analyze the state of the legal and normative framework of Ukraine, which is directly related to the field of labor migration, as well as to determine the relevance of legislative support of migration processes to the challenges posed by the COVID-19 pandemic. Today, labor migration from Ukraine to Poland is considered to be the most intensive among other neighboring countries. According to the Consular Section of the Embassy of Ukraine in Poland, the number of Ukrainian labor migrants in the Republic of Poland is about 1.5 million¹. Taking into account this fact, it is important to study the legal and normative framework of the Republic of Poland in the field of migration policy and the peculiarities of bilateral cooperation on migration. The need for such an analysis is primarily because Polish legislation has a decisive influence on the current nature of labor migration

1 „Pid chas karantynu z Polshchi vyikhaly 143 tysiachi ukraintsiv” *Ukrainska Pravda*, April 9 (2020). <https://www.pravda.com.ua/news/2020/04/9/7247185/>.

of Ukrainians to Poland, and the study of the Polish experience in regulating migration policy can serve as a guide to improving the Ukrainian regulatory system.

2. Ukrainian case

Ukrainian migration policy has undergone significant transformations since gaining state independence in the late twentieth century. Its current trends are determined primarily by „increasing awareness of the scale of migration threats and, accordingly, the government’s focus on mechanisms to address them, reforms in the context of Ukraine’s Euro-Atlantic course, and the challenges of COVID-19. Characterizing the current migration policy in Ukraine, modern researchers Tetiana Nagorniyak and Yuliia Pachos² state: „Migration processes in modern conditions have not only an impact on the economy, society, development of the state as a whole, but also themselves are the result of public policy in a particular sphere of public life and become an indicator of the effectiveness of public institutes”³.

First of all, it should be noted that the basis of the modern migration policy of Ukraine is several normative and legal documents, in particular, the international treaties of Ukraine, the Constitution of Ukraine, and certain laws and regulations of special purpose. In particular, the Constitution of Ukraine⁴ establishes the basic provisions that regulate migration processes. Important here are Articles 9, 18, and 25, which fix the affiliation of international treaties in force in Ukraine to national legislation, the essence of international cooperation, and, accordingly, the rights of citizens.

Legislation that has a decisive impact on the phenomenon of migration of Ukrainians is also enshrined in the Law of Ukraine „On Citizenship of Ukraine”⁵, the Law of Ukraine „On Employment”⁶, the Strategy of Health

2 Tetiana Nahorniak, Yuliia Pachos, „Mihratsiia ukraintsiiv do Polshchii yak naslidok derzhavnoi polityky” *Politychne zhyttia*, Vol. 3 (2018): 27. http://nbuv.gov.ua/UJRN/pollife_2018_3_7.

3 Ibidem.

4 Konsyutsiia Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, 1996. <http://zakon5.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>.

5 Zakon Ukrainy Pro hromadianstvo, Legislation of Ukraine, Official website of the Parliament of Ukraine, 2001. <https://zakon.rada.gov.ua/laws/show/2235-14>.

6 Zakon Ukrainy Pro zainiatist naselennia, Legislation of Ukraine, Official website of the Parliament of Ukraine, 2013. <https://zakon.rada.gov.ua/laws/show/5067-17>.

Policy and Healthy and Active Longevity until 2022⁷, the Law of Ukraine „On labor migration”⁸ of November, 2015, the Resolution of the Cabinet of Ministers of Ukraine „On approval of the Regulations on the State Migration Service of Ukraine” of August 20, 2014⁹. The Strategy of the State Migration Policy for the period up to 2025¹⁰, which was approved by the Cabinet of Ministers of Ukraine on July 12, 2017, is of fundamental importance. Focusing on the government’s previous attempts to formulate a complex migration policy for Ukraine, it should be kept in mind that this document is more systematic and comprehensive. The strategy identifies measures to support migrant workers throughout the migration period; emphasizes the importance of improving the reintegration of returned Ukrainian migrants; emphasizes the promotion of cooperation with the Ukrainian diaspora abroad and the promotion of the repatriation of Ukrainian migrants; involves the involvement of highly qualified foreign specialists; prioritizes the improvement of the procedure for registration of migrants, information and statistical support of migration policy. To implement this document, the Action Plan for 2018-2021 on the implementation of the Strategy of State Migration Policy of Ukraine for the period up to 2025 was approved¹¹. In addition, strategies such as the National Youth Strategy to 2030 of 12 March 2021 are relevant to migration issues. In addition, strategies such as the National Youth

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- 7 Pro skhvalennia Stratehii derzhavnoi polityky z pytan zdorovoho ta aktyvnoho dovolittia naseleattia na period do 2022 roku: Postanova Kabinetu Ministriv Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, January 11, 2018. <https://zakon.rada.gov.ua/laws/show/10-2018-%D1%80>.
 - 8 Zakon Ukrainy Pro zovnishniu trudovu mihratsiiu, Legislation of Ukraine, Official website of the Parliament of Ukraine, November 5, 2015. <https://zakon.rada.gov.ua/laws/show/761-19>.
 - 9 Pro zatverdzhennia Polozhennia pro Derzhavnu mihratsiinu sluzhbu Ukrainy: Postanova Kabinetu Ministriv Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, August 20, 2014. <https://zakon.rada.gov.ua/laws/show/360-2014-%D0%BF>.
 - 10 Pro skhvalennia Stratehii derzhavnoi mihratsiinoi polityky Ukrainy na period do 2025 roku: Rozpordzhennia Kabinetu Ministriv Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, July 12, 2017. <https://zakon.rada.gov.ua/laws/show/482-2017-%D1%80>.
 - 11 Pro zatverdzhennia planu zakhodiv na 2018-2021 roky shchodo realizatsii Stratehii derzhavnoi mihratsiinoi polityky Ukrainy na period do 2025 roku: Rozpordzhennia Kabinetu Ministriv Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, August 29, 2018. <https://zakon.rada.gov.ua/laws/show/602-2018-%D1%80>.

Strategy to 2030 of 12 March 2021 are relevant to migration issues¹²; The National Strategy for Human Rights of March 24, 2021¹³; The National Economic Strategy until 2030¹⁴, and The Strategy of Foreign Policy of Ukraine of July 30, 2021¹⁵.

Legislation in the field of migration includes several Resolutions of the Cabinet of Ministers of Ukraine, such as: „On approval of the rules of crossing the state border by citizens of Ukraine”¹⁶, „On the establishment of the Council on Labor Migration of Citizens of Ukraine under the Cabinet of Ministers”¹⁷, „On the establishment of the Interdepartmental Commission on Migration”¹⁸, as well as the Law of Ukraine „On the Procedure for Leaving Ukraine and Entering Ukraine by Citizens of Ukraine”¹⁹ and „On

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- 12 Pro Natsionalnu molodizhnu stratehiiu do 2030 roku: Ukaz Prezydenta Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, March 12, 2021. <https://zakon.rada.gov.ua/laws/show/94/2021#Text>.
 - 13 Pro Natsionalnu stratehiiu u sferi prav liudyny: Ukaz Prezydenta Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, March 24, 2021. <https://zakon.rada.gov.ua/laws/show/119/2021#Text>.
 - 14 Pro Natsionalnu ekonomichnu stratehiiu na period do 2030 roku: Postanova Kabinetu Ministriv Ukrainy, Government portal of Ukraine, March 03, 2021. <https://www.kmu.gov.ua/npas/pro-zatverdzhennya-nacionalnoyi-eko-a179>.
 - 15 Pro rishennia Rady natsionalnoi bezpeky i oborony Ukrainy, Pro Stratehiiu zovnishnopolitychnoi diialnosti Ukrainy: Ukaz Prezydenta Ukrainy, Official website of the President of Ukraine, July 30, 2021. <https://www.president.gov.ua/documents/4482021-40017>.
 - 16 Pro zatverdzhennia Pravyl peretynnannia derzhavnoho kordonu hromadianamy Ukrainy: Postanova Kabinetu Ministriv Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, January 27, 1995. <https://zakon.rada.gov.ua/laws/show/57-95-%D0%BF>.
 - 17 Pro utvorennia Rady z pytan trudovoi mihratsii hromadian Ukrainy pry Kabineti Ministriv Ukrainy: Postanova Kabinetu Ministriv Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, January 20, 2010. <https://zakon.rada.gov.ua/laws/show/42-2010-%D0%BF>.
 - 18 Pro utvorennia Mizhvidomchoi komisii z pytan mihratsii: Postanova Kabinetu Ministriv Ukrainy, Legislation of Ukraine, Official website of the Parliament of Ukraine, November 8, 2007. <https://zakon.rada.gov.ua/laws/show/1315-2007-%D0%BF>.
 - 19 Zakon Ukrainy “Pro poriadok vyizdu z Ukrainy i vizdu v Ukrainu hromadian Ukrainy, Legislation of Ukraine, Official website of

Ratification of the Agreement between Ukraine and the European Community on the Readmission of Individuals” of 2017²⁰.

The formation of Ukrainian migration policy is undoubtedly influenced by all the international protocols, declarations, charters, and conventions signed by it on migration issues (eg the European Convention on the Legal Status of Migrant Workers²¹ or „Visa Liberalization Action Plan”²²). The conclusion of international agreements on the protection of the rights of migrant workers and members of their families in the host country, social and pension security, and temporary employment of Ukrainians is strategically important for regulating migration issues. For example, Ukraine has signed Social Security Agreements with 23 countries, including Poland, which outline the procedure for receiving social assistance by insured migrant workers.

It should be noted that one of the election promises of the incumbent President of Ukraine Volodymyr Zelensky in 2019 was to create conditions for the return of migrant workers to Ukraine. It is important that during 2020 a certain part of Ukrainian labor migrants returned. Although there is no official information on the number of returnees, according to the International Employment Agency OTTO Work Force for the period from March 15 to May 15, 235 thousand Ukrainians left the Republic of Poland. On the other hand, journalist O. Mishchenko, who studies the coverage of migration processes in the Ukrainian media, provided the following figures: as of early May 2020, about 180,000 Ukrainians had returned from Poland to their homeland since the Polish border closed²³. Given the peculiarities of the labor market, the Polish side expected that in May 2020 about 480 thousand

the Parliament of Ukraine, 1994. <https://zakon.rada.gov.ua/laws/show/3857-12>.

- 20 Implementatsiyni protokol mizh Uriadamy Ukrainy ta Polshchi do Uhody mizh Ukrainoiu ta YeS pro readmisiuu osib, Legislation of Ukraine, Official website of the Parliament of Ukraine, April 25, 2017. https://zakon.rada.gov.ua/laws/show/616_002-17.
- 21 Yevropeiska konventsia pro pravovyi status trudiashchychk-mihrantiv, Legislation of Ukraine, Official website of the President of Ukraine, 1977. https://zakon.rada.gov.ua/laws/show/994_307#Text.
- 22 Bezvizovyi dialoh mizh Ukrainoiu ta YeS. Plan dii z liberalizatsii vizo-voho rezhymu, Legislation of Ukraine, Official website of the Parliament of Ukraine, 2010. https://zakon.rada.gov.ua/laws/show/984_001#Text.
- 23 Bohdan Amosov, „Hranychnyi stan. Shcho vidbuvaietsia iz zarobitchanamy, yaki zastriahly mizh Polshcheiu ta Ukrainoiu cherez COVID-19” *NV.UA*, May 7, 2020. <https://nv.ua/ukr/ukraine/events/karantin-v-polshchi-ta-ukrajini-shcho-vidbuvayetsya-iz-zarobitchanami-yaki-zastryagli-mizh-krajnami-ostanni-novini-50086735.html>.

Ukrainians will return to Poland, but in reality, there were only 110 thousand such persons²⁴.

However, in our opinion, the first reason for such a mass return of Ukrainians from Poland at the beginning of the pandemic was the spread of coronavirus infection and its consequences, and to a lesser extent – a balanced policy of the Ukrainian state. After all, the fact that some migrants returned to Poland after some time means that insufficient efforts were made by official Kyiv to persuade them to stay in Ukraine. This can be explained to some extent by the inefficiency of the state's migration policy. In addition, immediately after the outbreak of COVID-19, the statements of the government and President Volodymyr Zelensky were not fully understood, for example, information about the closure of Ukrainian border checkpoints was unclear, and it was unknown for a long time which ones would remain open²⁵.

However, the attempts of government institutions to make positive strides in resolving migration issues during the coronavirus crisis should not be underestimated. In particular, at the legislative level, the Resolution of the Cabinet of Ministers of Ukraine „Some issues of implementation of legislation in the field of migration for the period of quarantine throughout Ukraine” of March 18, 2020, was adopted²⁶ to release from administrative liability all foreign persons who have not been able to leave Ukraine or extend their stay in Ukraine due to the introduction of quarantine. In addition, in 2020, temporary measures were taken during the quarantine restrictions, including the introduction of a mechanism for providing partial unemployment benefits, simplification of the procedure for registration of persons with the Employment Service, and assistance in the provision of career guidance services. To create new jobs and return migrants, the program „Affordable loans 5-7-9%” was developed, which provided a loan to the entrepreneur at a rate of 5%, 7%, or 9%, depending on the size of the business and its duration. However, even after operating for more than a year, the program did not live up to the expectations of the government and citizens²⁷.

24 Yaryna Turchyn, Olga Ivasechko, „Pandemiia COVID-19 yak vyklyk ukrainskym trudovym mihrantam u Polshchi” *Humanitarian Vision*, Vol. 6, No. 2 (2020): 31-32. <https://doi.org/10.23939/shv2020.02.028>.

25 Maria Piechowska, *Ukrainian Labour Migration to the EU During the COVID-19 Pandemic*. https://pism.pl/publications/Ukrainian_Labour_Migration_to_the_EU_During_the_COVID19_Pandemic.

26 „Deiaki pyttannia realizatsii aktiv zakonodavstva u sferi mihratsii na period ustanovlennia na vsii terytorii Ukrainy karantynu: Postanova Kabinetu Ministriv Ukrainy” *Ukurier*, March 18 (2020). <https://ukurier.gov.ua/media/files/2020-4/259-p.pdf>.

27 „Analizuiemo vykonannia prezydentskoi prohramy: povernennia ukrainsiv z trudovoi mihratsii” *Slovo i Dilo*, March 18 (2021). <https://www>.

Analyzing the actions of the Government of Ukraine in response to the COVID-19 pandemic, it should be noted that at the legislative level there were temporary restrictions on crossing the state border and transport connections, which created several problems for migrants intending to return to Ukraine and foreigners who wanted to leave Ukraine. However, after the establishment of a national quarantine, those who wished to cross the border were given an additional three days to do so. In addition, the authorities facilitated the organization of evacuation and charter flights to return Ukrainians to their homeland.

The issue of observation and isolation required legal regulation. According to the resolution of the Cabinet of Ministers of Ukraine of March 29, 2020²⁸, categories of persons subject to mandatory isolation in specialized institutions within 14 days after crossing the state border were identified. Importantly, in this situation, the government, albeit with a delay, was able to offer an alternative by giving individuals the opportunity to undergo self-isolation, which the relevant institutions could control through the information application „Action at Home”.

Also in 2020, a temporary budget program „Fund to Combat COVID-19” was created, and individual entrepreneurs and employees could receive 8,000 hryvnias in financial assistance from the government. In addition, the Verkhovna Rada of Ukraine adopted the Law „On Amendments to Annexes No. 1 and No. 3 to the Law of Ukraine On the State Budget of Ukraine for 2021” of December 2, 2021²⁹, which was due to the need to implement the budget program „Assistance under the program E-Support”. Thus, adult citizens of Ukraine who have undergone a full course of vaccination have the right to receive one thousand hryvnias for access to certain legally defined services or the purchase of certain goods.

Thus, we can say that some progress has been made in improving the migration legislation of Ukraine, intensifying international cooperation in this area. Implementation of the Visa Liberalization Action Plan has become a key stimulus for improving Ukrainian migration policy. Thus, in the

slovoidilo.ua/2021/03/18/stattja/polityka/analizuyemo-vykonannya-prezidentskoyi-prohramy-povernennya-ukrayincziv-trudovoyi-mihracziyi.

- 28 „Pro vnesennia zmin do postanovy Kabinetu Ministriv Ukrainy vid 11 bereznia 2020 r.: Postanova Kabinetu Ministriv Ukrainy” *Ukurier*, March 29 (2020). <https://ukurier.gov.ua/media/files/2020-3/%E2%84%96%20241-p.pdf>.
- 29 Zakon Ukrainy, Pro vnesennia zmin do Zakonu Ukrainy, Pro Derzhavnyi biudzheth Ukrainy na 2021 rik, Legislation of Ukraine, Official website of the Parliament of Ukraine, December 12, 2021. <https://zakon.rada.gov.ua/laws/show/1931-20#Text>.

process of its implementation, the current legislation was finalized and a new one was adopted, legal relations were regulated, which were not previously defined by special laws, in particular, in the field of external labor migration and reintegration of returning migrants. However, not all issues have been resolved to the end, significant legislative refinement is needed to harmonize with migration policy laws governing other areas of public relations, as well as the development of bylaws to ensure mechanisms for implementing the declared norms.

The disadvantage of urgent elimination is that most of the legal acts of Ukrainian legislation need to be periodically updated. In addition, it should be noted that there is a practical lack of legal documents that would regulate relations with the Ukrainian diaspora, protect the rights of Ukrainian migrants when working abroad, as well as the possibility of returning migrants home under specific conditions (starting own business for preferential taxation, helping to find a job with further professional growth, providing social housing or other property on favorable terms of lending or rent, etc.). Confirmation of the imperfection of Ukrainian regulatory and legal support in the field of migration is also evidenced by the low efficiency of the implementation of existing regulatory and legal documents, such as the financing of measures within the implementation of state migration policy.

In addition, the national government has shown a weakness in its ability to respond quickly to the coronavirus crisis, and sharp constraints in various spheres of society have not always been backed by alternatives or mechanisms to address possible constraints. The expected legal act, which could potentially comprehensively regulate the problems of labor migration in the context of the coronavirus crisis, has not been adopted. However, despite the critical assessment of official Kyiv's response to life in the pandemic, its contribution to resolving the situation should not be completely offset, as several positive steps have been taken to overcome the effects of the pandemic.

3. Case of the Republic of Poland

The migration policy of the Republic of Poland has the task to correspond to the realities of modern national and international processes, for which it needs reliable legal regulators. Taking into account the general state of legal support for the implementation of the migration policy of the Republic of Poland, we can describe it as a systematic and well-thought-out set of documents that covers all relevant areas and takes into account almost all specifics of the current migration situation in Poland. The main documents in the field of migration are the following: Constitution of Poland dated April 2, 1997³⁰, Law of the Republic of Poland „On Employment and Unemployment

30 Konstytucja Rzeczypospolitej Polskiej, 2 kwietnia, 1997. <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970780483/U/>

Prevention” of December 14, 1994³¹, Law „On granting protection to foreigners in the territory of the Republic of Poland” of June 13, 2003³², Law „On Foreigners” of December 12, 2013³³, Law „On the Pole’s Card” of September 7, 2007³⁴, Law „On Citizenship” of April 2, 2009³⁵, Law „On Migration Policy of the Republic of Poland” from 2019³⁶, and regulations related to specific areas (such as social assistance, health care, etc.), and international agreements and documents concluded by the Republic of Poland in the field of migration.

The basic document of Polish legislation in the field of employment of foreign workers is the Law of the Republic of Poland „On Employment and Unemployment Prevention” of December 14, 1994, as amended, according to which every worker who came from abroad and expressed a desire to work in Poland on legal grounds, must obtain a work permit by submitting a special application to the Voivodeship Labor Office. Then such a person in the consular offices of the Republic of Poland receives a visa that allows legal employment based on the obtained employment contract³⁷.

Since 2008, citizens of Ukraine (as well as other member states of the Eastern Partnership) have received the right to temporary employment (up to six months during the year) without special permits. And in the summer of

D19970483Lj.pdf.

- 31 Ustawa o zatrudnieniu i przeciwdziałaniu bezrobociu, 14 grudnia, 1994. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19950010001>.
- 32 Ustawa o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej, 13 czerwca, 2003. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20031281176>.
- 33 Ustawa o cudzoziemcach z dnia 12 grudnia 2013 r., 12 grudnia, 2013. <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20130001650/T/D20131650L.pdf>.
- 34 Ustawa o Karcie Polaka, 7 września, 2007. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20071801280>.
- 35 Ustawa o obywatelstwie polskim, 2 kwietnia, 2009. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20120000161>.
- 36 Polityka Migracyjna Polski, 10 czerwca, 2019. <https://interwencjaprawna.pl/wp-content/uploads/2019/06/Polityka-migracyjna-Polski-wersja-ostateczna.pdf>.
- 37 Ustawa o zatrudnieniu i przeciwdziałaniu bezrobociu, 14 grudnia, 1994. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19950010001>.

2012, the procedure for employment of highly qualified specialists from third countries was simplified³⁸.

The next innovation in Polish migration policy was the amendment of the „Law on Citizenship” in August 2012, according to which a foreigner can acquire Polish citizenship, who, having a permanent residence permit, has been here for the last 3 years, speaks Polish well, is employed and owns real estate³⁹. In the same year, amendments were made to the „Law on Repatriation”, aimed at encouraging the repatriation of Polish citizens who had emigrated abroad⁴⁰. Significant changes were also made to the Law of the Republic of Poland „On Foreigners” in December 2013, in particular, the immigration procedure was simplified and facilitated⁴¹.

The „Law on Migration Policy” of June 10, 2019, is a document that outlines the basics of the migration policy of the Republic of Poland. The key goal is to meet the needs of Polish economic policy because the further economic growth of the country significantly depends on labor migrants and their contribution to the GDP of the Republic of Poland. In addition, the Law identifies areas where there is a need to strengthen mechanisms to ensure the security of the state, in particular, this applies to measures to counteract and combat illegal migration, illegal border crossings, etc.⁴².

In 2020, the Polish side announced its intention to introduce a new migration policy, which should be based on four aspects: protection of the Polish labor market due to rising unemployment in Poland; ensuring the interchangeability of employees; circular stay of migrant workers from foreign countries; finding workers for those regions where there is a shortage of labor,

as there is now a certain proportional redistribution of the concentration of Ukrainian migrants⁴³.

38 Ustawa o promocji zatrudnienia i instytucjach rynku pracy, 20 kwietnia, 2004. <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20170001065/U/D20171065Lj.pdf>.

39 Ustawa o obywatelstwie polskim, 2 kwietnia, 2009. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20120000161>.

40 Ustawa o repatriacji, 9 listopada, 2000. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20001061118>.

41 Ustawa o cudzoziemcach z dnia 12 grudnia 2013 r., 12 grudnia, 2013. <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20130001650/T/D20131650L.pdf>.

42 Polityka Migracyjna Polski, 10 czerwca, 2019. <https://www.eurointegration.com.ua/news/2020/02/10/7106168/>.

43 Polshcha planuje zatverdity novu mihratsiinu polityku vprodovzh piv roku” *Yevrpeiska Pravda*, <http://prawo.sejm.gov.pl/isap.nsf/download>.

The draft National Recovery Plan of Poland 2021, which provides for measures to facilitate the recruitment of migrants for longer periods, should also be taken into account. The Polish government seeks to provide foreigners with more efficient services, including the planned transfer of the work permit procedure entirely to electronic form and measures to support the integration of foreigners into the labor market, as previously limited to admission rather than full integration⁴⁴.

Despite the gradual improvement of the normative and legal framework on migration issues, the Republic of Poland still has to face certain challenges that complicate this process. One such challenge was the spread of the COVID-19 pandemic and the quarantine measures that led to the uncertain and difficult situation for the Polish government. The introduction of quarantine restrictions provoked a mass exodus of Ukrainian workers from Poland. The Polish authorities promptly responded to the need to minimize the negative consequences for Polish business, especially for the construction, agricultural, and processing sectors, which involve a large number of labor migrants from Ukraine, and promptly approved documents setting out the necessary measures.

On April 1, 2020, to support certain sectors of the Polish economy, employers, and workers, a special document called the „Anti-Crisis Shield” came into force. This document provides a set of laws aimed at reducing the risks and negative consequences for the Polish economy due to the introduction of quarantine restrictions at the national level. The document also takes into account many nuances regarding foreign workers who were in Poland at the time of the coronavirus pandemic. As many Ukrainians were concerned about possible deportation and illegal employment, the Polish government decided that the legal stay of foreigners arriving in Poland on biometric passports would be extended⁴⁵.

However, the document contains some gaps, for example, despite the extension of the period of legal stay of foreigners, there was no automatic procedure for such prolongation. That is every foreigner whose term of stay expired had to submit questionnaires to the departments for foreigners in their voivodships⁴⁶. However, the actual number of submitted questionnaires

xsp/WDU20130001650/T/D20131650L.pdf. [accessed: 28.11.2021].

44 Poland: National Recovery Plan includes measures for migrant workers, An official website of the European Union. https://ec.europa.eu/migrant-integration/news/poland-national-recovery-plan-includes-measures-migrant-workers_en. [accessed: 30.11.2021].

45 Tarcza antykryzysowa, Gov.pl., 7 kwietnia, 2020. <https://www.gov.pl/web/rozwoj/tarcza-antykryzysowa>.

46 Yaryna Turchyn, Teresa Astramowich-Leyk, Olha Ivasechko, „Labor migration from Ukraine to Poland: regulatory framework, key issues

res, which was extremely large, was not taken into account, which led to a significant slowdown in the procedure for continuing the stay of foreigners in Poland. In addition, there was a share of foreigners who did not have the opportunity to fill out the questionnaire electronically. This prompted them to violate the regime of self-isolation and come to the wards with large crowds, exposing themselves to the risk of infection.

Nevertheless, the Polish government was able to promptly correct these shortcomings. In a very short time, amendments and corrections to this set of laws were proposed and an updated version was developed – „Anti-Crisis Shield 2.0”⁴⁷. As a result, the validity of permits for foreigners was extended automatically. Also, some foreigners who were legally employed in Poland and lost their jobs due to quarantine restrictions could receive monthly social assistance of about 80% of the minimum wage for three months. It is believed that the rapid introduction of automatic extensions of visas, as well as residence and work permits issued in Poland, prevented the mass return of Ukrainians from Poland.

Another serious challenge for Poland was the migration crisis on the border with Belarus in 2021. The actual consequence of such riots for the regulation of migration issues was the government’s initiative to build an equipped barrier on the border with Ukraine, Russia, and Belarus and amendment of legislation on issues of illegal border crossing and the right to political asylum⁴⁸.

Due to the aggravation of migration problems, on January 4, 2022, the President of the Republic of Poland, A. Duda, signed amendments to the „Law on Foreigners”. In particular, it is proposed to reduce the terms and optimize the procedure for processing applications for a national visa. The amendment also provides for acceleration of the process of obtaining permits for foreigners who plan to work in enterprises whose scope of activity is strategically important for the Polish economy⁴⁹. In addition, innovations of January 4, 2022, include: simplification of applying for a Pole’s Card; regu-

and challenges” *Humanitarian Vision*, Vol. 7, No.1 (2021): 20. <https://doi.org/10.23939/shv2021.01.017>.

47 „Ustawa o szczególnych instrumentach wsparcia w związku z rozprzestrzenianiem się wirusa SARS-CoV-2”, 16 kwietnia, 2020. <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200000695>.

48 U Polshchi onovyly zakonodavstvo, shchob umozhlyvyty nehaine vydvorennya nelehalnykh mihrantiv, *Ukrainska pravda*. <https://www.pravda.com.ua/news/2021/10/26/7311696/>. [accessed: 26.12.2021].

49 Marcin Chomiuk, „Prezydent podpisał nowelizację ustawy o cudzoziemcach” *Dziennik Gazeta Prawna*, January 4 (2022). <https://www.gazetaprawna.pl/wiadomosci/kraj/artykuly/8327187,prezydent-podpisal-nowelizacje-ustawy-o-cudzoziemcach.html>.

lation of the act of repatriation; making changes to the procedure for issuing seasonal work permits and declarations of work assignments to foreigners; introduction of a provision on the exchange of information on the entry of foreigners into Poland and their stay in the territory of the Republic; settlement of the procedure for issuing a temporary residence permit to foreigners who did not apply directly⁵⁰.

It is predicted that Poland will continue to create an even more favorable internal environment for migrants as an important source of their economy. The arrival of migrant workers from Ukraine is important for Poland given the internal demographic crisis, and the progressive aging of the population, which also creates a shortage of workers. At present, Poland's immigration policy has focused on the pendulum and short-term migration, as this type of migration is the most profitable given the current needs of the national labor market. Emphasis was also placed on facilitating the return of Polish migrants who had previously left for other EU countries for employment. Focusing on those foreigners who intend to stay in Poland, it is planned to develop a separate system of assimilation and integration to facilitate their adaptation to the country. It is also worth singling out that Poland develops its migration policy taking into account the concept of the dominant culture. The Polish government does not envisage the transformation of its state from monocultural to multicultural, which is confirmed by the fact that clear limits of stay are established for foreigners⁵¹.

Thus, based on the analysis of the normative and legal regulation of Poland's migration policy, we can conclude that the Polish government is heavily involving state institutions to develop new and reform existing documents, taking into account current statistics. This allows us to react quickly to current changes related to migration flows from Ukraine and other countries. Thanks to such consistent and coordinated work, the legal framework of the Republic of Poland in the field of migration is implemented taking into account all important economic, political, and demographic aspects.

In addition, it should be noted that Poland, unlike Ukraine, has demonstrated a „national volunteer” approach to migration issues, and responded quickly to the coronavirus pandemic by adopting vital regulations, including the Anti-Crisis Shields. Realizing all the risks, but at the same time the importance of preserving the economy, on May 21, 2020, Poland abolished the mandatory two-week self-isolation for seasonal workers from Ukraine who had to come to work in the agricultural sector. Therefore, the Polish experience of speedy introduction, moderation of duration, and general

50 Ibidem.

51 *Polityka Migracyjna Polski*, 10 czerwca, 2019. <https://interwencjaprawna.pl/wp-content/uploads/2019/06/Polityka-migracyjna-Polski-wersja-ostateczna.pdf>.

features of quarantine restrictions can be considered quite a successful case in comparison with cases of other neighboring states, including Ukraine⁵²

4. Ukrainian-Polish: bilateral cooperation in settling migration issues

Along with Ukrainian and Polish domestic legal regulations, it is bilateral agreements that are crucial for resolving labor migration issues. Ukrainian-Polish relations can be confidently interpreted as dynamic, progressive, and stable. Evidence of the strengthening of such cooperation is the launch of a new format/platform Lublin Triangle in 2020, which aims to intensify political, social, economic, and cultural cooperation between Lithuania, Poland, and Ukraine, including migration issues.

The Declaration on the Principles and Main Directions of Development of Ukrainian-Polish Relations of October 13, 1990, is a conceptual document in the field of migration flows. First of all, it sets out the direction of bilateral cooperation, which focused on maintaining and guaranteeing political, economic, historical, and socio-cultural ties⁵³. The signing of the Agreement between Ukraine and the Republic of Poland on Good Neighborliness, Friendly Relations, and Cooperation of May 18, 1992, was of significant importance in the development of Ukrainian-Polish relations on migration and its legal settlement⁵⁴, Agreement between Ukraine and the Republic of Poland on the Legal Regime of the Ukrainian-Polish State Border, Cooperation and Mutual Assistance on Border Issues of January 12, 1993⁵⁵, and the Agreement between the Government of Ukraine and the Government of the Republic of Poland on the Transfer and Reception of Persons Across the

52 „Ekonomichne dyvo pid chas Covid-19. Yak perezhyla piv roku pandemii Polshcha” *Tvoje Misto*. https://tvoemisto.tv/exclusive/blagopoluchna_polshcha_yak_perezhyla_pivroku_pandemii_nayblyzhcha_susidka_ukrainy_113402.html. [accessed: 1.12.2021].

53 Deklaratsiia pro pryntsyipy ta osnovni napriamky rozvytku ukrainskopol'skykh vidnosyn, Legislation of Ukraine, Official website of the Parliament of Ukraine, October 13, 1990. https://zakon.rada.gov.ua/laws/show/616_176.

54 Dohovir mizh Respublikoiu Polshcha i Ukrainoiu pro dobrosusidstvo, druzhni vidnosyny i spivrobotnytstvo, Legislation of Ukraine, Official website of the Parliament of Ukraine, May 18, 1992. – Режим доступу: https://zakon.rada.gov.ua/laws/show/616_172.

55 Dohovir mizh Respublikoiu Polshcha i Ukrainoiu pro pravovyi rezhym ukrainsko-polskoho derzhavnoho kordonu, spivrobotnytstvo ta vzaïemnu dopomohu z prykordonnykh pytan, Legislation of Ukraine, Official website of the Parliament of Ukraine, January 12, 1993. https://zakon.rada.gov.ua/laws/show/616_208.

Common State Border of 24 May 1993⁵⁶, which laid the legal basis for the formation of bilateral relations in the field of migration.

The Agreement on Mutual Employment of Employees was concluded on February 16, 1994, to clearly define the conditions for legal employment, which provides for obtaining a special permit from the relevant body of Poland, outlining the range of subjects for which the established norms, and rules will be fixed⁵⁷.

This document also established the procedure for obtaining a work permit and terms of stay in Poland.

Poland's accession to the EU in May 2004 made adjustments to Polish-Ukrainian relations, especially in the field of migration, as migration flows from Ukraine gained new significance, scope, and character due to such changes.

The conclusion between the Ministry of Labor and Social Policy of Ukraine and the State Labor Inspectorate of the Republic of Poland of the Memorandum of Cooperation in the Development of the Labor Inspection System for 2004-2007 of June 24, 2004, had a positive impact on strengthening and expanding alliance in the context of labor relations between Ukraine and Poland⁵⁸. The same can be said about Poland's entry into the Schengen area at the end of 2007. In addition, on March 28, 2008, the Government of the Republic of Poland and the Cabinet of Ministers of Ukraine signed the Agreement on Local Border Traffic Rules (amended in 2014), which states, that taking into account all EU recommendations on local border traffic, motivated by the desire to improve partnership and strengthen Ukrainian-Polish cooperation in all areas, guided by the goal of introducing mutual simplifications when crossing the border by residents of the border area, agreed to define the rules of local border traffic⁵⁹.

56 Uhoda mizh Uriadom Ukrainy i Uriadom Respubliki Polshcha pro peredachu i pryiom osib cherez spilnyi derzhavnyi kordon, Legislation of Ukraine, Official website of the Parliament of Ukraine, May 24, 1993. https://zakon.rada.gov.ua/laws/show/616_170.

57 Uhoda mizh Uriadom Ukrainy ta Uriadom Respubliki Polshcha pro vzaiemne pratsevlashtuvannia pratsivnykiv, Legislation of Ukraine, Official website of the Parliament of Ukraine, February 16, 1994. https://zakon.rada.gov.ua/laws/show/616_026.

58 Memorandum pro spivpratsiu v haluzi rozvytku systemy inspektsii pratsi na 2004–2007 rr. Legislation of Ukraine, Official website of the Parliament of Ukraine, June 24, 2004. https://zakon.rada.gov.ua/laws/show/616_093.

59 Uhoda mizh Kabinetom Ministriv Ukrainy ta Uriadom Respubliki Polshcha pro pravyla mistsevoho prykordonnoho rukhu, Legislation

Significant for the further development of relations between Ukraine and Poland in the field of labor migration was the approval by the Verkhovna Rada of Ukraine of the Agreement between Ukraine and the Republic of Poland on social welfare (2013)⁶⁰. It was also important to conclude the Agreement between the Government of Ukraine and the Government of the Republic of Poland on the provision of loans on the terms of related assistance in the wording of December 3, 2018⁶¹.

The next important in chronological order, the bilateral document that will be subject to our attention is the Implementation Protocol between the Governments of Ukraine and Poland to the Agreement between Ukraine and the EU on the readmission of persons of 25 April 2017⁶². The implementation of this international agreement has had a positive impact on the development of further good neighborly relations between Ukraine and the Republic of Poland, as based on reciprocity it determines operational procedures for identifying persons who have not complied with all rules of arrival, departure and stay in Poland and Ukraine; ensures their organized return to the country of origin.

It is expected that official Kyiv and Warsaw will sign agreements on employment and migration in the future to provide social protection for workers, as stated in February 2021 by the current Minister of Defense of Ukraine Oleksiy Reznikov⁶³. However, apart from the oral expression of such an intention on the part of the Ukrainian side, no concrete mutual actions have been taken to develop the above-mentioned agreements.

of Ukraine, Official website of the Parliament of Ukraine, March 28, 2008. https://zakon.rada.gov.ua/laws/show/616_138.

- 60 Uhoda mizh Ukrainoiu ta Respublikoiu Polshcha pro sotsialne zabezpechennia, Legislation of Ukraine, Official website of the Parliament of Ukraine, September 5, 2013. https://zakon.rada.gov.ua/laws/show/616_161.
- 61 Dohovir mizh Uriadom Ukrainy ta Uriadom Respubliki Polshcha pro nadannia kredytu na umovakh poviazanoi dopomohy, Legislation of Ukraine, Official website of the Parliament of Ukraine, February 3, 2018. https://zakon.rada.gov.ua/laws/show/616_196.
- 62 Implementatsiinyi protokol mizh Uriadamy Ukrainy ta Polshchi do Uhody mizh Ukrainoiu ta YeS pro readmisiuu osib,” Legislation of Ukraine, Official website of the Parliament of Ukraine, April 25, 2017. https://zakon.rada.gov.ua/laws/show/616_002-17.
- 63 Ukraina i Polshcha rozroblat uhodu pro sotszakhyst zarobitchan – Reznikov, UKRINFORM, February 6, 2021. <https://www.ukrinform.ua/rubric-society/3185548-ukraina-i-polsa-rozroblat-ugodu-pro-soczahist-zarobitchan-reznikov.html>.

Thus, it can be concluded that bilateral cooperation has been established between Ukraine and Poland on the regulation of migration problems and in general the procedure for crossing the border by citizens of both countries. This, in turn, increases the nature and frequency of migration flow, as there are reliable mechanisms in place to address border crossing, migrants' stays abroad, employment, social welfare, and protection of rights. However, as practice shows, the emergence of some large-scale threats, such as the COVID-19 pandemic, requires prompt changes in legislation, as legislative aspects of regulating specific relationships or areas of life may no longer correspond to the real situation and have no power to solve problems.

5. Conclusions

The analysis proved the hypothesis that the legislation of Ukraine does not fully meet European standards, including the standards of the Republic of Poland, on migration policy and protection of migrant workers' rights. Having revealed the research questions, we can come to the following conclusions:

1. The basis for legal and institutional support of the migration policy of Ukraine and the Republic of Poland are separate laws and normative and legal acts of the states, which determine the key directions and strategic tasks of the state migration policy. It should be emphasized that the shortcomings of normative and legal support for migration regulation in Ukraine are a consequence of the existence of significant conflicts in management, resulting in a negative impact of migration processes on the socio-economic situation in the country. This, in turn, requires the coherence of measures at the regional, national, cross-border, and international levels, which require clear regulation by relevant legal documents.

2. To support the development of the strategic partnership between Ukraine and the Republic of Poland, it is undeniable to expand and improve the existing legal framework. The problems of Ukrainian labor migrants who remained in Poland during the quarantine restrictions need to be addressed urgently. It is also crucial for strengthening the dialogue between states to respect the rights of migrants, who, regardless of their place of residence, must be able to enjoy their inalienable fundamental rights and freedoms.

3. To address the migration problems caused by the coronavirus pandemic, several vital regulations and programs have been adopted in Ukraine, and measures have been taken to enable citizens to return home. However, a single general legal act has not been adopted to comprehensively regulate labor migration in the context of the coronavirus crisis. As for Poland, a positive step was the adoption on April 1, 2020, of the „Crisis Shield” program to support certain sectors of the Polish economy, employers, and workers, approval of amendments to the Law „On Foreigners” etc.

4. Drawing parallels on the legal regulation of migration issues in Ukraine and Poland, we can state two opposite national approaches to the rapid solution of urgent problems of the migration sphere in a pandemic. The Polish approach is based on supporting vulnerable groups of the population, in particular in assisting migrant workers, with the understanding that maintaining the level of the economy during a pandemic is possible in part if the intensive use of labor resources of Ukraine continues. Instead, the approach of official Kyiv leads to the formation of self-regulation of migration problems in the conditions of COVID-19 without much support and assistance from the state.

Thus, the criteria for the effectiveness of counteracting the effects of coronavirus in the field of migration can be considered the timeliness of national governments' response to the crisis; high-quality informing of citizens about the situation; the expediency of legislative changes, and accuracy of their implementation; outflow and return of labor migrants. During the outbreak of the pandemic, Ukraine lacked timeliness in taking measures to combat the consequences of the crisis and inform the population, and the adopted legislative changes were appropriate but insufficient. In this context, a clear indicator of the ineffectiveness of Ukrainian measures was the return of a significant number of labor migrants to their homeland, who eventually returned abroad without finding a justifiable alternative to employment in Ukraine.

Thus, in the context of the COVID-19 pandemic, the governments of Ukraine and the Republic of Poland need to focus their efforts on developing legal documents that would make it mandatory to implement special measures to protect the rights and provide a favorable environment for migrant workers and would minimize economic losses for both parties. Modern globalization processes require the formation of safe and orderly migration to reduce its negative effects. Therefore, the regulatory framework of states needs to be periodically updated to renovate it in response to existing requirements and challenges of the time.

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