

# IMMIGRATION TO POLAND: THE CASE OF UKRAINIANS

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## Introduction

In the last 20 years Poland has gone through a transition from purely emigration to emigration-immigration country. It is expected that in the close future it will become a country of destination, especially for immigrants from Eastern Europe.

Since the immigration inflow has been relatively low, the migration policy has never been a priority on the political agenda. Immigration has not become an issue and public opinion has been largely indifferent towards it. The development of the policies has been sparked either by the EU conditionality or by the need to mend the evident gaps in the legal system. So far, Poland, unlike other Central European member states, has not begun any process that would lead to elaboration of migration doctrine nor to the future migration management.

The lack of consistent immigration scheme does not exclude a hidden immigration agenda. Traditionally, nationals of Ukraine and Belarus have been granted special position in the discourse on foreign policy, visa policy or economic, historical and cultural exchange. Ukrainians constitute by far the largest group of immigrants in Poland.

In the present report I will discuss in brief the flows and stock of immigrants in Poland and their presence in the labor market. In each section I will pay special attention to the case of the Ukrainian migrants in Poland. I will also conclude with a brief resume of the Ukrainian case.

## 2. Demographics of migration

In the Polish statistics gathered by the Central Statistical Office, "immigrants" are defined as **foreign residents, who have registered with the local Register Office**. This definition applies **both** to foreign-born foreign citizens (immigrants) and foreign citizens of Polish origins (return migrants, repatriates). This official statistics has thus little use for exact estimation of foreign-born non-Polish residents. The Central Statistical Office offers also the LFS data on the temporary stays abroad of the members of households (short- and long-term outward labor migration).

In all other statistics, the terms "immigrant" or "immigration" are not used. We encounter other definitions as residents, foreigners granted permanent or temporary residence permit. The permits are issued by the Office for Repatriates and Aliens.

The movements across the borders are measured by the statistics of the Border Guards. The data differentiates between the Poles and foreigners, however, the scope of the travel is not defined.

### 2.1 Emigration and immigration - flows

Poland is not the member of the Schengen Area, and thus the passenger movement across the national borders is relatively easy to count. The data concerning border crossings shows the surplus of inward mobility.

**Tab. 1. Border crossings of Polish and foreigners in 2004 and 2005.**

Months	2004 Polish - departures	2005 Polish - departures	2004 Foreigners - arrivals	2005 Foreigners - arrivals
January	2616	2822	3361	4239
February	2710	2632	3770	3912
March	2572	2759	4359	4757

<b>April</b>	2715	3035	4983	4910
<b>May</b>	2893	3435	5058	5313
<b>June</b>	3337	3417	5647	5508
<b>July</b>	4195	4554	6414	6705
<b>August</b>	4318	4827	6499	6802
<b>September</b>	3335	3838	5616	5906
<b>October</b>	3077	3517	6052	6346
<b>November</b>	2668	3129	5067	5222
<b>December</b>	2786	2875	5088	4986
<b>Total:</b>	<b>37228</b>	<b>40840</b>	<b>61918</b>	<b>64606</b>

Source: Institute of Tourism – Central Statistical Office

The number of foreigners coming to Poland has been on the increase, and not only in the summer months. Interestingly enough, nor EU accession nor introducing the visa regime have permanently limited the inflow from the three neighboring Eastern European countries.

**Tab. 2 Incoming foreigners - border crossings (change 2003-2005, in thousand)**

	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
<b>Total</b>	<b>50734.6</b>	<b>52129.8</b>	<b>61917.8</b>	<b>64606.1</b>
Germany	23654.7	25456.5	34122.1	37436.3
<b>Russia, Belarus, Ukraine</b>	<b>11939.0</b>	<b>10193.9</b>	<b>9466.2</b>	<b>10528.5</b>
EU 15 (without Germany)	1700.3	1681.9	1834.4	2066.4
New EU countries	12582.1	13898.6	15465.7	13352.3
Europe - other	261.7	276.9	297.9	340.1
Main overseas countries	311.1	333.8	405.1	437.9
Other ex USSR	108.1	112.1	116.9	126.2
Other	177.6	176.0	209.5	227.9

Source: Polish Chamber of Tourism after Border Guards

In 2005, the foreigners coming to visit Poland were mostly Germans (57.8%), followed by Czechs (12.5%), and Ukrainians (8.2%). The number of incoming foreigners generally increased, especially on the Western border, as more Germans started coming for weekend shopping visits to Poland. The same concerns the Czechs. The visa regime introduced in 2003 made the number of visitors from Ukraine, Russia and Belarus decrease in 2003 and 2004; however, it has been on the rise again. The increase was caused by the boosted capacity of Polish consulates in Eastern Europe. But Ukrainians, because of the visa regime, constitute an entirely different group. They do not benefit from the visa free movement and thus they are not weekend shoppers in Poland. They are usually visitors and/or irregular workers.

## 2.2 Emigration and immigration

The Polish immigration balance has been an adverse one for decades. However, emigration has been decreasing and immigration has been on the rise. The shift during the transition period was caused by the decrease of numbers of emigrants rather than by substantial increase in immigration. The table below presents the data of the Central Statistical Office, where migration is related to the Official Register.

**Tab. 3. International migration. Poland: 1950-2005 (in thousand)**

Year	Emigrants	Immigrants	Year	Emigrants	Immigrants	Year	Emigrants	Immigrants
1950	60.9	8.1	1969	22.1	2.0	1988	36.3	2.1
1951	7.8	3.4	1970	14.1	1.9	1989	26.6	2.2
1952	1.6	3.7	1971	30.2	1.7	1990	18.4	2.6
1953	2.8	2.0	1972	19.1	1.8	1991	21.0	5.0
1954	3.8	2.8	1973	13.0	1.4	1992	18.1	6.5
1955	1.9	4.7	1974	11.8	1.4	1993	21.3	5.9
1956	21.8	27.6	1975	9.6	1.8	1994	25.9	6.9
1957	133.4	91.8	1976	26.7	1.8	1995	26.3	8.1
1958	139.3	92.8	1977	28.9	1.6	1996	21.3	8.2
1959	37.0	43.2	1978	29.5	1.5	1997	20.2	8.4
1960	28.0	5.7	1979	34.2	1.7	1998	22.2	8.9
1961	26.5	3.6	1980	22.7	1.5	1999	21.5	7.5
1962	20.2	3.3	1981	23.8	1.4	2000	26.9	7.3
1963	20.0	2.5	1982	32.1	0.9	2001	23.4	6.6
1964	24.2	2.3	1983	26.2	1.2	2001	23.4	6.6
1965	28.6	2.2	1984	17.4	1.6	2002	24.5	6.6
1966	28.8	2.2	1985	20.5	1.6	2003	20.8	7.0
1967	19.9	2.1	1986	29.0	1.9	2004	18.9	9.5
1968	19.4	2.2	1987	36.4	1.8	2005*	9.6	4.3

\* data available for the first half of the year

Source: SOPEMI Report<sup>1</sup> after Central Statistical Office

As we can see, with exception of rather short periods, the total migration balance in Poland has been definitely adverse. The surplus of emigration to immigration has remained intact for 40 years, oscillating around 8,000 (1975) – 35,000 (1987) per year. The lowest number of departures for settlement migration occurred in the years 1951 – 1955, when only 18,000 people left the country.

<sup>1</sup> Ewa Kępińska, (2005), “Recent trends in International Migration”, SOPEMI Report for Poland, Migration Working Papers No 62.

The next decrease of emigration was observed in the years 1973-1975, during the years of the relative economic prosperity. The latest trends in emigration, after the EU accession, have not been accounted for, because this is not permanent emigration. Thus, no one really knows how many Poles left Poland to work in the EU countries; the estimates indicate any number between 500,000 and 1,000,000.

### 2.3. Immigrants in Poland

**Tab. 4 Immigrants by the region of origin – the most popular regions of origin**

	Actual numbers					Per cent of the total		
	2002	2003	2004			2002	2003	2004
			<b>Total</b>	Male	Female			
<b>Total</b>	<b>6,587</b>	<b>7,048</b>	<b>9,495</b>	<b>4,800</b>	<b>4,695</b>	<b>100</b>	<b>100</b>	<b>100</b>
EU-15	3,575	3,503	<b>4,261</b>	2,401	1,860	54.3	49.7	44.9
EU-25	3,682	3,656	<b>4,451</b>	2,481	1,970	55.9	51.9	46.9
Of which Germany	2,335	2,261	<b>2,697</b>	1,550	1,147	35.4	32.1	28.4
former USSR	920	1,110	<b>2,283</b>	721	1,562	14.0	15.7	24.0
Of which Ukraine	350	423	<b>1,196</b>	310	886	5.3	6.0	12.6
USA	1,137	1,216	<b>1,348</b>	730	618	17.3	17.3	14.2
Canada	230	351	<b>323</b>	175	148	3.5	5.0	3.4
Vietnam	124	151	<b>232</b>	152	80	1.9	2.1	2.4

Source: SOPEMI 2005, after the Central Statistical Office.

The above table presents mainly the immigration as defined by the Central Statistical Office, and thus the main regions of origin have been the European Union countries (predominantly Germany), the United States, and Canada – these are usually the return migrants. Immigrants from the countries of the former Soviet Union are sometimes, but not always, of the Polish origin.

Germany, as in the previous years, was the main country of origin – it should be noted that immigrants from Germany are mainly returning emigrants, most of them double citizens. Germany was followed by the United States, Ukraine, Canada and the United Kingdom. Interestingly enough, the number of Ukrainians almost tripled, from 423 in 2003 to 1,196 in 2004, and the share of Ukraine in the total immigrant population increased from 6% in 2003 to 12.6% in 2004. Similarly, there was an increase in the case of Armenians (125%), and Belarussians (113%), as well as Russian nationals (64%).

As for geographical distribution, immigrants registered by Central Statistical Office come to settle mainly in Mazowieckie (Warsaw metropolitan area) and the Lower Silesia (Opolskie, mainly return migrants from Germany).

When we define immigrants as people who do not have Polish citizenship (excluding thus returning emigrants and multiple citizens) and who have stayed in Poland for over 12 months, the National Census showed that in May 2002 they did not constitute more than 0.1% of the total population – 49,200.

## 2.4 Third Country Nationals: long- and short-term residents

Regularization of stay in Poland requires a foreigner to engage in a two-step procedure. Foreigners are issued temporary residence permit and settlement permits. Temporary residence permit is issued to foreigners who prove that they have a important reason to stay in Poland for longer than 6 months, e.g. migrant workers, family members, foreign spouses of Polish citizens or permanent residents, students and refugees.

The settlement permit is granted to these foreigners who wish to settle in Poland, i.e. stay on Polish territory for a longer period of time. Currently, applications for the permit for settlement can be lodged only after having resided in Poland on the basis for temporary residence permit for 5 years. The settlement permit is also the only category that allows for registering a foreigner as an immigrant.

### *Residence permits (temporary)*

**Tab. 7 Applications for temporary residence permits in 2003, 2004, and 2005 (top nationalities).**

CITIZENSHIP	2003	2004		2005		total
	people	people	difference %	people	difference %	people
<b>All citizenships</b>	<b>31724</b>	<b>28142</b>	-11.3	<b>25486</b>	-9.4	<b>85352</b>
Top nationalities:						
UKRAINE	8334	9763	17.1	9123	-6.6	27220
BELARUS	2432	2137	-12.1	2004	-6.2	6573
VIETNAM	1929	2056	6.6	1985	-3.5	5970
ARMENIA	1913	2016	5.4	1706	-15.4	5635
RUSSIA	1967	1845	-6.2	1635	-11.4	5447

Source: Office for Repatriation and Aliens

**Tab. 8 The number of the permits granted (top nationalities).**

CITIZENSHIP	people 2005	Total %	CITIZENSHIP	people 2003-2005	Total %
TOTAL:	<b>22625</b>	<b>100.0</b>	TOTAL:	<b>76613</b>	<b>100.0</b>
Top nationalities:			Top nationalities:		
UKRAINE	8304	36.7	UKRAINE	24776	32.3
BIELORUS	1829	8.1	BIELORUS	6202	8.1
VIETNAM	1704	7.5	RUSSIA	4977	6.5
RUSSIA	1495	6.6	VIETNAM	4646	6.1
ARMENIA	1418	6.3	ARMENIA	4098	5.3
<b>Total:</b>	<b>14750</b>	<b>65.2</b>	<b>Total:</b>	<b>44699</b>	<b>58.3</b>

Source: Office for Repatriation and Aliens

In 2005, the following nationalities most often applied for temporary permit: Ukrainians (35.8%), Belarussians (7.9%), Vietnamese (7.8%), Armenians (6.7%), and Russians (6.4%, mainly of Chechen origin). In 2005, as in the previous years, these nationalities constituted 64.4% of all applicants. Importantly enough, the applicants were usually granted the permit (as it is presented in the above table). It must be noted that since a foreigner is supposed to renew the permit every year, the data include very often the same person applying year after year.

### Settlement Permits

**Tab. 9 Applications for settlement permit in 2003, 2004, and 2005 (top nationalities).**

CITIZENSHIP	2003	2004		2005		total
	persons	persons	difference %	persons	difference %	persons
<b>All citizenships</b>	<b>3000</b>	<b>5094</b>	69.8	<b>4064</b>	-20.2	<b>12158</b>
Top nationalities						
UKRAINE	878	1905	117.0	1654	-13.2	4437
BIELARUS	206	472	129.1	645	36.7	1323
RUSSIA	269	527	95.9	376	-28.7	1172
VIETNAM	317	486	53.3	216	-55.6	1019
ARMENIA	247	226	-8.5	148	-34.5	621

Source: Office for Repatriation and Aliens

**Tab. 10 Issued settlement permits – (top nationalities)**

CITIZENSHIP	people 2005	% total	CITIZENSHIP	people 2003-2005	% total
All citizenships:	<b>3589</b>	<b>100.0</b>	All citizenships:	<b>9689</b>	<b>100.0</b>
Top nationalities			Top nationalities		
UKRAINE	1518	42.3	UKRAINE	3624	37.4
BELARUS	578	16.1	BELARUS	1088	11.2
RUSSIA	353	9.8	RUSSIA	968	10.0
VIETNAM	172	4.8	VIETNAM	742	7.7
ARMENIA	111	3.1	ARMENIA	464	4.8
<b>Total:</b>	<b>2732</b>	<b>76.1</b>	<b>Total:</b>	<b>6886</b>	<b>71.1</b>

Source: Office for Repatriation and Aliens

In 2005, the permanent permits were applied for less frequently. It can be explained with the constant changes in the immigration regulations that obscure the procedure, making potential applicants ineligible. Ukrainians topped also this list, with 40.7% of the applications and 42.3% of all granted permits. Belarussian applicants, the second most represented nationality, were only 15.9% of the total, and 16.1% of the successful applications. As in the case of temporary permits, the rejection rate is very low.

### 2.5 Refugees and protected aliens

The number of asylum seekers in Poland has been on the increase since 1991, i.e. the year Poland actually signed the Geneva Convention. However, the number has never been dramatically high. Not much has changed since the EU accession, and the rising tendencies were caused by the unstable situation in Chechnya, the main region of origin of the refugees in Poland.

**Tab. 11 Applications for refugee status in Poland, 2003-2005 (top nationalities)**

CITIZENSHIP	2003	2004		2005		Total
	people	people	difference %	people	difference %	people
<b>All citizenships</b>	<b>6906</b>	<b>8079</b>	<b>17.0</b>	<b>6860</b>	<b>-15.1</b>	<b>21845</b>
Top nationalities:						
<b>RUSSIA</b>	<b>5563</b>	<b>7183</b>	<b>29.1</b>	<b>6248</b>	<b>-13.0</b>	<b>18994</b>
PAKISTAN	154	210	36.4	69	-67.1	433
INDIA	236	151	-36.0	36	-76.2	423
AFGHANISTAN	247	57	-76.9	6	-89.5	310
UKRAINE	86	72	-16.3	84	16.7	242

Source: Office for Repatriation and Aliens

The most part of applicants come from Russia, from the war zone in Chechnya and surrounding provinces. They are almost entirely of Chechen ethnicity. Their status is very precarious in Russia, and although only 4.4% of all applicants receive refugee status, the rest has been granted tolerated status since 2003. It is granted to some categories of foreigners facing deportation.<sup>2</sup> The foreigner can be granted this status, if he is to be deported to a state where his life, liberties and rights would be endangered; or deportation cannot be undertaken; or if deportation has been disallowed by a verdict of the Polish court or decision of the Polish Minister; or if he is a foreign spouse of Polish citizen or permanent resident and he does not constitute a security threat. The tolerated status is granted to asylum seekers, people about to be deported and people, who were refused the residence permit.

It should be noted that Ukrainian nationals do not seek asylum in Poland.

**Tab. 12 Decisions concerning asylum seekers 2003-2005**

YEAR	TYPE OF DECISION	APPLICATIONS
<b>2003</b>	Geneva Convention refugees	219
	<b>Tolerated status</b>	<b>24</b>
	Rejected	3139
	Unresolved cases	4366
<b>2004</b>	Geneva Convention refugees	305
	<b>Tolerated status</b>	<b>826</b>
	Rejected	2002
	Unresolved cases	2763
<b>2005</b>	Geneva Convention refugees	312
	<b>Tolerated status</b>	<b>1832</b>
	Rejected	2284
	Unresolved cases	4413
<b>TOTAL 2003-2005</b>	Geneva Convention refugees	836
	<b>Tolerated status</b>	<b>2682</b>
	Rejected	7425
	Unresolved cases	11542

Source: Office for Repatriation and Aliens

<sup>2</sup> Act on Protection of Aliens on the Territory of Poland of June 13, 2003 (*Dziennik Ustaw*, No 128 item 1176)

Nor the asylum seekers, nor tolerated stay receivers, nor the refugees usually stay in Poland. They move to Western Europe in search for job opportunities, or adapt the Polish shuttle migration model, living in Poland but working abroad. "Unresolved cases," unarguably the largest group of cases, refer to all the applicants who disappeared having applied for the refugee status.

## 2.6 Work permits

There is no foreign worker scheme in Poland, and the domestic labor market is protected by the system of work permits, similar to those existing in other EU member states. The procedures are costly and lengthy. Thus, the registered foreign workers come mostly from the Western European countries and the US, and they are in majority skilled or highly skilled.

In 2004, 13,179 work permits were granted to foreigners in Poland, of which 12,381 were granted to individual applicants, and 798 to foreigners working in sub-contracting foreign companies. The 33% decrease was recorded over the previous years (from 19,831 in 2003). The number of work permits granted individually to foreigners declined by 34% (6,460 permits) whereas the number of permits allowing employment in foreign companies operating in Poland decreased by 19% (by 192 permits). The 2004 decrease was mainly due to Poland's accession to the EU on May 1, 2004 (see above). In 2005, the number of permits is expected to decline further.

**Tab. 13 Work permits granted individually by country of permanent residence and qualification/occupation. Poland 2004**

Country of permanent residence	<b>Total</b>	<i>Of which: by qualification</i>				<i>Of which: by occupation</i>			
		manager expert consultant	owner	skilled worker	unskilled worker	IT worker	artist	medical worker	teacher
Total	<b>12,381</b>	<b>3,202</b>	<b>5,034</b>	<b>1,863</b>	<b>376</b>	<b>101</b>	<b>236</b>	<b>299</b>	<b>1,486</b>
Europe	<b>8,327</b>	2,294	3,053	1,187	310	80	196	187	1,150
<i>From which EU-15</i>	<b>3,362</b>	1,069	1,846	198	8	16	6	7	207
<i>From which Germany</i>	<b>970</b>	295	496	101	6	2	1	4	39
<i>From which former USSR (Ukraine)</i>	<b>4,314</b> <b>(2,588)</b>	1,070 (542)	897 428	833 (455)	319 (275)	54 (38)	191 (110)	181 (121)	922 (745)
Asia	<b>3,040</b>	603	1,626	598	48	10	14	106	31
<i>From which Turkey</i>	<b>442</b>	86	246	90	2	0	1	0	4
<i>From which Vietnam</i>	<b>1,063</b>	70	703	278	2	0	0	0	0
America	<b>749</b>	233	294	35	5	8	18	2	242

From which USA	<b>518</b>	150	253	15	0	3	2	1	171
Africa	<b>164</b>	41	24	32	13	3	7	2	37
Oceania	<b>72</b>	22	34	2	0	0	0	0	21
Unknown	<b>29</b>	9	3	9	0	0	1	2	5

Source: SOPEMI 2005 after Ministry of Labor and Social Policy

The registered migrants granted a work permit come predominantly from European countries (73%). 57% from EU-15 (mainly Germany, France and the UK) and 36% from the former USSR, with the majority coming from Ukraine (55%). Ukrainians were on the top of the list with 2,588 permits, followed by Vietnamese (1,067) and Germans (970). The number of permits granted has been on decrease, as after the EU accession nationals of UK, Ireland and Sweden do not require it any more. The majority of all migrants were hired for more than three months (94%, 755 permits; 71%, 701 permits in 2003). Mazowieckie province continued to be the main destination area, with 62% of all work permits issued in 2004 (53% in 2003). The second was Pomorskie (18%) followed by Zachodnio-pomorskie (9%).<sup>3</sup>

**Tab. 14 Work permits granted individually by branch of economic activity (twelve top countries of origin). Poland 2004**

Country of permanent residence	Total	Branch of economic activity								
		Manufacturing mining	Construction	Trade	Hotels restaurants	Financial intermediation	Real estates activities	Education	Health social work	Other (a)
<b>Total</b>	<b>12381</b>	<b>3455</b>	<b>416</b>	<b>3798</b>	<b>920</b>	<b>1080</b>		<b>1515</b>	<b>343</b>	<b>854</b>
(former USSR)	4314	1121	84	1226	95	188		943	199	458
(EU-15)	3362	1426	219	746	70	516		189	10	186
Ukraine	2588	634	47	578	50	107		772	138	262
Vietnam	1063	74	1	647	333	6		-	-	2
Germany	970	477	60	180	17	149		30	5	52
Belarus	664	236	9	146	7	38		133	24	71
France	655	261	54	199	26	75		20	-	20
Russia	532	128	24	220	15	32		25	23	65
United States	518	121	10	71	11	91		188	1	25
Turkey	442	68	29	201	114	15		5	2	8
India	425	32	1	276	35	54		9	4	14
Italy	383	213	12	71	15	48		3	3	18
UK	293	77	7	62	1	41		96	1	8
Armenia	268	23	1	209	18	4		-	5	8

(a) Other includes *inter alia* Agriculture, Forestry, Fishery, Transportation.

Source: SOPEMI 2005 after Ministry of Economy

<sup>3</sup> Kępińska, op.cit.

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The migrants are usually employed as top managers or consultants (46%) or self-employed owners of businesses (26%). The EU-15 migrants more often occupy the managerial positions, whereas migrants from Asia tend to be self-employed. Manufacturing and construction are typically second-segment jobs taken by Ukrainians. An interesting case is the case of teaching positions, where the Ukrainian migrants take low-paid jobs in Polish schools in the border regions, mostly as English language teachers (772 permits in 2004, or 82% of all permits issued in this category).

## 2.7 Irregular migration

The category of irregular migrants concerns foreigners who either have entered a Poland without having fulfilled admission procedures (undocumented migrants), or who overstay their visas (visa overstayers), or who got involved in the activity different from the one specified in their visa or other documents entitling them to stay in Poland (undocumented workers).

The number of irregular migrants is of course impossible to measure, especially in Poland, where the authorities have problems measuring even regular migration. Therefore all the data presented here are mere estimations and should be treated accordingly.

### 2.7.1 Undocumented migrants

The peak of migrant smuggling and/or trafficking through Poland occurred in early to mid-1990s. In 1998 their number was estimated to be at least 30,000 annually.<sup>4</sup> Since then, due to the change of transit routes (which moved South), this number has most probably decreased. The number of group apprehensions in Poland confirms this trend.

**Tab. 15 Foreigners apprehended by Border Guard (BG). Poland 1998-2005 (a)**

Categories	1998	1999	2000	2001	2002	2003	2004	2005 (a)
<b>Total</b>	<b>7,024</b>	<b>5,289</b>	<b>6,481</b>	<b>6,075</b>	<b>5,107</b>	<b>5,928</b>	<b>6,823</b>	<b>4,567</b>
Apprehended by BG	4,207	3,217	4,067	3,851	3,251	3,842	4,732	2,925
Readmitted to Poland	2,817	2,072	2,414	2,224	1,856	2,086	2,091	1,642
<i>Of the total:</i>								
Apprehended in organised groups	2,140	1,866	1,893	2,534	2,100	2,288	2,375	1,333
<i>Of the total</i>								
Apprehended at the Polish-German border	4,877	3,565	4,494	3,873	3,212	3,808	4,495	2,027

(a) January – September

Source: SOPEMI 2005, after Border Guards

The decreasing trend has occurred while the Polish Border Guards have become increasingly better prepared, technology- and infrastructure-wise, to perform the operations. Therefore the drop in the number of the group apprehensions can hardly be explained only by the possible improvement of smugglers' skills. Polish borders are ones of the better guarded in Europe, and the best practices of the Polish guards have been copied to the EC Handbook for Border Guards.

## Tab. 16 Top ten illegal border crossings by nationality

<sup>4</sup> Marek Okólski, (2000). "Migrant Trafficking and Human Smuggling in Poland", in: F. Laczko, D. Thompson (eds) *Migrant Trafficking and Human Smuggling in Europe*, Geneva: International Organization for Migration, pp. 233-328.

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2003		2004	
<i>Citizens of</i>	<i>Persons</i>	<i>Citizens of</i>	<i>Persons</i>
Poland	2.687	Ukraine	3.062
Ukraine	1.508	Poland	2.928
Russian Federation	783	Russian Federation	917
Czech Republic	504	Moldova	408
Vietnam	425	Czech Republic	331
India	404	China	318
China	351	Vietnam	214
Moldova	340	Pakistan	178
Pakistan	251	Germany	146
Afghanistan	243	Belarus	145

Source: Border Guards, ICMPD report<sup>5</sup>

In 2003 Polish citizens were the most often apprehended group attempting the illegal border crossing –almost in all cases it were hikers who crossed the border in the mountains. Interestingly enough, the number of Ukrainians apprehended almost doubled between 2003 and 2004. The increase in illegal crossings might have been a consequence of the visa regime.

### 2.7.2 Undocumented workers

The overall assessment of the flows and stock of irregular migrant workers is impossible. The present estimations are highly inaccurate and they are based mainly on the calculation of the trans-border movements. In the period before the introduction of the visa regime, the foreign irregular labor flows was estimated by the National Labor Office at 600 000- 900 000. At the same time, the stock of irregular workers was calculated at 100,000-150,000.<sup>6</sup> After the initial drop in the number of foreign visitors, because of the introduction of the visa regime in September 2003, their number has been growing again. As recently reported by the Office of Repatriation and Aliens, the flow is estimated to be ca. 450,000 irregular workers.<sup>7</sup> There are also other estimates at 50-300,000.<sup>8</sup> The irregular foreign workers are usually visitors from Ukraine (their visas are issued free of charge) and Belarus. The visitors usually have a 90-day visa. They come usually from small towns and villages in Western Ukraine. They find employment at petty trade, construction and domestic work.

The undocumented workers may wish to become legalized, but on the other hand they do not want to enter the legal employment procedure, that would render their services too expensive and not competitive. The problem of illegal employment has not been tackled to this day. There is no political will to take any serious steps towards elimination of the phenomenon. Illegal immigration is always mentioned in the discourse while debating over new Aliens regulations, but in reality the

<sup>5</sup> 2004 Year Book on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe, ICMPD, Vienna.

<sup>6</sup> expert interview with dr Agata Górný, Centre of Migration Research, Warsaw University.

<sup>7</sup> Quoted in *Rzeczpospolita*, 12.01.2005, J. Bielecki, “Jak uchylić drzwi do raję?”

<sup>8</sup> Institute of Labor and Social Policy estimation, quoted in Korczyńska, Joanna, *Zapotrzebowanie na pracę obcokrajowców w Polsce. Próba analizy i wniosków dla polityki migracyjnej. Streszczenie*, Warszawa, 2005, p.8

laws are not executed on the local level.<sup>9</sup> The reasons for such inertia are simple – there is a widely spread acceptance for the shadow economy in the Polish society. The foreigners constitute but a fraction of all undocumented workers, most of whom are Polish.<sup>10</sup> Polish families, especially in big cities, rely heavily on foreign domestic work in the face of faulty social security and health care systems (regarding elderly people and children care). What is important, **the undocumented workers are not undocumented migrants – they are registered visitors**, thus they are partially controllable, they are circular migrants. They usually do not pose a threat to public order, they do not often engage in criminal activities, if they do it is most often corruption of the border guards, and they have been observing the terms of the visitor visa.<sup>11</sup>

### 3. MIGRATION POLICY

Since 1989, the year Poland was faced for the first time with the influx of migrants traveling to the West or being returned from there<sup>12</sup>, the development of Polish immigration policy has been rather limited. Two major factors have influenced any developments in this area: international human rights regime and EU conditionality. The first factor generated ratification of several conventions, inter alia the Geneva Convention (in 1991), the second one helped transplanting the Western European immigration policy solutions to the new regulations under construction.

During the period from 1995 (first drafts of the Polish new aliens laws) and 2004 (EU accession), the process of construction of migration law in Poland went through three important stages. First stage, from 1994 to 1997, was informed mainly by international policy learning, and ended with the Aliens Act of 1997<sup>13</sup> and the new Constitution, where the foreigners were granted the right to asylum and refugee status. The Act itself was rather restrictive, providing for non-flexible measures concerning refugees and asylum seekers, and defining in a very narrow way the catalogue of premises on which a foreigner can be granted a temporary or permanent permit. The Act was eclectic, built from the parts of various alien laws taken from the laws of some European countries, which thus provided legislative and institutional templates. The Act established the first permits for foreigners and it defined the foundations of the asylum policy.

In 1998-2001, Polish migration policy gained new dynamics, mainly because of the start of negotiations in the JHA. After the Amsterdam Treaty, the *Schengen acquis* was incorporated in the accession *acquis*. In the screening procedure, Poland adopted 180 legal acts in the JHA, out of which 160 were part of *Schengen acquis*. The amendment to the Aliens Act introducing the changes was adopted in 2001<sup>14</sup> and it was slightly more liberal than the previous law. Importantly enough, it introduced family reunification, but it also cracked down on marriages of convenience and made more difficult immigration for the reasons of studying. Any further development would be from now on moderated by the EU through a complex system of benchmarking, gate-keeping and monitoring.

In the last period before introduction of the visas and the EU accession, Polish decision makers prepared new acts - Aliens Act of 2003 and Aliens Protection Act of 2003.<sup>15</sup> They separated thus

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<sup>9</sup> Antoniewski, Ruslan, Izabela Koryś, *Imigranci o nieuregulowanym statusie: społeczne i ekonomiczne determinanty funkcjonowania w Polsce*, Migration Working Papers No 47, 2002.

<sup>10</sup> *UNDP Report on Social Development*, 2004

<sup>11</sup> Bieniecki, Mirosław et al. *Regulacja migracji zarobkowej – wyzwania dla Ukrainy w kontekście polskich doświadczeń*, ISP, Warszawa, 2005. [www.isp.org.pl/docs/PM/Regulacja\\_migracji\\_zarobkowej.pdf](http://www.isp.org.pl/docs/PM/Regulacja_migracji_zarobkowej.pdf)

<sup>12</sup> Szonert, (2000) describes in detail the first year of the immigration crisis in “Rok 1990 – Początki Opieki nad Uchodźcami”. In: Jan E. Zamojski, *Migracje Polityczne XX Wieku* pp. 35-64.

<sup>13</sup> Aliens Act of June 25, 1997 (Dziennik Ustaw 114, item 739, 1997)

<sup>14</sup> Act amending the Aliens Act and some other acts of 11 April 2001, Dziennik Ustaw, No 42, item 475.

<sup>15</sup> Aliens Act of 13 June 2003 (Dziennik Ustaw No.94, item 787); Act on Protection of Aliens on the Territory of the Republic of Poland of 13 June 2003 (Dziennik Ustaw No.94, item 788)

the law more humanitarian in scope, concerning refugee status and asylum from the alien law, definitely more restrictive. The visa regime can be mentioned here as an example. In that period, the incorporated laws were following strictly the EU conditionality, and there was a very limited margin of any national choices. The conditional closure of negotiations in the chapter 24<sup>th</sup> provided for constant benchmarking and monitoring of the progress Poland would make on the way to the EU standards in the making.

Not much has been done in this area since the EU accession. The law amending Aliens Act of 2003 and the Act on Protection of Aliens of 2003 passed in April 2005<sup>16</sup>. It transposes six directives of the Council of the European Union to the Polish law. The directives concern the status of the third country nationals who are long-term residents<sup>17</sup>; the right to family reunification<sup>18</sup>; the minimum norms of admission of asylum seekers<sup>19</sup>; the documents entitling to stay issued to the third country nationals, who have been victims of the human trafficking or who were exposed to actions facilitating undocumented migration and who collaborate with the authorities in charge<sup>20</sup>; the assistance in deportation via air<sup>21</sup>; and the temporary protection standards in case of a mass influx of Displaced Persons, and collaboration between the EU member states in this area.<sup>22</sup>

In the years 1995-2005, the Polish migration policy expanded in four directions: asylum policy, admission policy, labor migration policy and integration policy. It must be noted that these policies are not equally advanced. Usually, the fields, where the EU conditionality was stricter, have been better developed.<sup>23</sup>

### 3.1 Asylum policy

By becoming a member of the Council of Europe in 1991, Poland found itself in the organized axis of states trying to elaborate harmonized and transnational response to international migrations. For example, the Vienna Group members agreed to harmonize regional asylum policies also through adaptation of Geneva Convention provisions. On the other hand, Poland entered transnational networks designed to protect the European “inside” from the migratory pressures on the outside. Therefore, Poland signed readmission agreements with the Schengen countries, which entered in force in 1993.<sup>24</sup> The twofold policy, exhibiting two philosophies (human rights approach and restrictions), was one of the most important consequences of the policy transfer.

The Polish state accepted the burden of the returned migrants for two reasons. Firstly, Polish policy makers believed firmly in irreversible character of the transformation<sup>25</sup> and thus perceived

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<sup>16</sup> Dziennik Ustaw, 2005, No 94, item 788.

<sup>17</sup> 2003/109/EC, of 25 November 2003

<sup>18</sup> 2003/86/EC, of 22 September 2003

<sup>19</sup> 2003/9/EC, of 6 February 2003 (laying down minimum standards for the reception of asylum seekers)

<sup>20</sup> 2004/81/EC, of 6 August 2004

<sup>21</sup> 2003/110/EC, of 25 November 2003

<sup>22</sup> 2001/55/EC, of 20 July 2001

<sup>23</sup> The above regulations do not concern the EU citizens nor repatriates. The conditions of entry and stay of the EU citizens have been regulated by the separate law: the Act on Regulations of Entry and Stay of the European Union citizens and Their Family Members on the territory of the Republic of Poland dated on July 27, 2002. This Act incorporates the freedoms and privileges of the Freedom of Movement principle in force in the EU. The status of repatriates (automatically granted Polish citizenship) is defined in the Repatriation Act of November 9, 2000. However, the status of foreign spouses of the repatriate is partly defined by some provisions of the Aliens Act.

<sup>24</sup> Focusing on restricting the inflow by opening up the gate to send the immigrants back East from the Polish territory, the policy makers decided to copy the Western model and in 1996 they proposed the signing of the readmission agreements with Ukraine, Belarus and Russia. Similar agreements were signed with other neighbors.

<sup>25</sup> Ewa Kępińska, Dariusz Stola. (2004), „Migration Policy and Politics in Poland”. W: Agata Górny, Paolo Ruspini red. *Migration in New Europe : East-West Revisited*. Houndmills: Palgrave Macmillan

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these agreements a condition *sine qua non* of the confirmation of the country credibility on the international scene. Secondly, readmission agreements were usually followed by financial and technical support to Polish governmental agencies dealing with asylum seekers, and in the dramatic financial situation of the early 1990s such argument had its persuasive power.<sup>26</sup>

The Geneva Convention refugee status is granted by the President of the Office for Repatriation and Foreigners, An asylum seeker can be placed in the detention center or under arrest, provided that he crossed the border violating Polish laws or had not regulated his stay on the Polish territory. The length of stay in the detention center or in prison should not exceed 90 days, in exceptional cases it can be extended, however it cannot be longer than a year.

The 2003 Act limits the maximum period of the asylum procedure to 6 months, and during the procedure, the foreigners without the means to finance their stay in Poland are eligible to the assistance at the refugee centers and to medical care. Asylum seekers cannot work in Poland legally. However, if after a year since applying for the status the first decision has been not issued and the delay in the procedure has not been caused by the foreigner, he can apply for the work permit.

In case of rejection, the applicant can appeal to the Refugee Council. Individuals whose applications were definitely rejected can be either expelled or granted tolerated status. The refugee status procedures give special privileges to unaccompanied minors, “foreigners, whose mental and physical state allow to suspect that they have experienced violence”, and the disabled. Such people are not placed in the detention center, even when they applied for the refugee status without documented permit to stay in Poland, or having illegally crossed the border. In some cases the unaccompanied minors have to go through the age-testing procedure. They are assigned a guardian who leads them through all stages of the asylum procedure.

A refugee granted the status has the same rights as the holder of the temporary residence permit. The refugee spouse and minor children are also included in the status. Moreover, the refugees are eligible for special integration program and family reunification. In reality, the family members often choose to apply for a separate status than to enter the family reunification procedure since it is very long and complicated.

Other forms of protection are asylum, tolerated status, and temporary protection. Asylum is applicable, when Poland has special interest to protect a foreigner. The asylum recipient is automatically granted the permit to settle. Tolerated status has been created especially for a relatively numerous group of migrants, who have been denied the refugee status and who cannot be returned to their home country. A foreigner granted the tolerated status has the same rights as the foreigner having the temporary residence permit. Temporary protection is an immediate solution, elaborated under the EU umbrella, targeted at the foreigners, who have left their country of origin or a particular geographical region *en masse* because of war or other precarious geopolitical or environmental conditions. The foreigner under temporary protection is granted the non-renewable one-year residence permit, medical care access, accommodation and board.

Asylum seekers can participate in the UNHCR assisted voluntary returns. However, these provisions have not been commonly used.

On the whole, Polish asylum policy is the most Europeanized one. Since it has been developed according to the EU guidelines, it has almost no national character. What is worrying is that there is a wide gap between the provisions and the actual implementation.<sup>27</sup> This concerns accommodation facilities and job search options, both related to the overall economic situation in Poland. What is

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<sup>26</sup> [www.unhcr.org.pl](http://www.unhcr.org.pl). See also Lavenex, Sandra, (1999). *Safe Third Countries*. Budapest: CEU Press.

<sup>27</sup> Agnieszka Weiner (2003), “Tak daleko stąd, tak blisko” in Krystyna Iglicka “Integracja czy dyskryminacja. Polskie dylematy u progu wielokulturowości”, Warszawa: ISP.

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interesting, Polish society is not yet hostile towards refugees. One could argue that it can be explained on one hand by small numbers, and on the other - by the fact that in Poland the majority of asylum seekers and recognized refugees are Chechens, whose struggle against Russia many Poles sympathize with.

### **3.2 Admission**

Admission provisions were also influenced by the international cooperation. One of the regional initiatives on migration influencing Polish migration policy development in the very beginning was participation in the Berlin Process and Budapest Group. Thus the presented solutions do not

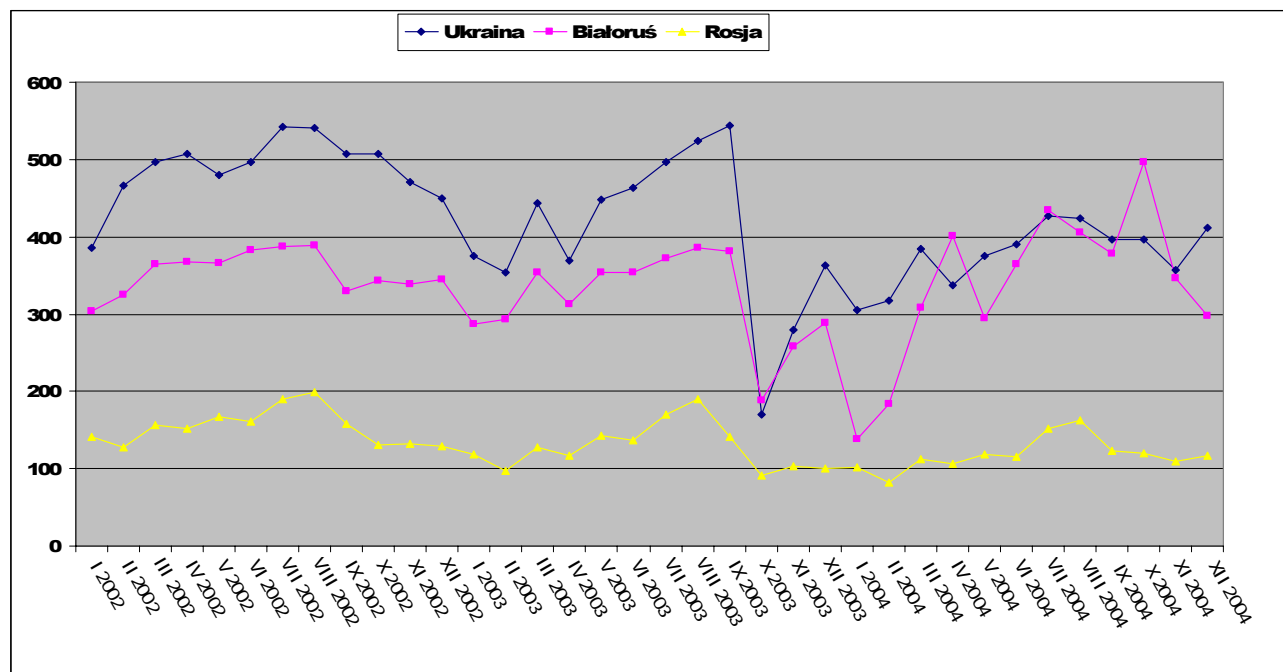
The basic documents legalizing the entry of a foreigner to the Polish territory are valid travel document and visa (if appropriate). Apart from these documents, a foreigner entering Polish territory should have sufficient financial means to meet the expenses of his stay and departure from Poland (or the documents confirming the availability of such financial means, e.g. work permit promise), and, in case of some nationalities – a permit to leave for other country or to return to the country of origin.

The provisions adopted by Polish authorities as far as admission are similar to the regulations of the Schengen area. The only significant difference is a relatively open visa regime.

#### **3.2.1 Visa regime**

The prospect of Poland's accession to the EU meant that it was necessary to change the regulations for the citizens of Eastern states traveling to Poland. Initially, Poland made attempts (particularly in its relations with Ukraine) to find an alternative to visas. Finally, however, the government unequivocally declared readiness to fully harmonize these regulations with the Schengen standards. Aware of the benefits, i.e. the prospect of abolition of border control between Poland and Germany and that of cooperation in the field of security with other EU states, Poland was also conscious of the dangers. That is why the preparations to introduce visas were accompanied by the will (enjoying wide popular support) to introduce solutions which would minimize inconveniences connected with applying for a visa and prevent the emergence of a barrier to our contacts with the Eastern neighbors. Thus the aim was to keep the volume of the transborder traffic as high as before the introduction of the visa regime. The objective was nearly met.

Fig. 1 Border crossings from Russia, Ukraine and Belarus – impact of the visa regime



Source: Institute of Tourism

The entry visas entitle to the one-time, two-time and multiple entries to the Polish territory. The Visitor visa can be a short-term visa (up to 3 months) and long-term (up to 12 months). The new Act introduced an important limit – the short-term visa can be issued only once in 6 months. However, Polish visa regime can be described as liberal. The Polish visa is free of charge for Ukrainians, and Russians and Belarusians were presented with a catalogue of cases when they do not need to pay.

Ukrainians are often given a multiple entry visas, provided that are:

- railway employees while at work; international drivers;
- exchange participants on different government levels;
- participants of bilateral programs in any important spheres of collaboration;
- owners of immobility in Poland or inheritor of such
- visiting graveyard;
- visiting families;
- retirees;

Belarussians do not need to pay for one-entry visas, if they are:

- under 16 and over 65; visits to graveyards;
- participants of scientific, educational, cultural, technical, sport events on international, interregional and interdepartmental level;
- academics, scholars, students participating in exchange programs;
- investigation or court officers
- disabled persons and their assistants
- members of Euroregions "Niemen", "Bug", "Puszcza Białowieska".

They receive multiple entry visas at 50 % of the fee if they visit their close relatives in Poland.

Russians do not pay any fee if they are:

- under 16 and over 70;

- disabled persons
- visiting the graves
- visiting sick family members or going for a funeral
- participants of scientific, educational, cultural, technical, sport events, exchange academic teachers and exchange students;
- railways employees on duty;
- inhabitants of the Kaliningrad District

**Tab. 17 Number of consulates issuing the largest number of visas in 2004.**

Lviv	217,935
Lutzk	178,046
Kiev	148,233
Kaliningrad	136,736
Minsk	105,667
Brest	102,494
Grodno	84,304
Moscow	49,083
Kishiniev	18,350
Odessa	18,292

*Source: Ministry of Foreign Affairs*

The data provided shows that visa policy is not the tool of closure for the Polish administration. Visas are granted as to keep the steady flow of Ukrainians, especially, to Poland. The regime is actually used to control the flows. Migrants with visitor visas can work illegally, but at least they can be counted. This situation might change when Poland enters Schengen zone.

### **3.2.2 Admission of students**

Foreign students are one of the fastest growing categories of legal migrants worldwide. Entering educational facility in the destination country is often seen as one of the winning migration strategies. It happens so, because the students constitute a gain to the domestic economy and usually integrate better.

All foreigners, who are legally settled in Poland, can study in Poland on the same conditions as their Polish counterparts, i.e. free of charge. Over 8000 foreign students, on student visa, were affiliated at Polish universities in 2003. Their number has been increasing, despite there is no active student policy in place. Over 50% are however students from the former Soviet Union, namely Ukraine (almost 25% of all students), Belarus, Lithuania, Kazakhstan, and Russia. These students often have Polish origins, and thus not residents but eligible to enter the universities with Polish-heritage scholarships.

### **3.3 Labor migration**

Poland has not elaborated any migrant worker scheme, as point system or quotas. It chose to focus on the visa policy, making the visas the main tool of the policy towards potential immigrants.

The main legal act regulating the questions of the foreign labor is the Act on Promotion of Employment and Labor Market Institutions of April 20 2004<sup>28</sup> and the following ministerial regulations:

<sup>28</sup> Dziennik Ustaw, 2004 no 99, item 1001

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- a) The Regulation of the Minister of Labor and Social Policy of December 19, 2001, on the conditions and procedures of granting the work promises and permit for foreigners.<sup>29</sup>
- b) The Regulation of the Minister of Labor and Social Policy of December 19, 2001, on the conditions and procedures of granting the work promises and permit for foreigners employed at export services provided by foreign employers in the Republic of Poland,<sup>30</sup>
- c) The Regulation of the Minister of Labor and Social Policy of December 19, 2001, on the definition of cases, when the work promises and permits for foreigners are granted by the Voivoda regardless of the situation on the local labor market,<sup>31</sup>
- d) The Regulation of the Minister of Labor and Social Policy of December 19, 2001, on the exemptions of foreigners from work permit procedure,<sup>32</sup>
- e) The Regulation of the Minister of Economy and Labor of May 26, 2004, on the limitations of foreign labor on the territory of the Republic of Poland.<sup>33</sup>

Polish regulations tend to be restrictive and they aim at labor market protection. This derives from the precarious situation on the labor market with almost 18% of unemployment. The policy is also in line with the EU-wide negative responses to economic migration.

To obtain a work permit, a foreigner needs to go through the procedures similar to other EU member states. The applicant applies for a job from his home country. Provided there are no Polish workers suitable for, or interested in it, he can be considered for the post. Thus the potential employer needs to undertake a lengthy and costly bureaucratic procedure to obtain a promise of work permit. The cost is the equivalent of the minimal wage plus administrative costs. This promise is a condition for issuing visa or temporary residence permit. The only individuals exempted from majority of requirements are native speaker language teachers and sportsmen. In 2004 there have been several changes in the laws governing employment of foreigners.

On March 11, 2004, the decision of the minister of Economy, Labor and Social Policy introduced some of them.<sup>34</sup> Later on, the Act of April 20, 2004 on Promotion of Employment and Labor Market Institutions,<sup>35</sup> introduced some minor changes aiming at harmonization of Polish law with the EU requirements.

Poland signed bilateral agreements concerning employment in the early 1990s with many European countries, mostly aiming at sending Polish workers abroad. Nevertheless, the agreements with Ukraine, Belarus, Russia and Lithuania have been a dead law.

As stated in the Act on Regulations of Entry and Stay of the European Union citizens and Their Family Members on the territory of the Republic of Poland, of July 27, 2002,<sup>36</sup> the only individuals entitled to the job-seeker permit are EU nationals. There are no job-seeker visas available to citizens of any other country.

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<sup>29</sup> Dziennik Ustaw, 2001. no 153, item 1766

<sup>30</sup> Dziennik Ustaw 2001, no 153, item 1768

<sup>31</sup> Dziennik Ustaw 2001, no 153, item 1767

<sup>32</sup> Dziennik Ustaw 2001, no 153, item 1765

<sup>33</sup> Dziennik Ustaw 2004, no 198, item. 2037

<sup>34</sup> Dziennik Ustaw. No 27 - item 236, item 237, item 238, item 239

<sup>35</sup> Dziennik Ustaw. 2004, No 99, item. 1001

<sup>36</sup> Ustawa z dnia 27 lipca 2002r. o zasadach i warunkach wjazdu i pobytu obywateli państw członkowskich Unii Europejskiej oraz członków ich rodzin na terytorium Rzeczypospolitej Polskiej (Dz.U. No 141, item 1180 and amended act of 2003 No 128, item 1175).

### 3.4 Integration

Polish law does not provide for any complex integration policy of foreigners, unless they are refugees.<sup>37</sup> The exception is the integration program for the refugees. Immigrants, since they are not recognized as a growing group, are left to integrate on their own. Only recently, the individuals with tolerated status were granted the right to participate in integration program for refugees.

Primary condition for integration is the legal status of foreigners. The measure of the integration policy is the ease of getting residence permits, naturalization and the vulnerability for expulsion. As it has been stated earlier in the text, a foreigner legalizes his stay in Poland by obtaining either the temporary or permanent residence permit.

Temporary residence permit is granted to workers with the work permit, businessmen, students, artists with international reputation, foreign spouses of a Polish citizen or individuals who are in the family reunification procedure. They must prove they are not to become a burden to the Polish Social Security System. The residence permit is issued for two years at most.

In the situation, when application for the residence permit is lodged by the foreign spouse of the Polish citizen or entitled foreigner, the administration officers processing the case are obliged to examine if the marriage is not a marriage of convenience. If an undocumented migrant is a spouse of a Polish citizen, he cannot be refused a residence permit.

The permanent residence permit provides a foreigner with the rights equal to the ones of Polish citizen, including the right to work and social rights. A foreigner can apply for it after 5 year long legal residence in Poland. He must prove that he has accommodation and economic means to support himself.

Naturalization is the least common procedure in Poland. In the Polish law, citizenship is primarily granted on the basis of *ius sanguinis*. However, there are ways for a foreigner to become naturalized. Citizenship is granted by the President of the Republic of Poland. A foreigner can apply for Polish citizenship if he has held permanent residence permit for at least 5 years. The acquisition of the Polish citizenship can depend on the proved loss or renunciation of the foreign citizenship.<sup>38</sup> Granting of Polish citizenship to the parents has the immediate effect of the acquisition of Polish citizenship by their children. If Polish citizenship has been granted only to one parent, the other must give the consent for the child to acquire Polish citizenship. In practice, many foreigners are not informed clearly about this fact, and thus there have been cases when the child would not become a Polish citizen automatically, even if both parents were Polish.<sup>39</sup>

As the member state, Poland has to introduce the required EU provisions, among them the EU long-term residence permit, introduced in 2005, and provisions for EU nationals, enacted in 2004.

Expulsion of a foreigner from Polish territory can take place if he does not have proper documents to stay in Poland; was undocumented worker; violated the law; cannot support himself; is in *persona non-grata* register; poses a threat to national security; is guilty of illegal border crossing, or an attempt thereof; his residence permit was not extended. Foreigners with settlement permit cannot be expelled, nor can be the individuals who claimed tolerated status.

Under the pressure of the European Union, the policy makers have become more interested in integration of foreigners in Poland. In January 2005, the Council of Ministers established a Task Force for Social Integration of Foreigners, based at the Ministry of Labor and Social Policy. The task force is responsible for preparation of proposals and solutions regarding integration policy,

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<sup>37</sup> It also provides integration for repatriates, but they are not technically foreigners, since they hold Polish citizenship, and thus they are not discussed here.

<sup>38</sup> Polish Citizenship Act of February 15, 1962 (PCA)

<sup>39</sup> Weinar 2003 op.cit

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exchange of opinions about the direction of the actions taken in the ministries, as well as the collaboration with the NGOs.

Other initiatives foresee introduction of anti-discriminative policy to limit the xenophobic attitudes towards immigrant communities. The problem being of course, that neither there are visible immigrants communities, nor the public is openly xenophobic towards them, and thus the good practices copied from multicultural societies of Western Europe might not actually work well in Poland.

The only full-fledged integration programs are addressed to the refugees. In short, the refugees can count on help with learning Polish, finding job and housing, they are also entitled to a small monthly allowance. In 2004, 167 families and 486 people, including 111 women and 234 children participated in the refugee integration program. As in the previous years, the majority of programs (for 116 families) were organized in Mazowieckie province (the principal destination for asylum seekers in Poland), mostly in Warsaw, and the beneficiaries were mostly Chechens: 139 families and 438 people, including 102 women and 224 children.

### **3.5 Regularization**

Implementation of the new regulations entering in force on September 1, 2003 has brought the first regularization procedure. All foreigners, who had lived continuously in Poland for a at least 6 years, and would prove housing and financial means to cover necessary expenses, or a work promise, were entitled to apply for a one-year temporary residence permit, regardless of their status. 3,508 migrants used this opportunity to legalize their stay. Among them, the two major groups were Armenians (46%) and Vietnamese (38%). The program was reopened until November 30, 2004, and then 2,413 previously undocumented migrants were issued the permits. Again, the Armenians and the Vietnamese were respectively 44% and 41% of the total.

### **3.6 Polish migration policy model**

Polish immigration policy has several distinctive features. Firstly, although it adopted very scrupulously the *acquis*, in some respect even more accurately than some old member states. Up to the date it was more the “policy of no policy”, following the example of more experienced member states and developing mainly in the fields indicated by the EU, as asylum or border control. On the other hand, Polish administration has a different way of implementation of these regulations, what is clearly visible in the case of refugee integration (discreetly pushing them out of the country) and visa policy (as liberal as it’s possible).

Visa system plays an important role here, being *de facto* labor migration policy tool – through liberal visa procedures in Ukraine, Polish labor market receives nearly enough visitors to feed the needs of the dual economy. However, it is rather doubtful that this outcome was cold-mindedly predicted and that liberal attitudes were actually meant to interfere with labor migration.

## **4. Why study Ukrainians?**

The points below are to sum up the findings of the present report.

Firstly, Ukrainians constitute the third largest national group crossing Polish borders annually, and the most numerous one among non-EU countries.

Secondly, in terms of official immigration it is the largest and the fastest growing non-Western group.

Thirdly, it is the top nationality getting the temporary residence permits.

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Fourthly, it is the top nationality getting the permanent residence permits.

Fifthly, Ukrainians get the largest number of work permits.

Sixthly, quite astonishingly, Ukrainians work in first and second level education in Poland, giving thus a new dimension to the idea of the secondary labor market.

Seventhly, Ukrainians are the main beneficiaries of the liberal visa regime.

Eighthly, 25% of all foreign students in Poland are Ukrainians.

Ukrainians thus are the most important migrant group, both in legal and in undocumented dimension. There are no new feasible studies on this group, in the changing context of Polish-Ukrainian migratory dynamics.