

**ТРУДОВА МІГРАЦІЯ З УКРАЇНИ
ДО РЕСПУБЛІКИ ПОЛЬЩА:
НОРМАТИВНО-ПРАВОВЕ РЕГУЛЮВАННЯ,
КЛЮЧОВІ ПРОБЛЕМИ ТА ВИКЛИКИ¹**

Ярина Турчин

Національний університет «Львівська політехніка»

Researcher ID R-1932-2017

Scopus Author ID: 57192268948

turchynj@ukr.net

Тереза Астратович-Лейк

Вармінсько-Мазурський університет в Ольштині

ORCID: 0000-0001-5881-2325

teresa.astramowicz@uwm.edu.pl

Ольга Івасечко

Національний університет «Львівська політехніка»

ORCID: 0000-0003-2141-3309

ivasechko.2011@ukr.net

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У статті зосереджено увагу на таких концепціях міжнародної міграції, як-от: «притягування-відштовхування», стратегія адаптації (аккультурації), теорія відносної відмінності, теорія людського капіталу. Проаналізовано нормативно-правову базу України та Польщі у сфері регулювання трудової міграції, яка охоплює низку юридичних актів, прийнятих в обох країнах задля мінімізації можливих негативних наслідків збільшення міграційних потоків. З'ясовано головні «виштовхувальні» фактори трудової міграції країни-донора та «притягальні» фактори країни-реципієнта. Виокремлено позитивні та негативні наслідки інтенсифікації міграційних потоків українських заробітчан як для України, так і для Польщі. Спроєктовано майбутні сценарії моделювання міграційних потоків, а саме: оптимістичний, песимістичний, реалістичний, а також створено модель міграції за умов пандемії. Запропоновано рекомендації задля посилення ефективності співробітництва між Україною та Польщею щодо врегулювання проблем трудової міграції. Для оцінки трендів сучасної міграційної політики офіційної Варшави застосовано багатовимірний Індекс МІРЕХ, згідно з яким політика щодо мігрантів оцінюється як «рівність на папері» та є нижчою від середньої в ЄС, зокрема оцінюється у 40 балів зі 100 можливих. Зроблено висновок про те, що міграційна політика має базуватися на принципі «трипартизму», тобто приносити користь державі-донору, державі-реципієнту та мігрантам.

Ключові слова: трудова міграція, українсько-польська співпраця, міграційна політика, державна політика.

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**LABOR MIGRATION FROM UKRAINE
TO THE REPUBLIC OF POLAND: REGULATORY FRAMEWORK,
KEY ISSUES AND CHALLENGES²**

Yaryna Turchyn

Lviv Polytechnic National University
Researcher ID R-1932-2017
Scopus Author ID: 57192268948
turchynj@ukr.net

Teresa Astramowich-Leyk

University of Warmia and Mazury in Olsztyn
ORCID: 0000-0001-5881-2325
teresa.astramowicz@uwm.edu.pl

Olha Ivasechko

Lviv Polytechnic National University
ORCID: 0000-0003-2141-3309
ivasechko.2011@ukr.net

The article deals with the conceptions of the international migration, focusing on the most relevant strategies in terms of migrant workers adaptation. The authors analyse the following conceptions: the «Pull/Push» theory, Adaptation (acculturation) Strategy, Relative Inequality Theory of Migration, the Human Capital Theory. Legal framework of Ukraine and Poland in the sphere of labor migration regulation, including set of legal acts, adopted by both countries in order to minimize possible negative outcomes caused by evolving migration flows have been analyzed. The main «pushing» migration factors of the donor countries and «pulling» factors of the recipients are clarified. The main motive for migrating to Poland is to form a so-called «airbag» for their families in Ukraine. The point is that thanks to remittances, clothes, food, etc., Ukrainian labor migrants form a sense of confidence in the future of their family members in the «era of poverty», which is identified with the Ukrainian state. The positive and negative consequences of the migration flows intensification of Ukrainian workers for both Ukraine and Poland are highlighted. Future scenarios for modeling migration flows are shaped, namely: optimistic, pessimistic, and realistic and the Covid-19 migration pattern. Recommendations for strengthening the effectiveness of Ukrainian-Polish cooperation in solving of the labor migration problems are suggested. The assessment of the trends of current migration policy of Warsaw has been carried out in accordance with multilateral MIPEX Index. Thus, migration policy is assessing as the «equality in the paper» and is rating lower (40/100 points) than average indicator among EU-countries. The conclusions assert that migration policy should be based on the principle of «tripartism» and serve the donor state, the recipient state and the migrants themselves.

Key words: labor migration, Ukrainian-Polish cooperation, migration policy, state policy.

In² the current circumstances labor migration issue is considered to be relevant for both Kyiv and the Warsaw, whereas the implementation of migration policy faces vital difficulties, such as social-economic, political, fiscal, workforce shortfall etc., and also obvious differences in the dynamics of migration.

Among the leading causes for migration of Ukrainian workers are armed aggression by the Russian Federation on the East of Ukraine, «weariness with the war», desire to omit the military service, «the era of poverty», economic crisis, in fact, the one, caused by Covid-19 pandemic, extremely low level of social standards and guarantees, desire to provide wellness for families etc.

The major reason for moving to Poland is to earn so-called «financial airbag» for their families in Ukraine. Through the financial transactions and other goods Ukrainian migrant workers provide personal sense of confidence and security for them and their families in the «era of poverty», that is identified with Ukraine.

The authors analyze the peculiarities of normative-legal regulation of migration issues in Poland and Ukraine; to clarify the problems of Ukrainian labor migrants in Poland; to highlight the challenges facing labor migrants today, mainly in the Covid-19 pandemic; to outline possible ways to solve pressing migration problems and consider scenarios for the further development of the situation related to migratory labor flows from Ukraine.

In the light of globalization, managing migrant flows is not a new phenomenon in the international sphere, instead, becomes a vital one in the national

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policy. Given the interdisciplinary dimension of the phenomenon, covering political, economic, social, cultural, and ecological matters, the migration issues are studied from different perspectives. The problem of migration is dynamic, due to the permanent impact on the circulation of migration flows by exogenous and endogenous factors [Fehler, Cebul & Podgórska 2017: 13].

Going into the etymology and understanding of the term «migration», it should be noted that firstly it was introduced into scientific use by a German scientist, geographer, and cartographer, a «pioneer» in migration research, Ernst Georg Ravenstein. Among the existing typologies and classification of migration, in the present article is applicable the confirmation, that voluntary migration is a movement of people, determined by personal reasons. In this context, it is reasonable to assume that one of the types of such migration is namely labor migration [Sokołowicz, Lishchynskyy 2018]. The term labor migration appeared in 1990 in a document entitled «The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families», which set out the definition of «labor migration», namely the term «migrant worker» refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a nation (paragraph 1, article 2).

Nowadays two types of labor migration are distinguished: low qualified workforce from the developing countries to the developed countries and highly qualified professionals – the so-called occupational migration, «brain-drain».

The most attractive for assessing the migratory intentions of society is the «Pull/Push» concept, presented and finalized by a researcher Everett Lee [Nosek 2018: 23]. According to Everett Lee, all factors of migration can be divided into four groups: 1. Factors, related to the origin of the migrant; 2. Factors related to the country of destination; 3. Intermediate obstacles; 4. Personal factors [Новосад 2020].

For the better understanding of the topic, the Adaptation (acculturation) Strategy, presented by John W. Berry, plays a vital role [Nosek 2018: 39]. Hence, a scientist distinguished integration, assimilation, separation and marginalization among the acculturation strategies. In the core of the Acculturation Strategy of migrant John W. Berry underlines two dimensions-intentions – maintaining of the past culture and perceiving new [Гірник, Гірник 2014]. The harmonious process is multiculturalism, which involves the integration of the migrant, his identification with both: his own and the new culture.

In 1987 an economist Josef Borosh (József Böröcz) within the scope of the Relative Inequality

Theory of Migration classified two groups of migrants, «positive» and «negative». Tourists, businessman, «highly qualified» and educated migrant are attributed to the «positive», «illegal» migrant, refugees, «low qualified» migrant – to the group of «negative» [Jaskułowski, Pawlak 2016].

A notable place among the theories of international migration is occupied by the theory of «institutional approach», which is focused on migratory behavior of the population, which is made up by the comprehensive support of governmental and non-governmental organizations, law offices, social services, humanitarian organizations and mafia networks etc.

Relevant to be applied in studying of the intentions to migrate to Poland among Ukrainians is the theory of neoclassic economical approach, which focuses on «human capital model», and asserts that migration flows are caused by the significant difference in wages [Вербовий 2011:1–7].

Modern American sociologist Douglas S. Massey's states that the study of international migration is often carried out within the framework of two separate branches of the social science. The first one is targeted at finding out the causes, course, types and consequences of migration, the second one – at the ways of adaptation in the host societies [Castles & Miller 2011:44–45]. Therefore, migration policy of the state should be based on providing of the principle of «tripartism» and serve the donor state, the recipient state and the migrants themselves.

Since the COVID-19 pandemic is still continuing, the data on the situation of Ukrainian migrants on the territory of Poland, as well as on the bilateral regulation by the governments of both countries of problematic aspects related to the quarantine regime is being updated periodically. Precise monitoring of the data is definitely needed. However, it should be noticed that specificity of the present research lays not in the analysis of the studies (since most of them have been published before the pandemic starts), but rather in presentation the relevant statistic data and the legal documents. Such approach is resulted from the interrelation between the topic on Ukrainian-polish migration and the changes, caused by the spreading on the COVID-19 virus.

Ukraine's specific legislation in the field of migration consists of the following regulatory and legal acts: the Ukrainian Constitution, Law of Ukraine «On External Labor Migration» (adopted 5 November 2015), Resolution of the Cabinet of Ministers «On the Approval of the Provision on the State Migration Service of Ukraine» (adopted 20 August 2014), Strategy of the State Migration Policy of Ukraine for the period up to 2025, Action Plan for 2018–2021 on the Implementation of the Strategy of the State Migration Policy of Ukraine

for the period up to 2025 [Про затвердження плану заходів на 2018–2021 роки щодо реалізації Стратегії державної міграційної політики України на період до 2025 року 2018].

A pointer in this field is the Strategy of the State Migration Policy of Ukraine for the period up to 2025 [Про схвалення Стратегії державної міграційної політики України на період до 2025 року 2017] and the Resolution «On the State Migration Service of Ukraine» (adopted 20 August 2014) [Про затвердження Положення про Державну міграційну службу України 2014]. The establishing of this branched regulatory framework has been facilitated by exogenous and endogenous factors, namely, Russian aggression and, consequently, re-orientation of the migration flows from the East to the West, the implementation of visa-free regime between Ukraine and the European Union, numerous economical and demographical problems.

The regulating of the Poland migration policy is carried out by the Constitution adopted 2 April 1997 as well as other legal acts that are being analyzed further.

The vital legal act in the sphere of a foreign workers employment is the Act on Employment and Unemployment Prevention adopted 14 December 1994, including the present amendments. The amendments states that an employee, who came from abroad and expressed a desire to work in Poland legally, must receive employment permission by submitting a special application to the Voivodeship Labor Office. The next step is the receiving of visa in a consular office of the Republic of Poland on the basis of a legal employment contract [Ustawa o zatrudnieniu i przeciwdziałaniu bezrobociu 1994].

Since 2008 citizens of Ukraine are entitled to a temporary employment without special permission and since 2012 an employment procedure of highly qualified specialists from the third states had been greatly simplified. To date, an employer shouldn't receive a certificate of the lack of relevant qualified specialist in the Republic of Poland [Ustawa o promocji zatrudnienia i instytucjach rynku pracy 2004].

Migration policy mostly are regulated by the Act on the Polish Card (or «Pole's Card») entered into force 7 September 2007. The law has allowed citizens of other countries, who have a Polish origin, to receive long-term multiple-entry visas for the stay in the Republic of Poland. Owners of the Polish Card are not requested to have an additional permission for the employment in Poland. Simultaneously, this category of migrants got the opportunity to conduct their own business here, access to education on the equal basis with Poles and the right to medical care in the case of an accident etc. The procedure of the Polish Card receiving consists of the following steps: submitting a special application in a

consular office of Poland, proving the existence of Polish family ties and knowledge of the Polish language, at least at the beginner level [Ustawa o Karcie Polaka 2007].

The next innovation in Poland's migration policy was the amendments to the Law on Citizenship in August 2012, according to which a foreigner who has permanently resided in the Republic of Poland for the last three years with a permanent residence permit may acquire Polish citizenship (before that the term was 5 years), speaks Polish well, is officially employed and owns real estate [Ustawa o obywatelstwie polskim 2009].

Significant changes were also made to the Law of the Republic of Poland «On Foreigners» in December 2013. In this manner, the immigration procedure has been simplified and eased. In particular, a residence permit now also means an employment permit, i.e. instead of two procedures there is one, and the duration of such a permit is increased from two to three years, and the registration period is reduced [Ustawa o cudzoziemcach z dnia 12 grudnia 2013 r. 2013].

In the summer of 2017, after Ukrainian citizens were granted the right to travel in Europe without visas, holders of biometric passports who entered Poland were allowed to work for up to three months without additional permits. The Law of the Republic of Poland on Migration Policy of June 10, 2019 is aimed at meeting the needs of Poland's economic policy, as further economic growth of the country significantly depends on labor migrants and their contribution to the GDP of the Republic of Poland [Polityka Migracyjna Polski 2019].

The COVID-19 pandemic and the resulting quarantine measures have put governments in a precarious and difficult position. On April 1, 2020, to support certain sectors of the Polish economy, employers and workers, a special document called the «Crisis Shield» came into force. The document takes into account many features of the situation of foreign workers who were in Poland at the time of the coronavirus pandemic. As many Ukrainians were concerned about the possible deportation from the country and the acquisition of illegal worker status, the Polish government decided that the period of legitimate stay for foreigners who entered Poland with biometric passports would be extended [Tarcza antykryzysowa 2020].

In a very short time, changes and adjustments to the above document were proposed and an updated version was developed – «Crisis Shield 2.0» [Ustawa o szczególnych instrumentach wsparcia w związku z rozprzestrzenieniem się wirusa SARS-CoV-2 2020]. According to it, the terms of permits for foreigners are extended automatically. Also, foreigners who were legally employed in Poland and lost their jobs due to quarantine restrictions were entitled to three months of

social assistance, which amounts to approximately 80 % of the minimum wage.

So we can see that 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. Also, after the meeting of the intergovernmental Ukrainian-Polish commission, Deputy Prime Minister – Minister for Reintegration of the Temporarily Occupied Territories of Ukraine Reznikov claimed that Ukraine and Poland will sign an agreement on social protection of migrant workers in the future.

According to the Main Statistical Office of Poland, at the end of last year there were at least 1.3 million citizens of Ukraine in Poland [Соціально-економічне становище України за січень-лютий 2020 року 2020]. According to the Central Statistical Office of Poland, during 2014-2019, the total number of legalized workers increased 5 times. Among them are more than 600 thousand workers from abroad who work in Poland on a completely legal basis and, accordingly, pay taxes to the state. The share of labor migrants from Ukraine in general was 75 %, i.e. 454.5 thousand people [Wykazy krajów urodzenia, wyjazdu, przyjazdu, obywatelstwa 2020].

According to the Ministry of Family, Labor and Social Policy of Poland, the unemployment rate is at a record low – 5.4 % [Rekordowo niskie bezrobocie 2019].

The most important factor in the intensification of migration processes from Ukraine to Poland is a significant difference in wage levels. Among the political reasons, we should single out the hybrid war with the Russian Federation, Ukraine's European integration process, namely the introduction of a visa-free regime with the EU, which significantly simplified the procedure for employment abroad [Громадяни України на польському ринку праці – досвід, виклики, перспективи 2019]. Also, the cultural and linguistic kinship of the Ukrainian and Polish populations are one of the determining social factors. Cultural proximity and common features in the mentalities of the two nationalities, of course, greatly simplifies adaptation to the new environment [Працівник з України – між Польщею і Німеччиною 2019].

One of the leading reasons for the working population of Ukraine to leave for Poland is reunification with a family located in the territory of a neighboring state. A study indicating such a factor shows that such migrants account for 1.5 % of the total number of respondents (according to 2019).

Another favorable moment for Ukrainian labor migrants is that from January 1, 2021, the Polish government increased hourly wages by 1 zloty (UAH 7.5).

However, it is still three times lower than, for example, in neighboring Germany. Despite this imbalance in wages, until other European countries open their labor markets to Ukrainians, Poland will remain the EU's recipient leader for labor migrants from Ukraine for a long time to come [Банахевич 2020].

Among Ukrainian labor migrants in Poland as of 2019, the largest share are workers with vocational education – 31.8 %, followed by migrants with secondary education – 29.4 %, then 27.5 % – with higher and 11.3 % – with unfinished higher [Громадяни України на польському ринку праці – досвід, виклики, перспективи 2019].

It should also be noted that the number of migrants who came to Poland from the southern and eastern parts of Ukraine has increased. Focusing on gender and age structure, there are about 20.2 % more male than female migrants. Instead, the age of migrants generally ranges from 25 to 36 years. Most Ukrainian citizens receive a residence permit in the Masovian Voivodeship with the administrative center in Warsaw (47,574), Lesser Poland Voivodeship (27,063), Greater Poland Voivodeship (25,165), and Lower Silesia Voivodeship (18,476).

The President of Ukraine Zelensky presented the program «Return and Stay» addressed to workers in December 2019, but it is too early to call this step towards migrants effective. The program provides for soft loans to small businesses, which can receive up to 1.5 million hryvnia support for their own development at 5–9 % per annum for 5 years.

Given all the positive and negative consequences of labor migration to Poland, it is worth noting three possible developments: optimistic, pessimistic and realistic. The *optimistic* scenario mainly envisages stabilization of the Ukrainian economy and improvement of the labor situation in Poland. *Pessimistic* – the main parameters of economic development in Ukraine will decrease significantly compared to the level of 2019–2020. Under such conditions, seasonal migration will become more long-term. The third scenario is *realistic*, in which the economic indicators of the level of 2019–2020 will not improve significantly, but will not decrease.

To these three scenarios should be added another, *a model of Ukrainian labor migration to Poland after the COVID-19 pandemic*.

Director of the Institute of Demography and Social Research, Academician of the NAS of Ukraine Libanova states the fact that during the quarantine period a maximum of 500 thousand labor migrants returned to Ukraine, namely those who were in neighboring Poland, the Czech Republic, Slovakia and those who worked semi-legally. The key reason for their return home is

fears that the borders will be completely closed [Лібанова 2021].

To assess the current integration policy of official Warsaw, we consider it appropriate to use the Integration Policy Index (MIPEX), which is a consortium of European organizations led by the Migration Policy Group and covers 52 countries. The MIPEX index is multidimensional, as it analyzes integration policy in seven areas: access to the labor market; family reunification; education; long-term stay; participation in the political life of the country; obtaining citizenship; protection against discrimination.

Non-EU citizens have faced a number of obstacles in Poland. Thus, according to MIPEX for 2020, the country's integration policy is estimated at 40 out of 100 points. Poland's approach to the integration of migrants is classified by MIPEX as «Equality on paper».

As in most Central and Eastern European countries, immigrants in Poland enjoy some basic rights but do not have equal opportunities. Official Warsaw still needs to invest in equal rights and equal opportunities for immigrants, which in Poland are below average compared to most MIPEX countries. Poland's current policy encourages the public to perceive immigrants not as equals but as strangers. Immigrants in Poland face many obstacles in several areas, mainly the labor market, education, health care, and political participation. Under such a restrictive policy, the public experiences a higher level of xenophobia and a lower level of social trust, which leads to fewer contacts and positive experiences with immigrants. Polish integration policy is estimated to be below the EU average [MIPEX. Poland in 2019–2020].

Several key recommendations should be identified to strengthen the rights of Ukrainian migrant workers in Poland. **Firstly**, it is advisable to appoint a special labor attaché in missions and embassies, whose main function is to ensure that all the rights of migrant workers are respected. **Secondly**, the Ukrainian diaspora in Poland should be involved in resolving the problems of migrant workers. **Thirdly**, the Ukrainian government needs to make every effort to raise the social standards of the population and create new jobs, which will significantly reduce labor migration flows.

Therefore, in the context of the COVID-19 pandemic, the governments of both countries need to focus their efforts on the situation of Ukrainian workers in Poland. The main reasons and «pushing» factors of labor migration of Ukraine to Poland are identified: *economic, political, social*. It is concluded that Ukrainian labor migrants have three key adaptation strategies in the recipient country, in the case of Poland – integration, assimilation, marginalization. We hold the view that a strategy such as integration and assimilation is a tool for

overcoming the crisis of social identity, while a strategy of marginalization deepens the crisis. Some recommendations have been proposed for the national governments of Poland and Ukraine to establish more effective cooperation in resolving the problems of labor migration. Official Warsaw encourages labor migration from Ukraine to ensure further economic development of the country, and official Kyiv is trying to keep potential migrants because, in the long run, such a strong outflow of labor threatens economic and demographic collapse. The study of the problems of adaptation of Ukrainian labor migrants in Poland, mainly in such a voivodeship as Warmia-Masuria, is a perspective of our further scientific research.

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