COUNTERACTING TO ILLEGAL MIGRATION: FOREIGN EXPERIENCE

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ABSTRACT

Description: The purpose of the article is to analyze the current trends in the increased spread of labor migration in Ukraine and the EU and to analyze the system of preventive and response measures aimed at overcoming such a negative phenomenon as illegal migration. The subject of the article is the study of some aspects of foreign experience in combating illegal migration with the further implementation in Ukrainian legislation.

Methodology: Research methods are chosen based on the object, subject, and purpose of the study. The study used general scientific and special methods of legal science. The methodological bases for the study the following scientific methods: dialectical method, method of scientific abstraction, methods of system analysis, formal-dogmatic, systemic structural, historical and comparative and logical.

The results of the study: The results of the study indicated that the authors suggested a vision of the strategy, ways and mechanisms for overcoming economic crime in Ukraine through the introduction of the best European experience. Practical implications: As a result of the research, proposals were made on the need to improve the system of combating illegal migration, as well as identifying key legislative initiatives to prevent and combat illegal migration.

Value/originality: On the basis of foreign experience, the main directions of counteraction to illegal migration were formulated and proposed.

Keywords: Illegal Migration, State Policy, Prevention, Counteraction, Measures, Foreign Experience.

INTRODUCTION

A number of fundamental changes have taken place in recent years in the world in social, economic and political spheres, which have led to a significant intensification of migration processes. Migration in general and illegal migration in particular is among the factors affecting crime in the world. However, poorly organized and poorly controlled migration processes pose a real threat to State integrity and public well-being (Sevruk, 2013).

Illegal migration plays a significant role in the structure of migration flows. It is a socially dangerous, harmful, illegal phenomenon that really threatens economic interests and public safety of Ukraine. Illegal migration is one of the reasons for the rise in crime, the spread of dangerous diseases, the development of an illegitimate labor market, and the emergence of tensions in many countries.

There is a significant increase in the number of illegal migrants at the borders of Ukraine and within the state during 2014-2019, based on the data of the State Migration Service of Ukraine. Thus, the State Migration Service detected 31 000 illegal migrants in the territory of Ukraine in 2014, more than 51 000 in 2015, 64 000 thousand in 2016, 97 000 in 2017, nearly 11 200 in 2018 and 86 000 in 2019. In terms of the number of illegal migrants detected in the territory of the EU, Ukraine ranked the 7th after Afghanistan, Morocco, Pakistan and other countries (State Migration Service of Ukraine, 2019).

Global political and economic problems have been exacerbated at the beginning of the XXI century, requiring the countries to take a holistic approach to their systematic solution, as any delay can deeper political conflicts in the world and widespread economic collapse, cause migratory trends, which in total jeopardize the global security system and the relevance of certain international organizations and integration groups which main function is to stabilize the situation. The explosive growth of illegal migration flows into EU countries exacerbates the economic problems and deepens the structural debt crisis of European economies, so this problem is relevant and requires the detailed study (Proboiv, 2017).

The urgency of the problem under the study is that Ukraine plays an important role in curbing the flow of illegal migration from the East to the countries of Central and Western Europe and the mechanism for effectively combating illegal migration and preventing its negative impacts has not been fully identified.

MATERIALS AND METHODS

Research methods are chosen based on the object, subject, and purpose of the study. The study used general scientific and special methods of legal science. The current state of illegal migration in Ukraine and the EU has been analyzed on the basis of the scientific literature analysis, as well as the strategic priorities and goals of Ukraine's economic development have been determined using this method. The methodological bases for the study are the following scientific methods: formal-dogmatic, systemic structural, historical-comparative and logical.

RESULTS

Currently there is a radicalization of public sentiment (in 2015, there were 747 attacks on the housing of aliens in Germany, including 222 cases of bodily harm), which threatens the rise of xenophobia and racism. Immigration, according to the Eurobarometer, has become the most painful problem for Europeans, leaving behind economic problems and unemployment (European Commission, 2015). EU leadership has declared migration regulation one of the top 10 priorities.

There is a transformation of radicalization processes into a direct threat of terrorist acts on this basis, which is becoming more evident in some EU Member States (Prevention of radicalization and terrorism).

Sectarian terrorism is of particular importance. Having analyzed scientific literature and the data obtained from the media, Pavlenko (2017) suggested that sectarian terrorism is becoming the most popular and dangerous type of terrorism based on religious fanaticism.

The importance of this problem was noted by Europol chairman Rob Wainwright at a hearing of the European Parliament:

> *"... As a result of the Syrian conflict, Europe has faced the most serious terrorist threat in the last ten years" (Honcharov, 2014)*

In 2015 only, about 300 people were killed in Paris, Brussels, Istanbul and Nice as a result of terrorist attacks (Panchenko, 2016).

Moreover, the overwhelming number of migrants from Asia and North Africa are in need of assistance and are hostile to the EU, as they believe that the intervention of European and US countries in their home countries has led to the destruction, civil wars and significant deterioration of living standards (Yakubovskyi, 2015).

Thus, the illegal migration of persons contributes to other types of crime-drug trafficking, weapons, human beings, smuggling, prostitution, theft, export of motor vehicles, fraud. Having committed a number of crimes, they travel outside this territory, region, and state (Sevruk, 2013).

Over the last two years, the number of illegal immigration to the EU, as well as the number of asylum seekers has been increasing at an unprecedented rate. In 2015, 33% of detainees were Syrians, 16% were Afghan citizens, and 6% were Iraqis. Nigeria and Eritrea take the leading place among African countries. The nationality of 31% of detainees is unknown, as the mass arrival did not give an opportunity to identify the migrants properly (Frontex, 2016).

According to the International Organization for Migration, more than 100,000 migrants have arrived to Europe by the Mediterranean Sea from the beginning of 2017. 85 000 of them landed in Italy. In the first half of 2017 more than 24 000 illegal refugees arrived in Germany according to the data provided by the Federal Police (Hubar, 2017).

The vast majority of immigrants reach Europe by sea. The most intense is the eastern Mediterranean route from Turkey to the Greek islands. Syrians and nationals of the countries of the Middle and Middle East use this route. Central Mediterranean sea route, which extends from North Africa to Italy, is much longer and more dangerous. In 2015, the number of migrants who used it has somewhat declined, which is related to the operations of the United European Forces close to the coast of Libya. Most of the arrivals that used the Eastern Mediterranean route to Greece continue their journey by land through the countries of the Western Balkans. They travel through Macedonia, Serbia or Croatia to Hungary or Austria to reach Germany and Sweden, who have proven to be the most refugees friendly. In 2015, this route has slightly conceded to the Eastern Mediterranean one in terms of delays.

Taking into account the multifaceted nature, complicity and uncertainty of illegal migration impacts, EU countries have developed a system of preventive measures to regulate migration flows.

DISCUSSION

Migratory Pressure

In view of this, Vidler (2016) correctly states, that in order to determine the specific forms, methods, forces and means that can be used by Ukraine to enhance and increase the effectiveness of counteracting illegal migration, firstly it is advisable to draw attention to the experience in developing and implementing the main provisions of national concepts (strategies) counteracting illegal migration of European Union countries, which in many cases is the final destination of migration, remain the most interested actors in combating this phenomenon.

According to the view of experts, Western Europe is the second center of world immigration (after North America), because large flow of labor from the Arab countries of North Africa and the Middle East rush there.

The European Union is increasingly focusing on solving its own problems, as neglecting them can probably lead to more stressful situations in the near future. All Western European countries are increasingly aware of the great danger of illegal immigration to Europe. The migration situation in Europe at the beginning of the new millennium is characterized by extremely high levels of migration in general and illegal in particular. The number of migrants crossing the EU borders illegally is increasing. As a result of the ongoing military conflicts in the world, natural disasters and catastrophe, the influx of refugees has grown tremendously (Vidler, 2016).

This problem has been recognized as one of the most serious threats to the security of the European Union. Among the main reasons for its emergence and transformation into a global status is the uneven development of the world, the division of the world population into rich and poor ones, the desire of rich countries to close from the migration flows, which increases their illicit indicator. Another reason is the armed conflicts that cause refugee flows and the resettlement of millions of people. The growth of migratory pressure is also facilitated by the development of illegal trafficking and trafficking schemes. At the same time, migration and demographic change, even in prosperous countries, can cause significant shifts in traditional social structures, leading to increased social and political tensions (Smutchak, 2017).

Therefore, in order to effectively regulate migration processes, European Union countries have developed the unified policy, financial instruments and means aimed at improving the mechanisms of migration processes at the national and supranational levels. This is an ambitious goal to be implemented in the format of the EU's foreign policy, called the European Neighborhood Policy (Vidler, 2016).

Crisis Response Measures

In April 2014, during the election campaign, European Commission President Jean-Claude (2014) presented his vision of solving the migration crisis, having outlined five priorities in this area. They are as follows:

1. Creation of a single European asylum system, under which the criteria and procedures for granting refugee status will be the same in all Member States, which discourages refugees from traveling to Europe in search of better life;
2. Enhanced assistance to the Member States experiencing the greatest difficulties with the sudden and massive arrival of refugees;
3. Assisting and cooperation with the countries of origin to address the root cause of the crisis;

4. Expanding the possibilities for managed and organized legal migration to Europe for the future development of the continent;
5. Strengthening the protection of the EU's external border and combating criminal groups involved in the smuggling of migrants.

The further detailing of these priorities is reflected in the tasks outlined for the new composition of the European Commission, which began to fulfill its responsibilities in November 2014. In April 2015, the Ministers of Foreign and Home Affairs of the Member States supported the Action Plan proposed by the European Commission, which consisted of 10 of points and provided for:

1. Activation of patrolling activities code-named Triton and Poseidon in the Mediterranean Sea, allocation of additional means and equipment for them, expansion of space for patrolling;
2. Seizure and destruction of vessels used to smuggle migrants;
3. Joint coordinated work of the European law enforcement, border, migration agencies on detection of traffickers, revealing their cash flows;
4. Secondment of specialists to Italy and Greece to assist local specialists in processing refugee applications;
5. Fingerprinting of all migrants;
6. Developing a mechanism for the movement of migrants in case of emergencies;
7. Preparing proposals for a pilot project on the voluntary relocation of migrants to the EU;
8. Development of a mechanism for rapid expulsion of illegal migrants;
9. Cooperation with the countries bordering Libya;
10. Sending officers to the countries of migration risk for the purpose of collecting and analyzing information on the migration situation, strengthening the actions of EU delegations in this area.

In order to develop and implement this Plan, on 13 May 2015, the European Commission issued European Agenda for Migration (European Parliament, 2015; European Commission, 2015).

In the short term, the following results are intended to be achieved: activation of offshore operations; adopting a pan-European scheme for the relocation of people who clearly need international protection; developing a system for the urgent movement of refugees from the most affected countries, especially from Greece and Italy; development of a network of refugee reception points where arrivals will be registered and identified, especially in Greece and Italy.

The long-term plans are structured in four directions: reduction of motives for irregular migration; improving border management (enhancing the role and capacity of Frontex); developing a clear EU general asylum policy (strengthening the rules of safety for the country of origin and revising the Dublin treaties); a new policy on legal migration by preserving the attractiveness of Europe to economic migrants and maximizing the benefits of migration for Member States.

The European agenda for migration is being implemented through the measures envisaged in special implementation packages. The first of them was submitted on May 27, 2015. It contained a plan to counteract illegal trafficking, including tripling the funding of offshore operations, ensuring migrant registration procedures and fingerprinting. It also referred to the EU's participation in relocation programs for refugees, who are in camps under the auspices of Office of the United Nations High Commissioner for Refugees in Turkey, Libya and Jordan. It has been proposed to relocate to Europe 22,500 people who are clearly in need of international protection within two years. The proposal to relocate 40,000 refugees from Greece

and Italy met with resistance and trigged the debate. The distribution of asylum seekers under the established quotas was opposed by the Czech Republic, Romania, Slovakia, Hungary, Poland.

The second implementation package appeared on September 9, 2015. It referred to the need to resettle urgently 120,000 refugees from Italy and Greece (in addition to the 40,000 reported in May) to the Member States. The distribution would be realized according to the population of each State, its GDP, the number of asylum applications previously submitted, the unemployment rate.

Besides, it was planned to introduce the permanent relocation mechanism; to compose the list of safe countries, in which asylum is usually not granted; to develop the plan of action to return the migrants to whom asylum was not granted, to their home-countries; to set up an emergency fund in Africa for assisting migrant countries of origin. A project was also launched to establish the centers for refugee in Greece and Italy, where they would be resisted and fingerprinted.

The third implementation package was about creation of the European Border Force and Coast Guard Agency. It was declared on December 15, 2015. The European Commission attempted to ensure properly funding of the targets. The budget aimed at managing the migration crisis had been significantly increased. As a result, the EU's total cost on the relevant measures in 2015–2016 reached € 10 billion.

The next step was joint actions with the third countries affected by the migration crisis. The aim of the meeting with the leaders of the Western Balkans, which took place in October 2015, was to approve a plan to regulate the flow of refugees through these countries to the EU. In November 2015, EU Heads of States met with African leaders.

A key EU partner in counteracting the migration crisis is Turkey, where more than 3 million Syrians took refuge, and in which lays the most intensive route for migrants to Europe. In November 2015, the EU signed an agreement with Turkey on co-operation in counteracting illegal migration and providing assistance to Syrian refugees and their host communities. € 3 billion has been provided for financial assistance to Turkey, while negotiations on visa-free travel and the accession of the country to the EU are in process. The agreements reached stipulate that all new arrivals from Turkey should be returned. At the same time, the EU undertakes to organize a relocation of a Syrian refugee to the EU who has already received temporary asylum in Turkey in exchange to every illegal immigrant accepted by Turkey.

CONCLUSION

There are two main ways of counteracting illegal migration. The first one is formation of legislative mechanisms to counteract the exploitation of migrants (expansion of the legal field of labor migration; development of a program of step-by-step legalization of illegal migrants, residing in the territory of Ukraine; introduction of special rules of criminal and administrative law against organizers of illegal migration and their accomplices; working out and implementation of new provisions to the Criminal Code on human trafficking and the use of slave labor; developing victim and witness protection programs for engagement of those affected by the illegal actions of the authorities and employers.

The second way is formation of institutional mechanisms for combating the exploitation of migrants (ensuring adequate statistics and accounting of migrants, performing scientific research; the introduction of special functions to counteract the labor exploitation of migrants in

the authority of competent agencies; staff training; development and institutionalization of integration policy-creation of the special agency, the competence of which would include these issues; cooperation between the agencies implementing labor and migration policies for determination of the economic need for migrants and the most effective ways of securing their employment, counteracting illegal employment of migrants; combating corruption-development an official migration infrastructure and services providing safe and informed migration; information, counseling, legal, mediation services; assistance in accessing employment; access to medicine, housing market, etc.) (Kresina, 2009).

Based on the stated above, it should be noted that combating illegal migration is a very pressing issue for Ukraine. It is caused due to changeability of illegal migration, which is constantly transforming, acquiring new forms, and the range of causal effect is constantly expanding. Therefore, implementing a State crime prevention policy can be effective if crime determinants are identified, a mechanism for individual criminal behavior is established, and the measures for the further elimination of crime manifestations are taken. In this regard, Ukraine and world public are facing the pressing issues of developing adequate and effective mechanisms for minimizing illegal migration both at the scientific and practical levels.

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