

TALLINN UNIVERISTY OF TEHCNOLOGY

School of Business and Governance

Department of Law

Ana Maglakelidze

**MIGRATION MANAGEMENT CONCERNS WITHIN VISA  
LIBERALISATION MECHANISM: CASES OF MOLDOVA,  
GEORGIA AND UKRAINE**

Master's thesis

Programme: Master of Arts in Law, specialisation: European Union and International Law

Supervisor: Lehte Roots, PhD

Tallinn 2018

I declare that I have compiled the paper independently  
and all works, important standpoints and data by other authors  
have been properly referenced and the same paper  
has not been previously been presented for grading.  
The document length is ...19,691..... words from the introduction to the end of summary.

Ana Maglakelidze .....

(signature, date)

Student code: 163742HAJM

Student e-mail address: a\_maglakelidze@cu.edu.ge

Supervisor: Lehte Roots, PhD:

The paper conforms to requirements in force

.....

(signature, date)

Chairman of the Defence Committee: /

/

Permitted to the defence

.....

(name, signature, date)

## TABLE OF CONTENTS

ABSTRACT .....	4
INTRODUCTION .....	5
1. DEFINING VISA-FREE REGIME OF THE EUROPEAN UNION .....	8
1.1. Legal Framework of the EU visa-free regime .....	8
1.1.1. Visa facilitation and readmission agreements .....	11
1.1.2. Visa liberalisation and action plans .....	12
1.2. Benefits of visa liberalisation .....	15
1.3. Threats stemming from visa liberalisation .....	17
1.4. Case of Western Balkans .....	20
2. COUNTRIES OF EASTERN PARTNERSHIP AND VISA LIBERALISATION .....	24
2.1. Moldova.....	28
2.2. Georgia .....	31
2.3. Ukraine .....	34
2.4. Conclusion .....	37
3. OUTCOMES OF VISA LIBERALISATION AND IRREGULAR MIGRATION .....	38
4. VISA WAIVER SUSPENSION MECHANISM .....	48
CONCLUSION .....	54
LIST OF REFERENCES .....	58

## **ABSTRACT**

Eastern Partnership has been one of the ambiguous projects of European Union. Union does not offer membership opportunity to partnership states but uses visa liberalisation as a political tool for maintaining positions in eastern neighbourhood. During visa liberalisation dialogues, third states adopt and implement legislative and institutional reforms in compliance with Union standards and in case of satisfactory results, Union grants right to visa-free travel. Following allows travel within Schengen zone without visas for 90 days within 180-day period. However, according to Union legislation, if visa liberalisation with partner states brings increased number of irregular migrants, unfounded asylum applications or security threats to EU, Union can either suspend the visa-free regime or totally terminate it. Thus, it seems that in order to maintain visa liberalisation with European Union, third countries need to effectively manage emigration of own nationals to EU and ensure that their nationals will not abuse rules of visa-free travel.

European Union has recently abolished visa restrictions for nationals of Moldova, Georgia and Ukraine, as all of three states have satisfied conditions set by the Union. However, latest report of the European Commission and empirical analyses of official statistical data reveal that visa liberalisation with Moldova, Georgia and Ukraine has brought some increased numbers of irregular migrants, unfounded asylum applications and criminal activities to Union member states. Thus, it seems important to identify what can be causing such results and for that, analyses of visa liberalisation framework, visa liberalisation action plans and level of their implementation might be helpful. Afterwards, it can be possible to suppose how named third states can improve their migration management mechanism in order to avoid further complications within visa liberalisation framework.

**Keywords:** Visa liberalisation, Eastern Partnership, Irregular migration, Action plans

## INTRODUCTION

Schengen area might be one of the biggest achievements of the European Union. The bare plan of European Economic Community to create Europe without frontiers came closer to reality after signing Schengen agreement in 1985 and gradually developed into working mechanism after Schengen Convention abolished border checks and created common visa policy of the Union.<sup>1</sup> Almost all member states found themselves opening their borders to rest of the Union citizens. Schengen area meanwhile became attractive not only to nationals of member states but to the third country nationals too as many people saw this particular zone as labour market, source of economic prosperity or simply as a chance to better living conditions. Thus, time-by-time Schengen area required more and more protection from undesired visitors. Exactly due to security reasons, Union and member countries try to control migration and hesitate on opening borders for third country nationals.<sup>2</sup> On the other side, one can find European Union to be using visa-free travel to Schengen area as a political tool of external relations. Eastern Partnership states might be good examples to prove this statement. After years of negotiations, reformative actions, recommendations and hard work of politicians and legislators, the day has come when the visa-free travel is available for citizens of Moldova, Georgia and Ukraine. Despite promising changes that have already been obvious in these countries, some of the Union member states tried to avoid and prolong the visa liberalisation processes due to doubts that they could cause a threat to already damaged Schengen system by 2015-2016 year migration crisis<sup>3</sup> and simply wanted to avoid extra concerns. As the author believes, those with negative opinions might mostly have appealed on the facts that all three of the partner states have economic, political and even territorial instabilities, thus people living there might have more reasons to leave their nations. While some celebrated new opportunity of easier travel, others even reminisced negative experience over extremely increased number of asylum seekers that European Union already had from Western Balkan states after granting visa-

---

<sup>1</sup> Schutte, J.E. J. (1991). Schengen: Its Meaning for the Free Movement of Persons in Europe. - *Common Market Law Review*, Vol. 28, No. 3, 549-570, p. 550-551.

<sup>2</sup> Pinyol-Jimenez, G. (2012). The Migration-Security Nexus in Short: Instruments and Actions in the European Union. - *Amsterdam Law Forum*, Vol. 4, No. 1, 36-57, p. 36-37.

<sup>3</sup> Borg-Barthet, J., Lyons, C. (2016). The European Union Migration Crisis. – *Edinburgh Law Review*, Vol. 20, No. 2, 230-235, p. 234.

free regime to them. Path towards visa liberalisation goes on requirements to make reforms and complement national laws to union standards, in areas of liberty, security and justice. Thus, during visa liberalisation dialogues there are phases which partner states need to undergo and as enshrined in visa liberalisation action plans (VLAP), provided by the Union. Within action plans, third states adopt and implement Union standards to facilitate smooth migration procedures. Thus, it seems visa-free regime is granted only if the partner country fulfils terms set by the Union. Before the Union amended Regulation 539/2001<sup>4</sup> naming Eastern Partnership states into the white list - as states whose citizens are not required visa to travel within European Union up to 90 days within 180-day period, Union assessed readiness of Moldova, Georgia and Ukraine for new stage of cooperation and observed positive implementation of action plan benchmarks. However, EU modified own visa liberalisation policy during visa liberalisation dialogues with following states and no visa liberalisation was granted to them until the Union amended its visa-free suspension mechanism. Based on new visa waiver suspension mechanism, right to visa free travel can be paused for a while or even cancelled if there will be highly increased number of irregular migrants, asylum applicants or security concerns coming from third states to EU.<sup>5</sup> Although it is not the direct and general task of sending states to control emigration of own nationals to EU, visa liberalisation in author's belief works otherwise. It seems to the author that in order to maintain visa-free regime and avoid activation of suspension mechanism by the Union, third states not have to but need to elaborate effective ways to prevent increase of irregular emigration, unfounded asylum applications and security threats directed from their citizens towards Union and its member states. Currently following aspects of visa-free regime and yet untested suspension mechanism are extremely actual in EaP as well as in the European Union. Visa-free regime from the perspective of irregular migration is understudied, neither is effectiveness of visa liberalisation action plans' legal framework examined concerning migration management. All of these makes following research hard but valuable and novel. Nowadays visa-free regime between European Union, Moldova, Georgia and Ukraine is active and there are latest official statistics available revealing how the visa-free is working. Recently published first report under suspension mechanism shows raised numbers of irregular migrants and unfounded asylum applications with some other, security as well as practical problems deriving from named states to EU, which proves topicality of research. Following research is oriented to test the hypothesis that Moldova, Georgia and Ukraine

---

<sup>4</sup> Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 081, 21.3.2001, p 1–7.

<sup>5</sup> Grigalashvili, M. (2016). *The EU's Visa Suspension Mechanism Explained*. Accessible: <http://gip.ge/the-eus-visa-suspension-mechanism-explained/>, 28 April 2018.

need to improve their mechanisms for controlling irregular emigration of their nationals to European Union. Thus, the aim of the research is to identify if there are any problems in current mechanisms and make suggestions, what named third countries can do to improve their control and prevent increased irregular emigration of their nationals to Union - thus avoid complications within visa liberalisation agreement and activation of suspension mechanism. In order to find answers and suggest recommendations for improvements, author intends to review statistical data, identifying migration concerns that EU faces after launch of visa-free regime from Moldova, Georgia and Ukraine. Also, analyse visa liberalisation mechanism and action plans presented by the Union to partner states. Define to what extent third states have effectively implemented action plans and what kind of migration management standards did they help to establish.

Research uses qualitative, analytical and explanatory approaches. However, descriptive part of the thesis is also very important for identifying proper legal framework of visa-free regime within European Union and for understanding to what extent Moldova, Georgia and Ukraine were ready to control migration, including emigration of their nationals to EU after implementation of VLAPs. Mainly aiming to have a qualitative legal research, based on academic articles, publications, Union legislation and even including research in theory to some extent, there should also be quantitative approach used. Official statistical data on number of irregular migrants in EU under visa-free regime will be not only relevant but will make the work valuable and arguments named more firm. Researches in law related fields such as politics and economics will as well be referred.

Thesis consists of four main chapters. First chapter analyses Union legal framework of visa policy, defines visa-free regime and its phases. Case of West Balkan states is also analysed to identify how the visa-free mechanism changed after problematic experience. Second chapter is oriented on identifying how Moldova, Georgia and Ukraine have progressed in adoption and implementation of Union standards within the visa liberalisation action plans and to what extent have been established mechanisms for border and migration control. Third chapter provides statistics published by Union agencies and aims to reveal if the irregular migration has increased analysing data with connection to legal and practical problems. Fourth chapter is explaining visa-free suspension mechanism and its usefulness in fight against irregular migration. The conclusion of the research sums up key findings of the thesis and provides some recommendations that could be suitable for both the Union to strengthen its visa-free mechanism and for partnership states to improve emigration management and minimize chances of visa-free suspension.

# **1. DEFINING VISA-FREE REGIME OF THE EUROPEAN UNION**

Internal or external actions of the European Union and their extent are very dependent on competences conferred to the Union by member states.<sup>6</sup> Within the Treaty of Amsterdam, Union gained competence over migration and refugee management within EU. Therefore, the Union saw the importance of controlling external borders.<sup>7</sup> The Union has also been working on visa-free and visa reciprocity mechanisms to have powerful tools in external policy and maybe even with a dream to create borderless European continent. However, if Europe and partner third states have legal and practical problems with controlling own borders and flow of migrants, it is interesting if political aspirations of these parties should override security issues of the Union and third country citizens. Grant of visa-free regime is based on bilateral cooperation of EU and third states, on implementation of EU standards within visa liberalisation action plans as well as on political will of EU. It is important to analyse legal framework of the Union visa-free policy and therefore areas and particular reforms that third states underwent. Following chapter analyses exactly the legal framework of the Union visa-free policy, defines what exactly the regime is and how phases of visa liberalisation affect creation of secure migration atmosphere, reveals benefits and threats stemming from visa-free regime and identifies if the visa-free regime is flexible and adapted after revealing obvious legal and practical loopholes.

## **1.1. Legal Framework of the EU visa-free regime**

Article 77 of the Treaty on Functioning of the European Union entails in second paragraph, that in order to provide policy on border checks and migration controls, European Parliament and Council within ordinary legislative procedure can adopt measures on visa and short-stay common policy. Also checks to which persons who want to cross external borders of the Union may be subject to

---

<sup>6</sup> Jans, J.H. (2010). Stop the Integration Principle. - *Fordham International Law Journal*, Vol. 33, No. 5, 1533-1547, p. 1545.

<sup>7</sup> Hailbronner, K. (1998). European Immigration and Asylum Law under the Amsterdam Treaty. - *Common Market Law Review*, Vol. 35, No. 5, 1047-1068, p. 1048-1049.



as well as conditions under which third country nationals may have freedom to travel within the Union for short period. While defining legal framework of European Union visa policy, one should definitely mention Schengen acquis, as much as Union gained competences on controlling Schengen area since firstly intergovernmental initiative of Schengen agreement became part of the Union acquis.<sup>8</sup> “Indeed, since the incorporation of Schengen Convention into the acquis in 1999, the EU has had exclusive competence in the issuance of Schengen short-stay visas, those for a period up to 90 days within half a year.”<sup>9</sup> Visa Code of European Union provides regulation for issuing short-term visas and indicates on Regulation 539/2001. Later regulation<sup>10</sup> includes the list of non-member states whose nationals require visa for short-term travel within the territory of Schengen plus area (excluding United Kingdom and Ireland but including Iceland, Norway, Switzerland and Liechtenstein) as well as of those states whose nationals are exempt from visa requirements. Visa Code provides generalized definition of visa-free travel as “rights enjoyed by third-country nationals and their family members, who, under agreements between the community and its Member States, on the one hand, and these third countries on the other, enjoy rights of free movement equivalent to those of Union citizens and members of their families.”<sup>11</sup> Council regulation 539/2001 including Annex I and Annex II and thus lists of states which are subject to visa requirements and those which can enjoy visa-free short-term travel within the Schengen area are depicted in subsequent lists. After case-by-case assessment of readiness of the third countries with regard to illegal migration control, public policy and security as well as level of reciprocal cooperation and coherence, lists are modified.<sup>12</sup> The Commission proposes legal amendment after examination of state’s readiness, considering the level of implementation of required legislative reforms and after several progress reports, European Parliament needs to vote. If the amendment will be accepted as well by the Council, partner third state is exempt from visa requirements. Abovementioned procedure, starting from visa liberalisation dialogues to final amendment in the Regulation 539/2001 may last for years. Georgia and Ukraine may serve as good examples for understanding how lengthy and complicated visa liberalisation dialogue is. In author’s opinion,

---

<sup>8</sup> Gjipali, G., Deliu, N. (2017). Suspension Mechanism as a Last Resort to Protect Schengen Area. – *Albania Law Journal*, No. 1, 30-38, p. 31. Accessible: <http://www.lawjournal.al/?q=page/journal-issues>, 11 February 2018.

<sup>9</sup> Hernandez I Sagrera, R. (2014). The Impact of Visa Liberalisation in Eastern Partnership Countries, Russia and Turkey on Trans-Border Mobility. – *CEPS Liberty and Security in Europe*, Policy paper, No. 63, p. 1. Accessible: <http://aei.pitt.edu/50257/>, 11 February 2018.

<sup>10</sup> OJ L 081, 21.3.2001.

<sup>11</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas, OJ L 243, 15.9.2009, p 1–58, art 1, p 4.

<sup>12</sup> OJ L 081, 21.3.2001, p 1.

complexity of whole visa liberalisation process and involvement of most Union institutions shows to what extent visa-free regimes are important for the Union as well as for all member states.

The Schengen area leaves possibility of police checks of third-country nationals who travel without visa and “because the external borders of the countries are as well external borders of the EU”<sup>13</sup> European Union has no other option than to control external borders strictly. Regulation 2016/399, known as Schengen Border Code, establishes set of requirements for third country national while entering the Schengen area. The person who intends to stay in EU up to 90 days is required to have:<sup>14</sup>

- 1) Biometric, valid travel document during the whole intended stay as well as for following three months;
- 2) Can justify purpose and conditions of intended stay, having sufficient means for subsistence during whole stay and for return to the county of origin;
- 3) Person is not being recorded in Schengen Information System (SIS) which is the reason to refuse entry;
- 4) Person is not a threat to public policy, internal security or no other grounds exist for refusal.

Union has no framework of requirements, roadmaps and action plans towards associate states. Individual assessment of countries are followed by individual set of conditions, however, in overall all set of reforms should be directed to make migration and border control effective in those states. Author believes that those standards, which EU is trying to establish in partner states through VLAPs, are also directed to protect the Union itself from migration problems that can be followed to visa liberalisation. Number of irregular, illegal migrants and asylums seekers that flee from third states to EU after visa liberalisation might help to examine effectiveness of management mechanisms that implementation of VLAPs support to establish. Required legal reforms as it stems from identified legal framework of Union visa-free regime will usually cover standards of EU justice, security and home affairs and include enhancing border management, police cooperation, adoption of Schengen Information System, for example.

One of the most crucial legal issue that definitely is required from every single associate state is conclusion of readmission agreement. “EC visa facilitation and readmission agreements gradually

---

<sup>13</sup> Gjipali, G., Deliu, N. (2017), *supra nota* 8, p 31.

<sup>14</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders, OJ L 77, 23.3.2016, p 1–52, art 6, p 9.

moved to the centre of the EU's efforts to balance internal security concerns and external stabilisation needs in the neighbourhood."<sup>15</sup> However, implementation of required framework is only part of the work, as much as enforceability of implemented norms and agreements might be the key to successful border and migration management for third countries. Prior to visa liberalisations, Union cooperates with third states through other types of agreements considering short-term travels.

### **1.1.1. Visa facilitation and readmission agreements**

Despite the fact that Annex I of the Regulation 539/2001 may contain much more states than the Annex II<sup>16</sup> this does not mean that except visa-free regime European Union does not have any tools to ease short-term travel for third country nationals without totally abolishing visa requirements. Author believes that the Union is having various tools to remain attractive partner for third states. Within visa facilitation agreement (VFA) the Union makes migration easier by reducing fees for visa issuance, time framework for discussing visa application may also be reduced, consulates may as well provide multiple entry visas for particular category of applicants, such as students or for those who prove to have business ties within member states. There is as well possibility to enter into mobility partnership, which is the tool of the Union for managing labour migration by supporting professionals and opening Union borders for them.<sup>17</sup> Although these mechanisms are not part of the visa-free regime, they usually come prior to visa liberalisation and author considers that the Union relies on their outcomes in order to more or less assess and forecast possible implications of visa-free regime with particular nation. Successfully managed visa-facilitation process might become helpful and a bit accelerate forthcoming visa liberalisation.

However, visa facilitation agreement comes together with readmission agreement. Only after the state proves to have enforceable mechanism for readmission, Union will respond with granting new, beneficial possibilities. Abovementioned might serve as a proof and sign of cautiousness "as the removal of illegally-staying third country nationals from European Union territory remains at top of the political agenda"<sup>18</sup>. Irregular migrants are required to leave the territories of the Union

---

<sup>15</sup> Trauner, F., Kruse, I. (2008). EC Visa Facilitation and Readmission Agreements: A New Standard EU Foreign Policy Tool? – *European Journal of Migration and Law*, Vol. 10, No. 4, 411-438, p. 411-412.

<sup>16</sup> OJ L 081, 21.3.2001.

<sup>17</sup> Kurowski, X., Pawlak, P. (2011). The EU's Eastern Partnership - More for More, or More of the same? – *Yearbook of Polish European Studies*, Vol. 14, 109-122, p. 117.

<sup>18</sup> Roig, A., Hudleston, T. (2007). EC Readmission Agreements: A Re-Evaluation of the Political Impasse. – *European Journal of Migration and Law*, Vol. 9, No. 3, 363-388, p. 363.

member states. Directive 2008/115, known as the Return Directive establishes procedures for following.<sup>19</sup> Legal document determines Union policy on return and removal with regard to forced deportation, voluntary return, detention procedures as well as restrictions on re-entries.

However, even if the Union policy with regard to the irregular migrants is legally and practically developed, unless the third country is ready to cooperate and obliges himself to provide support with identifying and readmitting own nationals, system, as a whole cannot work effectively. Main task of the readmission agreements is to oblige contracting parties to support return of people who do not meet requirements of entry or stay onto the territory of contracting state. This can be done by re-admitting them after it will be proven that the irregular migrant has the nationality of that state or entered the Union territories through crossing external border of that particular country. Readmission agreements are of utmost importance as exactly through such agreements states agree besides own nationals to re-admit third country nationals.<sup>20</sup> Author believes that during migration overflow in European Union, readmission agreements were not much of a help comparing to number of migrants, in addition to manifold problems during return, falsified documents, unidentified nationality for example, causing extension of duration for the return and readmission. While Union is trying to establish integrated border management system, at the same time it tries to advance return and readmission policies as part of migration control mechanism. External border checks might not be enough to tackle irregular migration. With regard to visa-free regime, it is essentially important to have smoothly enforceable readmission agreements with partner states. European Union has signed readmission agreements with Moldova, Georgia and Ukraine. However, after the launch of visa-free regime, it is interesting how these agreements actually work.

### **1.1.2. Visa liberalisation and action plans**

As far as visa facilitation and readmission agreements between European Union and its partner states come into force, third states can ask for starting visa-free dialogues. Although, as it was already mentioned, following process is mostly based on political aspects, path to visa liberalisation definitely still goes on legislative reforms. After launch of liberalisation dialogues, European Commission by establishing special assessment committee provides comprehensive report on development level of third state in various fields. Considering problematic issues of

---

<sup>19</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p 98-107.

<sup>20</sup> Bouteillet-Paquet, D. (2003). Passing the Buck: A Critical Analysis of the Readmission Policy Implemented by the European Union and Its Member States. - *European Journal of Migration and Law*, Vol. 5, No. 3, 359-378, p. 360-362.

partner country as well as possible risks and negative effects stemming from there. Dialogue might go to the next step by issuing visa liberalisation action plan (VLAP). Action plans are main tools within visa liberalisation mechanism that are oriented on establishing Union standards in candidate states of visa liberalisation. Thus, it is extremely important that the plans include strong mechanisms in all areas, including migration management and it is equally important partner states to implement these plans fully and comprehensively. Action plans are tailor made and enlist those conditions and essential benchmarks that should be satisfied by the country in order to “deserve” visa-free regime. Despite individual characters of VLAPs, main conditions of the Union are in four core areas already identified by Regulation 539/2001:<sup>21</sup> 1) Document security, including biometrics, 2) Integrated border, migration and asylum management, 3) Public order and security, 4) External relations and fundamental rights. Visa liberalisation process consists of two phases. First is adoption of legislation, planning legislative and policy frameworks within benchmark fields with an aim to get national norms in compliance with European Union and International law standards. As soon as Commission assesses the first phase as successfully fulfilled by third state, second phase of the process that includes the reforms for effective implementation of adopted rules is launched.<sup>22</sup>

Although European Commission proposes visa liberalisation action plans based on case-by-case assessment, after reviewing existing action plans of the Commission, it is possible to identify more or less, what are the conditions with regard to all four blocks of the plan. However, with regard to the irregular migration, author considered action plans provided to Moldova, Georgia and Ukraine, paying attention to first two blocks that require reforms in following directions:

- 1) Issuance of high standard, machine readable biometric passports and defining timeframe for complete rolling-out of such travel document;
- 2) Adoption of ethical codes and training programmes on anti-corruption, secure management of travel documents, including identification of falsified documentation;
- 3) Establishing reporting program with Interpol agency;
- 4) Adoption of national integrated border management system (IBM), implementation of legislation on border checks and establishing firm coordination with neighbouring countries as well as FRONTEX;

---

<sup>21</sup> OJ L 081, 21.3.2001, p 1.

<sup>22</sup> *Eastern Partnership Visa Liberalisation Index*. Stefan Batory Foundation. Accessible: <http://monitoring.visa-free-europe.eu/formal-stage>, 13 March 2018.

- 5) Elaborating comprehensive migration policy including labour migration and mechanisms for monitoring migration by creating electronic database with information on all type of migrants;
- 6) Effective readmission legislation and effective inland detection of organized facilitated irregular migration and establishment of effective asylum system.

Special committees of European Commission should meticulously examine progress of the state and this aspect is important, as much as usually adoption of norms does not guarantee its enforceability and high level of implementation. Commission continues monitoring even after fulfilment of most conditions and publish results in form of reports also including recommendations for improvements. However, the question with regard to irregular migration may still exist even when the abovementioned reports include positive results of third states. If launch of visa-free regime gets followed by increased number of irregular migrants to EU, either there were legal gaps in visa liberalisation action plans and by implementing them partner states do not also have strong mechanisms to control migration or it is national mechanism that might be unable to tackle flow of emigrants to European Union.

It is also important to realise that third states should elaborate such mechanism to prevent and control flow of irregular migrants and unfounded asylum application of their nationals to EU, which will not be against human rights law. These states cannot put such restrictive control on emigration of their citizens that would be equal to restricting right to free movement or humanitarian rights of asylum seekers. Thus, they need to be very careful when trying to maintain visa liberalisation with EU. This must not be done by restricting internationally accepted human rights.

Author believes that visa liberalisation process in a long-run perspective is directed towards enhancing and improvement of living conditions, social, judicial and economic situation in the state. Union and third states believe that easier travel opportunities might support the development of the state. However, those aspects can usually provoke increased number of migration, especially from developing countries like Moldova, Georgia and Ukraine. Thus, in addition to requirements enshrined in visa liberalisation action plans, these countries have to deal exactly with socio-economic and political hustle on national level. Case of Western Balkan states, which also is discussed with regard to visa-free regime in following research, is a great example and lesson for the Union to realise that prioritizing particular blocks of the visa liberalisation action plan might

not be enough for establishing effective migration control in third states.<sup>23</sup> Only set of successful reforms within all blocks of action plans and beyond them might be handful for that purpose.

## **1.2. Benefits of visa liberalisation**

Considering the process of visa liberalisation, one might believe that due to European Union unilaterally setting conditions for partner country, visa-free regime is more based on unilaterally determined set of conditions and is not a bilateral cooperation. However, that might not be true. Both parties have own interests and once the visa liberalisation is successfully proceeded, they all start to receive and examine benefits stemming from the regime. Opening internal borders of almost whole European continent for third country nationals is supporting process of Europeanization and globalization which means broader opportunities in economic, political and social areas which brings whole new possibilities of intercultural involvements.<sup>24</sup> Effects of visa exemption can be manifold, starting from economic incentives for EU member states and third countries, also possibly leading to stabilization of internal territorial crises in partner states.

Abolishment of visa restrictions can affect number of tourists in member states and hence will have direct influence on member state economies. Compared to short-stay visas, those who simply want to travel as tourists will not have to undertake additional costs of visa application fee and simply can avoid time-consuming paperwork in consulates. Although visa liberalisation does not cover travel for study or working purposes, it gives chance to make person-to-person communication. Visa free travel can be used for establishing business connections, for trade purposes, which obviously can be counted as economic interest.<sup>25</sup> Individuals might use visa-free travel for searching study opportunities or even conducting work interviews with hope of future employment. Even though, there is special legislation for highly qualified people about the blue card, its scope may be narrow and do not give chance for unexperienced job seekers.<sup>26</sup> Chance to travel with ease for searching a job might be supportive for future labour migration. One needs to take into mind that visa liberalisation is reciprocal. That means that citizens from European Union

---

<sup>23</sup> Kacarsca, S. (2015). Losing the Rights along the Way: The EU–Western Balkans Visa Liberalization. – *European Politics and Society*, Vol. 16, No. 3, 363–378.

<sup>24</sup> Held, D., McGrew, A., Goldblatt, D., Perraton, J. (1999). Globalization. - *Global Governance*, Vol. 5, No. 4, 483-496, p. 483-484.

<sup>25</sup> Asllani, A., Misini, S., Bytyqi, K. (2013). Socio-economic Impact of the EU Visa Liberalization for Kosovo and Peoples Motives in Utilising the Freedom of Movement within the EU. - *Journal on European Perspectives of the Western Balkans*, Vol. 5, No. 2(9), 15-42, p. 28.

<sup>26</sup> Mazzeschi, M. (2016). The EU Policy to Attract Highly Skilled Workers: The Status of Implementation of the Blue Card Directive. - *Journal of Management and Sustainability*, Vol. 6, No. 4, 45-49, p. 45.

member states will have possibility to travel to partner country at the same conditions, without visa requirements. As far as during visa liberalisation the Union requires from state high level of compliance with EU standards, it is less likely Union citizens to have major problems with regard to security and human rights protection, corruption and anti-discrimination, for example, while they will be traveling in partner third country. Eventually, as mentioned already, visa liberalisation has political interest of the Union as background. In case of Eastern Partnership, author thinks that Union might be having regional, socio-political, energy interests and by granting visa liberalisation to countries of the partnership, EU obtains stronger position firstly within the partnership states and secondly in front of Russian Federation. From Author's own experience, once visa liberalisation process took too long time, several years in case of Georgia, the general attitude of public towards European Union became a bit negative, thinking that visa liberalisation was a myth and an endless process to manipulate with the state and its government. Thus, granting visa-free regime also has huge importance for acceptance of EU within society.

For states, which had to wait years before receiving visa liberalisation, the lengthy process of cooperation was not only connected with creation of legislative drafts and leaving them in abstract form but also to economic support of EU that would help implementation of those acts. Cheaper tourism and increased trade opportunities are beneficial for third countries and their nationals. Visa-free travel will support family connections and gatherings, which is one of the most important human rights. Regime might open horizon for new possibilities also for future employment, internship or participation in various programs when duration does not accede three months. Author believes that possibility to travel legally with no extra fees might as well decrease number of smugglers that includes huge risk and usually people who try to enter other states illegally are required to pay for illegal transit. Smuggling is one of the biggest problems for migration system. It is related to endangering lives of illegal migrants as well as lowers chances of identifying and returning such migrants to country of transit or nation simply because member state authorities might not know attendance of the illegal migrant on its territories.<sup>27</sup> Visa-liberalisation has extremely big political influence on all three states of following research. Moldova, Georgia and Ukraine all have territorial issues and tense relation with Russia. First of all visa liberalisation for them is a chance to show their enemies that EU stands behind them and secondly to stabilize internal problems, by offering people living in conflict zones chance to take Biometric travel

---

<sup>27</sup> Crepeau, F. (2016). Europe Can Stop Human Deaths and Suffering, and Regain Control of Its Borders. - *Review of International Law and Politics*, Vol. 12, No. 1, 33-40, p. 34.



documents of that state and enjoy visa-free regime.<sup>28</sup> While all three states have to deal with Russian “passportisation” within their territories, they gain resource to object to the process by making “counter-offer” to people living in conflict zones.<sup>29</sup> However, visa liberalisation process is extremely controversial as much as those issues, which one might believe to be beneficial, can bring some threats to the union and its member states. Such problems that require strict and well enforceable legislative framework on national and EU level not only in migration area but also cumulatively in other areas enshrined in visa liberalisation action plans and beyond. Following issue will be analysed in upcoming sub-chapter.

### **1.3. Threats stemming from visa liberalisation**

If restrictive visa policy might negatively influence tourism and trigger smuggling as the form of illegal migration within the territories of the Union for economic, labour reasons or simply for searching better living conditions,<sup>30</sup> abolishment of visa requirement might change situation. Visa-free regime might facilitate tourism for *bona fide* travellers and might even decrease demand on human smuggling, however this does not mean that number of irregular migrants in European Union might decrease or that there will be no possibility of increased migration flow to the Union. *Mala fide* travellers may use visa liberalisation as a way to enter territories of Union member state legally but abusively use their right to visa-free travel and simply overstay permitted period. Another scenario is to enter the Union territories as a regular traveller and apply for asylum.<sup>31</sup> In cases of Moldova, Georgia and Ukraine socio-economic, territorial and political problems on national levels can possibly be a trigger for increased will of emigration to EU. Irregular labour emigration from abovementioned states might be logical consequence of manifold national problems. For example, Georgian irregular migrants have been actively found in Greece, and this might not directly be caused by the fact that there are no job opportunities in Georgia, but besides lack of employment possibilities, average salary in the country is much lower than the living

---

<sup>28</sup> Trauner, F., Manigrassi, E. (2014). When Visa-free Travel Becomes Difficult to Achieve and Easy to Lose: The EU Visa Free Dialogues after the EU’s Experience with the Western Balkans. – *European Journal of Migration and Law*, Vol. 16, No. 1, 125-145, p. 138.

<sup>29</sup> Lott, A. (2012). The Tagliavini Report Revisited: Jus ad Bellum and the Legality of the Russian Intervention in Georgia. – *Merkourios: Utrecht Journal of International and European Law*, Vol. 28, No. 74, 4-21, p. 15.

<sup>30</sup> Jileva, E. (2004). The Europeanisation of EU’s visa policy. – *Helsinki Monitor*, Vol. 15, No. 1, 23-31, p. 29.

<sup>31</sup> Hall, M. (2016). *Britain’s asylum seeker MADNESS: 1 in 3 applications by illegal migrants or over-stayers*. Accessible: <https://www.express.co.uk/news/uk/700282/asylum-applications-overstayed-visas-illegal-migrants>, 10 May 2018.

costs.<sup>32</sup> Such problems can also have influence on increased unfounded asylum applications. Of course, author is not underestimating rights of asylum seekers when they actually have legal grounds for asking asylum. However, in many cases, when asylum applications are not based on persecution or other legal grounds, they may be unfounded and might belong to persons trying to reach Union territories for economic interests.<sup>33</sup> Economic and labour migrants require attention in case of visa liberalisation as much as they may be the ones who will urge to enter EU member states within visa-free regime and overstay – becoming irregular migrants, as they see financial incentives in Europe. Author believes that within visa liberalisation, European Union leaves most part of the task to identify and fight irregular emigration on the third country. Established mechanism of border management within visa liberalisation process may serve for such purposes. During cross of national as well as EU external border, person has to prove with supportive documents that entry requirements are satisfied. Border guards of third states need to “filter” travels, because if potential irregular migrants will be refused entry on external border of EU and refusal rate will be high, even this can become ground for visa waiver suspension. However, author believes that for the border guard, making thorough and individual assessment of each person’s documents is very hard. Obviously, it is their job and border guards are trained for that, but the point is that border control might not be the most effective way to prevent increase of irregular migration. Sometimes it can be obvious that the traveller is going to use the visa-free regime abusively and this may be seen from provided documentation, for example in case when existence of sufficient funds cannot be proven or lack of the documents describing place of stay and some other. Mostly such category of travellers who aim to become irregular migrants are prepared well and can actually satisfy the set requirements for short-term visa-free travel. Author wants to explain that it is mostly dependent on how border guard can assess particular traveller and that such system may not be effective for identifying risks of irregular migration especially when there is no negative records on traveller. This leads to the case when pre-entry measures are not used and the potential irregular migrant is not banned the entry. Then Union and Member States have to find and identify overstaying person. Here essential tools are return rules and readmission agreements, which may gain crucial importance. Such situation is not problematic only for Union and extra work for country of nationality, but can put traveller in very harsh conditions. Irregular

---

<sup>32</sup> Marouf, M. (2013). *Irregular migration between Georgia and Greece. Everyone can cross a low fence*. Accessible: [file:///C:/Users/USER/Downloads/doc1\\_36747\\_902533778%20\(3\).pdf](file:///C:/Users/USER/Downloads/doc1_36747_902533778%20(3).pdf), 2 May 2018.

<sup>33</sup> Dustmann, C., Fasani, F., Frattini, T., Minale, L., Schonberg, U. (2016). *On the Economics and Politics of Refugee Migration - Institute for the Study of Labor*, Discussion paper No. 10234, p.30. Accessible: <http://ftp.iza.org/dp10234.pdf>, 2 May 2018.

migrants themselves are not as well in good conditions in receiving states, as they are not having legal right to work in EU.<sup>34</sup> Although there is Union legislation that penalises employment of irregular migration as well as legal restriction on national levels, employers provide jobs to such persons still with huge enthusiasm as much as they are cheap workforce. Here the question stands in following manner, if irregular migrants still can find jobs in EU with their status, thus it means that Union has possibility to offer those jobs and, maybe it could be better if the EU decided to allow labour migration within visa liberalisation. Irregular migration may be problematic not only for labour markets of the Union but also economic stability of member states as a whole, as far as irregular labour migrants may substitute national workers. Above all, irregular migration and restrictive national laws on their employment can influence security issues in member states found in increased criminal activities.

As of asylum seekers, if migrant who legally entered the member state applies for asylum, under international law standards, as well as union legislation, member states have obligation to provide following person with certain financial and living conditions until the examination of the application. Following relates to additional costs and increased number of asylum applications directly hit the asylum system of the member states. For potential irregular economic migrants abovementioned support that is available for asylum seekers is also attractive, considering that the application review may take a while. Economic migrants from Moldova, Georgia and Ukraine may see financial incentives in this. In such way, irregular economic migrants can become source of increased asylum applications, which obviously will be unfounded in most cases. With regard to Moldova, Georgia and Ukraine Union might have to face increase of asylum applications, especially unfounded ones. Increase may be revealed as much as Moldova, Georgia and Ukraine are states with socio-economic problems and many people are interested in economic, including labour migration to the Union states. Irregular economic migration from following states existed before visa liberalisation. As an example, we can discuss Georgia, which came fourth place after Ukrainians, Moldovans and Russians in illegal border crossings detected on eastern borders of Union in 2012 year and with the raised number of asylum seekers.<sup>35</sup> It is quite hard to manage migration control only with legal tools, unless there are effective labour agreements between Union member states and partner countries. One as well needs to take into mind that geographical

---

<sup>34</sup> Cholewinski, R. (2000). The EU Acquis on Irregular Migration: Reinforcing Security at the Expense of Rights. - *European Journal of Migration and Law*, Vol. 2, No. 3 and 4, 361-406, p. 363-364.

<sup>35</sup> *Country profile of Georgia*. Migreurop observatoire des frontieres. Accessible: <http://www.migreurop.org/article2195.html?lang=fr>, 18 March 2018.

location of discussed states may make those countries a corridor for irregular migration. Besides being origin states of irregular migrants – producer states, these countries to some extent are also transit countries.<sup>36</sup> Therefore, existence of effective migration management on national as well as on Union level is very important. Thus, existence of enforceable readmission agreement is crucial for European Union, in case if the irregular migration prevention mechanism will fail in third states and migrants reach the territories of the Union member states. In prevention mechanism author considers firstly, national legislation regarding issuance of travel documents, standards on which within visa liberalisation action plans are implemented on national levels and later border control mechanisms also established within recommendations of the Union. However, as migration theories show, economic instabilities of the state might be one of the reasons for migration. To prevent and even decrease number of irregular migrants Union should help its partner state to enhance economic prosperity, labour incentives and level of living. Once prevention mechanism will not help to avoid irregular migration, return and readmission of such persons should be core goal and effectively managed.

Increased number of irregular migrants might have negative effect on countries of origin – sending states as well. From their perspective, as the successful process of visa liberalisation brings hope to possible EU integration, due to unregulated irregular emigration and increased number of asylum applications directed to Union, this hope might diminish. In addition, outflow of nationals may have significantly negative impact on demography of third country, economy and trigger much more instability, especially in such small states as Moldova and Georgia. However, before examining implemented mechanisms of irregular migration on national level, it is interesting to check how the visa-free policy and its legislative framework was adapted and modified after those challenges that visa-free regime has already brought to the European Union.

#### **1.4. Case of Western Balkans**

Relation of the European Union with Eastern Partnership states on visa liberalisation aspects remind Union's cooperation with Western Balkan countries. Just like in case of Moldova, Georgia and Ukraine, EU lifted visa requirements for citizens of Western Balkan states. Western Balkan nations are good examples of Post-Soviet era, when countries started striving towards European

---

<sup>36</sup> Duvell, F. (2012). Transit Migration: A Blurred and Politicised Concept. – *Population, Space and Place*, Vol. 18, No. 4, 415-427, p. 415-416.

integration. Political negotiations resulted in considering Western Balkan states into the enlargement policy of the Union, despite the fact that during years those states have been serving as a corridor for migration between European Union and third country nationals, including local population.<sup>37</sup> In case of Western Balkan states, path to visa-free regime went through visa facilitation and readmission agreements after which Union presented road maps, requiring set of legislative reforms. Road maps were covering four blocks of conditions regarding document security, illegal migration, public order and security as well as fundamental rights. Positively assessed implementation of road maps were followed by abolishment of visa requirements for Macedonia, Montenegro and Serbia in 2009 year, and in 2010 for Albania and Bosnia-Herzegovina.

Within a year from launching visa liberalisation, some of European member states such as Germany, Belgium and Sweden already had to deal with significantly increased, doubled and tripled asylum applications. Majority of asylum applications belonged to minority groups of Roma and ethnic Albanians, who appeared less integrated with local society, having fewer chances for improving living conditions.<sup>38</sup> “Although the Commission has stepped up its efforts to improve anti-discrimination and integration policies of marginalised groups, target third countries have understood that EU member states are primarily interested in an end of the abuse of European asylum systems through their citizens.”<sup>39</sup> Following problem revealed possible outcomes and threats stemming from visa liberalisation with third states. This was a sign that either visa liberalisation framework was having some gaps with regard to tackling irregular migration or Union prevailed own political interests over security matters while granting the visa-free regime to Western Balkan states before they would be prepared for such responsibility. Considering that already by that time European Union and Eastern Partnership countries were negotiating on chances of visa liberalisation, member states could forecast same problems with regard to new partner states and thus started discussion on altering the visa liberalisation mechanism and empowering visa suspension mechanism.

Changes with regard to both pre and post visa liberalisation stages were discussed in backstage of European Union. Member states although understanding that the process is political, asked for more protection and firmer migration management from the Union. As a result, visa liberalisation process became lengthier and with more requirement towards states. Progress in implementation

---

<sup>37</sup> *Ibid.*

<sup>38</sup> Trauner, F., Manigrassi, E. (2014), *supra nota* 28, p 126.

<sup>39</sup> *Ibid.*, p. 137.

of visa liberalisation action plans were decided to be assessed more peculiarly than earlier. Member states analysed that if they would establish post-visa liberalisation control on legal implementation of road map (action plan) and level of enforceability of adopted measures as well as mechanism allowing them to abolish visa-free regime, they would have more influence on partner countries. This way prevention, identification and avoidance of increased number of asylum applications and irregular migrants would be already in national interests of partner states. As far as author is concerned, Western Balkan states even enacted some national laws, which considered special checks for minority groups with an aim to identify possible asylum applicants or irregular migrants. Post visa-liberalisation monitoring was directed to assess if the partner state continued reforms in fields that were conditional in road maps. Monitoring mechanism was deemed to provide thorough assessment of third country migration management as far as FRONTEX and EUROPOL were included in the process. Monitoring mechanism was leading to the emergency brake especially altered and amended considering the case of Western Balkans before granting visa-free regime to Eastern Partnership states. With regard to such observation, commission also established special assessment reports, just as the FRONTEX adopted annual risk assessment forms.<sup>40</sup> Abovementioned assessments have played huge role during visa liberalisation dialogue with Eastern Partnership states, as much as Union member states had belief that following reports can actually predict outcomes of visa liberalisation. More attention was paid in new visa-free mechanism to correct dissemination of information within nationals of partner states on asylum and immigration systems, rules of visa free travel and consequences in case of violating them. Visa suspension mechanism as a last resort was created to protect European Union member states from increased asylum applications and irregular migrants. Reaction of European Union member states on the case of Western Balkan region was extremely interesting. Union left Western Balkan states alone with problem. If they would not be able to undertake legislative reforms dealing with non-discrimination issues of Roma minority group, European Union would not bear abuse of visa-free regime by asylum seekers and would simply return visa policy for Balkan states. Such attitude might be oriented on security interests of the Union member states but at the same time, it seems unfair towards third states. So maybe besides national problems of Balkan states, Union did not manage to effectively asses if these states were ready for visa liberalisation. If we go even further, as much as visa-free regime was granted only after full satisfaction of the road map conditions, that meant adoption and implementation of Union legislative standards, maybe problem was exactly in inefficiency of those standards in fight with irregular migration. However, most

---

<sup>40</sup> *Ibid.*, p. 140.

important issue is that member states tried to learn some lessons from the case discussed above and modified visa liberalisation mechanism. While some of the member states doubted on accepting visa liberalisation for Eastern Partnership states, fearing that there could be similar or worse effect with regard to irregular migration, others believed that Union should not have such fear anymore. As there is a modified mechanisms for post-visa liberalisation control as well as new emergency break, that if something, could save European Union from new wave of irregular migrants.<sup>41</sup> In order to identify if there are any legal or practical problems on national levels in Moldova, Georgia or Ukraine with emigration management and asylum system, it is necessary to analyse what were the major legal reforms within visa liberalisation action plans in that area and to what extent are those legal mechanisms implemented and enforceable.

---

<sup>41</sup> *Visa-free travel: new suspension mechanism protects the EU*. EPP group in the European Parliament. Accessible: <http://www.eppgroup.eu/press-release/Visa-free-travel%3A-new-suspension-mechanism-protects-the-EU>, 30 April 2018.

## **2. COUNTRIES OF EASTERN PARTNERSHIP AND VISA LIBERALISATION**

As far as due to economic, security and some other reasons migration and asylum control is one of the most important area for European Union and its member states, Union pays utmost attention to cooperation with those third states which might share a border with the member states or which might be seen as a transit route for migration. “Therefore, the capacity of these countries to control and manage migration retains as a relevant interest to European Union and impacts its own migration control.”<sup>42</sup> After analysing existing practices of the Union, it can be stated that there are two types of communication strategies with such countries, one is offering cooperation with possibilities for further integration and enlargement and second is offering cooperation however without any plans for further enlargement. Second case means merely providing support for enhancing stability, by bilateral legal and political actions, influencing almost all possible fields.<sup>43</sup> Such support may be mutually beneficial for both sides. Eastern Partnership might serve as a good example when Union is not in a hurry of further enlargement, but takes gradual steps to increase level of development in partner states.

The proposal on creation of new partnership made in 2008 year was soon finalised by launch of Eastern Partnership in 2009 year during the Prague summit. Following decision was a very big step for the European Union as much as new partnership meant closer relation with east European states and south Caucasus, simply speaking with problematic Post-Soviet states. This partnership could bring new incentives for the union including cultural and economic ones but challenges as well, while all of six Eastern Partner states including Moldova, Georgia and Ukraine were having different but not high economic, social and political as well as judicial level of development. Within Eastern Partnership, Union was aiming to affect implementation of European standards in third states. These would obviously profit Post-Soviet states to improve living standards and in a

---

<sup>42</sup> Roots, L. (2016). Mapping the Migration Issues: EaP Policy as a Tool for Regulation. – *Political and Legal Perspectives of the EU Eastern Partnership Policy*. (Eds.) T., Kerikmae, A., Chochia. Switzerland: Springer International Publishing, 119-135, p. 119.

<sup>43</sup> *Ibid.*, p. 120.



long-run perspective might positively influence migration, security and social issues that are directed from these third states to Union member countries. As much as, once there is stability in states, possible threats and number of problems stemming from there may be decreased.

Compared to the Eastern neighbourhood policy, which already existed prior to the partnership declaration, new level of cooperation was covering much more fields. Eastern Partnership included conditional cooperation with regard to association agreements and deep and comprehensive free trade agreements, development of democracy, good government, energy independence and economic integration as well as interesting issue for following thesis, increasing mobility of third country citizens to EU through visa liberalisation.<sup>44</sup> Association agreements with Eastern Partnership states were as ambiguous and complex as the fact of the partnership itself. Union cooperation was directed towards spreading European values in third states as well as dealing with security nexus for the interest of own member states.

Within the Eastern Partnership, there was an Eastern Partnership Panel on migration and asylum established in 2011 year for supporting partner states with reforms and implementation of common migration approach. Mainly negotiations in the Eastern Partnership initiative with regard to the migration were twofold. First was directly covering simplification of visa rules, strengthening return of illegal migrants as well as migration and border controls. However, the second approach is more complex and generalized, focusing on economic integration of the third states, bringing along more employment possibilities and less incentives for illegal migration for economic purposes.<sup>45</sup> “On the other hand, a visa-free regime is also the biggest incentive that the EU can offer in the short-term under the Eastern Partnership and it therefore constitutes a powerful EU leverage over the reform process in the neighbourhood. This is the reason why the Parliament has been a strong proponent of a visa-free regime for neighbouring countries, calling for the EU to move more quickly towards visa facilitation and the lifting of Schengen visas.”<sup>46</sup> It is crucially important always to remember how different the level of development in partner third states is. Some of the six partner states have succeeded to satisfy Union conditions faster and show more promising level of legal implementation. However, Eastern Partnership initiative did not seem to

---

<sup>44</sup> Mocanu, O. (2009). Eastern Partnership - A Premise for an Enhanced EU-Eastern Neighbours Cooperation Relationship. – *Romanian Journal of European Affairs*, Vol. 9, No. 4, 48-58, p. 50.

<sup>45</sup> Barbone, L., Bonch-Osmolovsky, M., Lucke, M. (2013). Labour migration from the eastern partnership countries: Evolution and policy options for better Outcomes. – *CASE Network Reports*, No. 113, Center for Social and Economic Research, p. 73.

<sup>46</sup> Delcour, L., Fernandes, S. (2016). Visa liberalization processes in the EU’s Eastern neighbourhood: understanding policy outcomes. – *Cambridge Review of International Affairs*, Vol. 29, No 4, 1259-1278, p. 1265.

be as successful as the Union had been counting. Due to various external or internal factors, changes of governments, economic crises, political pressure from Russia and many other reasons, partner states could not fully implement legal and institutional mechanisms for a while. Eastern Partnership and the idea of visa-free travel for citizens of those countries was especially under question after Russia – Ukrainian conflict over Crimea, when Ukraine basically could become a source of increased number of refugees and irregular migrants in EU. It is in Russia's political interests to trigger such tension that would cause Union to leave Ukraine and Georgia without cooperation and support. Abovementioned problems and largely factor of Russian aggression in cases on Eastern Partnership states have shown that Union is not rushing to make further steps towards enlargement, but for maintaining political influence, will use visa-free regime with those countries. Following fact makes visa liberalisation twice important for the Union as well as for partners. European Union has used towards Moldova, Georgia and Ukraine mobility partnerships and signed readmission agreements, testing the grounds and assessing possible risks coming from following states and gradually enhancing mobility opportunities. Within years, Union and more concretely Commission could identify individual problems of these states revealed during implementation of mobility partnership, visa facilitation or readmission agreements. Association processes may have supported Moldova, Georgia and Ukraine during visa liberalisation as much as terms of association agreements is helping to create satisfactory atmosphere in these countries for international trade and business development. However, neither association agreements, deep and comprehensive free trade agreements nor visa liberalisation action plans between European Union and following states make labour migration easier.<sup>47</sup> Besides financial support, which EU provides to Moldova, Georgia and Ukraine within visa liberalisation and association processes, there are other mechanisms of the Union directed to help third states. Many funds are allocated to develop cooperation and neighbourhood policy. Union has provided financial support and launched many regional or individual programs to improve socio-economic situation in all of Eastern Partnership states. Billions of Euros were allocated. Following programs were directed towards long-run development of: infrastructure, human capital, small and medium business, education of EaP nationals, energy efficiency and sustainable energy and much more.<sup>48</sup> EU even

---

<sup>47</sup> Lebanidze, B. (2017). *Georgia's European Integration: What comes after the Eastern Partnership?* Georgian institute of politics, Policy brief, No. 6, p. 8. Accessible: <https://www.researchgate.net/publication/316554822>, 25 March 2018.

<sup>48</sup>*The EU financial assistance available for Local and Regional Authorities from the Eastern Partnership Countries.* Committee of the Regions. Accessible: <https://cor.europa.eu/en/activities/corleap/Documents/EU%20Financial%20assistance%20in%20Eastern%20Partnership%20countries%20.pdf>, 2 May 2018.

opens its market for Moldovan, Georgian and Ukrainian products within DCFTA and this can be a huge support for these states.

Even though author realises how much effort and finances EU puts in named three states, and actually is grateful, it still needs to be said that these programs and initiatives are not enough so far for creating stabilised socio-economic atmosphere. Following assistance of EU is ineffective either due to economic problems, which these countries cannot solve or due to political chaos within nation and beyond - to the Russian pressure. Moldovan and Georgian economies even nowadays are partially dependant on Russia.<sup>49</sup> Inflation and monetary problems as well as still unsolved territorial issues and damages after conflicts, might be triggering in citizens of these countries will to emigrate to EU. World Bank reports “unemployment remains a major challenge in Georgia...Assessments have found that poverty continues to be associated with the labour market status of the household head.”<sup>50</sup> Author has been observing within last years that prices on products and medicine, as well as medical assistance significantly increased in Georgia.

Ukraine has been in a serious economic crisis after Maidan protests as well as affected by Russian annexation and pro-Russian activists. Country has started to show significant improvements in economy within last year but there is still so much to do for stability.<sup>51</sup> In case of Ukraine, example of Poland can be good indicator on interest of nationals towards irregular and illegal labour emigration<sup>52</sup> and visa-free regime can even increase already high numbers. In cases of EaP states, named processes and EU support did not improve socio-economic conditions before visa liberalisation to the extent that could decrease will and necessity of irregular, illegal migration or unfounded asylum applications – economic migration. Considering socio-economic instabilities, those people who seek economic benefits within European Union member states can abusively use enhanced visa-free travel. This can bring much more challenges of criminal and security issues to EU. For understanding possibility of such problems, it is important to analyse what legal and practical reforms were undertaken in partner states to fight irregular migration. What the

---

<sup>49</sup>Frear, T. (2015). *Why Moldova is Failing and What can be Done*. Accessible: <https://www.europeanleadershipnetwork.org/commentary/why-moldova-is-failing-and-what-can-be-done/>, 2 May 2018.

<sup>50</sup>*The Jobs Challenge in the South Caucasus – Georgia*. The World Bank. Accessible: <http://www.worldbank.org/en/news/feature/2015/01/12/the-jobs-challenge-in-the-south-caucasus---georgia>, 2 May 2018.

<sup>51</sup>Iwanski, T. (2017). *The stable crisis. Ukraine's economy three years after the Euromaidan*. Accessible: <https://www.osw.waw.pl/en/publikacje/osw-commentary/2017-04-05/stable-crisis-ukraines-economy-three-years-after-euromaidan>, 2 May 2018.

<sup>52</sup>Brunarska, Z., Kindler, M., Szulecka, M., Torunczyk-Ruiz, S. (2016). *Ukrainian Migration to Poland: A “Local” Mobility? - Ukrainian Migration to the European Union*. IMISCOE Research Series. (Eds.) O., Fedyuk, M., Kindler. Springer, Cham, 115-131, p. 117-119.

commission recommendations and assessment of the established legal and practical mechanisms in partner countries were.

## 2.1. Moldova

Visa-free dialogue between Moldova and European Union started in 2010 year and was followed by grant of visa liberalisation action plan a year later providing tailor made conditions for the country. Implementation process of VLAP was assessed by several progress reports of European Commission and additional report on risk assessment of possible migratory and security impacts of Moldovan visa exemption on European Union. Following report underlining that general migratory situation, number of irregular migrants in EU from Moldova might not be increased after offering easier travel.<sup>53</sup> Moldova was the first of the Eastern Partnership states to achieve visa liberalisation and sometimes referred as an example of most successful cooperation with the Union. “Yet, in some key areas, despite showing good progress in terms of rule adoption, the implementation of the recently adopted laws has been sluggish. The EU has succeeded in improving state capacity in the area but not in reforming the institutional system and creating sustainable institutional solutions.”<sup>54</sup> Although the state had some difficulties during the process due to political crises and problematic frozen conflict in Transnistria, reports were usually reflecting positive developments in all four blocks of the action plan.<sup>55</sup> Implementation of the action plan was named as successful in 2012 year and after Vilnius summit being decisive for the Union. From 2014 year, citizens of Moldova have right to visa-free short-term travel within Schengen plus states just after amendment of Council regulation 539/2001. Tailor-made VLAP for Moldova was covering all those four major blocks that were already discussed as standard conditions. First phase of the visa liberalisation that considered adoption of legal framework and complying national legislation with Union standards was fulfilled with very positive feedbacks provided by the Commission and the third progress report announcing readiness of the state for second phase of implementation.<sup>56</sup> Obviously as the visa-free regime was granted to the EaP state

---

<sup>53</sup> Commission Report COM/2012/0443 final to the European Parliament and the Council of 3 August 2012 Possible Migratory and Security Impacts of Future Visa Liberalisation for the Republic of Moldova on the European Union, p. 10-11. Accessible: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2012:0443:FIN>, 26 February 2018.

<sup>54</sup> Nizhnikau, R. (2017). Promoting Reforms in Moldova. EU-Induced Institutional Change in the Migration and Environmental Protection Sectors. – *Problems of Post-Communism*, Vol. 64, No. 2, 106-120, p. 110.

<sup>55</sup> Chapichadze, K. (2017). Visa liberalisation: What does this mean in reality for Moldova and Georgia? – *Ante Portas – Studia nad Bezpieczeństwem*, No. 1 (8), 147-152, p. 150.

<sup>56</sup> Commission Report COM/2012/0348 final to the European Parliament and the Council of 22 June 2012 on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation, p. 24-25. Accessible: <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20120348.do>, 28 February 2018.

overall assessment of implementation was positive, however referring to the final, fifth progress report is the best way to identify which legal and institutional reforms were undertaken by Moldovan government and where might one find some loopholes. Within the implementation process of VLAP, government of Moldova issued machine-readable biometric passports for own citizens in compliance with European standards. This must be supportive for secure identity management. Established prompt and secure data exchange mechanism with Interpol, sharing data on stolen and lost passports as well as criminalizing forgery, production and use of such travel documents. Strengthened border surveillance through new technologies and using risk profile database that might be helpful for border guards to evaluate past experience of the traveller and examine chances of the particular person being potential irregular migrant. Anticorruption rules and training programmes were also implemented. Reporting mechanism between Moldova and FRONTEX had been introduced as well.<sup>57</sup>

Moldova has satisfied all benchmarks of the visa liberalisation action plan, including migration management for which Moldova undertook institutional reform in Ministry of interior and held trainings for employees. Commission positively evaluated new migration profile after conducted large-scale analyses and investigation, identifying that nationals do not plan to urge to Europe for labour purposes, thus the results were proudly published to prove that Moldova is not threat to Union and visa liberalisation might not have influence on irregular emigration. Moldova adopted and implemented rules imposing liability on carriers for illegal transportation of passengers as well. The government adopted common asylum policy, establishing international standards of asylum living conditions and detention. In overall Commission was also satisfied with reforms in the public security and human rights fields as well as with cooperation in judicial issues. Interesting correlation between visa liberalisation action plans and progress reports can be seen after comparing how the visa liberalisation process is developed. Progress reports assess to what extent the adoption and implementation of legislative and institutional frameworks by the partner state is in compliance and in correspondence to action plans.<sup>58</sup> Readmission agreement between Moldova and European Union has been already tested with satisfactory effect, creating possibility for reintegration of readmitted people. During whole process of visa liberalisation, importance of the Transnistria region was underlined many times. The reason why following territory was seen as a

---

<sup>57</sup> Commission Report COM(2013) 807 to the European Parliament and the Council of 15 November 2013 Fifth Report on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation, p. 3-22. Accessible: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/docs/20131115\\_5th\\_progress\\_report\\_on\\_the\\_implementation\\_by\\_moldova\\_of\\_the\\_apvl\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/docs/20131115_5th_progress_report_on_the_implementation_by_moldova_of_the_apvl_en.pdf), 28

February 2018.

<sup>58</sup> *Ibid.*

problem despite the conflict being frozen – inactive, was that the area could influence on issuance of fake passports of Moldovan nationality. “In order to make it impossible to acquire a Moldovan passport on the basis of fake breeder documents, the Moldovan authorities developed a law that provides a special identification procedure which applies to applicants, and the information provided is then checked against the information held by constitutional authorities – the registry of data which Moldova owns.”<sup>59</sup> Special mechanism has been developed in order to control Ukraine-Moldova border with Transnistria, obliging foreigners arriving from named border to register within 72 hours in one of bureaus for migration and asylum.<sup>60</sup> Amended law on acquisition of citizenship and eased procedures for obtaining biometric passports. Established procedure for acquisition of citizenship by stateless people facilitated spread of Moldovan passports in Transnistrian region. However, progress reports do not analyse whether adopted and implemented acts and their enforcement mechanisms can be effective. For example, if those set of reforms which were envisaged in action plans and transposed by Moldova are enough to avoid irregular emigration. This aspect is important to consider because, if the visa liberalisation might result in increased number of emigrants and asylum seekers, crucial is to know if the reason is gaps on national legislative and enforcement level or the problem is in the visa-free mechanism itself.

Although European integration was popular issue in Moldova, state government more or less failed to conduct informative campaign over rules of visa-free travel and obligations undertaken within visa liberalisation process by the state.<sup>61</sup> Lack of awareness of the rules in author’s opinion is equal to having inefficient enforcement mechanism with fighting irregular emigration on land. Citizens of Moldova and potential visa-free travellers, not only have right to be informed about new possibilities and obligation but in such case when lack of awareness might facilitate irregular emigration or refusals at EU border, it needs to be considered as a pure must for the government to undertake informative campaign. At least disseminate most basic and key principles of visa-free travel, appealing on negative consequences of violating those rules.

As the case of Western Balkan states have already revealed, unless all areas covered by visa liberalisation action plans are sufficiently implemented, visa liberalisation might become more

---

<sup>59</sup> Benedyczak, J., Litra, L., Mrozek, K. (2015). *Moldova’s success story. The visa-free regime with the EU one year on*. Stefan Batory Foundation, p. 11. Accessible: <http://www.batory.org.pl/upload/files/Programy%20operacyjne/Otwarta%20Europa/Moldova%20success%20story%20-%20policy%20paper%20-%20SBF%20IWP.pdf>, 21 April 2018.

<sup>60</sup> *Ibid.*

<sup>61</sup> Samvelidze, N. (2014). *Analyses of the visa liberalisation process in Georgia: Moldova’s experience and recommendations*. Georgian institute for strategic studies, p. 11. Accessible: [http://migration.commission.ge/files/giss\\_-\\_eng.pdf](http://migration.commission.ge/files/giss_-_eng.pdf), 16 April 2018.

challenging to Union and its partner states than beneficial. Considering that the Moldova just like other Eastern Partnership states have political and economic problems, analysing that even after implementation of visa liberalisation action plan, country has some practical problems that may influence on irregular emigration to EU raises concerns. Benchmarks with regard to anticorruption although were assessed as satisfactorily implemented, in practice it appears that the implementation process has not been effective. Corruption can as well be influential on weakening border and migration control. Anyway, it has already been a while, since Moldavian, citizens have been granted right to visa-free travel and there is quantitative data available on actual situation with regard to irregular migration and asylum applications.

## **2.2. Georgia**

Georgia being another of Post-Soviet states from Partnership, after revolution and change of governmental powers, showed firm and unequivocal interest towards European integration. Prior to 2009 year and hence before the entering into Eastern Partnership initiative, Georgia had extremely underdeveloped migration mechanism, not to talk about compliance with Union standards. However, after making closer ties with European Union, partner state started whole wave of reformations affecting legal and socio-economic as well as security areas.

Mobility partnership agreement in 2010 year was indicator that European Union is going to respond to positive development of the partner state. Agreement soon was followed by visa facilitation and readmission cooperation. As the implementation process of following agreements was reported to be smooth, commission's initiative to start visa free dialogue with Georgia was approved in 2012 resulting issuance of visa liberalisation action plan in 2013 year.<sup>62</sup> Implementation process of VLAP was assessed by four progress reports as positive and since 28 March of 2017 year, Georgian citizens are able to travel without visa within Schengen plus area. During visa liberalization process, Georgia had almost similar action plan as Moldova with same areas to cover and similar legislative reforms to undertake. While Moldova was named as having a successful implementation process, Georgia was recommended to act in similar manners, considering that both countries had similar background of legal and institutional as well as economic instabilities. However, when Moldova started to adopt European standards even before

---

<sup>62</sup> *Ibid.*, p. 5.

getting VLAP, Georgian government became extremely liberal towards migration after Roses revolution.<sup>63</sup>

Although, becoming attractive tourist destination was beneficial for Georgian economy, loosen migration management was negatively influencing implementation of the visa liberalization action plan. Starting from 2012 when the most pro-western political forces were shifted, new government had to take care to adopt European standards.<sup>64</sup> Since 2011 year, Ministry of Justice has been issuing biometric passports to citizens of the country and with aim to enhance dissemination of secure travel document, usually worked for lower fees or even for free for certain group of people. Persons from occupied territories have possibility to benefit from Georgian visa liberalization and for that purpose, they will need to obtain Georgian biometric passports and choose Georgia over Russia by refusing Russian passport. Huge steps were followed in the area of migration management as the state established migration risk analysis system, setting electronic tools and level of interagency cooperation. “All these products will support Georgia in identifying risks, forecasting threats and establishing adequate measures, thereby managing migration in comprehensive manner.”<sup>65</sup> State also adopted migration strategy for 2016-2020 years and redesigned coordination of reintegration activities for internally displaced persons from occupied territories within following strategy.<sup>66</sup> Government also adopted database on asylum seekers, refugees and those with humanitarian status and new requirements for acquiring citizenship. “The ordinary procedure for acquiring Georgian citizenship requires knowledge of the Georgian language, knowledge of history and of basic principles of law. A special educational programme has been developed for refugees to help them to access the naturalisation procedure in practice.”<sup>67</sup> Despite advanced migration strategy, state had problems with complying rules on status of foreigners with Union standards. Law on the legal status of aliens and stateless persons had introduced the residence permit system but migrants who were entering country legally were not required work permit for labour activities. Following law was amended for the interests of the visa

---

<sup>63</sup> Yundt, H. (2014). *Georgia Ends Immigration Free-for-All*. Accessible: <https://iwpr.net/global-voices/georgia-ends-immigration-free-all>, 10 May 2018.

<sup>64</sup> Chochia, A., Popjanevski, J. (2016). Change of Power and Its Influence on Country's Europeanization Process. Case Study: Georgia - *Political and Legal Perspectives of the EU Eastern Partnership Policy*. (Eds.) T., Kerikmae, A., Chochia. Switzerland: Springer International Publishing, 197-210, p. 207.

<sup>65</sup> Commission Report COM(2015) 684 final to the European Parliament and the Council of 18 December 2015 Fourth progress report on Georgia's implementation of the action plan on visa liberalisation, p. 4. Accessible: <http://procurement.gov.ge/getattachment/CooperationInternationalPublic/saertashoriso-angarishebi/1-2015-684-EN-F1-1.PDF.aspx>, 26 February 2018.

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*, p. 5.



liberalization and introduced stricter conditions on entry including border checks and more complex procedure for obtaining temporary and permanent residence permits, as the applicant must prove existence of sufficient financial sources and living background.<sup>68</sup> These aspects are important, because unless there is proper mechanism, Georgia can become transit route of irregular, illegal migrants that are headed to EU. Once the law was made compatible to Union regulations, it was criticized for being disincentive for attracting foreigners for long stay purposes.

Positively are assessed implemented mechanisms for fighting trafficking, including labour trafficking by establishing special labour inspection. Within harsh approach of the former and present government, Georgia is the country with best results in corruption fight due to criminalizing it and making asset declaration mandatory for workers of public sectors. Zero tolerance principle with crime has significantly lowered cases of criminals as well as organized criminal activities. However, exactly such attitude as well as instable economic background (which remains to be such even after ongoing implementation of association agreement and DCFTA) in author's opinion has been and might nowadays be remaining as a facilitator for emigration of Georgian organized criminal groups to European Union. Reforms have covered data protection, judicial cooperation, money laundering, law enforcement cooperation as well as anti-discriminative legislation. The last one although was adopted and implemented, practically is not an enforceable legal act. Considering that, the majority of the nationals is of orthodox religious and the country is way far from being a secularist state. Anti-discriminative law especially with regard to sexual minorities had been extremely criticised. Although law is very liberal and enshrines vast rights for the minority groups, neither enforcement mechanism is in place, nor will of public. If remembering the case of Western Balkan states, the minority groups were the ones who used visa liberalization for asylum seeking, then one might believe that in case of Georgia, minority groups (especially huge problems are faced by sexual minorities and to some extent by religious minorities) might also decide to emigrate within European Union.

Georgian irregular migrants have always been presented in European states, mostly for labour purposes, as the socio-economic situation affected by changes of governments, revolution, inflation and Russian pressure has not been offering much to the nationals. It is not a matter of research but a fact and that Georgians have been referring to smuggling or visa overstaying in order to pursue economic activities in Union member states. Most popular destinations for

---

<sup>68</sup> Ademmer, E., Delcour, L. (2016). With a little help from Russia? The European Union and visa liberalization with Post-Soviet states - *Eurasian Geography and Economics*, Vol. 57, No. 1, 89-112, p. 101-103.

irregular labour migration had been Greece, Italy and Germany. Sometimes irregular migrants try to refrain from committing crime but in many cases, increase of irregular migration affects level of criminological situation.<sup>69</sup> Therefore, it has not been a surprise for Georgian government and society as well as for the author that Germany, leading several other states delayed visa liberalization process. States underlined existence of Georgian criminal groups that had been involved in burglaries and other organised activities many times.<sup>70</sup> As it appears from the research, there is even lack of informative communication between government and nationals. For example, in Georgia “according to the public opinion survey, 31% of those polled thought the visa liberalisation would offer employment opportunities in the EU countries, though in fact the visa-free status does not entitle Georgian citizens for a job in the EU. It is, therefore, extremely important to ensure proper communication to prevent the Georgian population from feeling frustrated and sceptical about the benefits of the European integration.”<sup>71</sup> Despite abovementioned issues and sceptical opinions, Georgia was granted visa-free regime after assessing progress of the country as positive. As nowadays first statistics appear, it is extremely interesting to observe to what extent commission reports were correct while stating that country might not threaten Union with increased irregular emigration.

### 2.3. Ukraine

Ukraine is one of the Post-Soviet countries, sharing borders with European Union. State has huge population, important geographical location serving as migration corridor, tense relation with Russian Federation, low economic and labour profile as well as armed conflict that can produce refugees, internally displaced persons and incentives for increased irregular emigration. “Ukraine is a source of irregular migrants because political reforms have opened the borders for citizens to more freely leave, and because economic crisis has necessitated a wider search for income-generated activities. Ukraine is a transit country because its strategic geographic location between Europe and Asia places it on path of asylum seekers and labour migrants from Africa

---

<sup>69</sup>Leerkes, A., Engbersen, G., Van der Leun, J. (2012). Crime among irregular immigrants and the influence of internal border control - *Crime, Law and Social Change*, Vol. 58, No. 1, 15-38, p. 18-19.

<sup>70</sup>Lomtadze, G. (2016). *Visa Liberalization for Georgia and Reasons for Its Delay*. Accessible: <https://idfi.ge/en/process-of-visa-liberalization-and-the-reasons-of-hindering-the-process>, 28 February 2018.

<sup>71</sup>Ghvedashvili, G. (2017). *Analysis of risks and opportunities of EU visa liberalization for Georgia*. Policy paper. Accessible: [http://www.cipdd.org/upload/files/visa\\_policy\\_paper-eng.pdf](http://www.cipdd.org/upload/files/visa_policy_paper-eng.pdf), 21 April 2018.

and Asia.”<sup>72</sup> Visa liberalisation dialogues between Ukraine and European Union started in 2008 year and followed by issuance of visa liberalisation action plan in 2010. Six progress reports of the Commission lead to abolishment of visa requirements in 2017 year for citizens of Ukraine. Sixth report had analysed positive development in all four blocks of the VLAP especially in migration management area.<sup>73</sup> One of the most notorious problem with Ukraine was high number of labour emigration for example to Poland and Czech Republic that was tried to be fixed by negotiations between these states.

Implementation of the visa liberalisation action plan appeared to be hard and lengthy process for the already associate state. Ukraine stepped into the second phase of implementation only in 2015, 5 years after the presentation of VLAP. During the process, government of Ukraine started issuing biometric passports, adopted integrated border management system as well as strategy of border guard service of Ukraine - providing the state access to Interpol data. Trainings and additional human resources to fight irregular migration enhanced institutional capacities of state migration service. Integration of the refugees and those having subsidiary protection was facilitated by providing access to better housing and learning opportunities. However, there have not been any evaluation on effectiveness of the proposed programs. After conflict between Russia and Ukraine over Crimea and Donbas, government of the state as well as the European Union had to face new wave of internally displaced persons and asylum seekers counting over million.<sup>74</sup> Integration program for following persons was crucially important for preventing their migration to other states for searching better living conditions. While Ukraine succeeded in border control, especially by setting additional control in central airport, associate state had huge problems with regard to other benchmarks of the visa liberalisation action plan. “The fight against corruption is the most urgent problem in Ukraine and one of the most urgent needs for reform. If Russian aggression in Ukraine represents the most serious external threat, the greatest internal threat to it is inability and unwillingness of authorities to fight corruption.”<sup>75</sup> Understanding that corruption may also have negative effect on migration after visa liberalisation, European Commission was underlying

---

<sup>72</sup> Uehling, G. (2004). Irregular and Illegal Migration through Ukraine - *International Migration*, Vol. 42, No. 3, 77-109, p. 79.

<sup>73</sup> Commission Report COM (2015) 905 final to the European Parliament and the Council of 18 December 2015 Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation, p. 4. Accessible: <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF>, 2 March 2018.

<sup>74</sup> Kulchytska, K., Sushko, I., Solodko, A. (2016). *Ukrainian Migration Policy Reform: Paving the Way for the EU-Ukraine Cooperation*. Ukrainian Think Tank Development Initiative, Policy brief, Accessible: [http://www.irf.ua/content/files/brussels\\_migration\\_policy\\_final\\_.pdf](http://www.irf.ua/content/files/brussels_migration_policy_final_.pdf), 28 February 2018.

<sup>75</sup> Poshedin, O., Chulaievskia, M. (2017). European Integration of Ukraine: Tool for Internal Reform, Source of Problems or Pass Ticket to EU Membership - *Romanian Journal of European Affairs*, Vol. 17, No. 1, 100-120, p. 106.

importance of enforceable legal mechanism in this area. Following the final progress report, it becomes obvious that after change of Yanukovich government and after Euromaidan initiative, new government, which was more pro-western, have started active reforms against corruption. Several institutions were established with direct function to fight the corruption, National anti-corruption bureau, National agency for prevention of corruption and specialized anti-corruption prosecution should deal with the problem. However, despite these successful steps, enforceable mechanism of anti-corruption legislation does not exist in practice. Most of law enforcement institutions, including police and prosecutor's office are believed to be the most corrupted governmental institutions.<sup>76</sup> Enhanced border control mechanism is of course important step but it might not be effectively enforceable when those who are responsible for such control have will and opportunity to raise own income through corruption and do not fear for the responsibility. There has also been some critics towards the rule of law and judicial independence and biased judiciary. Work have also been undertaken to fight human trafficking and human rights strategy was issued. Readmission agreements have also been implemented by Ukraine. Despite abovementioned legal and institutional loopholes, final progress report submitted by the Commission stated that the four benchmarks of the VLAP were met. Although there obviously are positive changes in the country, it is also important to remember Western Balkan case. Experience showed that despite positive progress reports, practical problems, uneven implementation of action plan benchmarks and lack of enforcement mechanisms could negatively influence on irregular emigration from the state to EU. It is interesting to mention that referendum conducted in Netherlands revealed that nationals of the member state could foresee threat in opening border to Ukrainians.<sup>77</sup> Anyway, citizens of Ukraine who hold biometric passports have already started visa-free travel within Europe and qualitative data can help to realize impact of visa liberalisation on irregular emigration and possibly help to identify if there are any gaps on national or Union level in order to suggest how to improve emigration control, without restricting human rights of own nationals. Considering that visa liberalisation has always been seen as a political tool, based on legal and institutional reforms as conditions, it is interesting if Union correctly assesses readiness of the country before granting visa-free regime or political interest towards region can outweigh possible security and migration problems.

---

<sup>76</sup> Mykhalenko, A. (2016). Anti-Corruption Stakeholders in Ukraine - *Journal of Eastern European Law*, No. 25, 99-102, p. 100.

<sup>77</sup> *Dutch referendum voters overwhelmingly reject closer EU links to Ukraine*. The Guardian. Accessible: <https://www.theguardian.com/world/2016/apr/06/dutch-voters-reject-closer-eu-links-to-ukraine-in-referendum>, 28 February 2018.

## 2.4. Conclusion

As it was analysed above, three of Eastern Partnership countries, Moldova, Georgia and Ukraine were exempt from visa requirement for short-term travel within Union territories. They were presented more or less similar visa liberalisation action plans and reforms within implementation of these action plans were alike. All of the three states have territorial problems, which raises risks for increased emigration to EU, as well as economic and social instabilities, including unenforceable anti-discrimination laws and anti-corruption laws. Considering the fact that European Union member states have decided to modify visa suspension mechanism before finalizing visa liberalisation processes with Georgia and Ukraine shows there still was some fear of stemming threats. When existing visa liberalisation experience with Western Balkan states have showed that lack of attention towards human rights have caused increased number of asylum applications, it is interesting, why visa liberalisation had been launched for Moldova, Georgia and Ukraine where such problems exist still. It seems that European Union is undertaking such risk as in case of increased asylum applications, visa overstays or refusal rates on borders, Union can cease visa-free regime even for *bona fide* travellers. Thus, it is important to identify how launch of visa-free travel affected irregular emigration and asylum applications directed from EaP states to EU.

### **3. OUTCOMES OF VISA LIBERALISATION AND IRREGULAR MIGRATION**

Once visa liberalisation with Moldova, Georgia and Ukraine is launched and citizens with biometric passports are already using their right to visa-free travel, first statistical data is being made available. Data reveals numbers of irregular migrants, refusal rates on borders, asylum applications and their recognition rate. As the major issue for analyses of the thesis is irregular migration including applications submitted by asylum seekers, quantitative data on *bona fide* travellers will not be included in following chapter.

As it was already mentioned earlier, after the case of Western Balkans which has brought additional wave of asylum seekers to Europe as they abusively used the visa-free travel, member states wanted to be extra careful during visa liberalisation dialogues with Eastern Partnership countries and amended visa waiver suspension mechanism. First report under visa suspension mechanism was awaited by partner states with utmost worry. Commission report was published in 2017 analysing continuous fulfilment of visa liberalisation action plans.<sup>78</sup> Report was accompanied by Commission staff working document, which was summing up Eurostat data on migration issues such as irregular migration including readmission and return, asylum application and the rate of their recognition as well as public order and security.<sup>79</sup> Not so long since the three Eastern Partnership states were granted visa-free regime and the first report under visa suspension mechanism already urges governments of following states to take immediate actions.

Commission report covered migration issues and implementation of visa liberalisation action plans in Western Balkan states as well as in Eastern Partnership countries. Report revealed some

---

<sup>78</sup> Commission Report COM (2017) 815 final to the European Parliament and the Council of 20 December 2017 First Report under the Visa Suspension Mechanism. Accessible: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220\\_first\\_report\\_under\\_suspension\\_mechanism\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220_first_report_under_suspension_mechanism_en.pdf), 3 March 2018.

<sup>79</sup> Commission staff working document SWD (2017) 480 final of 20 December 2017 Accompanying the document Report from the Commission to the European Parliament and the Council First Report under the Visa Suspension Mechanism COM (2017) 815 final. Accessible: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220\\_sw\\_d\\_accompanying\\_first\\_report\\_under\\_suspension\\_mechanism\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220_sw_d_accompanying_first_report_under_suspension_mechanism_en.pdf), 3 March 2018.

important problems with regard to increased migration and asylum tendencies from Moldova, Georgia and Ukraine and suggested areas that lack implementation within action plans and problems with enforceability. Quantitative analyses provided in submitted document to the Parliament and Council might help to understand to what extent the implementation of visa liberalisation action plans have helped Moldova, Georgia and Ukraine to establish mechanisms on migration, emigration and asylum management. Following chapter is analysing exactly such statistical data. The report is also interesting because it serves as a proof to the fact that Commission assessment mechanism of implementation level and readiness of the states to manage emigration is not effective. Following report, in cases of negative trends, may lead to discussions on visa waiver suspension, which will be not only punishment for partnership states in legal manner but also of important political significance.

Report has revealed some increased migration trends with regard to Moldova. While commission assessed implementation level of VLAP as positive in progress report, following negative cases of abusively used visa-free travel became striking for the state, as extra work is required to ensure fulfilment of benchmarks. Within the period of 2014 and 2017 years, more than 980,000 citizens of Moldova have travelled within visa-free regime in Europe. According to the report, with regard to irregular migration, number of refusals at external border has been increasing between years. From 1,845 in 2015 year to 2,725 in next year and reaching 4,660 persons in 2016. Statistics show that the tendency has been going upwards and in the first half of the 2017 year, there was quarterly increase in comparison with 2016 year.<sup>80</sup> Refusal rates are important for two reasons, firstly these numbers might show how effectively border guard can identify potential irregular migrants headed to EU and secondly for analysing how actively citizens of Moldova consider to enter Union territories with aiming to abusive visa-free regime. Of course, refusals can also be connected to lack of awareness of the visa-free travel rules, as well as problems with documentation, but it more or less draws the general picture.

As of illegal stays after visa liberalisation, report consolidating Eurostat data depicts that number of illegal Moldavian stayers within visa-free regime in European Union member states have also been increased from 2,245 persons (2014 year) doubling in 2015 and reaching 7,660 persons in 2016 year but slightly decreasing in first half of 2017 year. Mostly affected Union member states were Hungary, Germany and Poland.<sup>81</sup> Number of illegal stayers have obviously increased shortly

---

<sup>80</sup> *Ibid.*, p. 18.

<sup>81</sup> *Ibid.*

after visa liberalisation. Although the numbers are not above thousands, which might not have a significant impact and not be of a big threat to the Union but considering the migration crisis and the fact that legal and institutional frameworks of the member states are overloaded, even such numbers might cause inconvenience. Considering the not so big population of Moldova, even such number of migration outflow may become problematic for Moldavian socio-economic situation.

As of asylum applications, the report shows also sharply increased numbers. From 475 asylum applications in 2014, numbers were raised to 1,850 asylum seekers in 2015 year and 3,675 applications in 2016. Majority of asylum applications being submitted at first time and were submitted in Germany.<sup>82</sup> However, according to the data, within first six months of 2017 year, number of protection seekers has lowered. Increased number of asylum applicants may be the most sensitive for the Europe that is still trying to re-establish asylum system after the recent refugee crisis. Unfounded asylum applications are connected with financial and institutional problems for member states. Review of asylum applications in shortest time, reception conditions of asylum seekers and their detention, even in case of granting refugee status to the applicant, important work needs to be done with regard to their integration including social and labour issues. More for more principle should be sufficient for the partner states not for the member states, if they give more benefits to eastern neighbours, this must not be bring more challenges and threats to the Union and member states. Unfounded asylum applications are thus equal to lost time and institutional as well as financial resources for member states. Recognition rate of applications from being 10% in 2015 year rapidly has dropped to 2% in 2016 year and to the lowest margin of 1% in the first half of the 2017 year.<sup>83</sup> As the refused asylum applications and identification of visa overstays require return and readmission of such persons, Commission data also covers following issues. Report states that return decision have been tripled in 2016 year compared to 2014 year. There is a problem with enforcement of those decisions, return rate has been decreased from 60% to 48% in 2016 year, however, as Commission points, the drop was not related to lack of cooperation and performance of Moldavian side but rather related to member states managing return issues more intensively with regard to other states.<sup>84</sup> Accompanying document to the report also showed security and crime related problems, indicating that Moldovan organised crime groups present in several member states actively involved in drug trafficking. “While Moldova is not a major course country for irregular migrants, it remains a source country for trafficking in human beings for sexual and

---

<sup>82</sup> *Ibid.*, p. 19.

<sup>83</sup> *Ibid.*, p. 20.

<sup>84</sup> *Ibid.*



labour exploitation”<sup>85</sup> and following concerns exist despite signing cooperation agreements with Europol and Eurojust. In case of Georgia, since the abolishment of visa requirement almost 200,000 citizens with biometric passports have travelled within European Union. Underlining that Georgia has established migration analytical system for threat and risk analyses on borders, which should be helping in border management. Report said that country still has a problem with identifying causes of irregular emigration and having enforceable framework for such issue as well as with regard to integration of internally displaced persons.<sup>86</sup> Effective irregular emigration management is possible not only through border control, but mainly by provision of similar and broader opportunities for employment and individual development within the state that are looked in the Europe by emigrants. In case of Georgia, cause of emigration might relate to a complex set of national socio-economic problems, which cannot be dealt even after implementation of visa liberalisation action plan. Report also underlined weak implementation of anti-corruption and money laundering legislation and required immediate actions for sustainable implementation.<sup>87</sup> However, despite such outcomes of the visa liberalisation process, report still stated that benchmarks continue to fulfil.

Commission staff working paper reports that number of illegal stayers has not significantly changed after visa liberalisation but refusal rates on border crossing slightly increased in 2017 year. Increasing number of asylum applications is a concern for European Union and the country needs further legal approximation for establishment of more effective legal remedies. According to the statistics published by European asylum support office “In January 2018, 1,859 applications were lodged by nationals of Georgia, the highest monthly level ever recorded since the EPS data exchange was established in January 2014. The number of Georgian nationals applying for international protection began to increase by mid-2017, a trend that intensified as of September 2017. The number of applicants recorded in January was almost twice that of September, testifying to the progressive rise in asylum-related migration from Georgia: in January 2018, Georgian nationals made up the 6th largest group of applicants, up from 24th one year earlier.”<sup>88</sup> Recognition rate of asylum application, which was 6.48% in 2016, has fallen down to 2%.<sup>89</sup> Asylum applications on national security grounds are in most cases rejected. In addition, some of Union member states have listed Georgia into safe countries, which means that there is no ground to

---

<sup>85</sup> *Ibid.*, p. 21.

<sup>86</sup> *Ibid.*, p. 23.

<sup>87</sup> Commission Report COM (2017) 815 final, *supra nota* 78, p 9.

<sup>88</sup> *Latest Asylum Trends*. European asylum support office. Accessible: <https://www.easo.europa.eu/latest-asylum-trends>, 3 March 2018.

<sup>89</sup> *Ibid.*

revise asylum applications based on national security. However, even if all the member states decide to name Georgia as a safe state and refuse asylum application on that ground, there will be other type of problem. In that case, member states can be violating human rights and humanitarian rights of the persons who have legal grounds for asking asylum and refugee status. Author's point is that such action with an aim of EU member states to avoid additional asylum applications cannot be justified. Thus, in most cases European states are receiving unfounded applications for protection, which just like in case of Moldova can be extra burden to already overloaded EU asylum system. Most affected states according to the Commission Report are Germany, France, Greece and Sweden, almost the same states that in author's opinion have always been popular for irregular labour emigration purposes. As of return and readmission, Report says that number of Georgian citizens that were ordered to leave Union territories have been decreased in parallel to increasing return rate which was caused by strong cooperation and successful electronic readmission management system. Georgia is also working on readmission agreements with Union and third countries.<sup>90</sup> Such positive assessment of return and readmission mechanism is actually important, considering the fact that following tools are believed to be mechanisms for fighting irregular migration within European Union. Positively was assessed government's plan to enhance work on integration of people from occupied territories.<sup>91</sup> Understanding Western Balkan case, integration of separated groups into national socio-economic and labour fields may have effect on emigration ratio. Union and government of Georgia should definitely pay more attention to it. Besides the fact that increased number of asylum applications have been followed by negative comments from representative of Union member states, there is much more concern raised over security threats stemming from Georgia. Georgian organized criminal groups are very active in Germany and several of other member states, are involved in property crimes, and represent thieves-in-law, phenomenon that had been popular and stayed mostly unpunished in Georgia, until zero tolerance policy was adopted in criminal law. It seems that pressure on national level has triggered increased emigration of criminals and criminal authorities.<sup>92</sup> Although Georgia is going to establish new systems to fight against organised crime by working on legislative amendments, European Union requires demonstration of full implementation and enhanced resource allocation for raising effectiveness with fight against organised crimes.<sup>93</sup> Germany and more concretely region of north Rhine-Westphalia represented by the minister of interior affairs was the one who

---

<sup>90</sup> Commission staff working document SWD (2017) 480 final, *supra nota* 79, p 26.

<sup>91</sup> *Ibid.*, p. 27.

<sup>92</sup> *Ibid.*.

<sup>93</sup> *Ibid.*, p. 28.

mentioned visa waiver suspension mechanism with regard to Georgia exactly due to increased criminal activities by Georgian citizens. After such concerning event, work has been accelerated to create obstacles on legislative level to make use of visa-free regime harder for criminals and potential law abusers. Ministry of justice is going to propose legal package, making change of name and surname, thus obtaining new identity harder. Besides such initiative, government wants to consider establishment of administrative sanctions - financial liability for those who will abusively use visa-free regime for irregular emigration. At the time of conducting following research, Georgian side represented by Foreign affairs minister as well as the Prime minister are conducting meeting with Interior affairs ministers of member state countries to avoid further indications towards use of visa waiver suspension, which would be significant political failure. From the author's own observation, after concerning outcomes of visa liberalization, Georgian government needs to launch stronger informative campaign, explaining the rules of visa-free travel and warning about consequences of violating these rules.

Statistical data about Ukrainian citizens traveling within European Union without visa shows that since granting visa-free regime on 11 June 2017 until 10 November 2017 year more than nine million entries were recorded, however only 2,332,682 entries were made by owner of biometric passports. Such data might be good proof to argue that implementation of VLAP with regard to document security was not as successful as progress reports assessed. Out of named entries, only 3% was without visa. Thus, in the first months after visa liberalization, considerably low number of citizens have used opportunity of new visa-free travel.<sup>94</sup> Report does not provide data on most recent irregular emigration and asylum application rates from Ukraine. Comparing tendencies of irregular migration and asylum applications, no significant changes are seen, excluding refusal rates, which were grown by 18%. Between time ranges of years 2008-2017 number of illegal Ukrainian nationals in European Union member states has been gradually increasing, reaching 29,565 person in 2016 and remained almost unchanged in 2017. Although Report does not indicate increased emigration statistics, the numbers that remain unchanged are already high and affecting member states like Poland, Hungary, Germany and Czech Republic.<sup>95</sup> According to the report as well as the European Asylum Support Office, neither have there been any significant increase in asylum applications from Ukraine. Report also has a positive data that voluntary return cases of Ukrainian citizens are quite many as well as attempt of the government to implement readmission

---

<sup>94</sup> *Ibid.*, p. 30.

<sup>95</sup> *Ibid.*

agreements effectively.<sup>96</sup> Case of Ukraine is a bit hard to explain, because full and official quantitative data covers only short period after visa liberalisation. In addition, there are two aspects, firstly irregular emigration and asylum applications might not have increased as they already were high in previous years and secondly they might not have increased due to existing labour ties of the state with some mostly apprehended Union member states such as Poland. Upcoming Annual Report under visa suspension mechanism, which should be presented in 2018 year, may help to make more specific analyses of visa liberalization results in case of Ukraine. However, despite problems with identification of migration trends, Report of the Commission still has found some loopholes in implementation of VLAP that also can become reason for considering visa waiver suspension for Ukraine. Following issues are related to organized criminal group activities including smuggling of illicit tobacco, firearms, heroin trafficking and cybercrimes as well as a threat to European Union digital infrastructure. Ukraine is required to enhance cooperation with European Police Office. European Union also awaits from partner state legislative and operational improvements in service of the state border guard, by expanding access to Interpol database on local and inter-state lines.<sup>97</sup>

First report under visa suspension mechanism not showing increased migration tendencies does not mean that there can be no threat of it. Report also shows that Ukraine is lagging behind in implementation of anti-corruption legislation. As it was explained, corruption can be a facilitator of irregular migration. European Union is requiring immediate actions to ensure full and effective implementation of anti-corruption legislation as well as enhancement of cooperation with Union agencies over fighting irregular emigration.<sup>98</sup> Such requirements clearly show that implementation of visa liberalization action plan that had been assessed as successful and been followed by visa liberalization did not create neither fully secure legislative nor institutional atmosphere for emigration management.

By analysing quantitative data on migration outflow after launch of visa liberalization it can be concluded that in cases of Moldova and Georgia irregular emigration has been increased. With regard to Ukraine, current official statistics do not provide enough information to come up with such conclusion. Following statistics still serve as bases to say that despite implemented visa liberalization action plans and positively assessed implementation process, visa liberalization in cases of Moldova and Georgia has already increased number of emigrants headed to Union. It is

---

<sup>96</sup> *Ibid.*, p. 32.

<sup>97</sup> *Ibid.*, p. 33-34.

<sup>98</sup> Commission Report COM (2017) 815 final, *supra nota* 78, p 14.

not only about illegally present citizens of these countries in European Union but also about higher refusal rates on borders as much as many of rejected travellers might have been potential irregular emigrants. Increased number of asylum applications with low recognition rate and illegal stayers is very concerning issue for Union member states as much as they are still trying to handle with recent refugee crisis. As increased irregular emigration affects security and criminal issues in European Union, just as it was revealed in case of Georgia, where visa liberalization was followed by increased activities of Georgian organized criminal groups in EU it seems that grant of visa-free regime to partner states may not only lead to increase in emigration but also to security concerns. Although all of the three partner states have been positively adopting legal and institutional reforms comparable to Union standard, there are gaps in national migration management legislation and enforcement mechanisms. Even if the migration management mechanism was implemented fully and effectively, but country could not propose labour opportunities or possibilities to improve living conditions, persons instead of using visa liberalization for irregular emigration purposes, might refer to smuggling instead. As the case of Western Balkans revealed, if there is no opportunity on national level for full integration into society and this is also influenced by harsh socio-economic situation visa liberalization might become reason for third country citizens to flee to Union member states.

As it was already discussed, all of the three partner states have problematic areas, which were not developed even after implementation of visa liberalization action plans. Following areas can actually have influence on increased irregular emigration to EU. Moldova, Georgia and Ukraine all have territorial problems and unsolved conflict with Russia, which also can easily trigger increased emigration. Following matter becomes more concerning when understanding that countries cannot usually have effective legal and institutional control over conflict zones and people living there. Besides named problems, in author's opinion, the most important matter that can trigger irregular emigration is lack of labour opportunities in countries of origin.

Due to economic instabilities in Moldova, Georgia and Ukraine irregular emigration for labour purposes has existed so far, but instead of smuggling, that contains danger to life and usually costs solid amount of money for transportation, these people might prefer use of visa-free travel. Irregular emigration cannot be tackled simply by biometric passports and trained border guards or by successfully implemented readmission agreements but by complex work on socio-economic enhancement including advanced protection of human rights and abolishment of discrimination as well as effectively managed anti-corruption framework besides already named issues. When such

problems are solved on legal and institutional level, even readmission of people may become more effective as developed atmosphere will help them to reintegrate. Thus increased irregular migration is caused by instable atmosphere in partner countries as a background causing citizens to search for better living conditions and not merely legal or enforceability problems in particular areas. As it was already discussed, Union is helping these third states with improvement of socio-economic background, but that support unfortunately is not fully stabilising situation. Not only partner states have to undertake major reforms to fight irregular emigration but the European Union as well needs to enhance support.

Case of Western Balkans and existing information about Moldova, Georgia and Ukraine have revealed that visa liberalization framework needs to be amended to avoid irregular economic migrants and increased number of asylum applications. First, Commission assessments on implementation of visa liberalization action plan is not effective. Commission as it was analysed in chapter two of this research provided positive assessment, when there were obvious deviations from European standards in partner states. Following makes author believe that Union's final decision on granting visa liberalization is mostly politically driven and not based on actual readiness of the candidate states. Another gap in visa liberalization framework that affects increased irregular emigration might be that European Union is not offering labour opportunities to citizens of partner states. "As unrealistic as it seems amidst the migrant crisis and rise of the far right in many EU countries, in the long-term future the opening of the labour market may be a win-win for both parties. Demographically-aging EU countries need to develop more sophisticated mechanisms for controlled immigration in order to sustain their social systems and the EaP states can provide skilled, low-cost workers with relatively minimal problems integrating."<sup>99</sup> To prevent increased number of irregular emigration, Union should be providing more and easier possibilities for legal emigration, including for family reunification and economic, labour purposes.<sup>100</sup> Legalizing status of those illegal stayers whose removal has not been successful or justified can also have positive impact. Such opportunities should be included in the framework of visa liberalization, or in addition to visa liberalization within independent agreements. Instead, European Union only requires fulfilment of visa liberalization benchmarks and in case of failure from the side of partners to satisfy all conditions, Union is using suspension mechanism to "threaten" them. The key importance in fighting irregular migration should be complex work for

---

<sup>99</sup>Lebanidze, B. (2017), *supra nota* 47, p 8.

<sup>100</sup> Duvell, F. (2011). Paths into Irregularity: The Legal and Political Construction of Irregular Migration. - *European Journal of Migration and Law*, Vol. 13, No. 3, 275-296, p. 295.

improvement of living conditions, creating labour opportunities on national level. When that is not manageable, Union should be forecasting increase in irregular migration after visa liberalization and should at least create such legal and institutional framework that could regularise labour migration easier at least for low-skilled persons. Europe already warmly and actively accepts high skilled professionals but exactly low-skilled third country nationals should be a concern for Union member states.

Increased irregular emigration after visa liberalization is going to be followed by “penalising” partner states and majority of their citizens who are *bona fide* travellers by freezing for particular time or abolishing visa-free regime. It is interesting, exactly what is visa-free suspension mechanism, why do EU member states rely on it to be effective with tackling irregular migration and to what extent can use of such mechanism be proportional and justifiable. When there is weak emigration control mechanism established within visa liberalisation mechanism in partner states. It is important to know if suspension mechanism of visa waiver can solve such problem.

## 4. VISA WAIVER SUSPENSION MECHANISM

Visa waiver suspension mechanism is indivisible part of the visa liberalisation framework of the European Union. Although the new visa waiver suspension mechanism has not been used before, it had been an issue of controversial discussions with regard to dealing negative consequences of visa liberalisation. It is less likely to be argued that abolishment of visa restrictions towards third partner countries is important step but is mainly politically driven decision of the European Union. This easily may lead to a situation when the Union grants right to visa-free travel to a third country nationals, irrespective to the fact that the country may not be fully ready to deal with the challenges that the regime may trigger. With such logic, it becomes crucial for the Union to have a well-developed visa suspension mechanism to be able to respond effectively and within the short period of time to the abuse of the visa-free regime.<sup>101</sup>

The unexpected and problematic experience of visa liberalisation with Western Balkan countries, leading to the highly increased numbers of migrants to European member states have influenced on adoption of visa waiver suspension mechanism. As it was already discussed in previous chapters, case of Western Balkans was a perfect example for the Union to realize that changes were needed in the visa liberalisation framework. Mechanism that is usually referred as a safeguard clause and emergency brake was enacted in 2013 year. It was established in order to protect one or more member state and the Union itself from such cases when visa-free regime with a third country causes emergency situation. Basically speaking, this protection means temporary suspension of visa-free travel, when there are increased migratory or security threats from partner state. During following period, Union and third country is believed to collaborate with an aim to abolish problems and restore the visa-free regime. If that does not improve situation, visa-free regime can be terminated and visa restrictions can be renewed. This can be equal to political fiasco for the third state as this will be a huge step backwards in relations with the Union.

---

<sup>101</sup>Trauner, F. (2017). *The EU visa suspension mechanism*. European Union Institute for Security Studies. Accessible: [http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/EUISS\\_Alert\\_2\\_Visas.pdf](http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/EUISS_Alert_2_Visas.pdf), 21 April 2018.



Importance of post-visa liberalisation monitoring and hence visa suspension mechanism was even more increased when visa liberalisation dialogues with Georgia and Ukraine seemed to lead to the abolishment of visa requirements for short-stay travels. It is interesting fact for the author to mention again that the visa-free regime to following countries was granted only after revision of the suspension mechanism. European Union member states started discussions over necessity to revise visa waiver suspension mechanism in 2016. This was not connected only with named partnership states but was also related to ongoing visa-free communications with Turkey and Kosovo, as well as was a response to the latest migration crisis.<sup>102</sup> Discussions were followed by the regulation of the Council and the Parliament amending the Regulation 539/2001 and revising the visa waiver suspension mechanism, according to which, revision strengthened suspension mechanism and made it faster and easier for the member states to use in case of emergency.<sup>103</sup>

After revision, grounds for using the visa waiver suspension mechanism have been defined more broadly. Faster procedure is ensured as the reference period has been narrowed, thus the decision on using the mechanism should be issued within two months.<sup>104</sup> Visa requirements can be restored towards partner third states if EU will find out there is significant increase of refusal rates on borders and in number of illegal stayers, hence irregular migrants. Significant increase in number of asylum applications made by third country nationals with low recognition rate, might also trigger activation of visa suspension mechanism. In cases when partner states do not effectively cooperate with Union and its member states with regard to return and readmission of own nationals and of those who entered the Union through the partner states, Union might respond by pausing visa-free travel. Imminent risk to public policy and security of the member states, which may include increase of criminal activity by nationals of partner state, for example, may also become cause for suspending visa-free regime.<sup>105</sup> Following grounds seem to be logically related to the negative consequences that the visa liberalisation with a third country may bring. It seems that the new mechanism allows the Commission and the member state, as well as simple majority of member states to initiate discussions on visa waiver suspension when one of following grounds

---

<sup>102</sup> Gjipali, G., Deliu, N. (2017), *supra nota* 8, p 35.

<sup>103</sup> Regulation (EU) 2017/371 of the European Parliament and of the Council of 1 March 2017 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (revision of the suspension mechanism), OJ L 61, 8.3.2017, p 1–6.

<sup>104</sup> *Visas: Council adopts a revision of the visa waiver suspension mechanism*. Council of the European Union. Accessible: <http://www.consilium.europa.eu/en/press/press-releases/2017/02/27/revision-visa-waiver-suspension-mechanism/>, 21 April 2018.

<sup>105</sup> OJ L 61, 8.3.2017, art 1, p 3.

are proven to exist.<sup>106</sup> However, as the list is quite general, it is important for the Commission and the member state, to provide sufficient proof verifying emergency situation and assess inevitability of using the suspension mechanism. New, stricter mechanism enshrines that visa waiver suspension on the first level may last for nine months. If cooperation between the Union, its affected member states and partner third country will not lead to positive changes, suspension period may be extended by further 18 months with a delegated act of Commission.<sup>107</sup> Visa suspension mechanism has also been identified as post-visa liberalisation monitoring tool. Unless, partner state manages to solve problems within the suspension period, there will be unfortunate result, like returning following country into the list of states whose nationals may be subject to visa restrictions for short-period travels within the Schengen area.

Positive side of the suspension mechanism may seem to be that it lets Union member states feel more protected when EU grants right to visa-free travel to third country nationals, thinking that there is a safeguard clause that can save the day in case of emergency situations. The fact that grounds enlisted above may trigger pause in visa-free travel and not directly termination of the regime can be supportive aspect for third states as much as cancelation of visa liberalisation can be of utmost political and socio-economic importance for them. Controversial side of the suspension mechanism can be associated with its effectiveness and proportionality. Suspension mechanism may not be the most proportional action used towards third states, because it is not separating *mala fide* and *bona fide* travelers from each other. During the suspension period both categories are equally affected with visa restrictions. It should also be taken into mind that if the emergency situation exists in one member state and that state triggers visa waiver suspension, right to visa-free travel will be suspended and visa restrictions renewed between third state and EU as a whole.

When Union abolishes visa restrictions for partner states, that is mostly based on Union political aspirations, even when in backstage of the Union institutions it may be known that the country has some internal problems, that may even have influence on Union member states. When Commission can identify that partner state is having difficulties either with implementation of Union standards or with their enforcement, it is questionable if the Union should be granting visa-free regime. In author's opinion with such action Union puts under threat its member states when abolishing visa

---

<sup>106</sup> Gjipali, G., Deliu, N. (2017), *supra nota* 8, p 36.

<sup>107</sup> *Visa suspension mechanism: Council confirms agreement with Parliament*. European External Action Service. Accessible: [https://eeas.europa.eu/headquarters/headquarters-homepage\\_en/16746/Visa%20suspension%20mechanism:%20Council%20confirms%20agreement%20with%20Parliament](https://eeas.europa.eu/headquarters/headquarters-homepage_en/16746/Visa%20suspension%20mechanism:%20Council%20confirms%20agreement%20with%20Parliament), 21 April 2018.

restrictions. If following scenario leads to increased number of irregular migrants or asylum applications from those states which were granted visa-free regime, partner states are the ones who bear political consequences and get “punished” by suspension of the regime. Suspension mechanism seems to the author to be a powerful political tool for the Union to influence and manipulate with governments of partner states as well as with interest of own member countries.

Interesting is the aspect that the grounds for suspension refer to significant increase in irregular migration and unfounded asylum applications as well as imminent threat to public security which has followed liberalisation of short-term travel. Following wording leaves place for further interpretation and definition. It does not clarify exact terms for visa-free suspension, thus in author’s opinion the process is left to be driven by the individual assessment of the Commission. In case of Ukraine as it was discussed above, no significant increase is observed in irregular emigration to EU, maybe because only minor percentage of total population own biometric passports and have used their right to visa-free travel. However, Ukraine raised concerns in member states due to security issues. As it was analysed in the second and third chapters of the following research, Ukraine has problems with full and comprehensive implementation of visa liberalisation action plans. Weaknesses were found with regard to anti-corruption legislation and enforcement. As the case of Western Balkan states has revealed, uneven implementation of action plans may lead to problems with regard to prevention of irregular emigration to EU. With regard to visa suspension mechanism it is more relevant and interesting to mention Moldova and Georgia. Former state stands out with increased refusal rate as well as increased number of irregular emigrants and unfounded asylum applicants with low recognition rate of only one percent in last year. In case of Georgia there is an obvious increase in asylum application with low recognition rate of two percent and increased activities of criminal organised groups. These numbers could be defined under the word significant from the perspective of the partner states but as the overall population of these countries is not big, named numbers do not significantly affect the Union and its member states. Another option is that there simply is no political will in the backstage of the Union to use visa suspension mechanism.

As of effectivity of visa waiver suspension mechanism, author believes that the safeguard clause, cannot really save the Union and its member states from increased migration and asylum problems followed to visa liberalisation. Visa-free regime makes travel to the Union member states easier and cheaper thus travelers have more chance and will to become irregular emigrants but that is not the only way for third country nationals to reach European lands. When suspension mechanism

will put artificial visa barrier between EU and its partner state, number of irregular migrants might slightly decrease but those people who will be unable to enter Schengen area without visa with an aim to become irregular emigrant might refer to illegal ways of emigration, such as smuggling or simply visa overstaying.

Visa suspension mechanism in its essence should be aiming to support decrease in irregular emigration and unfounded asylum applications from third states of visa liberalisation. Logically, mechanism is not only about returning undesired guests to sending states, but about preventing migration concerns. Irregular migration and urge of asylum seekers cannot be dealt only by strict border control. Hardest but the best way is to solve the socio-economic and other related problems that stipulate will of the third country nationals to become irregular emigrants in Europe and deal with the reasons that cause migrants apply for asylum. However, it is mostly impossible to do following during the few-month suspension period. Union must ensure such actions during the long-lasting visa liberalisation dialogues and within visa liberalisation action plans. There is no reason to believe that Union and member states have grounds to activate suspension mechanism for Moldova, Georgia and Ukraine, but unless effort is put by national government and Union, following concerns may continue to enhance. Moldova and Ukraine as well should still continue to ensure improvements and full compliance with implemented action plans. However, all three of the Eastern Partnership states continue to have similar social, economic and territorial problems triggering emigration and asylum trends, that cannot be simply dealt with visa waiver suspension or termination of the regime. Author believes that the suspension mechanism would be logical to be used in cases when there is a problem with return and readmission issues of third country nationals to origin and transit states. Unless, third country cooperates with the Union and establishes effective readmission system, because in this case author sees state liability issue.

Author believes that the safeguard clause of the Union visa liberalisation framework puts political pressure on governments of partner states as they have to ensure that there will be no increased irregular emigration, unfounded asylum applications or security problems from their nations threatening EU in order not to trigger activation of suspension mechanism. Thus partner states seem to be left alone with identifying and fighting against abovementioned cases. For that reason, author supposes that they on one hand have to stabilise situation with regard to socio-economic, labour, human rights and many other areas and also try to follow all terms that will be set by the Union. Thus author suggests that visa waiver suspension mechanism cannot be effective in its essence with regard to decreasing migration related concerns, but due to its possible political pressure on

partner states. Suspension mechanism almost leaves the governments of the partner states alone with problems, just as it was done by the Union in case of Western Balkan countries. However, as far as these states could not achieve such stability on national level which could decrease will of their nationals to emigrate, it is obvious that Union also needs to support them with even more enhanced programmes. Of course Union cannot be obliged to do this, but following research shows that main reasons of increased emigration can be related to socio-economic and labour aspects, which cannot be dealt by third states individually. If Union puts more effort to solve these issues of third states, it will as well positively influence on EU itself. When third country nationals will no more have reason to “run” to EU states and will be offered same living conditions in country of origin, of course EU will receive decreased number of irregular economic emigrants and unfounded asylum applications from third states.

## CONCLUSION

Following research was oriented to test the hypothesis that Moldova, Georgia and Ukraine need to improve their mechanisms for controlling irregular emigration of their nationals to European Union. Aim of the author was to identify existing problems in current mechanisms and suggest, how named states improve their control on emigration and prevent increased irregular emigration of their nationals to Union - thus avoid complications within visa liberalisation agreement. In order to provide conclusive remarks and suggest recommendations, logical review of the research might be useful. According to visa policy of the European Union, as it was analysed in chapter one of the following research, visa liberalisation means abolishment of visa restrictions for third country nationals within visa liberalisation agreement. Then, citizens of EU's partner states are allowed to travel to EU up to 90 days during 180-day period without visa. As chapter one has shown, such opportunity can be manifoldly useful and beneficial for third country nationals for person-to-person contacts, family reasons and for enhancing business ties, but not for study or employment as the regime does not allow such. However, regime can bring challenges to the Union and its member states. For Union such challenges are increased security threats, increased number of irregular migrants from visa liberalisation states as well as asylum applications with low recognition rate. Although, European Union should be dealing with following issues itself through return and readmission agreements, instead in author's belief, EU leaves task to identify and fight irregular emigration of their nationals to Union on third states. For that, Union can use visa waiver suspension mechanism, as discussed in chapter four. As it was analysed, this mechanism is a political tool of pressure. Suspension mechanism allows Union and its member states to either pause the visa-free regime or totally terminate it, if there will be such threats that are named above. Thus, if third states want to maintain visa liberalisation with Union, they not have to under law but in practice need to identify and control irregular emigration and unfounded asylum applications of their nationals directed towards EU. This should be done without restricting right to free movement and humanitarian rights of their citizens.

As first chapter revealed, visa liberalisation dialogues may last years as much as during those dialogues EU requires from partner states implementation of Union standards and fulfillment of

set conditions with regard to four key areas which are document security, border control, migration and asylum management, security issues, external relations and fundamental rights. Implementation of following benchmarks within visa liberalisation action plans should help third states to establish effective migration and asylum management mechanisms that will also help partner states to identify and fight irregular emigration of their nationals to EU. As the case of Western Balkan states has revealed in chapter one, lack of full and comprehensive implementation may lead to complications in the visa-free regime – more concretely, weak implementation of human rights benchmark has led to increased emigration from Balkan states to EU. Moldova, Georgia and Ukraine have lately been granted visa-free regime by the Union. They have successfully cooperated with the Union during years over readmission and visa facilitation agreements. Although they succeeded to adopt and implement most benchmarks of action plans in satisfactory manner, as the European Commission assessed, they still do not have fully implemented those plans and even lack enforcement mechanisms. Analyses provided in second chapter showed that Georgia has problems with anti-discrimination law and human rights, Ukraine and Moldova struggle with corruption issues. Thus, they need to improve towards these directions, as both aspects can be supportive to increased irregular emigration. Beyond those problems, all three states have socio-economic, political, territorial and labour issues as discussion provided in chapter two shows. These countries cannot deal with such concerns alone and programmes and financial support that EU has provided within association agreement, DCFTA and beyond, has not been enough to tackle those problems. Chapter two analysed that exactly these socio-economic, territorial, labour, political problems can trigger nationals of those states to emigrate in EU for searching better living conditions – thus this aspects can trigger economic irregular emigration to Union. Considering that none of programmes and agreements allow nationals of named states easier at least short-term, labour migration to EU. Nowadays labour migration of third country nationals to Union member states is not easy, especially for low-skilled job seekers.

Empirical analyses that was provided in third chapter of this research may serve as a proof that problems do exist, especially with regard to Moldova and Georgia. Author could not thoroughly assessed case of Ukraine, as Commission's official document only cover short-period after Ukraine was granted visa-free regime. Nowadays it seems that Ukraine is the least problematic country as there has not been increased irregular emigration or asylum applications directed towards EU after visa liberalisation, even more, very low number of Ukrainians have used their right to visa free travel so far. However, chapter three as well as chapter two show that Ukraine needs to take actions in order to fully and cumulatively implement visa liberalisation action plan

blocks, that might help to enhance stability in long-run perspective. It is also important to understand that Ukraine shares border with the EU and irregular and illegal emigration of Ukrainians has already been problematic for neighbouring members states. As the country continues to struggle with socio-economic problems, unemployment and territorial issues, as well as Russian pressure, author thinks that unless these problems are dealt the fact that nowadays there are no concerning data on irregular emigration, does not mean that there cannot be any in the future. In cases on Moldova and Georgia, discussions provided in third chapter reveal that EU member states have more reasons to have concerns. Number of irregular emigrants from Moldova to EU has been increased as well as unfounded asylum applications with low recognition rate of only one percent within last year. In case of Georgia, there is increase in asylum applications with lowered recognition rate of two percent and increased criminal activities of Georgian organised groups. These states are required to make immediate actions. The numbers that are high for these states might not be as high for the Union, but considering that the Union migration and asylum systems are already damaged, member states might not want extra concerns.

After analyses of visa liberalisation framework, action plans and level of their implementation, statistical data on emigration and asylum issues from visa liberalisation states, author has fulfilled the aim of the research and identified issues why existing mechanisms of Moldova, Georgia and Ukraine have problems with regard to control of irregular emigration of their nationals to EU. Following problems can be related to the issue that the Union is basing visa liberalisation decision on political aspirations, not considering the fact that partner states may not be fully prepared for a responsibility and burden that visa-free regime may put on them. Weak implementation of visa liberalisation action plans also can be problematic for establishing effective control on irregular emigration of nationals by third states. But besides these aspects, main problem is that implementation of visa liberalisation action plans neither stabilize internal economy of third state, nor allow citizens of those countries to legally pursue economic activities with visa-free regime in European Union member states. Irregular emigration cannot be managed only through border control and information systems, in order to prevent possibility of irregular emigration and asylum outflow and thus decrease security threats directed to European Union member states, those grounds that make third country nationals decide upon irregular emigration – such as social, economic, labour problems need to be solved. The problem is that those agreements and programmes that the Union is having with Moldova, Georgia and Ukraine might not be enough to solve such concern of EaP states. Thus it can be concluded that increased emigration concerns might be caused not only due to weak implementation of visa liberalisation action plans by named



third states but also by the fact that the visa liberalisation framework of the European Union cannot respond to those challenges which can cause increased number of irregular emigration and unfounded asylum applications from Moldova, Georgia and Ukraine. As it was analysed within chapter two, visa liberalisation action plans do not cover those issues which are usually triggering irregular, illegal and economic emigration from states of discussion. Based on enshrined logic within the research, author can say that the hypothesis of the research is indeed true statement and Moldova, Georgia and Ukraine need to improve their mechanisms for controlling irregular emigration of their nationals to Union member states. However, research has shown that in order irregular emigration to be prevented from these states to EU, later also has to support partner states and give more, to have less concerns in the future with regard to irregular migrants and unfounded asylum applicants. Author has following suggestions for improvements based on the problems which were identified. Moldova, Georgia and Ukraine need to fully implement named action plans and abolish loopholes with regard to enforcement. Besides that, these states need to elaborate comprehensive strategy for stabilising socio-economic and labour problems in their countries. Conduct informative campaign, explaining for nationals how the visa-free regime works and what will be negative consequences if rules of the regime will be abused. Sending states also can criminalise violation of visa free rules or set administrative sanctions for those who will be forcefully deported from EU. However, in cases when third country nationals who were irregular emigrants in EU states will decide on voluntary return to country of origin this might not be fined. Irregular emigration cannot be tackled simply by biometric passports and trained border guards or through successfully implemented readmission agreements but by complex work on socio-economic enhancement, including protection of human rights and abolishment of discrimination and corruption. When such problems are solved, readmission of people may become more effective as developed atmosphere will help to reintegrate. Author would suggest the Union to include right to short-term labour migration within the visa liberalisation framework. Also would recommend to launch visa liberalisation in a test regime next time with third states in order to observe what kind of problems will be revealed. Following recommendations can be effectively applied if third states and EU will cooperate in enhanced manner.

Following research shows importance for further studies in several areas such as legal and political. Legal research with regard to two issues – questioning if controlling irregular emigration of own nationals by a third state may lead to violation of human rights and how legal framework of EU can allow short-term labour migration to nationals of visa liberalisation states. Political research for analysing role of suspension mechanism and what political effects its activation can have.

## LIST OF REFERENCES

### Scientific articles

1. Ademmer, E., Delcour, L. (2016). With a little help from Russia? The European Union and visa liberalization with Post-Soviet states - *Eurasian Geography and Economics*, Vol. 57, No. 1, 89-112.
2. Asllani, A., Misini, S., Bytyqi, K. (2013). Socio-economic Impact of the EU Visa Liberalization for Kosovo and Peoples Motives in Utilising the Freedom of Movement within the EU. - *Journal on European Perspectives of the Western Balkans*, Vol. 5, No. 2(9), 15-42.
3. Borg-Barthet, J., Lyons, C. (2016). The European Union Migration Crisis. – *Edinburgh Law Review*, Vol. 20, No. 2, 230-235.
4. Bouteillet-Paquet, D. (2003). Passing the Buck: A Critical Analysis of the Readmission Policy Implemented by the European Union and Its Member States. - *European Journal of Migration and Law*, Vol. 5, No. 3, 359-378.
5. Brunarska, Z., Kindler, M., Szulecka, M., Torunczyk-Ruiz, S. (2016). Ukrainian Migration to Poland: A “Local” Mobility? - *Ukrainian Migration to the European Union*. IMISCOE Research Series. (Eds.) O., Fedyuk, M., Kindler. Springer, Cham, 115-131.
6. Chapichadze, K. (2017). Visa liberalisation: What does this mean in reality for Moldova and Georgia? – *Ante Portas – Studia nad Bezpieczeństwem*, No. 1 (8), 147-152.
7. Chochia, A., Popjanevski, J. (2016). Change of Power and Its Influence on Country’s Europeanization Process. Case Study: Georgia - *Political and Legal Perspectives of the EU Eastern Partnership Policy*. (Eds.) T., Kerikmae, A., Chochia. Switzerland: Springer International Publishing, 197-210.
8. Cholewinski, R. (2000). The EU Acquis on Irregular Migration: Reinforcing Security at the Expense of Rights. - *European Journal of Migration and Law*, Vol. 2, No. 3 and 4, 361-406.
9. Crepeau, F. (2016). Europe Can Stop Human Deaths and Suffering, and Regain Control of Its Borders. - *Review of International Law and Politics*, Vol. 12, No. 1, 33-40.

10. Delcour, L., Fernandes, S. (2016). Visa liberalization processes in the EU's Eastern neighbourhood: understanding policy outcomes. – *Cambridge Review of International Affairs*, Vol. 29, No 4, 1259-1278.
11. Duvell, F. (2011). Paths into Irregularity: The Legal and Political Construction of Irregular Migration. - *European Journal of Migration and Law*, Vol. 13, No. 3, 275-296.
12. Duvell, F. (2012). Transit Migration: A Blurred and Politicised Concept. – *Population, Space and Place*, Vol. 18, No. 4, 415-427.
13. Gjipali, G., Deliu, N. (2017). Suspension Mechanism as a Last Resort to Protect Schengen Area. – *Albania Law Journal*, No. 1, 30-38. Accessible: <http://www.lawjournal.al/?q=page/journal-issues>, 11 February 2018.
14. Hailbronner, K. (1998). European Immigration and Asylum Law under the Amsterdam Treaty. - *Common Market Law Review*, Vol. 35, No. 5, 1047-1068.
15. Held, D., McGrew, A., Goldblatt, D., Perraton, J. (1999). Globalization. - *Global Governance*, Vol. 5, No. 4, 483-496.
16. Jans, J.H. (2010). Stop the Integration Principle. - *Fordham International Law Journal*, Vol. 33, No. 5, 1533-1547.
17. Jileva, E. (2004). The Europeanisation of EU's visa policy. – *Helsinki Monitor*, Vol. 15, No. 1, 23-31.
18. Kacarsca, S. (2015). Losing the Rights along the Way: The EU–Western Balkans Visa Liberalization. – *European Politics and Society*, Vol. 16, No. 3, 363–378.
19. Kurowsk, X., Pawlak, P. (2011). The EU's Eastern Partnership - More for More, or More of the same? – *Yearbook of Polish European Studies*, Vol. 14, 109-122.
20. Leerkes, A., Engbersen, G., Van der Leun, J. (2012). Crime among irregular immigrants and the influence of internal border control - *Crime, Law and Social Change*, Vol. 58, No. 1, 15-38.
21. Lott, A. (2012). The Tagliavini Report Revisited: Jus ad Bellum and the Legality of the Russian Intervention in Georgia. – *Merkourios: Utrecht Journal of International and European Law*, Vol. 28, No. 74, 4-21.
22. Mazzeschi, M. (2016). The EU Policy to Attract Highly Skilled Workers: The Status of Implementation of the Blue Card Directive. - *Journal of Management and Sustainability*, Vol. 6, No. 4, 45-49.
23. Mocanu, O. (2009). Eastern Partnership - A Premise for an Enhanced EU-Eastern Neighbours Cooperation Relationship. – *Romanian Journal of European Affairs*, Vol. 9, No. 4, 48-58.
24. Mykhaleiko, A. (2016). Anti-Corruption Stakeholders in Ukraine - *Journal of Eastern European Law*, No. 25, 99-102.

25. Nizhnikau, R. (2017). Promoting Reforms in Moldova. EU-Induced Institutional Change in the Migration and Environmental Protection Sectors. – *Problems of Post-Communism*, Vol. 64, No. 2, 106-120.
26. Pinyol-Jimenez, G. (2012). The Migration-Security Nexus in Short: Instruments and Actions in the European Union. - *Amsterdam Law Forum*, Vol. 4, No. 1, 36-57.
27. Poshedin, O., Chulaievska, M. (2017). European Integration of Ukraine: Tool for Internal Reform, Source of Problems or Pass Ticket to EU Membership - *Romanian Journal of European Affairs*, Vol. 17, No. 1, 100-120.
28. Roig, A., Hudleston, T. (2007). EC Readmission Agreements: A Re-Evaluation of the Political Impasse. – *European Journal of Migration and Law*, Vol. 9, No. 3, 363-388.
29. Roots, L. (2016). Mapping the Migration Issues: EaP Policy as a Tool for Regulation. – *Political and Legal Perspectives of the EU Eastern Partnership Policy*. (Eds.) T., Kerikmae, A., Chochia. Switzerland: Springer International Publishing. 119-135.
30. Schutte, J.E. J. (1991). Schengen: Its Meaning for the Free Movement of Persons in Europe. - *Common Market Law Review*, Vol. 28, No. 3, 549-570.
31. Trauner, F., Kruse, I. (2008). EC Visa Facilitation and Readmission Agreements: A New Standard EU Foreign Policy Tool? – *European Journal of Migration and Law*, Vol. 10, No. 4, 411-438.
32. Trauner, F., Manigrassi, E. (2014). When Visa-free Travel Becomes Difficult to Achieve and Easy to Lose: The EU Visa Free Dialogues after the EU's Experience with the Western Balkans. – *European Journal of Migration and Law*, Vol. 16, No. 1, 125-145.
33. Uehling, G. (2004). Irregular and Illegal Migration through Ukraine - *International Migration*, Vol. 42, No. 3, 77-109.

### **European Union legislation**

34. Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 081, 21.3.2001, p 1–7.
35. Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p 98-107.
36. Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas, OJ L 243, 15.9.2009, p 1–58.

37. Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders, OJ L 77, 23.3.2016, p 1–52.
38. Regulation (EU) 2017/371 of the European Parliament and of the Council of 1 March 2017 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (revision of the suspension mechanism), OJ L 61, 8.3.2017, p 1–6.
39. Treaty on Functioning on European Union, OJ C 326, 26.10.2012, p 47–390.

### **Other sources**

40. Barbone, L., Bonch-Osmolovsky, M., Lucke, M. (2013). Labour migration from the eastern partnership countries: Evolution and policy options for better Outcomes. – *CASE Network Reports*, No. 113, Center for Social and Economic Research.
41. Benedyczak, J., Litra, L., Mrozek, K. (2015). *Moldova's success story. The visa-free regime with the EU one year on*. Stefan Batory Foundation. Accessible: <http://www.batory.org.pl/upload/files/Programy%20operacyjne/Otwarta%20Europa/Moldova%20success%20story%20-%20policy%20paper%20-%20SBF%20IWP.pdf>, 21 April 2018.
42. Commission Report COM/2012/0348 final to the European Parliament and the Council of 22 June 2012 on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation. Accessible: <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20120348.do>, 28 February 2018.
43. Commission Report COM/2012/0443 final to the European Parliament and the Council of 3 August 2012 Possible Migratory and Security Impacts of Future Visa Liberalisation for the Republic of Moldova on the European Union. Accessible: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2012:0443:FIN>, 26 February 2018.
44. Commission Report COM(2013) 807 to the European Parliament and the Council of 15 November 2013 Fifth Report on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation. Accessible: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/docs/20131115\\_5th\\_progress\\_report\\_on\\_the\\_implementation\\_by\\_moldova\\_of\\_the\\_apvl\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/docs/20131115_5th_progress_report_on_the_implementation_by_moldova_of_the_apvl_en.pdf), 28 February 2018.
45. Commission Report COM(2015) 684 final to the European Parliament and the Council of 18 December 2015 Fourth progress report on Georgia's implementation of the action plan on visa liberalisation. Accessible: <http://procurement.gov.ge/getattachment/CooperationInternationalPublic/saertashorisongarishebi/1-2015-684-EN-F1-1.PDF.aspx>, 26 February 2018.

46. Commission Report COM (2015) 905 final to the European Parliament and the Council of 18 December 2015 Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation. Accessible: <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF>, 2 March 2018.
47. Commission Report COM (2017) 815 final to the European Parliament and the Council of 20 December 2017 First Report under the Visa Suspension Mechanism. Accessible: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220\\_first\\_report\\_under\\_suspension\\_mechanism\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220_first_report_under_suspension_mechanism_en.pdf), 3 March 2018.
48. Commission staff working document SWD (2017) 480 final of 20 December 2017 Accompanying the document Report from the Commission to the European Parliament and the Council First Report under the Visa Suspension Mechanism COM (2017) 815 final. Accessible: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220\\_swd\\_accompanying\\_first\\_report\\_under\\_suspension\\_mechanism\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220_swd_accompanying_first_report_under_suspension_mechanism_en.pdf), 3 March 2018.
49. *Country profile of Georgia*. Migreurop observatoire des frontieres. Accessible: <http://www.migreurop.org/article2195.html?lang=fr>, 18 March 2018.
50. Dustmann, C., Fasani, F., Frattini, T., Minale, L., Schonberg, U. (2016). On the Economics and Politics of Refugee Migration - *Institute for the Study of Labor*, Discussion paper No. 10234. Accessible: <http://ftp.iza.org/dp10234.pdf>, 2 May 2018.
51. *Dutch referendum voters overwhelmingly reject closer EU links to Ukraine*. The Guardian. Accessible: <https://www.theguardian.com/world/2016/apr/06/dutch-voters-reject-closer-eu-links-to-ukraine-in-referendum>, 28 February 2018.
52. *Eastern Partnership Visa Liberalisation Index*. Stefan Batory Foundation. Accessible: <http://monitoring.visa-free-europe.eu/formal-stage>, 13 March 2018.
53. Frear, T. (2015). *Why Moldova is Failing and What can be Done*. Accessible: <https://www.europeanleadershipnetwork.org/commentary/why-moldova-is-failing-and-what-can-be-done/>, 2 May 2018.
54. Ghvedashvili, G. (2017). *Analysis of risks and opportunities of EU visa liberalization for Georgia*. Policy paper. Accessible: [http://www.cipdd.org/upload/files/visa\\_policy\\_paper-eng.pdf](http://www.cipdd.org/upload/files/visa_policy_paper-eng.pdf), 21 April 2018.
55. Grigalashvili, M. (2016). *The EU's Visa Suspension Mechanism Explained*. Accessible: <http://gip.ge/the-eus-visa-suspension-mechanism-explained/>, 28 April 2018.
56. Hall, M. (2016). *Britain's asylum seeker MADNESS: 1 in 3 applications by illegal migrants or over-stayers*. Accessible: <https://www.express.co.uk/news/uk/700282/asylum-applications-overstayed-visas-illegal-migrants>, 10 May 2018.
57. Hernandez I Sagrera, R. (2014). *The Impact of Visa Liberalisation in Eastern Partnership Countries, Russia and Turkey on Trans-Border Mobility. – CEPS Liberty and Security*

- in Europe*, Policy paper, No. 63. Accessible: <http://aei.pitt.edu/50257/>, 11 February 2018.
58. Iwanski, T. (2017). *The stable crisis. Ukraine's economy three years after the Euromaidan*. Accessible: <https://www.osw.waw.pl/en/publikacje/osw-commentary/2017-04-05/stable-crisis-ukraines-economy-three-years-after-euromaidan>, 2 May 2018.
59. Kulchytska, K., Sushko, I., Solodko, A. (2016). *Ukrainian Migration Policy Reform: Paving the Way for the EU-Ukraine Cooperation*. Ukrainian Think Tank Development Initiative, Policy brief, Accessible: [http://www.irf.ua/content/files/brussels\\_migration\\_policy\\_final\\_.pdf](http://www.irf.ua/content/files/brussels_migration_policy_final_.pdf), 8 February 2018.
60. *Latest Asylum Trends*. European asylum support office. Accessible: <https://www.easo.europa.eu/latest-asylum-trends>, 3 March 2018.
61. Lebanidze, B. (2017). *Georgia's European Integration: What comes after the Eastern Partnership?* Georgian institute of politics, Policy brief, No. 6. Accessible: <https://www.researchgate.net/publication/316554822>, 25 March 2018.
62. Lomtadze, G. (2016). *Visa Liberalization for Georgia and Reasons for Its Delay*. Accessible: <https://idfi.ge/en/process-of-visa-liberalization-and-the-reasons-of-hindering-the-process>, 28 February 2018.
63. Marouf, M. (2013). *Irregular migration between Georgia and Greece. Everyone can cross a low fence*. Accessible: [file:///C:/Users/USER/Downloads/doc1\\_36747\\_902533778%20\(3\).pdf](file:///C:/Users/USER/Downloads/doc1_36747_902533778%20(3).pdf), 2 May 2018.
64. Samvelidze, N. (2014). *Analyses of the visa liberalisation process in Georgia: Moldova's experience and recommendations*. Georgian institute for strategic studies. Accessible: [http://migration.commission.ge/files/giss\\_-\\_eng.pdf](http://migration.commission.ge/files/giss_-_eng.pdf), 16 April 2018.
65. *The EU financial assistance available for Local and Regional Authorities from the Eastern Partnership Countries*. Committee of the Regions. Accessible: <https://cor.europa.eu/en/activities/corleap/Documents/EU%20Financial%20assistance%20in%20Eastern%20Partnership%20countries%20.pdf>, 2 May 2018.
66. *The Jobs Challenge in the South Caucasus – Georgia*. The World Bank. Accessible: <http://www.worldbank.org/en/news/feature/2015/01/12/the-jobs-challenge-in-the-south-caucasus---georgia>, 2 May 2018.
67. Trauner, F. (2017). *The EU visa suspension mechanism*. European Union Institute for Security Studies. Accessible: [http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/EUISS\\_Alert\\_2\\_Visas.pdf](http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/EUISS_Alert_2_Visas.pdf), 21 April 2018.
68. *Visas: Council adopts a revision of the visa waiver suspension mechanism*. Council of the European Union. Accessible: <http://www.consilium.europa.eu/en/press/press-releases/2017/02/27/revision-visa-waiver-suspension-mechanism/>, 21 April 2018.

69. *Visa-free travel: new suspension mechanism protects the EU*. EPP group in the European Parliament. Accessible: <http://www.eppgroup.eu/press-release/Visa-free-travel%3A-new-suspension-mechanism-protects-the-EU>, 30 April 2018.
70. *Visa suspension mechanism: Council confirms agreement with Parliament*. European External Action Service. Accessible: [https://eeas.europa.eu/headquarters/headquarters-homepage\\_en/16746/Visa%20suspension%20mechanism:%20Council%20confirms%20agreement%20with%20Parliament](https://eeas.europa.eu/headquarters/headquarters-homepage_en/16746/Visa%20suspension%20mechanism:%20Council%20confirms%20agreement%20with%20Parliament), 21 April 2018.
71. Yundt, H. (2014). *Georgia Ends Immigration Free-for-All*. Accessible: <https://iwpr.net/global-voices/georgia-ends-immigration-free-all>, 10 May 2018.