



IRREGULAR MIGRANTS IN UKRAINE

ANALYTICAL SUMMARY

 **SUPPORT FOR MIGRATION AND ASYLUM
MANAGEMENT IN UKRAINE (IMMIS)**



Ministry
of Internal Affairs
of Ukraine



State
Migration Service
of Ukraine



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ANALYTICAL SUMMARY

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* IOM uses the term "irregular migrant" in its activities and limits the use of terms "illegal migration" and "unlawful migration". This is because the use of the adjectives "illegal" and "unlawful" in relation to migrants has a negative connotation, it establishes stereotypes in society that lead to discrimination, it shapes the attitude towards those who violated migration laws as if they are criminals, even though such actions are administrative offences. The IOM terminology is in line with international treaties, including the New York Declaration on Refugees and Migrants and the Global Compact for Safe, Orderly and Regular Migration.

LIST OF ABBREVIATIONS

EU	European Union
IOM	International Organization for Migration
MAC	Migrant Accommodation Centre
SBGS	State Border Guard Service of Ukraine
SMS	State Migration Service of Ukraine
TAC	Temporary Accommodation Centre

Ukraine is in a similar position to many other countries in the world as regards challenges in accurately estimating migrants irregularly staying in the country due to the very nature of the phenomena, as well as the fact that migratory status may repeatedly change and difficulties in establishing a solid methodology for estimation. The lack of reliable estimates has for a long time prevented the government authorities from planning an adequate response to irregular migration in the country, including the development of regularisation programmes. Furthermore, the lack of reliable estimates also results in the replication of obviously exaggerated information on the number of irregular migrants, promotes the spread of migrant-related phobias and allows for irregular migration to be misused in political dialogue.



I. BACKGROUND INFORMATION ON THE STUDY AND ITS METHODOLOGY

This study represents an attempt to carry an estimate of the foreign citizens already staying in Ukraine without legal grounds that include lack of documents to justify the regular stay of a foreigner issued by the competent state body, and/or certificate on the application for protection in Ukraine. The estimate will help the Ukrainian authorities in their planning to efficiently respond to irregular migration, as well as to ensure migrants' protection irrespective of their legal status. The study does not however focus on irregular entry to Ukraine and smuggling of migrants from or into the territory of Ukraine. It should also be emphasized that the purpose of the study was mainly to assess the numerical parameters of irregular migration. The analysis of various categories of irregular migrants including gender and age analysis merit a more focused assessment.

Despite the variety of approaches to measure the numbers of irregular migrants, there is no universal method of estimating the number of this category of the population. A plausible estimate requires a combination of different approaches and the use of source data of a different nature. Most of the estimates related to irregular migration in the world's scientific literature are based on the method of multiplication with the use of available data on irregular migrants, i.e. detentions, expulsions, etc. Researchers suggest that an unknown variable may be calculated based on a known part of it if the multiplier is determined correctly. The multiplier is the multiplier that reflects the proportional relationship between the values.

The estimation of the number of irregular migrants in Ukraine is based on the official statistical data of the State Statistics Service of Ukraine, SMS and SBGS of 2019, the use of foreign experience and the results of several surveys conducted in 2020. This approach was deemed necessary as agency-level statistics can often include double-counting and a very limited range of sociodemographic characteristics of this population of migrants. The calculation is based on official statistical data, while the survey results were used to determine correction factors that may be used to assess the parameters of the phenomenon in 2019, and to estimate the number of irregular migrants in the ensuing years.

As part of the study, a written survey of the heads of SMS territorial units covered all 24 regional offices. During the survey, 52 interviews were held with the experts, including 18 with the leaders of migrant communities, 20 with civil servants, 12 with the representatives of NGOs, 2 with the representatives of international organizations. The direct interviews were held with 84 migrants. Interviewed migrants were citizens of 29 countries in Asia, Africa, the former USSR, and Transnistria, the unrecognized breakaway region of the Republic of Moldova. Women comprised 27.4 per cent of the total number of respondents. Surveys on social networks covered 93 persons from 32 countries all over the world. Women comprised 40.9 per cent of respondents on social networks. Fieldwork was conducted in Kyiv, Kharkiv, Odesa, Mukachevo, Lviv, Lutsk, Chernihiv, as well as at three Temporary Accommodation Centres (TAC) and three Migrant Accommodation Centres (MAC). As a result of the COVID-19 pandemic restrictions, most interviews were conducted online, by phone, or with the help of assistants in regions. The survey aimed to identify respondents' perception of the volume and composition of irregular migration, its dynamics, the reasons for migrants having irregular status and prospects of being regularized.

Four methods were used for the estimation:

The first method was based on information about the number of migrants regularly residing in Ukraine and the estimated value of the share of persons who have no grounds to stay in Ukraine among all migrants. According to surveys, the share of irregular migrants is estimated at 12.5 per cent or **60,900 persons**.

The second method of estimation took into account the available data on detected irregular migrants and respondents' estimates of the percentage of detected irregular migrants among all irregular migrants. The share of detected irregular migrants among all migrants was 70 per cent. It is assumed that the period of settlement of the legal status of migrants is usually up to five years. Based on such an assumption, the total number of irregular migrants (detected and those who avoided detection) is **37,700 persons**.

The third method was based on the information on the number of people detained for an irregular border crossing when entering the country, as well as estimates of the success rate of attempts to cross the border and the share of persons who entered the country irregularly among all irregular migrants. According to this method, the irregular migrants' stock in Ukraine is **60,100 persons**.

The study also tested a fourth, demographic method, which envisages the estimation of a total number of migrants based on the information on their contribution to the reproduction of the population (birth rate and/or death rate) and subtracts the number of migrants regularly residing in the country from the result. This method of estimating the number of irregular migrants is certainly promising, but the relevant calculations may be made only after the next census is held.



II. MAIN FINDINGS

The study estimates **the total number of irregular migrants staying in Ukraine at the end of 2019 to vary between 37,700 to 60,900 persons**. The difference of 1.6 times between the upper and lower limits of the estimate is reasonable considering the difficulties in estimating what is inevitably a fluid migrant category. This result demonstrates that the number of irregular migrants in Ukraine is small compared to the total population of the country and puts down any rhetoric about hundreds of thousands or even millions of irregular migrants that appears from time to time in media and language of politicians.

The examination of irregular migration leads to the conclusion that **the majority of irregular migrants entered Ukraine legally as tourists or to study but who subsequently lost the legal ground to stay in Ukraine**. Yet, almost 40 per cent of migrants directly interviewed came to Ukraine through smuggling networks, but over time, some of them were able to obtain regular status, primarily through international protection.

Migrants frequently come to Ukraine fleeing military conflicts, the threat of persecution, and mass violations of human rights in their own countries. Pull factors to Ukraine were much less significant for respondents when choosing Ukraine as a destination country than push factors from their countries of departure. In particular, low wages and difficult procedures for employment in Ukraine are unattractive to migrant workers from abroad. A significant number of migrants do not consider Ukraine as a destination country, but as a transit country where they are forced to stay due to unforeseen circumstances on

their way to the EU. Approximately 40 per cent of migrants surveyed through the direct interviews and two thirds of those who entered the country with the support of migrant smugglers provided this explanation. According to the surveyed migrants, in most cases, persons who arrive in Ukraine evading border controls are not planning to stay in the country for an extended period. One of the reasons for this is their awareness of the extremely low percentage of positive decisions in applications for refugee status. According to the respondents, about half of the migrants try to leave for EU countries within a week of arriving in Ukraine. For many migrants, returning to their home country is not only undesirable but also dangerous.

The dynamics of the number of irregular migrants on the territory of Ukraine depends on the situation both in countries of origin and in Ukraine. As a result of the conflict in the east of the country, as well as economic problems caused by it and further exacerbated by the COVID-19 pandemic, the transit route for migrants to Western Europe through Ukraine has become more dangerous and difficult to pass through. It also became less attractive for migrant smugglers. Additionally, the strengthening of the border and internal migration controls, which have been appropriate in the context of the armed conflict, has led to an increase in the number of detentions of irregular migrants and their subsequent expulsion or voluntary return. As a result, the total number of foreigners staying in the territory of Ukraine without documents has slightly decreased recently.

The composition of the irregular migrants' population in Ukraine is diverse. The majority are young men with secondary education. Although more than 75 per cent of irregular migrants detected by the SMS are citizens of post-Soviet countries, the number of regular migrants from post-Soviet countries is the highest as well. The citizens of the post-Soviet countries have the right to visa-free entry and a three-month stay in the country without the need to issue additional permits. Therefore, the relative share of irregular migrants among all migrants from the post-Soviet countries is rather low. In absolute terms, the number of migrants from South Asia, the Horn of Africa and West Africa is not high but the relative share of irregular migrants from these countries in Ukraine is the highest. **Undocumented migrants are concentrated in large cities and educational centres, in particular in Kyiv, Odesa, Kharkiv.** There are more opportunities to find housing and work, communities of compatriots who may provide support and international organizations to apply to for assistance. Migration links developed in the past and the presence of communities of compatriots are important factors for the choice of route through the territory of Ukraine. These also influence the length of temporary stays and sometimes is a factor for longer stays of irregular migrants in the country.

Surveyed migrants, as well as experts reached through this study, believed that some attempts to cross the state border of Ukraine irregularly are successful. Moreover, crossing the eastern state border of Ukraine irregularly is easier than exiting Ukraine border with the EU, since it is better secured. Yet, respondents are convinced that it is extremely difficult to live in Ukraine without proper documents with the current level of immigration control. According to them, more than two thirds of irregular migrants in Ukraine are identified and detained by law enforcement agencies.

Migrants often use the services of smugglers when arriving in Ukraine. These services are quite expensive: **respondents reported prices from USD 5,000 to USD 15,000 per person, depending on the route.** Sometimes migrants were forced to sell real estate and property in their home country to raise money.

Despite the obvious progress in establishing the necessary border and internal immigration control, there are still a lot of pending issues in the field of the prevention of irregular migration. Experts from among civil servants highlighted the problem of communication with detected irregular migrants due to lack of sufficient knowledge of English or Russian and the lack of interpreters speaking less common languages. Another issue that experts have highlighted are the difficulties in identification of the irregular migrants and the determination of their citizenship. The lack of diplomatic missions of several migration risk countries in Ukraine, refusal of some migrants to cooperate with the SMS as well as submission of false information on the citizenship, surname, name, age, etc. further complicates the situation. Sometimes persons in MACs refuse to fill in forms or present documents. Therefore, even after the end of the period of detention in a MAC, they may remain unidentified and lack identification documents.

Most irregular migrants are not newcomers, but those who have lived in Ukraine for quite a long time. Without a proper legal basis to stay in Ukraine, irregular migrants face interrelated socioeconomic and legal issues. The lack of regular status eliminates the possibility of lawful employment. As a result, migrants are frequently unable to provide for their basic living needs.

There are problems with the regulatory settlement of the legal status of foreigners in Ukraine. Most migrants do not even know how to submit documents properly, how to obtain a residence permit and a temporary permit, etc. Many problems with the issuance of documents arise from a marriage with a citizen of Ukraine. The established practice requires foreigners who entered the marriage in Ukraine to return to their home country and obtain documents for entry to Ukraine based on family ties. Migrants find it difficult or even impossible to return to their country of origin because of a lack of finances, and because the return to their home country may endanger their lives or health. Therefore, there are

cases when foreigners are married to citizens of Ukraine and have two or three children but live without documents.

The legal status of migrants is a dynamic phenomenon. Although slightly more than 20 per cent of the surveyed migrants had no legal grounds to stay in Ukraine at the time of the survey, twice as many respondents (38.6%) indicated that they had periods of irregular residence in the country. In particular, 40 per cent of Syrians, about half of Afghans, more than 70 per cent of Somalis had such experience. To compare, respondents from post-Soviet countries (Kazakhstan, the Republic of Moldova, the Russian Federation, Tajikistan) had no such experience, which is a consequence of the right to visa-free entry and a 90-day stay, during which they could settle their legal status.

The periods of surveyed migrants' residence in Ukraine without any documents providing legal grounds to stay varied from a few weeks to six years. In almost half of the cases, respondents reported periods of undocumented residence of between one and six months, and a third of respondents had experienced long-term (over a year) residence without necessary documents. Despite reports of some cases of extremely long-term irregular status (periods up to 28 years), experts agree that the majority of migrants settle their residence status within five years.

The share of migrants wanting to settle their migration status significantly exceeds the share of those who succeed in doing so. However, in some cases, foreigners manage to settle in Ukraine successfully, which results in establishing themselves in Ukraine despite the initial desire to move further abroad. This is often the result of marriage with local residents, which, in addition to the emotional component of settling down in Ukraine, improves the prospects for a legal settlement. A foreign spouse is entitled to obtain an immigration permit as a family member of a foreigner residing in Ukraine permanently or a citizen of Ukraine.

Macro-level circumstances also influence the choice of options in the "stay or move" dichotomy. One of the leaders of a migrant community noted that the share of his compatriots willing to leave Ukraine for the EU had almost halved after the implementation of a visa-free regime with the EU. First, it was a strong signal of positive developments in the country at that time. Secondly, it allowed immigrants who had acquired Ukrainian citizenship to communicate freely and visit relatives and friends who had settled in the EU Member States.

The legislative procedure for obtaining appropriate legal status is complex and non-transparent. In many cases, it is impossible to deal with it alone. Therefore, there is a demand for the services of intermediaries who assist in obtaining documents. Some of these intermediaries operate within the framework of the humanitarian missions (international and non-governmental organizations.

Others carry out activities outside the legal environment and actively use corruption schemes. The development of clear and transparent guidelines for the implementation of migration legislation will be useful for both migrants and Ukraine, as it will strengthen the legal culture and reduce corruption.

The channels for regular immigration to Ukraine are too narrow. Therefore, the most effective way to counteract irregular migration is to expand them and regulate the legal status of irregular migrants. The country's security and territorial sovereignty considerations, as well as the protection of human rights and freedoms, regardless of legal status are to be considered. It is important to widely inform the public about the positive potential of migration, the associated economic, social and cultural benefits, the contribution of migrants to the development of the country and combat any manifestations of xenophobia.



III. RECOMMENDATIONS

To reduce the number of irregular migrants in Ukraine the study recommends the following:

- To amend the Law of Ukraine "On Immigration" and abolish the immigration quota and expand the grounds for granting immigration permits to foreigners and stateless persons based on a long-term regular stay on the territory of Ukraine.
- To intensify the dissemination of information about regular entry and stay in Ukraine and return as well as risks and consequences of irregular migration to Ukraine among migration risk countries.
- To disseminate information on opportunities to receive assistance from international and non-governmental organizations on the issuance of documents providing legal grounds for staying in Ukraine and on the existing programmes supporting voluntary returns.
- To expand opportunities and create conditions for the integration of foreigners residing in Ukraine and willing to stay. In particular, provide foreign students with the right to employment under the same procedure as Ukrainian students. This would allow them to earn money to complete their education and to stay in the country in case of employment in their speciality. The employment procedures for asylum seekers should be simplified.
- To expand opportunities for foreigners to acquire legal status through employment. The legal and administrative barriers for foreigners to apply for jobs that are not taken by Ukrainian citizens for a long time should be removed. The Law of Ukraine "On Employment" should be amended.

- To provide an opportunity for some irregular migrants, in particular, those who stay in the country for many years, have not committed serious offences, have a family and a job, to obtain legal status (regularisation programmes).
- A regularisation mechanism to reflect an individual approach to residency taking into account the individual circumstances of the migrant. A migrant should not be expelled from the country from humanitarian considerations (illness, disability, pregnancy etc.) or because of the risk of violation of the rights of Ukrainian citizens. The latest concerns the cases when a migrant has a family and minor children in his or her care.
- To improve the procedures for granting refugee status/subsidiary protection, ensuring their transparency, since a significant proportion of irregular migrants are persons who have applied for international protection but have been denied it.
- To provide an opportunity for foreigners who are released from a MAC but remain unidentified and have no identification documents with the opportunity to regulate their stay. Since the forced expulsion procedure cannot be applied, the mechanism to provide these persons with temporary residence permits responding to the situation should be adopted.
- To support the voluntary return of irregular migrants to their home country. Such support may include financial support provided by public authorities and with the assistance of non-governmental and international organizations.
- To conduct a new population census, the results of which will expand the range of approaches in estimating the number of irregular migrant stock. The availability of such information will expand the tools for estimating the number of irregular migrant stock.
- To conduct systematic research to estimate the extent of irregular migration in Ukraine and develop the necessary measures to prevent this negative phenomenon.

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