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List of Abbreviations

GDP	Gross Domestic Product
EURODAC	European Dactyloscopy
EC	European Court
ECTC	European Counter Terrorism Centre
IOM	International Organization for Migration
UN	United Nations
NATO	North Atlantic Treaty Organization
RF	Russian Federation
UNHCR	United Nations High Commissioner for Refugees
EBCGA	European Border and Coast Guard Agency

Introduction

Widening of the EU has led to the new lines of political division in the European region. It caused a problem of contradictions in the European political consciousness, the understanding of which is being determined by the institutional complexity of the EU, which operated for a long time in several formats - the format of a common market, the format of international organizations and the format of the interstate union.

A practice of the EU political activity showed its striving in the resolution of problems, which relate to the formation and transformation of the European political consciousness, as a preservation of the unity of integration association and the credibility to the national European communities, the modernization of the European identity standards. This, in turn, has led to the formation of the idea of "Europeanism" in the migration community, the perception of a common European foreign policy and the EU security policy in a wide European space and the support of common positions and approaches to the formation of a new European space.[1]

One of the most important issues, which requires a deep analysis is a question of illegal migration. And the EU migration policy is not the exclusion, which, regardless of internal and external factors, has to be formed in accordance with the requirements of time, considering, first of all, the interests of the society and state. Under conditions of economic and political crisis, arises a problem of the imperfection of a state component of a migration policy regulation, resolution of which will entail settlement of social-political processes. The problem is also actualized by the fact that in many parts of the world military actions are taking place. It provoked a massive migrants outflow to the EU states and basically made state borders 'transparent'.[2]

However, a problem of the legal aspects of the EU policy in tackling the migration crisis remains unsolved nowadays. For today, scientific literature has a lack of publications that cover an issue of illegal migration and strategies of its settlement at the governmental and international levels under the EU conditions and conditions of global space.

Thus, the main goal of this master thesis is to identify the main reasons of illegal migration in the EU States, on the basis of the analysis of current EU legislation on migration

[1] O. Malinovska 'Migration policy of the EU: challenges and lessons for Ukraine' , (2014). – 48.
[2] M. Buromenskyi 'The foundations of the EU law: regulatory materials'. – Law, (2015). – 328.

issues to elaborate the suggestions on improvement of legal aspects of counteraction of the illegal migration and migration crisis.

The relevance of the research paper. This master thesis is based on a comprehensive analysis of the illegal migration problem in the EU States and its global nature. In addition, the vector of current reasons of the illegal migration was identified.

Main purposes of this thesis are:

- to determine the primary reasons for illegal migration in the EU states;

- to define the concept of "illegal migration", which reveal the content of this term;

- to consider the correlation of International Law, EU Law and national legislation of Member States in a sphere of tackling the illegal migration;

In conclusion, the author aims to answer the following questions while writing his master thesis:

- What mechanisms and forms of EU member states cooperation in the field of counteraction of the illegal migration are used and

- How migration crisis influenced the EU legal system?

1. Theoretical and methodological foundations of the study of legal aspects of the EU policy in tackling the migration crisis

1.1 Migration processes as a global problem of modernity

Migration processes became one of the major challenges of XXI century. Voluntary and forced migrations accompanied the human development throughout all existence, but nowadays the volume of migration reached its peak.[3] Immigrants have become an inevitable, necessary and, at the same time, problem part of a state life. Also, they are the means of resolving a demographic and economic crisis, as well as the category of the aggravation of social, religious, political and ethnic conflicts. Apparently, the intensity of migration processes will be increasing and will require new approaches, because it is impossible to solve problems of XXI century with the methods of XX century.

The current state of things requires the evaluation of the new variants of forecasting and the resolution of the situation for implementing the proper management of migration processes. A development of processes calls into a question such traditional models of adaptation, as multiculturalism and assimilation, proving its inefficiency and the nonconformity to the present. Thus, on 11 February 2011, a President of France N. Sarkozy declared that the collapse of the multiculturalism model, having noted that France "is not going to adjust to immigrants".[4]

A bit earlier a Prime minister of Great Britain D. Cameron made a similar statement. In 2010 a German Chancellor A. Merkel stated about the fail of multiculturalism policy and pointed out that Germany welcomes immigrants, however, they will have to adjust to German customs and study language.[5]

Changes in immigration legislation of the EU states, in particular, Newcomers Integration Act in Netherlands (1997), Act on the Integration of Aliens in Denmark (2005), Law on Immigration in Germany (2005) and the number of other determine some general

[3] K.Sokoletska 'Illegal migration in Europe and the legal aspects of its counteraction in Ukraine: monograph', (2017). – 447.

[4] Nikolas Sarkozy joins allies burying multiculturalism < https://www.reuters.com/article/us-france-sarkozy-multiculturalism/sarkozy-joins-allies-burying-multiculturalism-idUSTRE71A4UP20110211 > accessed 6 February 2018

[5] After Merkel, Cameron too says that multiculturalism has failed < https://www.euractiv.com/section/uk-europe/news/after-merkel-cameron-too-says-multiculturalism-has-failed/ > accessed 7 February 2018

components: language courses, civil courses for familiarization with the civil norms of the host country, history, values and cultural traditions, professional retraining, etc. However, it is worth to note that integration is turning into a unilateral process in which the responsibility and the obligations are placed solely on immigrants. Foreigners are forced to integrate to get the legal status and to be treated like members of society.

Modern trends, approaches and strategies at the national level sometimes show that the notion of "integration" implies forced assimilation in a host society. Obligatory undergoing of integration programs actually have particular features of coercion, but, undoubtedly, such programs are necessary for further integration of migrants in host society under the principle of balance of compromises.

Activity and modern forms of migration create new challenges for integration strategy adopted by European states. Migration policy is being considered at various levels: Supranational (EU), national and local, remaining largely within the competence of the governments of the EU countries. The implementation of common principles of integration - the introduction to a single nation with the adoption of common norms and values, and cultural diversity - is, in reality, not successful because of contradictions in approaches and the lack of effective mechanisms.

Nowadays, a search of optimal immigration and integration model continues. Current trends of the EU migration policy reflect inconsistent nature of modern democracy. It attempts to combine two opposite and, usually, mutually exclusive principles: universal and territorial, human rights and the sovereignty of the people. Growing social and economic tensions, ethnic and religious conflicts lead to the situation, when ultra-right parties come to the power of European states, which insist on limiting immigration, eviction of immigrants and the protection of their national identity. Thus, in Sweden, the "Democrats of Sweden" - the right-wing party, came to power, which took a tough stance in terms of immigrants. The popularity of the party has significantly increased, which indicates on the dissatisfaction of the population with an active influx of immigrant into the country, their remoteness from the values of European culture and unwillingness to integrate.[6]

[6] The rise of the anti-immigrant Sweden Democrats: 'We don't feel at home any more, and it's their fault < https://www.theguardian.com/world/2014/dec/14/sweden-democrats-flex-muscles-anti-immigrant-kristianstad > accessed 7 February 2018

The influence of nationalist parties has been increasing in other states, in particular, in France, Germany, Netherlands, Denmark, etc.[7]

Different views on all those issues are united with the belief in the necessity of combating the illegal migration and the implementation of migration processes managing systems. At this stage, it is recognized that it is more necessary to implement proper management of migration, rather than combating migration itself. Actions of states are not consistent: the complication of immigration legislation and the possibility to immigrate to a state, conduction of periodic legalization, which attracts immigrants, foster illegal migration giving immigrant a chance to move to a state and legalize his or her staying and activity there.

Models of integration of foreigners in the society depend on different factors, they are not universal and not equally effective. Muslim population - people from Africa and the Middle-East - constitute the main problem category, they insist on the preservation of their usual lifestyle, refusing to accept the norms of European society, unlike immigrants from Eastern Europe and Latin America, who are culturally more close. The situation around Muslim-immigrants has significantly become more complicated due to tension after terrorist acts in USA, Spain, Great Britain, Sweden.

The EU States are the particularly attractive region for immigrants. As at 1 January 2009, there were 3.18 million foreigners in the EU, which constituted 6.4% of the EU-27 population. According to different sources this figure constituted 12-20%.[8]

An interesting fact is that out from 214 million migrants around the globe, about a half are labor migrants. Traditionally, Europe was the continent of immigration and has turned into a place of immigration in the second half of XX century. Modern intensification of migration processes is due to a number of reasons, where the economic and social aspects prevail.[9]

Globalization and internationalization promote the acceleration of these processes. Exacerbation of political, ethnic conflicts, ecological danger, unevenness of economic development of states provokes and stimulates migration processes. The intensity of migration and caused problems by this show the tendency to adopting the limitation measures

[7] Dowling, Julie A., and Jonathan Xavier Inda, eds. Governing Immigration Through Crime: A Reader. Stanford, CA: Stanford University Press, 2013

[8] Migration and migrant population statistics <: http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics > accessed 6 February 2018

[9] O. Ponomareva : Old problems, new aspects (17 December 2009) < http://www.day.kiev.ua/289355 > accessed 8 February 2018

towards unqualified migrants and liberalization of immigrant rules for highly competent employees. The attention of the society is attracted by the tendency of the feminization of migration. Women constitute about a half of general amount of migrants. Women and children are a more vulnerable category of migrants and increasingly they become an object of human trafficking (in accordance with the UN data, human trafficking possesses the third place on profitability after the trade of arms and drugs). If to consider the IOM statistics, from the beginning of 1990th approximately 110 thousands of people became victims of human trafficking.[10]

The economic crisis, unemployment entailed the exacerbation of negative attitude among indigenous people towards immigrants. Thus, the question of control of target use of the assistance to refugees arises.

In accordance with the Transatlantic Trends[11], the majority of Americans and Europeans consider immigration as a threat rather than the advantage. According to conducted studies 65% of Brits, 53% of Spaniards, 42% of French, 39% of Germans and Dutch see a problem in immigrants and connect the deterioration of their financial position with it. At the same time, 50% of Germans act in favour of granting immigrants a legal status in contrast to Brits, Italians, and Spaniards, who are for migrants expulsion.[12]

To some extent the negative attitude is promoted by high crime rates among immigrants: so, 70.8% of prisoners in Switzerland are immigrants, in Luxemburg - 63.9%, in Netherlands 55%, in Sweden immigrants constitute 85% of those, who are convicted of rape, in Norway - 65%.[13]

Anyway, the development of regions and a great difference in the quality of life in states, social and political instability, demographic crisis and a demand for economically active population foster migration processes.

To sum up, a problem of migration and adaptation of migrants is urgent, relevant and ambiguous. In the spotlight - models, means and results of the attempts of the European States

[10] Carrera S. 'A Comparison of Integration Programmes in the EU. Trends and weaknesses' / Carrera S. // Challenge Papers. – 2006. – № 5. – P. 1,6.

[11] Astrid Ziebarth – Transatlantic Trends : Mobility, Migration and integration (2014) < http://www.gmfus.org/publications/transatlantic-trends-mobility-migration-and-integration > accessed 10 February 2018

[12] Why Germany's welcoming migrants with open arms < http://fortune.com/2015/09/08/germany-migrant-crisis/ > accessed 8 February 2018

[13] O. Malinovska 'The ways of combating demographic threats : European practice' / O. Malinovska // International scientific centre: sociology, psychology, pedagogy and management. – (2010). – № 3. – 244.

individually and the EU as a whole to find an adequate balance between the preservation of a state structure, its cultural acquisition and the inclusion in the society of persons with a different outlook, lifestyle and beliefs. Current trends and the development of the situation make it necessary to reconsider and to improve the effective political leverages for settlement the international migration processes.

1.2 The notion of the illegal migration nowadays

Illegal migration is an integral part of a well-known phenomenon and is denoted by the notion of "migration of the population". As the result, it is characterized by two features. The first is general features. They characterize all kinds of migration contained in its varieties and structural elements of these types.[14] The second is special features. They are derived from the general features, however, characterize exclusively illegal migration, in particular, determine its place in the structure of migration processes. Thus, the clarification of the nature and place of illegal migration in the structure of migration processes depends on the understanding of migration as a socio-legal phenomenon, its structuring, as well as the definition of the tasks of legal regulation in this area.

The term "migration" comes from the Latin term "migratio, migro", i.e. displacement, resettlement. The scientific literature contains such explanations of the term[15]:

- resettlement, movement of people, ethnic groups and their parts or separate individuals, associated with a change of residence or return to it;

- movement, resettlement of the population within a state or from one state to another;

- the socio-economic and demographic process, which constitutes a set of movements made by people between countries, areas, settlements;

- movement of people across territorial boundaries or other areas with a change of residence forever or for a long period of time;

[14] Kennedy, Marie and Chris Tilly, 'They Work Here, They Live Here, They Stay Here!': French immigrants strike for the right to work and win. – Dollars & Sense, July / August 2008.
[15] Ngai, Mae M. The Strange Career of the Illegal Alien: Immigration Restriction and Deportation Policy in the United States, 1921–1965 // Law and History Review 2003 21(1): 69–107.

- resettlement, displacement of the population, internal migration of the population, external migration of the population from one country to another: emigration, immigration;

- movement of people, usually associated with a change of residence;

- movement of people, workers, associated primarily with changes of residence and place of work;

- migration of people is the process of their resettlement for the purpose of arrangement and employment.

The analysis of mentioned points of view shows that in most cases migration is understood as the movement of people between states or administrative-territorial formations; settlements mainly associated with a temporary or permanent change of residence, work or arrangement of life.

In that way, the main features of the migration are[16]:

- movement of people, resettlement, displacement of the population, that is the process;

- crossing in the process of movement state or administrative borders of territories;

- temporary or permanent change of residence or work;

- improving the socio-economic situation.

So, by the legality of stay, the migration can be legal and illegal. Legal migration means crossing international borders and staying in a country on a legal basis. Such migrants enter the country on the basis of an entry visa or other legal grounds, stay in the country for a certain period of time (if necessary, the period of stay may be extended). Illegal migration means that its subjects leave a country of their permanent residence and enter the territory of other states without official permission.

Illegal migration is considered as one of the migration kinds, which has characteristic features. In order to counteract the illegal migration more effectively, it is necessary to examine and research the characteristic signs of this phenomenon, namely the state, structure, dynamics and geography of illegal migration.

[16] Vicino, Thomas J. Suburban Crossroads: The Fight for Local Control of Immigration Policy Lanham, MD: Lexington Books, 2013.

Illegal migration is also distinguished by the time of occurrence[17]:

a) from the moment of violation of rules of entry into and exit from the territory of a state;

b) from the moment of violation of rules of stay in the territory of a state, which triggers the necessity of visa extension and registration in the territory of the host state.

Illegal migration can also be characterized according to the ability of its subjects to bear administrative responsibility:

a) consists of subjects, which do not fall under administrative responsibility (due to the age or due to the state of insanity);

b) consists of subjects, which fall under the administrative responsibility.

In recent years a clear picture of a sharp increase in illegal movements and it has its reasons and explanations. Let us consider the reasons for illegal migration. Greater attention to illegal migration is caused by the emergence of the need for counteracting it as to undesirable, harmful and socially dangerous phenomenon.[18] Elaboration of the strategy and tactics of such resistance is a primal organizational and legal task. The practice of solving similar problems shows that any measures can only be taken only with a clear understanding of the causes of illegal migration.

Illegal migration has the same reasons, as other migrations, but it is way more global, tragic, conflicting. And these reasons force illegal migrants to risk for the sake of their own life, the life of their families, to commit offenses for the sake of betterment of their own life positions, flight from conflicts and so forth.

The majority of migrants use the illegal form of migration as a mean of fleeing from various conflicts, which take place in a country of their permanent residence. Illegal migration is, first of all, connected with altering of immigration policy, it reduces the possibility of legal migration. Secondly, with the desire to emigrate by any means, which is associated with the hope for better conditions, and, thirdly, in some states there is a need for the workforce, which cannot be satisfied in a legal way.

[17] N. Mushak 'Freedom of movement of people as one of the fundamental rights of EU citizens' / N. Mushak // Actual problems of international relations. – Kyiv: Institute of international relations, (2013), №.1. – 105–113.
[18] Centre of a free press 'USA and Europe in modern international transformations'. Monograph, (2014). – 472.

Illegal migration is a complex phenomenon with interstate characteristics. Its features include factors stipulated both by state nationals of which migrants are and by states in which and through which they move.[19] On this basis, the reasons for illegal migration could be represented in the form of two blocks:

a) stipulated by socio-economic and other peculiarities of a country of citizenship;

b) stipulated by socio-economic and other peculiarities of a state, to which they leave for or through which they transit.

Modern documents of the European Union define that the natural human right of "free movement"[20] is violated most often in the world. In its turn, it poses to scientists and legislators the problem of rethinking the theoretical definition of a "migrant", and respectively its legal status subject to the continuous respect of natural human rights for "free movement".

Notions "illegal migration" and "irregular migration" are used as synonyms.[21] However, the notion of "illegal migration" is usually used in official documents, when the notion of "irregular migration" is inherent to scientific researches and journalistic texts.

In the official terminology of the UN, instead of the term "illegal migration", the term "irregular migration" is mainly used, and instead of the term "illegal migrant", it is used "irregular migrant" or "undocumented migrant or alien".[22] In contrast to international law, in national legislation and the EU regulatory acts, the notion of "Illegal or irregular migration" prevails.

Thus, all these differences in interpretation of the legal status of migrants cause significant problems in the activity of practical bodies and, therefore, require a specific scientific study.

[19] Zimmermann, K.F. (ed.), European Migration: What Do We Know? – Oxford University Press, 2005.
[20] Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States > https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004L0038 > accessed 17 February 2018
[21] Janos Besenyo: Fences and Border Protection: The Question of Establishing Technical Barriers in Europe // AARMS, Vol. 16, Issue 1, 2017, pp. 77-87.
[22] M. Paspalanova Undocumented vs. Illegal Migrant: Towards Terminological Coherence, vol.4, №3, (2008) < http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1665-89062008000100004 > accessed 17 February 2018

1.3 The main reasons for migration crisis in Europe

In the light of the events in the second decade of XX century, the internal political situation in the EU and in the Euro-Atlantic space as a whole has suffered a significant exacerbation and there are plenty of predictions concerning its further deterioration.[23] Global, regional and local trends of world development affect the functioning of the European Community in various ways. It has long been believed that the EU should act as a guarantor of stability on the European continent, however, nowadays this integration structure is under pressure of a number of systemic risks, which destabilize integration processes within the EU and hamper its progressive development.

By systematizing the key threats and challenges to the functioning of the EU, their internal and external nature should be singled out. The main internal problems of the EU include the institutional crisis (the problem of Brexit and the EU's future development) and the economic challenges, which are partly stipulated by external factors. The key external threats include the enhancement of the security challenges in the light of the latest hybrid conflicts in the region, the immigration crisis, terrorism as a way of destabilizing the internal situation in the EU Member States.

Throughout 2015, as the result of the war in Syria, more than 1 million migrants asked for asylum in the EU[24], which is significantly higher than the figures of previous periods. European migration crisis, which started in 2015, is treated nowadays as "humanitarian disaster" caused by a massive influx of migrants from Africa and the Middle East, who have left their homes with a hope for a peaceful life and prosperity in the EU countries.

It is worth noting that a new massive migration flow is a destabilizing factor in the framework of a joint EU internal policy and migration policy in several aspects. It is obvious that most of the EU States were not ready for a huge migration crisis and, as the result, felt the negative impact of this process in such important systems of social response to emergencies as housing, education and healthcare. In consequence of the uncontrolled influx of refugees, states are forced to direct financial and program priorities of social integration to the temporary maintenance of migrants with a possible reduction of social warranties for the EU citizens due to a lack of funds in a state budget. Additional expenses for the satisfaction of

[23] N. Parkhomenko 'Migration processes in postcolonial period' - (2017). – 48-51.

[24] IOM: Over a million migrants and refugees reached Europe this year < https://www.theguardian.com/world/2015/dec/22/one-million-migrants-and-refugees-have-reached-europe-this-year-iom > accessed 18 February 2018

social needs of refugees, as Germany and Austria required, can trigger substantial "political gap" or even a harsh reaction, as it has happened between local politicians in Cologne. At the same time, migration flows contribute to the rapid growth of the civil society of Europe, which provides vital basic needs of refugees, such as clothing or first aid, and consequently opens new perspectives for the European welfare.[25]

Migration crisis, despite its foreign policy background, seriously influence the internal functioning of the EU. Thus, for the first time, it questioned the unity of European countries and the validity of the Schengen agreements, one of the cornerstones of the European integration, ensuring freedom of movement within the EU, especially for those countries that have become part of the transit route of the flow of asylum seekers from the Middle East. In addition, there is a lack of unity on the issue of immigrants' rights to claim social benefits in the EU States. Even today in the EU there is a practice of restoring the control over internal borders because of the risk of a migration crisis. The corresponding right enshrined in Article 23 of the Schengen Borders Code.[26] For example, Germany resumed control on the land border with Austria for the period from 11 February to 11 May 2017; Austria with Slovenia and Hungary; Denmark checks seaports with ferry connections to Germany and the limits of Danish-German lands. France, in turn, because of the constant terrorist threat, resumed control at all internal borders for the period from 27 February to 15 July 2017.[27]

Therefore, a noticeable increase in the number of migrants in the EU creates additional security risks for these countries, imposes a significant financial burden on their social budgets, leads to radicalization of the society and an increase in extremist, anti-European sentiments, increases the popularity of Euroskeptic parties. It also updates the issues of consolidation of the efforts of the EU bodies and Member States on strengthening the external borders of the Community. In the context of the migration crisis, the European right-wing political forces point out the need to implement decisive measures aimed at limitation of migration flows. The unprecedented growth of migration today forces a number of the EU Member States to allocate substantial funds for rapid response and a special arrangement of

[25] A. Solodko 'EU migration crisis: statistics and the analysis of the policy' / A.Solodko, A. Fitisova // Analytical centre CEDOS. – (2016) < http://www.cedos.org.ua/uk/migration/mihratsiina-kryza-v-yes-statystyka-ta-analiz-polityky > accessed 1 February 2018

[26] Schengen Borders Code < http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Al14514 > accessed 23 January 2018

[27] Schengen Corders Code: Council adopts regulation to reinforce checks at external borders < http://www.consilium.europa.eu/en/press/press-releases/2017/03/07/regulation-reinforce-checks-external-borders/ > accessed 8 February 2018

points of reception of refugees and providing humanitarian assistance (food and medical care).

The idea of creating a network of centers for the reception of refugees was first mentioned in the European Agenda of Migration on 13 May 2015.[28] The main objectives of such centers are to register, identify and collect the fingerprints of asylum seekers. However, initially, the EU did not have a commonly agreed position on the purpose of these centers – if someone interpreted them as a place of waiting for migrants arriving in the EU border countries, others noted the importance of centers for the readmission procedure and the maintenance of migrants, who violated the border crossing rules.

The European Council considers centers as places of work of Europol, Frontex, European Asylum, Support Office and Eurojust. The main task of these offices is in prompt intervention and resolving the situation in the event of aggravation or disproportionate pressure on the external borders of the EU.[29]

Maintaining the dynamics of the influx of refugees and the further escalation of the migration crisis in immediate prospects can cause even greater growth of economic expenses due to the need for funding the social policy of the EU, which is carried out from the budgets of the EU Member States and, as a consequence, the burden of the migration crisis falls on the citizens-taxpayers living within the European Union. Moreover, an increase in the number of refugees could put additional pressure on the labour market in the European countries and even significantly worsen the level of unemployment in Europe. Certainly, such a course of events will not be in favor of the EU citizens and this, in turn, causes aggravation of interethnic confrontations and deterioration of relations towards foreign migrants.

Along with the migration crisis, terrorism remains a key destabilizing external factor for the EU. The potential danger for the EU Member States, particularly France and Germany, whose migration policies are extremely imperfect and full of double standards, is a large number of Muslim migrants among their populations, which can become a tool for implementing extremist plans in Europe.

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[28] European Agenda on Migration 13 May 2015 < https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1485255362454&uri=CELEX:52015DC0240 > accessed 5 February 2018

[29] Mid-term review of the European Agenda on Migration (European Commission) < https://emnbelgium.be/news/mid-term-review-european-agenda-migration-european-commission > accessed 3 March 2018

The terrorist attacks in Paris in November 2015, in Brussels in March 2016, in Istanbul in June 2016, in Nice in July 2016 highlighted the scale of the threat of terrorism, in particular, through the activities of extensive Islamist networks in Western countries that have developed over the previous decades. They demonstrated that terrorist attacks on unprotected places of a mass gathering of people and infrastructure objects are becoming a constant factor of the European reality and influence decision-making within the EU.

A large part of foreign experts explains this by the inefficiency of the EU security policy, which is determined by a number of factors.[30]

The key factors are as follows :

- high self-esteem of the security services of individual EU Member States in their ability to ensure national security;

- too high level of democracy and liberalism in the states;

- lack of professionalism and inability of the security services of individual states and the European Union security services as a whole to counter terrorist activities in Europe;

- ignoring the reasons and consequences of previous terrorist attacks in European cities and the lack of strategic cooperation with the security services of other European States in the context of the combat against terrorism and the like.

The above-mentioned factors indicate that Brussels has become an "easy target" for terrorists and civilians. A real fight against terrorism at the domestic level requires enhanced capacity of the national security, as well as a reconsidering of the EU's counter-terrorism policy. One of the key steps in this direction is the creation of a new European counter-terrorism centre (ECTC), which will work on the basis of Europol institutions dealing with the legal order in the EU.[31]

[30] McNamara S. The EU's Common Foreign and Security Policy: How It Threatens Transatlantic Security, (2009) < https://www.heritage.org/europe/report/the-eus-common-foreign-and-security-policy-how-it-threatens-transatlantic-security > accessed 5 March 2018

[31] European counter terrorism center – ECTC: A central hub of expertise working to provide an effective response to terrorism < https://www.europol.europa.eu/about-europol/european-counter-terrorism-centre-ectc > accessed 29 January 2018

In addition, to counter the terrorists, the Ministers of Defense and Foreign Affairs of the EU Member States in 2016 agreed on a plan of defense and security of the EU.[32] However, the EU stresses – it is not about creating a European army, NATO remains the only defender of Europe.

A key challenge for the EU in the near future is a new format of relations between the United States and the Russian Federation. Consequently, officials in the defense sector of NATO and the EU warn U.S. President D. Trump against the improvement of relations with the President of the Russian Federation V. Putin. The point is that the EU urges the U.S. to remain "a fortress" of the European security, primarily in the context of protection against Russia's hybrid challenges. The further development of the European security system and the alignment of forces in the international arena depends on the position of D. Trump.

In order to address the urgent problems and both internal and external threats, as well as to prevent them, the leaders of the European countries in March 2017 (on the eve of Britain's withdrawal from the EU) adopted the Rome Declaration, which identified key areas of work for the next decade.[33]

Among them are the economic development, security and leadership on the global stage. The Declaration, which was signed by the leaders of 27 countries (without Great Britain), the leaders of the European Parliament, the European Commission and the European Council, contains four main points that will be addressed in the coming years, and which response to current challenges in the near future[34]:

- safe and reliable Europe. The Declaration identifies priorities for the security of all citizens, mainly in the fight against terrorism and organized crime; for free movement within protected external borders. It is noted that effective, responsible and sustainable migration policies need to be developed and implemented, while respecting international norms and rules;

[32] EU Global Strategy Implementation Plan on Security and Defense, 17 November 2016 < https://eeas.europa.eu/sites/eeas/files/eugs_implementation_plan_st14392.en16_0.pdf > accessed 29 January 2018

[33] E.U. Leaders Sign Rome Declaration and Proclaim a 'Common Future' (Minus Britain) < https://www.nytimes.com/2017/03/25/world/europe/rome-declaration-european-union.html > accessed 10 March 2018

[34] European Truth – 'The Rome Declaration: four priorities of the EU development' < https://www.eurointegration.com.ua/news/2017/03/25/7063585/ > accessed 16 March 2018

- prosperous and sustainable Europe. It goes about the development of the association, which guarantees economic growth, competition and innovation; a common market effectively operates; conditions for investment and growth of jobs are provided. The priority is technological changes, structural reforms, especially, the emphasis is on the safety and accessibility of energy, clean and safe environment;

- social Europe. In the EU, economic and social progress has been prioritized, taking into account the diversity of national systems and the key role of social partners, trade unions, equality between women and men, and the rights and equal opportunities for all, including in education sphere. In such a unification, States will jointly combat unemployment, discrimination, social exclusion and poverty; cooperate to preserve cultural heritage and promote cultural diversity;

- strong Europe on the international arena. The Declaration proclaims that further development of the existing partnership of the Union and formation of new ones is crucial; strengthening of common security and defense, in particular in cooperation and complementarity between NATO and the UN; the global role of the EU is emphasized, primarily the values and protection of human rights, free and fair trade, a positive global climate policy is encouraged.

Thus, it should be noted that a number of internal and external threats facing the European Union today (among them the aggression of the Russian Federation, the migration crisis in Europe, a series of terrorist attacks in European cities, unpredictable policy of D. Trump regarding the European security system[35], strengthening the position of left and right-wing political forces in European countries, Brexit and its consequences, in particular the threat of the "Domino effect" in other EU Member States) forced the leaders of European countries to be more consolidated regarding a common vision of the future of the European Community, and to take the responsibility for perspective directions of the EU development.[36]

The Rome Declaration of 2017, signed at the celebrations of the 60th anniversary of the 1957 Rome agreements, could become a document, whose implementation will not only

[35] Fuchs M. Donald Trump's doctrine of unpredictability has the world on edge, (2017) < https://www.theguardian.com/commentisfree/2017/feb/13/donald-trumps-doctrine-unpredictability-world-edge > accessed 8 March 2018

[36] O. Malinovska 'Migration policy of the European Union: challenges and lessons for Ukraine' / O. Malinovska // – (2014). – 48.

become a strategic basis for the formation of an adequate response to the urgent internal challenges of the EU's development but also strengthen the positions.

Unification on the international arena will consolidate the European States in the fight against external threats. Therefore, it is necessary to consider the study of internal and external factors as promising and to consolidate the positions of political elites and public opinion in the EU Member States on the future of this integration structure.

2. Analysis of the EU existing legislation on the migration issue

2.1 The Geneva Convention 1951

The Geneva Convention relating to the status of refugees is an International Treaty that was signed on 28 July 1951 in Geneva as a result of the UN General Assembly resolution of 14 December 1950. It is the primary international document that stipulates the rights of refugees and the treatment towards them.

Back in 1951, the world was still under the influence of war. Europe was overfilled with refugees, who lost their homes. Member States of the recently established UN decided that this problem can be solved only together. As a result, the Convention relating to the status of refugees has been adopted and has not lost its legal force for 60 years. The 46 articles of the Convention set out in detail who is a refugee and how the countries of asylum should behave towards them.

According to the Convention a refugee is a person, who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.[37] However, the Geneva Convention does not provide guarantees for obtaining a refugee status.

This document was created as a comprehensive international legal instrument that was intended to clarify the content and application of Article 14 of the Universal Declaration of Human Rights (the right to asylum)[38] and to resolve the problem of refugees in Europe caused by World War II. That is why the circle of persons covered by the 1951 Geneva Convention is limited to those, who became fugitives because of the events that took place before 1 January 1951.

Moreover, the Convention relating to the status of refugees allowed States parties to limit the application of its standards to refugees originating from the European continent.

[37] The Geneva Convention 1951 Art.1 (A)(2)
[38] The Universal Declaration of Human Rights 1948 Art. 14

However, the international community soon realized that the problem of cross-border forced migration was not limited either in space or in time.[39]

The Protocol relating to the status of refugees 1967[40] extended the scope of the 1951 Geneva Convention to all persons, who fell under the definition of "refugee", regardless of the time of occurrence of the circumstances, which led to such persons being unable or unwilling to benefit from the protection of the country of their nationality or former habitual residence.

Nowadays, 145 countries are parties to the Geneva Convention of 1951 and 146 acceded to the Protocol of 1967. However, not all of the 146 countries that have acceded to these legal instruments are simultaneously parties to the Geneva Convention and its Protocol. And some of the countries that have ratified both treaties have established restrictions on their use on their own territory.

For example, Turkey, which is a party to both the 1951 Convention and Protocol 1967, nevertheless, declared that it takes the obligation only to protect refugees originating from the European continent and refused to provide protection on its territory to refugees from other regions of the world.[41]

The Geneva Convention defines the grounds on which States parties are obliged to provide protection to aliens and stateless persons (the right of residence) on their territory through the definition of a refugee (Article 1 of the Convention and Article 1 of the Protocol) and the principle of "non-refoulement"[42] and also stipulates a minimum set of rights, which States parties to the Convention must provide to the refugees within their jurisdiction.

It is worth noting that Article 5 of the Convention[43] indicates that this international legal instrument establishes a minimum standard of protection, and if the legislation or international treaties of a State party to the Convention grant refugees a broader scope of

[39] Nasr L. International Refugee Law: Definitions and Limitations of the 1951 Refugee Convention, (2016) < http://blogs.lse.ac.uk/humanrights/2016/02/08/international-refugee-law-definitions-and-limitations-of-the-1951-refugee-convention/ > accessed 16 March 2018

[40] Protocol relating to the Status of Refugees < http://www.ohchr.org/Documents/ProfessionalInterest/protocolrefugees.pdf > accessed 16 March 2018

[41] Refugee Law and Policy: Turkey < https://www.loc.gov/law/help/refugee-law/turkey.php > accessed 17 March 2018

[42] The Geneva Convention 1951 Art.33(1)
[43] The Geneva Convention 1951 Art.5

rights than it is provided, then precisely a wide range of rights (but not less than specified in the Convention) are to be applied.

For the purposes of the Geneva Convention, a refugee is a person, who falls within the appropriate definition, regardless of whether the public authority of the country in question grants him or her a status. The Convention also does not expressly require States parties to establish a procedure for determining the status of refugees (the identification of refugees on their territory), whom such States are obliged to provide appropriate protection.

However, this obligation derives from the provisions of the Convention, because in order to ensure the ability of refugees to benefit from the protection (the ability to get the right to reside) and a minimum set of rights guaranteed by the Convention, the States parties should take measures to identify such individuals within their jurisdiction.

Comments, positions, recommendations and other legal instruments issued by the Office of the United Nations High Commissioner for Refugees (UNHCR) are important for the interpretation and application of the Convention by States parties.

This UN Agency[44] is not a body authorized to monitor the implementation of the Convention on the Status of Refugees by States parties, therefore, does not provide official interpretations of its rules. Though, by Resolution 428 (V) of the UN General Assembly, which approved the status of UNHCR[45], the Agency is authorized to deal with and provide international protection to all persons who are refugees, in accordance with the 1951 Geneva Convention, throughout the world and to provide assistance to the governments of the States parties in the implementation of their obligations under the Convention.

Therefore, positions, recommendations, comments and guidelines of the UNHCR in its essence are the tools of the so-called "soft law", which, in particular, appear in the content of obligations of UNHCR and of States parties in relation to refugees under the Geneva Convention 1951 and the Protocol 1967.[46]

Recently, after a number of revolutionary events in North Africa, the problem of refugees in Western Europe has exacerbated. The challenge is how to distinguish "genuine"

[44] UNHCR : What we do. Asylum and migration < http://www.unhcr.org/asylum-and-migration.html > accessed 1 April 2018

[45] Statute of the office of the UNHCR < https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/060/26/IMG/NR006026.pdf?OpenElement > accessed 1 April 2018

[46] Alexander Betts. Protection by Persuasion: International Cooperation in the Refugee Regime, Cornell University Press. 2009.

refugees from ordinary "economic" migrants seeking to move to West in search of a better life.

2.2 Analysis of the Dublin Regulation III on migration in the EU

The Dublin regulation (regulation No. 604 / 2013) is part of the EU law, which identifies which state is responsible for consideration of the petition of asylum-seekers in accordance with the Geneva Convention of 1951.[47]

The Council of Europe adopted numerous documents on the protection or improvement of the situation relating to refugees: the European Agreement on the Abolition of Visas for Refugees 1959, the European Convention on the Transfer of Responsibility for Refugees 1980, the Recommendation on the Legal Status of Persons Equal to Refugees 1976, etc. The above-mentioned acts are aimed at harmonizing national asylum procedures for refugees, in particular, the formalized procedure of granting such status, guaranteeing an effective complaint procedure, the right for temporary stay for the duration of the procedure and the like.

The aim of the EU's activities, among others, is to create and implement a unified concept of asylum granting issues for refugees and ensure their uniform status. The EU competence for the implementation of common policies in this field is defined by Articles 61-69 of the Treaty of Amsterdam 1997.[48] And the right to asylum is protected under the Article 18 of the EU Charter on Fundamental Rights of the EU 2000.[49]

At one time, 26 European countries (22 Member States of the European Union out of 28 and 4 Members of EFTA) have joined together to form a zone in which border controls at internal borders have been lifted, confining only with the control at the external borders of the zone, where the compliance with control is necessary. Thus, the Dublin EU rules 2003 or the Dublin II Regulation, which is the Regulation of the EU Council No.343/2003 of 18 February 2003, established the criteria and mechanisms for determining the responsible state for examining an asylum application.

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[47] Annapaola Amirati : 'What is the Dublin Regulation', (2015) < http://openmigration.org/en/analyses/what-is-the-dublin-regulation/ > accessed 29 March 2018

[48] The Treaty of Amsterdam 1997 Art. 61-69 < https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A11997D%2FAFI%2FCE > 30 March 2018

[49] Charter of fundamental rights of the European Union Art. 18

Dublin rules are based on Art. 28–38 of the Convention Implementing the Schengen Agreement 1985[50] between the governments of the States of the economic union of Benelux, Germany, France on the gradual abolition of control at common borders and the Convention Determining the State Responsible for Examining Applications for Asylum lodged in one of the Member States of the European Communities 1990 ("Dublin Convention"). It was joined by all EU Member States, as well as Norway, Iceland, Switzerland.

Since September 2003, the Dublin agreement has been replaced by the Dublin Rules (Regulations), which are the basis of the Dublin system, which also includes the EURODAC rules, approved by the EU Council Regulation No. 2725/2000 of 11.12.2000, establishing a pan-European fingerprint database for asylum-seekers and persons, who crossed the EU border illegally.

This system also includes: Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof[51] and Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.[52]

In 2004, the EU Council also adopted two more documents, which were to complete the first stage of harmonization of asylum granting legislation, in particular Directive 2005/85 / EC of 01.01.2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status[53] and Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection.[54]

The definition of "refugee" in these directives is largely identical to that in the 1951 Convention. The Directives also establish an effective mechanism for the protection of persons, who do not fall within the definition of "refugee", but need it. They provide legal

[50] Convention Implementing the Schengen Agreement 1985 Art. 28-38

[51] Council Directive 2001/55/EC of 20 July 2001 < http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF > accessed 2 April 2018

[52] Council Directive 2003/9/EC of 27 January 2003 < https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32003L0009 > accessed 2 April 2018

[53] Council Directive 2005/85/EC of 1 December 2005 < http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF > accessed 2 April 2018

[54] Council Directive 2004/83/EC of 29 April 2004 < http://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:32004L0083 > accessed 3 April 2018

mechanisms for the recognition of a person as a refugee and also his or her specific protection.

At the same time, the content of such protection differs in each EU State depending on the national characteristics of the interpretation of this concept. In recent time Dublin rules are sharply criticized as violating the rights of refugees and because they impose too much responsibility for asylum applicants (for example, Italy, Greece, Hungary) on Member States of the EU, which are located on the borders, instead of developing a system of burden-sharing between the EU Member States.

Thus, the existence of an extensive international legal system of the protection of the rights of refugees and the determination of their status does not guarantee a solution to the problems in this area. On the contrary, the European migration crisis of 2015 demonstrated that the European States are unable to solve the problems of all refugees only by providing them with the protection. The resolution of refugee problems not only had an economic and humanitarian component but also depended more on the harmonization of the political will of States.

In order to regulate migration, the European Union has been developing a common policy on asylum and protection for third-country nationals crossing the external borders of its Member States. Common EU policy in this area is the coordination policy of the European Union on the establishment of a single status of asylum granting for nationals of third countries; the definition of a single status of additional protection for nationals of third countries who, without obtaining the European asylum, nevertheless, are in need of international protection; the introduction of a common system of temporary protection for displaced persons in cases of their significant influx and the establishment of common procedures for the providing and withdrawing of a single status of asylum or subsidiary protection.

At the European Union level, the Geneva Convention of 28 July 1951 relating to the rights of refugees and its Protocol of 31 January 1967 relating to the status of refugees form the basis of all legal instruments governing the sphere of granting the asylum and the protection of third-country nationals.

In the context of covering the issues of providing the protection to nationals of third-states, an important place is given to the use of terminology in this field. According to the EU

law, it refers in particular to the category of persons, who are in need of protection. It includes refugees, persons who apply for subsidiary protection; persons who require temporary protection and the asylum seekers.

General standards for the qualification of persons as refugees or persons in need of international protection are provided by the Qualification Directive 2011/95/EU. The key provision of the Qualification Directive is the principle of "non-refoulement", which is also provided for in Article 33 of the 1951 Geneva Convention.[55]

The importance of the Geneva Convention of 1951 to the European Union legislation in the field of immigration policy was highlighted in the Decision of the Court of Justice in the case of "Aydin Salahadin Abdulla and Others v. Germany" dated March 2, 2010.[56]

Applying the Qualification Directive in the present case, the Court of Justice emphasized that the 1951 Geneva Convention was the cornerstone of the international legal regime for the protection of refugees and that the provisions of the Directive concerning the determination of the range of persons entitled to refugee status, as well as the content of that status[57], had been adopted by the competent authorities of the EU Member States with the application of the 1951 Geneva Convention on the basis of common concepts and criteria.

In the doctrine of the European Union law, there are different views on the provision of subsidiary protection to third-country nationals. Thus, according to K. Heilbronner, additional protection includes additional forms of human rights and humanitarian protection, which the state can guarantee if a person does not meet the requirements for refugee status under the 1951 Geneva Convention.[58] In my view, the issue of subsidiary protection has arisen because of the lack of clear and understandable criteria on granting refugee status to third-country nationals. In addition, such persons needed at least a minimum level of protection in cases of return to their country of origin or previous habitual residence.

All the above-mentioned prerequisites have contributed to the confirmation of the status of subsidiary protection of third-country nationals at the level of the European Union. In particular, according to Council Directive 2004/83/EC, the status of subsidiary protection is

[55] The Geneva Convention 1951 Art.33
[56] Aydin Salahadin Abdulla and Others v. Bundesrepublik Deutschland [2010] ECLI:EU:C:2010:105.
[57] Qualification Directive 2011/95/EU (Chapters III-IV)
[58] Hailbronner K. Principles of International Law Regarding the Concept of Subsidiary Protection / K. Hailbronner // Subsidiary Protection of Refugees in the European Union: Complementing the Geneva Convention? – Brussels : Bruylant, 2002. – P. 220.

guaranteed to persons who seek international protection because they cannot return to their country of origin because of a well-founded fear of serious and unjustified harm.

The Directive establishes three forms of serious harm: the death penalty or execution; torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; and a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.[59]

With regard to temporary protection, the legal instrument regulating it is Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

Analyzing the Directive 2001/55, it is worth noting the establishment of indirect interconnection between the providing a temporary protection and procedure for obtaining the asylum. In particular, a person who is under temporary protection has the right to apply for asylum.[60] In this context, the criteria and mechanisms of the document adopted within the European continent, namely the Dublin Convention of 1990, are applied. Thus, the document defines the state responsible for examining an asylum application. Such a state is a Member State that has accepted a person under temporary protection.

If the concept and legal status of refugees, persons enjoying subsidiary protection or persons enjoying temporary protection are established and defined at the legislative level of the European Union, there is no question of the definition of asylum seekers. Instead, the Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers stipulates that the asylum seeker shall mean a third country national or a stateless person who has made an application for asylum in respect of which a final decision has not yet been taken.[61] The document states that any application for international protection is an application for asylum. In fact, the rights granted to asylum seekers are more limited than those granted to refugees and persons under subsidiary protection.

[59] Council Directive 2004/83/EC Art.15
[60] Council Directive 2001/55/EC Art.17
[61] Council Directive 2003/9/EC Art.2 (c)

The legal status of asylum seekers is set out in Regulation No.2725/2000 of 11 December 2000[62] adopted by the Council of the EU establishing EURODAC. EURODAC is a system created for the comparison of fingerprints of asylum-seekers and certain categories of illegal immigrants.

The EU Council Regulation No.343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national; Regulation No. 604/2013 (Dublin Regulation) ; Qualification Directive 2011/95/EU ; Directive 2013/32/EU on common procedures for granting and withdrawing international protection and Directive 2013/33/EU on the reception of applicants - all the documents mentioned are amended and supplemented. Denmark, Ireland and the United Kingdom are only partially bound by the provisions of documents on the asylum granting.

Procedural issues were one of the most important problems in the field of asylum until 1997. It goes about, first of all, the determination of the EU Member State responsible for examining an asylum application.

Very often the citizens of third countries with the aim of obtaining asylum in the EU applied simultaneously in several Member States of the EU, thus relying on a greater chance of success. In view of these circumstances, in 1990 the EU member States adopted the Dublin Convention, which defines the state responsible for examining asylum applications lodged in one of the EU Member States. The instrument entered into force on 1 September 1997.

Today, a number of amendments and additions to the above-mentioned documents have been adopted by the EU Council Regulation No.604/2013 (known in EU law as the Dublin III Regulation). In accordance with Art. 3 (1)[63] of the document, it is stipulated that Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones.

All legal measures and instruments for the effective implementation of the EU common asylum policy were confirmed on 9 September 2015 at the meeting of the European

[62] Council Regulation (EC) No 2725/2000 of 11 December 2000

[63] Dublin III Regulation Art.3 (1)

Parliament. In particular, the European Parliament has adopted not a legislative Resolution on the observance of the rights of immigrants and asylum seekers in the EU. The document notes that the EU and its Member States must adhere to the principles of solidarity and respect for the fundamental rights of immigrants and asylum seekers.[64]

According to Frontex, the total number of migrants reaching Europe by two main sea routes in 2016 fell by nearly two-thirds to 364 000 in comparison with 2015. In total, in 2016 there were an estimated 503 700 detections of illegal border crossings along the EU's external borders.[65]

In general, today the European Union is on the way of a dynamic and at the same time permanent development of a common policy on providing the protection to third-country nationals. Implementation of this policy takes place through the use of the method of the coordination in matters related to the establishment of a single status of asylum granting to third-country nationals; determination of a single status of subsidiary protection for third-country nationals; introduction of a common system of temporary protection for displaced persons; the establishment of common procedures for granting and withdrawing asylum or subsidiary protection status and the like.

In my opinion, nowadays the main problem in the regulation of all immigration issues in Europe lies in the unwillingness of some European States and the European Union to harmonize substantive and procedural rules in these areas. The common policy of the European Union in the area of immigration, asylum and protection of third-country nationals is based on a method of coordination between the European Union and its Member States. This fact is confirmed by the founding treaties of the EU, according to which the issue of granting the protection and asylum to third-country nationals relate to the joint competence of the EU and Member States[66] with the judicial practice of the EU Court of Justice and the adopted national legislation of EU Member States in these areas.

Thus, a distinctive feature of the EU regulation of the immigration sphere, policy with regard to border control, asylum granting and protection of third-country nationals is the use

[64] European Parliament resolution on migration and refugees in Europe 2015/2833(RSP) < http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P8-RC-2015-0832+0+DOC+XML+V0//EN > accessed 11 April 2018

[65] Fewer migrants at EU borders in 2016 < http://frontex.europa.eu/news/fewer-migrants-at-eu-borders-in-2016-HWnC1J > accessed 11 April 2018

[66] Consolidated version of the Treaty on the Functioning of the European Union < https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12012E/TXT > accessed 14 April

of the EU coordination method. Through its application, the European Union only superficially regulates all immigration issues, leaving considerable legal and political space for the activities of the EU Member States themselves. Compliance with the method of coordination is also confirmed by the adoption at the EU level of a number of legal acts in the form of Directives and Regulations. Such documents are aimed, first of all, at legal, humanitarian, language assistance and simplification of administrative procedures for immigrants crossing the external borders of the European Union, while ensuring the protection of their economic, social and other rights.

2.3 Problem of the illegal migration in "hotspots" - Italy and Greece

The problems of illegal migration to the EU States have increased particularly for countries, such as Italy and Greece.

Greece and Italy need urgent EU assistance to address the growing number of migrants from North Africa and the Middle East. The authorities of the small Greek Islands, where illegal migrants arrive, cannot deal with this problem on their own.[67] Especially Lesbos island is in need of help, where there are about 4 thousand illegal immigrants (the population of the island is about 85 thousand of people). The authorities cannot provide them with housing, food, sufficient water and medical care.

The vast majority of immigrants get to Europe by sea. The Eastern Mediterranean route from Turkey to the Greek Islands is intense. Syrians and immigrants from other countries of the Near and Middle East arrive there. The Central Mediterranean sea route from North Africa to Italy is much longer and more dangerous.

In 2015, the number of migrants decreased slightly due to the operations of the combined European forces off the coast of Libya. Most of those arriving by the Eastern Mediterranean route to Greece continue their journey by land through the countries of the Western Balkans. They travel through Macedonia, Serbia or Croatia to Hungary or Austria to get to Germany and Sweden, which have established themselves as the most "friendly"

[67] A surprising solution to illegal immigration. Greece sends refugees packing with a helping hand < https://www.washingtontimes.com/news/2017/sep/11/illegal-immigration-solution-found-in-greece/ > accessed 23 April 2018

towards refugees. By the number of detentions in 2015, this route was only slightly inferior to the Eastern Mediterranean.

It is estimated that during 2000 - 2015 in the Mediterranean sea about 26 thousand migrants have died, or 2% of the total number of those who tried to reach Europe. The number of deaths in 2015 is approximately 3,771 and 800 out of it were killed on the way from Turkey to Greece, and the majority – during the crossing from North Africa to Italy.[68]

In January 2016 alone, 284 tragic incidents were recorded. This is about 0.6% of those who were transported. The decrease in the relative number of deaths is due to the intensification of operations on identification and assistance at sea, as well as the movement of the main route from 300 km Libya-Italy to 10-15 km safe Turkey – Greece.

Some migrants are motivated by economic reasons and strive to find a better income and living conditions in Europe. However, the majority are refugees, who are forced to leave their homeland because of the threat to life. Syria is still the main source of forced migration.

6,600,000 Syrians have become internally displaced and 4,600,000 have left the country. They saved themselves in Turkey, Lebanon, Jordan, Iraq, Egypt. However, the hopelessness of being in these countries encouraged thousands of people to move to Europe. This is also the reason for the dangerous sea voyages of African refugees, who are accumulating in camps in Northern Africa without prospects of solving their life problems.[69] The number of asylum applications filed in the EU in 2015 reached 1,100,000, which is almost twice more than in 2014, three times more than in 2013. The largest number of claimants are citizens of Syria, Afghanistan and Iraq. Albania, Kosovo and Serbia are also among the largest providers of asylum seekers to the EU. Ukraine closes top ten.[70]

In 2015, 292,5 thousand people received asylum (refugee status under the Geneva Convention 1951 and additional forms of protection due to humanitarian reasons) in the EU. Among the decisions taken in relation to Syrians, more than 97% were positive. The percentage of positive decisions on applications by Iraqi citizens (87.7 percent), Eritrea (85.9

[68] IOM Counts 3,771 Migrant Fatalities in Mediterranean in 2015 < https://www.iom.int/news/iom-counts-3771-migrant-fatalities-mediterranean-2015 > accessed 23 April 2018

[69] Migrant sea route to Italy is world's most lethal < https://www.theguardian.com/world/2017/sep/11/migrant-death-toll-rises-after-clampdown-on-east-european-borders > accessed 24 April 2018

[70] Migration to Europe explained in seven charts < http://www.bbc.com/news/world-europe-34131911 > accessed 24 April 2018

percent) and Afghanistan (67.5 percent) was also high. Thanks to them, the total share of positive decisions on asylum applications in Europe increased significantly: from 30.3% in 2010 up to 78.9% in 2015. At the same time, the share of positive decisions on applications from European countries is low and is about 2.5% for the citizens of Albania and Kosovo, less than 2% for the citizens of Serbia and Ukraine.

Most asylum claims were submitted in Germany – 476 thousand, as well as in Hungary -177 thousand. This country has experienced the greatest burden due to the arrival of refugees if to measure the number of applications per 100 thousand population – 1799. In second place for this indicator is Sweden - 1667 per 100 thousand. The average for the EU value was equal to 260 asylum seekers per 100 thousand of the population. Below the average number of applications filed was in 2015 in Greece (122) and Italy (138), where asylum seekers primarily arrived, as well as in major European countries such as France (114) and the United Kingdom (60). Significantly lower was the burden on the Central European countries (the corresponding indicator for Poland was 32 per 100 thousand of the population, the Czech Republic – 14, Slovakia – 6).

In September 2015, the European Commission President Jean-Claude Juncker unveiled his vision on a solution of the migration crisis, formulating six priorities in this area.[71]

Among Mr. Juncker's proposals:

- EU Member states to accept their share of an additional 120,000 refugees, building upon proposed quotas to relocate 40,000 refugees which were set out in May (though governments then only actually agreed to take 32,000);

- A permanent relocation system to "deal with crisis situations more swiftly in the future";

- Commission to propose list of "safe countries" to which migrants would generally have to return;

- Efforts to strengthen the EU's common asylum system;

[71] Migrant crisis: EU's Juncker announces refugee quota plan < http://www.bbc.com/news/world-europe-34193568 > accessed 26 April 2018

- A review of the so-called Dublin system, which states that people must claim asylum in the state where they first enter the EU;

- Better management of the external borders and better legal channels for migration

In April 2015, the Ministers of foreign and Internal Affairs of the Member States supported the action plan proposed by the European Commission,[72] consisting of 10 points, which included the following:

1. Reinforce the Joint Operations in the Mediterranean, namely Triton and Poseidon, by increasing the financial resources and the number of assets. We will also extend their operational area, allowing us to intervene further, within the mandate of Frontex;

2. A systematic effort to capture and destroy vessels used by the smugglers. The positive results obtained with the Atalanta operation should inspire us to similar operations against smugglers in the Mediterranean;

3. EUROPOL, FRONTEX, EASO and EUROJUST will meet regularly and work closely to gather information on smugglers modus operandi, to trace their funds and to assist in their investigation;

4. EASO to deploy teams in Italy and Greece for joint processing of asylum applications;

5. Member States to ensure fingerprinting of all migrants;

6. Consider options for an emergency relocation mechanism;

7.A EU wide voluntary pilot project on resettlement, offering a number of places to persons in need of protection;

8. Establish a new return programme for rapid return of irregular migrants coordinated by Frontex from frontline Member States;

9. Engagement with countries surrounding Libya through a joined effort between the Commission and the EEAS; initiatives in Niger have to be stepped up.

[72] European Commission's ten point Action Plan on migration < https://ec.europa.eu/home-affairs/what-is-new/news/news/2015/20150420_01_en > accessed 26 April 2018

10. Deploy Immigration Liaison Officers (ILO) in key third countries, to gather intelligence on migratory flows and strengthen the role of the EU Delegations.

As a follow-up to the stated priorities, on 13 May 2015, the European Commission published a message "European agenda on migration", which identified the necessary measures to stop the uncontrolled influx of migrants and tragedies at sea and improvement of the system of management of migration processes.[73]

In the short term, the following was envisaged: intensification of maritime operations; adoption of a pan-European scheme for resettlement of persons, who are in apparent need of international protection; development of a system for the urgent movement of refugees from most affected countries, especially Greece and Italy; development of a network of reception points, where registration and identification of arrivals will take place, especially in Greece and Italy.

The long-term plan had to be rebuilt in four areas: reducing the motivations for irregular migration; improvement of border management (strengthening the role and capacities of the European Border Agency Frontex); the formation of a clear common EU policy on asylum; new policy on legal migration by maintaining the attractiveness of Europe for economic migrants and maximization of the benefits from migration for Member States.

The European agenda on migration is being implemented through measures provided in special Action plans. The first was presented on May 27, 2015. It was intended to combat illegal trafficking, in particular, to triple the amount of funding for maritime operations, ensuring the registration of migrants and fingerprinting.[74]

It was also about the participation of the EU in programs of resettlement of refugees, who are in camps under the patronage of UNHCR in Turkey, Libya and Jordan. It was proposed to relocate 22.5 thousand people to Europe within two years, who are apparently in need of the international protection. Most of the discussions and resistance among EU Members, especially the Central European countries, caused the proposal to resettle 40,000 refugees from Greece and Italy.

[73] Tinker, Dr. Catherine (2016) "Saving Lives And Building Society: The European Migration Agenda," *ILSA Journal of International & Comparative Law*: Vol. 22 : Iss. 2 , Article 3.
[74] European Commission makes progress on Agenda on Migration 27 May 2015 < http://europa.eu/rapid/press-release_IP-15-5039_en.htm> accessed 27 April 2018

The distribution of asylum-seekers under certain quotas was opposed by the Czech Republic, Romania, Slovakia, Hungary and Poland.

The second Action plan was launched on 9 September 2015.[75] It referred to: the need for urgent resettlement of 120 thousand refugees from Italy and Greece (in addition to 40 thousand, which was announced in may), the distribution of which to the Member States should take place depending on the population, the size of GDP, the number of previously submitted applications for asylum, the level of unemployment; the introduction of a permanent mechanism of resettlement; the formation of a list of safe countries; plan of action for the return of migrants to their home countries; proposal for the establishment of an emergency situations fund in Africa to assist countries of origin of migrants. In addition, a new project on the establishment of points for refugees in Greece and Italy has been initiated, where they are to be registered, including fingerprinting.

The third Action plan concerned the formation of a European border and coast guard force to replace Frontex. It was released on December 15, 2015.[76]

The European Commission tried to ensure adequate financing for the achievement of the goals. The budget aimed at resolving the migration crisis has been significantly increased. As a result, the total EU expenses on relevant measures in 2015-2016 amounted to 10 billion euros.[77]

The next step related to joint actions with third countries affected by the migration crisis. In October 2015, a meeting was held with the leaders of the countries of the Western Balkans, where the plan for regulation of the flow of refugees through the territory of these countries into the EU was approved. In November 2015, the EU Heads of States met with African leaders.

The key partner of the EU in countering the migration crisis is Turkey, where there are 3 million Syrian refugees, and where there is an intensive route of smuggling migrants to Europe.

[75] Refugee crisis: European Commission takes decisive action < http://europa.eu/rapid/press-release_IP-15-5596_en.htm > accessed 26 April 2018

[76] EU launches new border force plan < http://www.bbc.com/news/world-europe-35093827 > accessed 27 April 2018

[77] 2015 European Agenda on Migration: more focus on EU resettlement, legal migration and return < https://www.ecre.org/eu-commissions-mid-term-review-of-the-2015-european-agenda-on-migration-more-focus-on-eu-resettlement-legal-migration-and-return/ > accessed 29 April 2018

In November 2015, the EU concluded an agreement with Turkey on cooperation in stopping illegal migration and providing assistance to Syrian refugees and Turkish communities that accept them.[78] 3 billion euros were allocated for Turkey's financial assistance, while negotiations on the visa-free regime and the country's accession to the EU continued.

The reached agreements provide that all newly arrived illegal migrants from Turkey should be returned. At the same time, the EU takes a responsibility in organizing the resettlement of one Syrian refugee for each illegal migrant accepted by Turkey, who has already received temporary asylum in Turkey.

2.4 Case Slovakia and Hungary v. Council 2015, Judgment 2017 and migration quotas in relation to Hungary, Czech Republic and Poland

In 2015 and 2017 the problems of the admission of refugees to the EU emerged. The European Court confirmed the legality of quotas for the distribution of refugees in the EU. The judges rejected the complaints of Slovakia and Hungary,[79] which demanded to cancel the mechanism of distribution of refugees and invalidate the decision of the European Union on the allocation of quotas for refugees among the EU Member States.[80] According to the judges, this mechanism for the distribution of refugees is proportional and helps Greece and Italy to cope with the consequences of the migration crisis in 2015.

The refugee distribution program, adopted in September 2015 by the majority of the EU Member States, provided the distribution of 160,000 asylum seekers among the EU countries. However, to date, only about 25,000 people have been distributed. Slovakia, the Czech Republic, Hungary and Romania voted against the program.

At the request of the European Commission, the Court of Justice of the European Union may impose fines on Poland, Hungary and the Czech Republic. The European Commissioner for Migration expressed regret that he had to take such step. The reason is the

[78] EU-Turkey cooperation: A €3 billion Refugee Facility for Turkey < http://europa.eu/rapid/press-release_IP-15-6162_en.htm > accessed 28 April

[79] Slovak Republic and Hungary v Council of the European Union , C-643/15 and C-647/15, European Union: Court of Justice of the European Union

[80] The Court dismisses the actions brought by Slovakia and Hungary against the provisional mechanism for the mandatory relocation of asylum seekers < https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-09/cp170091en.pdf > accessed 1 May 2018

refusal of these three countries to accept refugees from Greece and Italy by the decision on redistribution adopted by the EU in 2015.[81]

In may 2015, the European Commission warned that it was ready to file lawsuits against Poland, Hungary and the Czech Republic, if they continue to refuse to accept refugees. The EU Court of Justice has the right to impose monetary penalties on governments that violate the EU law.

Previously, the Court of Justice of the European Union has confirmed the legality of quotas for the distribution of refugees in the EU rejecting the complaints of Slovakia to Hungary, who demanded to invalidate the relevant decision. Hungary responded by stating that it would continue to challenge the irresponsible decision and Slovakia stated that its negative attitude towards refugee quotas among the EU countries would not change.

The European Commission filed a separate lawsuit against Hungary. It refers to the laws that have been adopted in a State on non-governmental organizations financed from abroad and on higher education. As reported by the European Commission, Hungary has not amended these laws to bring them into line with the EU legislation.

As at mid-November, 16 of the 28 EU States have pledged to provide asylum to 34,000 refugees from Africa and the Middle East over the next two years. Within the framework of the two-year plan, the EU intended to distribute at least 50,000 refugees.[82]

Consideration of the case began in 2015. Official Bratislava and Budapest opposed to the EU's migration policy. In accordance with Article 78 of the Treaty on the Functioning of the European Union,[83] each Member State of the Alliance must assume a certain quota of migrants. After the rapid influx of refugees from Africa and the Middle East in 2015, the countries asked the Court to cancel their obligations to admit refugees into their country. A judge has sentenced not in favor of Slovakia and Hungary. He noted that countries should

[81] CJEU: Judgment of the Court (Grand Chamber) < http://curia.europa.eu/juris/document/document.jsf?text=&docid=194081&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1092856 > accessed 4 February 2018

[82] Commission takes steps towards EU migration and asylum policy < http://europa.eu/rapid/press-release_IP-17-3406_en.htm > accessed 1 May 2018

[83] TFEU Art.78

fulfill their duties and the exceptions are unacceptable. The judge explained that the situation in the refugee camps in Greece and Italy required joint actions.[84]

By the beginning of 2016, Slovakia and Hungary strengthened border controls and later refused to accept any migrants. They were also supported by the governments of Poland and the Czech Republic.

The Prime Minister of Slovakia Robert Fico in an official statement said that Slovakia did not agree with the decision of the judge of the European institutions. He also declared that if the European Court makes the decision, the country will challenge them.[85]

For all time of functioning of so-called "quota plan" the Czech Republic, Poland, Hungary and Slovakia did not accept to themselves any refugee from all 160,000 people.

Due to the migration crisis, Greece and Italy were overflowing with refugees. Under the EU law, migrants have the right to settle in the first country of entry. However, the countries on the Mediterranean coast, through which most of the refugees had reached Europe, were not ready for such an influx. They asked the assistance from other EU countries.

In 2015, the EU has developed a new plan for the movement of refugees. It is based on the principle of quota allocation of refugees throughout the Union. According to it, the EU planned to host about 160,000 refugees on its territory.[86] All these people should be accepted by the EU Member States on certain quotas, which were set for them.

According to the European Commission, only 24,000 migrants have been admitted to other EU countries, according to the quota plan.

On 22 September 2017, the EU Council decided by a qualified majority to redistribute 120,000 refugees between the EU countries. Slovakia, Romania, the Czech Republic and Hungary did not support this decision at that time. Two countries claim that this decision was taken with violations. On 6 September 2017, the European Court of Justice rejected the claims of Slovakia and Hungary concerning migrant quotas.

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[84] EU court dismisses complaints by Hungary and Slovakia over refugee quotas < https://www.theguardian.com/world/2017/sep/06/eu-court-dismisses-complaints-by-hungary-and-slovakia-over-refugees > accessed 1 May 2018

[85] Speech by Slovak Prime Minister Robert Fico in the European Parliament < http://www.eu2016.sk/en/speeches-and-statements/speech-by-slovak-prime-minister-robert-fico-in-the-european-parliament > accessed 1 May 2018

[86] Refugee crisis: ECJ rejects quota challenge < http://www.dw.com/en/refugee-crisis-european-court-of-justice-rejects-quota-challenge/a-40375192 > accessed 2 May 2018

2.5 The EU Program on the redistribution of migrants: problems and achievements

In 2015, the EU adopted a European agenda on migration, which stipulated the redistribution of refugees in the EU.[87]

The Program specifies its main goal: on the external borders of the EU, a lot of accidents happened associated with the human destinies of migrants. Therefore, the EU had to take action. In addition, migration had to be better managed in all aspects. In addition, it stipulates that, under new agenda, the EU is committed to providing its Member States with the mechanisms to do so in the medium and long-term.

The Program defines that migration management is a shared responsibility not only among the EU Member States but also for non-EU countries that provide transit to migrants and the countries of their origin. By combining both domestic and foreign policy, the Agenda provides a new comprehensive approach based on mutual trust and solidarity between the EU Member States and institutions.

Among the short-term priorities,[88] the European Agenda on Migration highlights the following:

- immediate measures to prevent further loss of life of migrants at sea by providing additional support to Frontex and the most affected Member States located on the EU's external borders;

- to strengthen the role of Europol as an intelligence hub for dismantling criminal networks and intends to launch Common Security and Defense Policy (CSDP) operations in the Mediterranean to capture and dismantle boats;

- establishing an experimental multi-purpose centre in Niger in cooperation with the International Organization for Migration and UN-refugees.

Among the medium and long-term priorities, the European Agenda on Migration highlights the following:

[87] EC: A European Agenda on Migration < https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf > accessed 3 May 2018

[88] European Agenda on Migration: priorities < https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration_en > accessed 3 May 2018

- reducing the incentives for irregular migration: the focus is on addressing the root causes behind irregular migration in non-EU countries, dismantling smuggling and trafficking networks and defining actions for the better application of return policies;

- saving lives and securing the external borders: this involves better management of the external border, in particular through solidarity towards those Member States that are located at the external borders, and improving the efficiency of border crossings;

- strengthening the common asylum policy: with the increases in the flows of asylum seekers, the EU's asylum policies need to be based on solidarity towards those needing international protection as well as among the EU Member States, whose full application of the common rules must be ensured through systematic monitoring.

The Program stipulated that taking into account the future demographic challenges facing the EU, the new policy should focus on attracting workers, whom the EU economy needs, in particular, by facilitating entry and recognition of qualifications.

The Agenda planned to redistribute 1600 thousand refugees among the EU countries.[89] According to the plan, 18,418 people (5711 from Italy, 12,707 from Greece) were settled by April 2016. Thus, the main idea of the EU Program for the redistribution of refugees is the manifestation of European solidarity and the distribution of migrants to equally throughout the EU.

The need for a Program of redistribution of migrants arose from the fact that serious discrepancies in the EU began when Hungary and Slovakia, with the support of Poland, challenged the decision on the distribution of refugees in the EU Court. Belgium, France, Germany, Greece, Italy, Luxembourg and Sweden opposed them. Since then, the positions could not be brought closer together, and the Chairman of the European Council Donald Tusk said that he considers the quota system to be ineffective, having called it "a factor contributing to the split".[90]

[89] A. Plyais 'Europe in a new modern reality', monograph (2016) Financial University under the Government of Russian Federation, 167.

[90] Tusk to ask EU leaders to declare mandatory refugee quotas 'ineffective' < https://www.politico.eu/article/donald-tusk-to-ask-eu-leaders-to-declare-mandatory-refugee-quotas-ineffective/ > accessed 3 May 2018

According to Dublin Regulation, the person who wants to obtain refugee status is the responsibility of the country to which he/she first crossed the border.[91] However, in practice, many States do not comply with this rule. According to the Regulation, countries on the external border of the EU - Greece, Italy, Bulgaria and Hungary – shall be responsible for a huge number of asylum seekers and solve the problem on their own. But asylum seekers choose the so-called Balkan route or the route from Italy through Austria to Germany, France or the countries in the North of the EU. This leads to the fact that the largest number of refugees are accepted only by five EU Member States and it contradicts the provisions of "Dublin Regulation".

Greece and Italy explain the situation by the fact that they cannot handle the invasion of refugees, increasing annually. The European Court of Justice in Luxembourg has repeatedly banned the sending of migrants from Germany back to Greece, which is unable to provide adequate reception conditions. In 2016, the European Commission began discussing amendments to the Dublin Regulation.[92]

Germany, in turn, is trying to influence the countries of the Union. German Minister of the Interior Thomas de Maiziere urged the EU to show more solidarity. According to his words, Germany accounts for about 40 percent of all asylum applications received in the EU.[93] At the same time, the adoption of a general and binding rule that could replace the Dublin rules is not yet expected.

Illegal immigrants know that a bad system of deportation leaves them plenty of chances. In the EU, only one-third of all decisions on a refusal of asylum are actually implemented.[94] A person whose application is rejected may remain in the EU for humanitarian reasons (as is the case, for example, in Germany) or become an illegal migrant (as, for example, in Greece or Italy). Brussels intends to harmonize the deportation procedure and improve the cooperation with the native countries of asylum seekers, who, after unsuccessful attempts to obtain asylum in the EU countries, are often denied in entering their homeland. There are general rules on placement of refugees and provision of rations to them in the European Union that, obviously, not all adhere. There should be no illegal refugee

[91] Dublin III Regulation Art.3 (2)

[92] European Commission proposal on the Reform of Dublin III Regulation < https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-270-EN-F1-1.PDF > accessed 5 May 2018

[93] Asylum and first time asylum applicants (Eurostat) < http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tps00191&plugin=1 > accessed 6 May 2018

[94] N. Kaveshnikov 'European Union: history, institutions, policy' (2017). - 318.

camps, such as on the Greek island of Kos or French Calais. Members of the EU, at their request, receive from Brussels funds for the accommodation of asylum seekers who live in poverty.

Frontex, the European border Agency, provides support to the EU Members on the protection of borders with countries outside the EU. In addition, there are unified electronic databases with information on European border crossings. In case of doubts, the EU countries may build the protective structures on the external borders - so did, for example, Spain, Greece, Bulgaria and Hungary recently followed their example. In some cases, the European countries may temporarily close borders with the other EU Member States and to strengthen control over them.

3. Improvement of legal aspects of the EU policy in relation to the migration crisis

3.1 Social and political consequences of illegal migration for Western Europe and counteraction against it

Illegal migration from the Middle East and Africa has important social and political implications, which are called the migration crisis.[95] However, it is a comprehensive crisis. First, the humanitarian crisis is marked by the death and suffering of thousands of people. Secondly, the crisis of governance of both the border and the asylum, in particular, the procedures under which the EU defines the country responsible for determining the status of asylum seekers. Thirdly, it is a crisis of solidarity, because solidarity is the basis of the unity of the European Union, and to find a common solution on the mass influx of refugees, which would allow more equally distribute the burden on individual countries and their migration services, has proved to be extremely difficult.

As a result, the migration crisis threatens the fundamental achievements of the EU, first of all, the existence of the free movement zone (before the restoration of control on the internal borders of the EU – Austria, Belgium, Denmark, Germany, Norway, Slovenia, Hungary, Sweden). Extreme political forces are being intensified under the crisis conditions. For example, in France's ultra-right popular front party received 28% of the votes in the first round of local elections in December 2015. The radicalization of the population occurs (in 2015 in Germany there were 747 of attacks on refugee housings, including 222 cases of bodily injuries) that can lead to a rise of xenophobia and racism.[96]

Immigration, according to the Eurobarometer, has become the most painful problem for Europeans, leaving behind economic hardship and unemployment. Against the background of these trends, the EU leadership has declared the regulation of migration one of the 10 main priorities. Over the past two years, the scope of illegal immigration to the EU, as well as the number of asylum seekers, has grown at an unprecedented pace.[97] If we talk about the overall picture regarding statistics, we should cite the data for the last three years.

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[95] A. Gromyko 'European Union in search of a global role: policy, economics, security', (2015). - 588.

96 UNHCR: Mid-Year trends < http://www.unhcr.org/56701b969.html > accessed 6 May 2018

[97] Asylum and the first time asylum applicants - annual aggregated data < http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tps00191&plugin=1 > accessed 7 May 2018

In 2015, 33% of the detainees were Syrians, 16% – citizens of Afghanistan, 6% – Iraq. Among African countries of origin are Nigeria and Eritrea. Regarding 31% of the detainees the citizenship is unknown since as the result of the mass arrival of migrants, identification has been improperly conducted.

Governments of a number of the Member States, the press, experts criticized the European structures for the slow and ineffective solution to the problems associated with the migration crisis, accused them of low competence and the lack of a strategic approach during the situational decision making. However, with the introduction of the measures on the sea 250 thousand people were rescued and around 900 traffickers of migrants have been identified and arrested. However, it is not about a fundamental change of the situation. After all, the reasons of the crisis have not disappeared. The number of forced migrants in the world is estimated at 60 million.[98]

A number of conflicts, particularly in Syria, are taking place in close proximity to the EU. Countries of the first asylum are unable to provide adequate reception for refugees. While in 2015, 50% of Syrian refugees in Turkey, Jordan, Lebanon were below the poverty line, in 2016 – already 70%.[99]

The implementation of anti-crisis measures within the European Union is slow. Progress has been made in the integration of migrants. So, in January 2016 78% of migrants' fingerprints have been collected in Greece and 87% in Italy, 8% and 36% respectively in September 2015.[100]

At the same time, the results of the implementation of schemes for the urgent movement of asylum seekers and refugees from camps outside the EU are rather modest. Resettlement requires long-term preparation. Most importantly, however, not all member countries have agreed to participate. As of May 2016 from Greece moved 909, and from Italy 591 refugees, as of April 2015, 5677 people moved from outside Europe, including 7914 people from Turkey. Also, quite modest are the results of the return of migrants who are denied asylum in Europe to their home country. According to the European Commission, as

[98] O. Butorina 'European integration', №2, (2011). - 720.
[99] UNHCR: Number of Syrian refugees living in poverty increases < http://www.publicfinanceinternational.org/news/2016/07/number-syrian-refugees-living-poverty-increases-finds-unhcr > accessed 8 May 2018
[100] The European Commission's response to the migrant crisis < https://pl.boell.org/en/2016/03/03/european-commissions-response-migrant-crisis > accessed 8 May 2018

of May 2016, 175 people were sent from Italy, 853 people were deported by joint efforts under the coordination of Frontex.[101]

In January 2016, the European Commission published a report on responses to the challenges of the crisis and priorities for 2016,[102] which contains the conclusion about the inevitability of the continuation of the migration crisis and the need of a strong change of the entire system of migration management in Europe.

The goals for 2017 were:

- stabilization of the situation in the countries experiencing the greatest pressure of illegal migration, in particular through the proper functioning of refugee reception centers, ensuring an effective system of their registration;

- ensuring the functioning of the mechanism for the return of persons who are denied refugee status to their homeland;

- further development of the movement scheme, reaching the agreement of the Member States on this issue.

The establishment of the European border and coast guard forces has also been completed. At the same time, due attention was paid to the humanitarian component of the policy. Assistance to refugees was provided both within and outside the EU.[103] The plans for 2018 also include the restoration of the normal functioning of the Schengen zone, that is, the abolition of border control by the countries that temporarily restored it. After all, Schengen has not only political and ideological significance for the EU but also quite pragmatic.[104]

The documents of the European Commission emphasized that in order to find solutions to the challenges of the migration crisis, not only solidarity and coordinated

[101] European Commission: Third repost on relocation and resettlement < https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160518/communication_third_report_on_relocation_and_resettlement_en.pdf > accessed 8 May 2018

[102] Implementing the European Agenda on Migration: Progress on Priority Actions < http://europa.eu/rapid/press-release_IP-16-271_en.htm > accessed 8 May 2018

[103] J. Jaskiewicz 'Interpretation of the EU law by the authorities of the Member States. The doctrine and practice', №. 2 (7), 2017, pp. 32-54.

[104] European migrant crisis: EU plans to restore Schengen free travel by year's end < http://www.abc.net.au/news/2016-03-05/eu-plans-to-restore-schengen-free-travel-by-end-2016/7223228 > accessed 9 May 2018

activities of the Member States are needed , but also responsibility, in particular, to ensure the protection of the external border of the commonwealth, the proper registration of migrants, the creation of adequate services for the reception of refugees and the like.

In April 2016 the European Commission launched a discussion on a deep reform of the sphere of asylum and migration policy.[105] The main task remains to restore order both at the borders and in the procedures for granting refugee status. At the same time, it is a matter of reviewing the Dublin agreements, according to which the responsibility for asylum seekers will rely on the country of entry, and will be evenly distributed among the EU countries, so accordingly arises the task to influence the key reasons leading to migration along with the improvement of the existing tools of legal migration in the EU, which is considered as an effective mean of combating irregular migration.

After all, Europe needs immigration for preventing a shortage of workers, ensuring economic development and the functioning of the social protection system. According to forecasts, the working-age population is expected to fall to 56.1 % by 2060, then to rise slightly before continuing its downward path to reach 55.6 % by 2080. By contrast, the share of elderly persons in the total population is projected to increase in all 28 countries during the period 2016 to 2080. Across the whole of the EU-28, this proportion is projected to increase from 19.2 % to 29.1 % (a rise of 9.9 percentage points).[106]

It is important to take into account that nowadays there are the grounds for the conclusion about the positive impact of the influx of refugees on the economy of Europe. Thus, it is estimated that the additional public spending provided 0.2% of GDP growth. In the medium term, this effect will be greater due to an increase in the supply of labor.

Among the mechanisms of legal migration are: the use of schemes of voluntary resettlement of persons in need of international protection; the development of a mechanism for admission to the EU due to humanitarian reasons; the use of private sponsorship of the relocation of refugees, that is, its financing by individuals or organizations; improvement of existing channels of legal migration, as the Association of families, the admission of highly skilled migrants, students, scientists, seasonal workers, in order to increase their availability.

[105] Commission presents options for reforming the Common European Asylum System and developing safe and legal pathways to Europe < http://europa.eu/rapid/press-release_IP-16-1246_en.htm > accessed 7 May 2018

[106] People in the EU – population projections < http://ec.europa.eu/eurostat/statistics-explained/index.php/People_in_the_EU_-_population_projections > accessed 8 May 2018

It is also proposed to develop mechanisms to encourage immigration of entrepreneurs, who intend to introduce innovative technologies.[107]

An important direction of the EU migration policy in the future is a comprehensive action to prevent the occurrence of humanitarian crises and their early resolution. In addition to providing effective assistance to the countries of origin of migrants, it is planned to develop cooperation with transit countries.

3.2 Elaboration of directions for preventing the illegal migration and ways of tackling the migration crisis

Thus, the analysis of the legal aspects of illegal migration in the EU gave us the opportunity to develop some recommendations for the settlement of the migration crisis. The main obstacle to the implementation of a fully integrated, "common" model of migration policy within the EU remains different socio-economic conditions and social policy standards that are applied in the various Member States of the Union. Throughout a long period of time, since the mid-1970s, the attempts of the governing institutions and governments of the Union States to harmonize migration policy have faced such obstacles as different approaches of the government circles of individual countries to attract foreign labor, different attitude towards the provision of asylum to refugees, peculiarities of the demographic situation, the gap in the levels of economic efficiency and living standards, etc. However, recently, due to political destabilization in the Mediterranean countries, the EU's migration policy has become more coherent, rational and selective.

Based on the recent decisions of the EU governing structures, it appears that the European migration policy is increasingly focused on the regulated attraction of qualified foreign workers under contracts and the expansion of the right to employment of young people from countries that have an average level of economic development.[108]

The European Union does not leave attempts to resolve this issue even nowadays. For example, in December 2017 in Brussels at the EU summit and the discussion on migration

[107] Commission takes steps towards EU migration and asylum policy < http://europa.eu/rapid/press-release_IP-17-3406_en.htm > accessed 9 May 2018

[108] Gary P. Freeman (2006) National models, policy types, and the politics of immigration in liberal democracies, West European Politics, 29:2, 227-247, DOI: 10.1080/01402380500512585

problems J.K. Juncker stated that relocation works as 93% of eligible refugees have already been relocated. He said: "[…] we will try to do our best to bring all the 28 Member States to a situation where they can act together. Because here too, unity has to be – I cannot say preserved, as it had not been preserved – re-established".[109] The Visegrad States (Czech Republic, Poland, Hungary and Slovakia) oppose the quota system for the distribution of refugees[110] and do not agree with the system of fines if the country refuses to accept refugees. If the decision is not taken unanimously, the issue will be decided by a majority vote.

The development of new approaches to migration policy is complicated by the fact that public opinion is quite skeptical about it, expressing concerns about the negative consequences of migration, as well as the ability of governments to handle this phenomenon. The skepticism about the EU as such complicates a further improvement of a joint migration policy. In particular, the increase in migration to Europe is often associated with the integration processes on the continent.

To my vantage point, the difficulties in finding directions for further cooperation in the regulation of migration processes stem from their complications and diversity both in the countries of origin and destination and on the grounds of travel and length of stay. Not only the ethnic but also the social structure of migrants is variegated. Among them are entrepreneurs, highly paid managers and skilled professionals, as well as unskilled workers, often without a regulated legal status, who face significant difficulties in the process of integration in the host country and the threat of poverty and social exclusion.

The increased requirements for migration policy arises from the fact that the scope of its coverage is constantly expanding.[111] Firstly, it is addressed not only to migrants themselves, but also to persons who belong to the second or even third generation of newcomers who have the EU citizenship, but due to their origin differ from the mass of the population in terms of educational level and areas of employment, property status and the like. Secondly, a traditional scheme of the settlement of migrants is being transformed mostly in metropolitan areas.

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[109] Juncker on the features of the EU's future decision on migration < https://ria.ru/world/20171215/1510995895.html > accessed 12 May 2018

[110] Central Europe reaffirms opposition to quotas < https://reliefweb.int/report/world/central-europe-reaffirms-opposition-quotas > accessed 13 May 2018

[111] E. Stuart 'Law and policy in the field of state aid. Harmonization of Ukrainian legislation with the EU standards', (2016).- 564, 644.

Despite the difficulties in developing a new EU Action Program on migration, the need for a common migration policy is not questioned. After all, powerful migration flows are sent to the European continent, although during the financial and economic crisis, the scale of immigration has decreased, but the departure from the European countries was much less than expected. Europe is home to a large population, which came here from other countries and regions.[112]

Although in the coming years, while Europe's economy is experiencing difficulties, the need for additional labor hands from abroad will be minimal, however, given the demographic aging, it will still inevitably grow. In addition, the competition for talents in the world tends to increase. As long as some non-European countries are rapidly developing, in particular, China, they are gradually turning into new centers of attraction for migrants. Moreover, after 2020, the aging of China's population will pick up the pace and in case of maintaining the tempo of economic growth, the country will be experiencing a deficit of the working age population. Therefore, increasing attractiveness of Europe for immigrants in a globalized world is becoming more and more relevant.

Thus, there is a need in amending the Dublin III regulation or mechanism. The Dublin mechanism stipulates the examination of an application for refugee status in the country of first entry.[113] But with the emerging of the migration crisis, it repeatedly confirmed its incapacity. Moreover, it is constantly being challenged in courts, both at the national and European levels.

There are a plenty of typical cases concerning the deportation to Greece. A classic example is the case of MSS v. Belgium and Greece,[114] where the court found that Belgium had violated Articles 3 and 13 of the European Convention on Human Rights[115] ("Prohibition of torture" and "the Right to an effective remedy"), having deported asylum-seekers in Greece in accordance with the Dublin rules.

The ineffectiveness of the Dublin mechanism is also evidenced by the different proportion of positive decisions on granting refugee status to persons from the same countries.

[112] Migration in Europe : overcoming the crisis of solidarity < https://inosmi.ru/politic/20170211/238711277.html > accessed 12 May 2018
[113] Dublin III Regulation Art.3(2)

[114] M.S.S v. Belgium and Greece - ECHR, [GC], Application No. 30696/09

[115] European Convention on Human Rights Art.3; Art.13

Trying to solve this problem, the EU has been harmonizing migration legislation throughout fifteen years. However, its solution requires radical steps and mutual trust among Member States.

In my view, the EU's follow-up in the area of migration should be aimed, first and foremost, at consolidating the achievements of the previous three Programs, that is, at implementing the decisions taken since 1999.[116]

Along with that, a strategic approach must be established, the assessment of whether the efforts of the community on regulation the migration processes were sufficient has to carried out. The EU financial instruments should be used not only for more equitable redistribution of the burden of migration-related costs but also for enhancement of the cooperation among the Member States. In addition, the costs on the regulation of the migration should not complicate the economic situation, but rather accelerate the development of the economy, while ensuring greater openness and at the same time the security of the countries of the community.

The next program should take into account the transformation of migration processes, as well as changes taking place in the world and in the EU itself. The Members of the enlarged EU differ significantly not only in terms of economic development, but also in the characteristics of the migration situation, and therefore in the needs and intentions in this area. It is worth noting that the economic realities are the key to the determination of the future strategy, as long as the planned goals will be implemented in conditions of serious budget difficulties.

The following steps can be proposed towards the regulation of the EU migration policy:

- strengthening the EU's attractiveness for migrants through appropriate policies for their reception and providing opportunities for internal European mobility;

- improving the system of assistance to persons in need of international protection, strengthening the protection of the human rights of migrants, ensuring the special needs of persons belonging to the most vulnerable categories;

- strengthening the protection of external borders;

[116] V. Stratonov, O. Sainchin, A. Kazanchan 'Features of standard-setting processes in the conditions of adaptation of Ukrainian legislation to European Union requirements', (2016). - 267.

- the appropriate policy for the integration of migrants;

- ensuring "synergy effect" between migration and development.

Thus, new policy approaches require a broader context. They should not be limited to the sphere of security and internal affairs, that is, to the issues of admission of foreigners, visas and borders. They should be closely related to the issues of employment, education, foreign policy and the like.[117] Therefore, the form of the five-year action plan, which was used earlier, seems to be too narrow.

Migration policy measures should be consistent with other policy decisions. And the EU Commissioners, as well as the Ministers responsible for migration issues at the national level, should not be so much the executor of a certain migration program, but as the coordinators of the efforts made in various spheres of society. This approach is more in line with long-term planning, which would not only reflect the needs and interests of the Member States but also the long-term development strategy of the European Community.

Thereby, migration policy will firmly take its place in the focus of European integration. At the same time, the key issues of immigration policy are still within the competence of national governments, the general migration policy is the result of a difficult process of negotiations and compromise. In particular, today the European countries allocate a lot of funds to help the refugees, force their residents to show tolerance and to provide assistance to them, neglect local laws and the like. These actions lead to the fact that in the countries of the European Union with the emergence of migrants the Islamization is increasing, as a result of which it is safe to talk about Europe's weakness, insecurity and imperfection of the European legislation towards refugees.

Thus, in 2017, more than a million people arrived in Europe according to various statistics, which exceeds last year's figure of migration flows by almost 4 times.[118] A significant part of the refugees settle in the EU countries – they are not persons who are experiencing political, racial or social oppression in their homelands. These are people who migrate in search of favourable conditions for their residence, and the legislation of some

[117] I. Bratsuk ' Theoretical framework of the implementation of the EU law into national laws of Member States. Monograph', (2016). - 229.

[118] EU migrant crisis: facts and figures < http://www.europarl.europa.eu/news/en/headlines/society/20170629STO78630/eu-migrant-crisis-facts-and-figures > accessed 12 May 2018

States is so tolerant that refugees feel themselves masters and categorically refuses to defend the interests of the indigenous population.

In general, illegal migrants often pose a real danger to a European society, ranging from competition in the real estate and labor markets to the strengthening of the criminal situation, the emergence of hotbeds of social tension, the growth of xenophobia, extremism and terrorism. In turn, this can provoke a confrontation between the indigenous population and aliens, which may eventually develop into armed conflicts and conflicts on the territory of the European countries.

These and other problems in the field of modern migration policy make the issue of the effective migration and legal policy in the European Union one of the most relevant on the agenda at both national and supranational level. After all, illegal immigration has long become a challenge not only to the security of individual countries but also to the EU as a whole. The Europeans realized that in reality there was an urgent need to counter illegal immigration, to strengthen the coordination of actions and to improve cross-border interaction between police, border and immigration services. In this regard, it is necessary to implement a set of measures to regulate migration processes aimed at tackling the illegal migration and restraining the number of refugees from the East.

It should be noted that the basis of the problem is not only the migration policy of Europe but also the policy of "exporting countries" of illegal migrants. The war in Syria and conflicts in other Eastern countries provoke an additional influx of refugees into European territory.[119] In this regard, the existing problem requires its settlement not only in Europe but in the territory of States, where military clashes are taking place. Therefore, the EU countries need to create a coalition for the resolving the situation in Syria with the subsequent repatriation of refugees to their homeland.

The following steps should be taken in order to manage the crisis better[120]:

- to improve efforts to tackle illegal migration;

- to improve the efficiency and fairness of the asylum application process;

[119] V. Ivancho 'Constitutional and legal status of foreigners in Ukraine and EU countries: comparative analysis',(2016). - 199.

[120] Managing the EU migration crisis - From panic to planning < http://www.ey.com/Publication/vwLUAssets/ey-managing-the-eu-migration-crisis/%24FILE/ey-managing-the-eu-migration-crisis.pdf > accessed 15 May 2018

- to bring reception conditions for refugees in each country into line with EU standards;

- to create a stronger EU framework to manage economic migration;

- better communication with both migrants and the European public;

- the return of third-country nationals to their country of origin;

- to take measures to accelerate social and economic integration;

- to tackle the root causes and equip the asylum system to better respond to future crises.

Separately worth emphasizing the need of resolving the contradictions that exist today between the countries of the European Union. For example, countries that experience the largest influx of illegal migrants insist on imposing severe sanctions against those countries that do not restrain their citizens and their illegal departure to the European countries.

In turn, another group of European States is convinced that they will not be able to achieve effective socio-economic development in the near future without migrants from abroad, so they are not so categorical towards illegal migrants and the countries from which they come. In fact, they insist on regulatory rather than prohibitive measures to resolve migration problems.

In my view, all the problems considered and the necessary measures to address them suggest that the priority of European countries should be the development of an effective internal security strategy that should contribute to strengthening of citizens protection, in particular from organized crime, terrorism and other threats that have begun to arise and are increasingly emerging nowadays as a result of the uncontrolled influx of foreign refugees. This strategy should be aimed at strengthening of the cooperation between law enforcement agencies, border guards, civil protection representatives of the EU Member States.

In addition, these strategic measures should be aimed at the implementation of a common European migration policy, the creation of a common asylum system, the promotion of legal migration and intensifying the combat against illegal migration through strengthening the protection of the southern borders of the EU.

In my opinion, if the migration crisis is not resolved, it will lead to quite disastrous consequences, even to the collapse of the EU. The EU States still cannot reach a general consensus on the issue of illegal migration and they are guided mostly by their own interests, not taking into account the interests of neighbors.[121] Therefore, the key vector of the improvement of the legal aspects of the EU legislation on illegal migrants should be comprehensiveness.

In addition, it is necessary to consider the following points.

1. Accept refugees directly from the border States in an organized and safe manner. To develop norms and agree on quotas for the admission of refugees not only to European countries that are part of the EU, but also to other countries. This will allow refugees to obtain legal status and reduce the number of deaths while crossing the Mediterranean sea.

2. For those countries that are unable to cope with the flow of refugees (Greece and Italy, for example), to provide assistance and implement a program on resettlement of refugees to other European countries.

3. The EU should develop and legislate a financial strategy that would provide the means to address the illegal migration in the long term. These funds can be used for strengthening borders, developing procedures for the admission of refugees, their integration, increasing the number of jobs, etc.

4. To work on the development of a mechanism for the protection of EU borders and asylum granting to refugees. The first steps in this direction have already been made. In particular, the European border and coast guard (FRONTEX)was established.[122] But the main document under which the state is responsible for refugees remains the Dublin III Regulation, which stipulates that the responsibility for refugees lies with the country of first entry[123] (e.g. Greece), so the Dublin Regulation needs to be amended and it is necessary to develop common legal principles for the reception of refugees.

[121] V. Zagorskyi, O. Krasivskyi 'The European Union in XXI century : functioning and development. Monograph', (2016). - 631.
[122] European Border and Coast Guard Agency (Frontex) < https://europa.eu/european-union/about-eu/agencies/frontex_en > accessed 16 May 2018
[123] Dublin III Regulation Art.3(2)

5. To develop a mechanism for the movement of refugees who have received such status within the EU. Such programs should be implemented in local municipalities and supported by the goodwill of EU citizens.

6. The EU Member States should improve, simplify and make more accessible their systems of recognition of skills and qualifications for third-country nationals. Migration to Europe is overall a migration of skills. However, many migrants do not succeed in transferring their skills and qualifications into appropriate-level jobs, but are overqualified compared to the job they do, which results in «brain-waste».[124]

7. Develop mechanisms that will contribute to supporting those countries that accept refugees. This should be done in order to maintain the conditions of education, accommodation, medical services for refugees, to provide them with jobs. This will help to restrain the influx of illegal migrants to the EU.

8. Build on civil society to integrate humanitarian migrants. It is not only government which is looking to support refugees to integrate: employers, charities, immigrant associations, community based organizations and trade unions all have a role to play. For example, by implementing government policies, developing mentorship programmes, appraising refugees' skills and welcoming newcomers to the community.[125]

9. Policymakers should devise opportunities and settings for meaningful inter-ethnic socialization at the local neighborhood level. While natives overall have negative associations as concerns ethnic diversity in their neighborhood, this is not the case for natives who have meaningful and active ties with people of other ethnicities.[126]

Thus, the migration policy of the European Union requires a total revision and the implementation of new approaches for solving the problems of illegal migration. The considered directions should be combined into a single foreign policy of the European Union and, above all, into the security policy of Europe. The fight against illegal immigration should be a major strategic priority within the foreign policy of the EU countries in connection with

[124] European Commission: Understanding and tackling the migration challenge < https://ec.europa.eu/research/social-sciences/pdf/other_pubs/migration_conference_report_2016.pdf> accessed 16 May 2018

[125] 10 ways countries can help refugees integrate < https://www.weforum.org/agenda/2016/05/10-ways-countries-can-help-refugees-integrate/ > accessed 16 May 2018

[126] European Commission: Understanding and tackling the migration challenge < https://ec.europa.eu/research/social-sciences/pdf/other_pubs/migration_conference_report_2016.pdf> accessed 16 May 2018

its upcoming expansion. The prospects for further research in this area should be the analysis of migration trends of refugees and the assessment of international cooperation in the field of labor migration.

Conclusion

Eventually, as a result of the conducted research, the following conclusions may be drawn.

Migration processes have become one of the biggest challenges of the XXI century. The current state of events requires the evaluation of new options for forecasting and resolving the situation for the implementation of proper management of migration processes. The generally recognized policy of integration, which is without question considered a guarantee of stability and inclusion of immigrants in society, is declared as the main course at the national and local levels, has been discussed. Current trends, approaches and strategies at the national level sometimes show that under the concept of "integration" a forced assimilation into the host society is actually meant. The problem of immigration and integration remains a highly debated issue and is characterized by the coexistence of diametrically opposed views – the advocacy and support for multiculturalism and outright protest against modern "colonization".

Nowadays, the search for an optimal immigration and integration model continues. Modern trends in the EU migration policy reflect the contradictory nature of modern democracy. Globalization and internationalization contribute to accelerating these processes. Aggravation of political, ethnic conflicts, environmental danger, uneven economic development of countries provokes and stimulates migration. The problem of migration and adaptation of migrants is very urgent, important and ambiguous. Current trends and developments make it necessary to review and improve effective political instruments to regulate international migration processes.

The peculiarity of illegal migration is that it can be both a form of migration and its means. That is, in some cases, illegal migration has a criminal origin associated with drugs, terrorism, transportation and sale of firearms, human trafficking, etc. Most migrants use illegal migration as a means of escape from the various conflicts that occur in their country of residence. Illegal migration is connected: firstly, with the change in immigration policy, reduces the possibility of legal migration, secondly, with the desire to emigrate in any way, which is due to the hope for better conditions, thirdly, in some countries there is a need for labor, which cannot be satisfied by legal means.

Global, regional and local trends in world development affect the functioning of the European Community in various ways. New mass waves of migration are a destabilizing factor in the framework of the EU's joint internal policy and migration policy in several aspects. The migration crisis, despite its foreign policy prerequisites, significantly affects the internal functioning of the EU. Thus, for the first time, it questioned the unity of the European States and the effectiveness of the Schengen agreements.

Among the current EU legislation on migration are the following documents:

1. The Geneva Convention relating to the Status of Refugees is an international Treaty that was signed on 28 July 1951 in Geneva as a result of the UN General Assembly resolution of 14 December 1950. This is the main international document that stipulates the rights of refugees and the procedure for their treatment.

2. The Dublin Regulation (Regulation No.604/2013) is part of the EU legal framework, which defines which state is responsible for the examination of asylum applications under the Geneva Convention of 1951.

In order to regulate migration, the European Union has been developing a common policy on asylum and protection for third-country nationals crossing the external borders of its member States. The EU common policy in this area is the coordination policy of the European Union on the establishment of a single asylum status for third-country nationals; the definition of a single status of subsidiary protection for third-country nationals who, without receiving European asylum, nevertheless need international protection; the introduction of a common system of temporary protection for displaced persons in cases of their significant influx, and the establishment of common procedures for granting and withdrawing a single asylum status or subsidiary protection.

The problems of illegal migration to the EU countries have intensified especially for such countries as Italy and Greece. Greece and Italy need urgent assistance from the European Union to address the growing number of migrants from North Africa and the Middle East. The vast majority of immigrants go to Europe by sea. The East Mediterranean route from Turkey to the Greek Islands is intense. There are a lot of immigrants from Syrian and from other countries of the Middle East. Much longer and more dangerous is the Central Mediterranean sea route from North Africa to Italy.

In 2015 and 2017, there were problems with the acceptance of refugees in the EU. The European court of justice confirmed the legality of quotas for the distribution of refugees in the EU. The judges rejected complaints of Slovakia and Hungary, which demanded the abolition of the refugee allocation mechanism and invalidate the decision of the European Union on the allocation of quotas for refugees among the EU Member States. The refugee distribution Programme, adopted in September 2015 by the majority of EU Member States, provided for the distribution of 160,000 asylum seekers to EU countries. However, to date, only about 25,000 people have been distributed. Slovakia, Hungary, Romania and the Czech Republic voted against this program.

On the claim of the European Commission Court of Justice may impose fines on Poland, Hungary and the Czech Republic. The European Commissioner for Migration expressed regret that he had to take such a step. The reason is the refusal of these three countries to accept refugees from Greece and Italy on the decision of redistribution adopted by the EU in 2015. The need for a migrant reallocation Programme arose from the fact that serious divergences in the EU had emerged when Hungary and Slovakia, with the support of Poland, challenged the decision on the distribution of refugees in the EU Court of Justice. They were opposed by Belgium, Germany, Greece, Italy, Luxembourg, France and Sweden.

As a result of the study the following proposals on the improvement of legal aspects of tackling the illegal migration and migration crisis were suggested:

- firstly, it is strengthening the EU's attractiveness for migrants through appropriate policies for their reception and providing opportunities for internal European mobility;

- secondly, improvement of the system of assistance to persons in need of international protection, strengthening the protection of the human rights of migrants, ensuring the special needs of persons belonging to the most vulnerable categories;

- thirdly, strengthening the protection of external borders;

- fourthly, appropriate policy on the integration of migrants.

Thus, migration policy will firmly take its place in the focus of European integration. At the same time, the key issues of immigration policy are still within the competence of national governments, the general migration policy is the result of a difficult process of coordination and compromises.

The main directions of migration policy of the European States are the following:

1) the establishment of restrictions on the migration flow at the European level, for which it is necessary to adopt the relevant legal documents;

2) strengthening of border control in European countries, especially in southern Europe;

3) the formation of a single border service, which allows taking under special protection checkpoints on highways, airports, sea and railway stations;

4) encouraging refugees to return to their home countries and to implement appropriate programs, which give priority to the voluntary departure of immigrants;

5) to harmonize the common European legislation and the legislation of individual States in accordance with the challenges and needs of the present.

The key vector of improvement of legal aspects of the EU legislation on illegal migrants issues should be the comprehensiveness.

In addition, it is necessary to consider the following points.

1. To accept refugees directly from the border States in an organized and safe manner. To develop norms and agree on quotas for the admission of refugees not only to European countries that are part of the EU, but also to other states. This will allow refugees to obtain legal status and reduce the number of deaths while crossing the Mediterranean sea.

2. For those States that are unable to cope with the flow of refugees (Greece and Italy, for example), the assistance should be provided and a program of resettlement of refugees to other European countries should be implemented.

3. The EU should develop and legislate a financial strategy that would provide the means to address illegal migration in the long term. These means can be used to strengthen borders, develop procedures for the admission of refugees, their integration, increase the number of jobs, etc.

4. To work on the development of a mechanism for the protection of EU borders and asylum for refugees. The first steps in this direction have already been made. In particular the European cross-border and coastal security was established (FRONTEX).

5. To develop a mechanism for the movement of refugees who have received such status within the EU. Such programs should be implemented in local municipalities and supported by the goodwill of EU citizens.

6. Develop mechanisms that will support those countries that accept refugees. This should be done in order to support the conditions of education, accommodation, medical services for refugees, to provide them with jobs. This will help to restrain the influx of illegal migrants to the EU.

7. Develop national diversity and economic migration, which can reduce the degree of tension among the population towards migrants and reduce discrimination.

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Annex

The development of the modern world is impossible to imagine without processes of migration of the population. Migration crisis, which began in the EU States in April 2015 in connection with uncontrolled flow of refugees and migrants from zones of armed conflicts in Middle East as well as in number of African and Asian states with unfavorable socioeconomic conditions caused extremely negative effect on the internal political situation and the perspectives of the development of both individual Member States of the EU and European community as a whole.

Being one of globalization process manifestation, migration in large causes positive influence on the social, economic and political development of states, contributes to the integration of international community, the cultural convergence of peoples, development of productive forces. However, if migration processes have uncontrolled character, the level of state security is significantly reducing. Especially it has to be considered in the present period when the global community faces terrorist threats and violence.

The relevance of the master thesis is stipulated by exacerbation of illegal immigration problem due to the widening of the EU in recent times, which entailed improvement of national legislation and the European Law in this field. Thus, there is a necessity of the analysis of the EU law application experience in the sphere of tackling the illegal migration.

Zusammenfassung

Die Entwicklung der modernen Welt ist unvorstellbar ohne den Prozess der Migration von Völkern. Die Flüchtlingskrise, die im April 2015 die EU-Staaten mit einem unkontrollierten Zustrom von Flüchtlingen aus den Kriegsgebieten des nahen und mittleren Ostens, sowie aus sozial und wirtschaftlich instabilen Ländern Afrikas und Asiens traf, wirkte sich sowohl negativ auf die innenpolitischen Situationen und Entwicklungsperspektiven einzelner EU-Mitgliedsstaaten, als auch negativ auf die europäische Gemeinschaft als ganzes aus.

Als eine der Erscheinungsformen des Prozesses der Globalisierung wirkt sich Migration positiv auf die soziale, ökonomische und politische Entwicklung von Staaten aus und trägt zur Integration der internationalen Gemeinschaft, zur Völkerverständigung und zur Entwicklung produktiver Kräfte bei. Im Falle des unkontrollierten Charakters eines Migrationsstroms hingegen, reduziert sich die Gewährleistung einer staatlichen und öffentlichen Sicherheit erheblich. Dies sollte besonders in der Gegenwart - Zeiten in denen die internationale Gemeinschaft mit einer erhöhten Terrorismusgefahr und Gewaltbereitschaft konfrontiert wird, in Betracht gezogen werden.

Die Relevanz der Masterarbeit ist bedingt mit der Verschärfung des Problems der Illegalen Immigration bedingt durch die EU-Erweiterung in letzter Zeit, wodurch nationale Gesetzgebungen sowie das europäische Recht verbessert wurden. Folglich besteht die Notwendigkeit einer Analyse der Erfahrung der Rechtsanwendung in EU im Bereich der Bewältigung der illegalen Einwanderung.