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Irregular migration from Ukraine and Belarus to the EU: a risk analysis study

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The working paper was written in mid-2014 before the eruption of armed conflict in Eastern Ukraine therefore it does not take into account the risks for migrants, states and the EU resulted from war and the deterioration of security situation in the region.

Abstract:

The aim of this paper is to analyse, through the prism of risk theories, irregular migration at the final stage of Eastern European migratory route, i.e., migration of people originating from or transiting through Eastern Europe to the EU. Risks taken by different actors associated with migration along this route have been considered. At the micro-level these are risks borne by irregular migrants themselves. At the mezzo-level these are risks borne by states affected by irregular migration as either transit or end destinations for irregular migrants. And, at the macro-level, these are risks taken by the European Union as the supranational organisation dealing with EU-wide consequences of irregular migration. The concept of risk is the most suitable theoretical approach to be applied in the case of analyzing irregular migration. Irregular migration is regarded by states as a challenge due to its very uncertain nature – states' inability to control it and lack of information on the arriving foreigners. However, Eastern European irregular migration cannot be considered as a security threat. It is very modest both in the numbers and possible adverse consequences for all stakeholders involved. Those most exposed to danger are irregular migrants themselves. A constructionist perspective on risk typical for sociology and international relations differs from the 'traditional' realist approach, used by law enforcement agencies, with risk being perceived as 'real' and a quantifiable phenomenon. The paper attempts to reconcile with each other those both perspectives. The following risk's components have been investigated: failure and its effects; failure likelihoods and modes; failure significance.

Keywords: irregular migration, Eastern Europe, EU, risk analysis

Streszczenie:

Celem tekstu jest analiza, przy wykorzystaniu teorii ryzyka, nieuregulowanej migracji w końcowym punkcie wschodnioeuropejskiego szlaku migracyjnego, czyli szlaku migrantów pochodzących z Europy Wschodniej lub podróżujących przez ten region by dostać się do Unii Europejskiej. Analizie zostały poddane ryzyka podjęte przez różnych aktorów na tym szlaku migracyjnym. Na poziomie mikro- są to ryzyka, jakim podlegają sami nieuregulowani migranci. Na poziomie mezo są to ryzyka, na jakie są narażone państwa jako kraje pochodzenia, tranzytu bądź docelowe. Na poziomie makro są to ryzyka dla Unii Europejskiej jako organizacji ponadnarodowej zajmującej się skutkami nieuregulowanej migracji na poziomie unijnym. Koncepcja ryzyka jest najbardziej odpowiednią koncepcją teoretyczną do analizy nieuregulowanej migracji. Nieuregulowana migracja jest traktowana przez państwa, jako wyzwanie w związku z niemożnością państwa do uzyskania pełnej kontroli nad tym zjawiskiem. Z drugiej strony, nieregularna migracja z Europy Wschodniej nie może być traktowana jako zagrożenie dla państwa ze względu na niewielką skalę zjawiska i minimalne negatywne skutki, jakie ze sobą niesie. Na największe ryzyka narażeni są bowiem sami nieregularni migranci. Konstruktivistyczne podejście do ryzyka typowe dla socjologii i stosunków międzynarodowych różni się od 'tradycyjnego' podejścia do ryzyka, jakie charakteryzuje instytucje porządku publicznego, gdzie ryzyko jest uważane za policzalne i obiektywne. Niniejszy tekst próbuje pogodzić te obydwie perspektywy. Następujące elementy ryzyka zostały poddane analizie: niepowodzenie i jego skutki, prawdopodobieństwo niepowodzenia i jego formy, znaczenie niepowodzenia.

Słowa kluczowe: nieuregulowana migracja, Europa Wschodnia, analiza ryzyka

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1. Introduction

Ukraine and Belarus are part of the eastern ‘flank’ of the so-called Eastern European migratory route, which encompasses eastern borders of Norway, Finland, Estonia, Latvia, Lithuania, Poland, Slovakia, Hungary and Romania. Frontex refers to this route as to the eastern (land) border route. Ukraine remains the main transit route for both Commonwealth of Independent States (CIS) and non-CIS irregular migrants heading towards the EU while Belarus is gaining importance as a hub for mixed (complex population movements including refugees, asylum seekers and economic migrants)¹ migratory flows originating from Caucasus. Ukraine and Belarus are also countries of migrant origin, with a large number of Ukrainian nationals (and a much smaller number of Belorussian nationals) searching for jobs abroad, also in irregular manner. After the Russian Federation, EU countries are the main destination for these labour migrants.

The aim of this study is to analyse, through the prism of risk theory, irregular migration at the final stage of Eastern European migratory route, i.e., migration of people originating from or transiting through Ukraine and Belarus to the European Union (EU). We consider risks taken by different actors associated with migration along this route. At the micro-level these are risks borne by irregular migrants themselves. At the mezzo-level these are risks borne by states affected by irregular migration as either transit or end destinations for irregular migrants. Considering the variety of countries of origin of migrants coming to the EU through the Eastern European migratory route we will only analyse Ukraine and Belarus as example countries of origin. And, finally at the macro-level, these are risks borne by the European Union as the supranational organisation dealing with EU-wide consequences of irregular migration. Due to the limitation of data sources, related mainly to the fact that irregular migration is penalised by the state and thus in stays in ‘grey’ zone of social life, we will present the general typology of risks borne by each category of actors (migrants, state, EU).

Authors believe that the concept of risk is the most suitable theoretical approach to be applied in the case of irregular migration from Eastern Europe to the EU. There are several reasons for that. Although irregular migration is regarded as a challenge due to its very uncertain nature – states’ inability to control it and lack of information on the arriving foreigners – Eastern European irregular migration cannot be considered as a security threat. It is very modest both in the numbers and possible adverse consequences for all stakeholders involved. Those most exposed to danger are irregular migrants themselves. The logic of risk prevails in the approach of law enforcement agencies responsible for border and migration management, including Frontex in charge of coordination of European border management. At the same time, the risk in migration as understood in sociological or economic studies (for instance human capital theory or new economics of migration) varies differently from the one that is implemented on the practical level by states or the EU in day-to-day realisation of their migration policies.

A multi-dimensional risk analysis, which takes into account the migrant, the state and the supranational perspectives, has rarely been applied in migration studies. Intelligence-type

¹ IOM definition.

risk assessment studies usually address vulnerabilities of specific migration control systems. As scientific understanding of irregular migration is still limited, the risk-focused approach should help to enhance our knowledge of this phenomenon. A three-dimensional risk approach allows for inclusion of the individual perspective into risk analysis, usually conducted from the state perspective. Such approach helps to better understand irregular migrants' experiences and perceptions and allows us to confront these with the state and supranational perspectives on irregular migration. The risk-focused approach should also assist in exposing inconsistencies between national and supranational approaches to the risks of irregular migration.

2. Theoretical foundations and methodology

2.1. Definitions of irregular migration and risk

In the research we use the term “irregular” as opposed to “illegal” migration to avoid connotations with criminality (UN Special Rapporteur on the Rights of Non-Citizens 2003, Koser 2005). Nevertheless, the EU states often use the term “illegal migration”. For example, under the Schengen Borders Code an *illegal migrant* is any third-country national who does not fulfil or no longer fulfils conditions of entry to the host country, as stated by the EU and national legislation (Schengen Borders Code 2006). The most detailed definition of “irregular migration” (Tapinos 1999) identifies six categories of “irregularity” such as: 1) legal entry, legal stay but illegal work; 2) legal entry, but illegal residence and illegal work; 3) legal entry, illegal residence, no work; 4) illegal entry, legal (legalised) residence, but illegal work; 5) illegal entry, illegal residence, illegal work; and 6) illegal entry, illegal residence, no work. Other definitions pay more attention to irregularity as the result of barriers imposed by the state – irregular migration occurs when a person does not fully satisfy the conditions and requirements set by a host state other than his/her own to enter, stay or carry out an economic activity in that jurisdiction (Bilborrow & Zlotnik 1997).

The term “risk” has been used practically in every scientific discipline starting from mathematics, through management studies and economy, to sociology, psychology and finally political science. However in each of those disciplines the notion of “risk” has a different meaning. Moreover it is rarely used in migration studies. Thus in the publication we decided to rely on our own definition and methodological framework that we created by colliding a social science perspective on risk in migration and systemic approach used by law enforcement agencies adopted after management studies.

When referring to “risk” one often means the probability of an action taken by a particular party resulting in an undesirable impact or consequence for that party (e.g., for a migrant, migrant community, a destination state, or supranational organisation). Thus, we can define risk as “the possibility that an undesirable state of reality (adverse effects) may occur as a result of natural events or human activities” (Renn 1992). This definition assumes that an actor could make causal connections between actions (or events) and their outcomes (analysis of cause-effect relationships – not necessarily logical and comprehensive, but also intuitive), and that by avoiding or modifying these actions or events the actor concerned could avoid or mitigate their undesirable outcomes. In sociology risk is understood to be “discursively constructed in everyday life with reference to the mass media, individual experience and

biography, local memory, moral convictions, and personal judgments” (Zinn & Taylor Gooby 2006). It should be also emphasised that risk does not mean a complete lack of control over one’s future. For that reason it is often contrasted with chance/uncertainty (Williams & Baláž 2012). Risk implies the possibility of management and mitigation of an uncertainty.

The cost of risk is a significant category that has been analysed by economical theories of migration. Human capital theories assume that risks and uncertainties of migration are acknowledged by migrants but they are not explicitly quantified, instead they are taken into account into future incomes and costs (Stark 1991). According to the new economics of migration theory households control risks to their wellbeing by diversification of their incomes, for instance through engagement into migration (Massey et al 1993). Dustman (1995) assessed that precautionary savings are likely to be accumulated by migrants who face higher levels of risk.

Contrary to both disciplines described above, classical political science, e.g. political theory, looks at risk in categories of an applied science. It is a point when political science meets international business. Political risk assessments are being conducted by international companies to find out what are their chances for conducting a successful business in a certain state (Giersch 2011). In the past political risk analysis was concerned with determining whether armed conflicts, governmental collapse, regulatory changes etc. may affect a particular investment. In the recent years, the gamut of political risk analysis has widened to include international terrorism, human rights issues, environmental concerns, corruption, social and cultural issues (Griffiths et al. 2014). Irregular migration may be also one of those issues; however political studies very rarely examined that area. The only theoretical concept that pays more attention to migration and risk linkage is the notion of governmentality. First introduced by Micheal Foucault governmentality idea attempts to “tackle the problem of state and population” by understanding the state as a historical “coagulation of practises” (Valverde 2008). Governmentality proponents state that current state pays a lot of attention to a risk concept and a risk calculation and what is the most crucial – governments together with media and NGO’s play significant role in categorisation of certain social groups, e.g. refugees, irregular migrants or trafficked persons as “risky groups”. In this sense migrants are perceived as being at risk without their will, not capable to take logical conscious decisions concerning migration-related risk.

International relations and security studies pay a lot of attention to the concept of risk. Many scholars claim that EU migration policies have been increasingly linked to security policies, e.g. migration is perceived through the prism of threats to the security requiring extraordinary methods of prevention and control which in practice worsens the social environment of migrants (Bigo 2002, Huysmans 2006, Guild 2009, Gruszczak 2010). Other researchers state that a more appropriate theoretical approach to investigate links between migration and security is the logics of risk. Migration policies do not call for public attention by pointing to the exceptional character of a situation in order to gain a control over it, they rather gradually change the norms and definitions of everyday life (Niemann & Schmidhaussler 2012). Ulrich Beck associates today’s popularity of risk theories with the process of globalization where everything is cross-bordered (Beck 2000). Risks tend to be at the same moment ‘real’ and ‘unreal’. Although they did not happen yet, and may not occur at all, risks carry a practical relevance by designating and recommending present action, e.g. a

particular policy on irregular migration depends not only on the current state of affairs in the field, but on the risk analysis as well. (Beck 2000b).

2.2. Methodology

Various risk perspectives (ranging from technical approaches – through positivistic – to social constructionist) offer different conceptualizations of the particular elements comprising the definition of risk, in terms of identification or measurement of uncertainties, specification of undesirable outcomes and the underlying concept of reality.

Frontex, the EU external border agency, took a risk definition that certainly belongs to the applied science, not to theoretical assumptions over risk perception, and is very close to those accepted by management studies. Its Common Integrated Risk Analysis Model (CIRAM) defines risk as function of threat (force or pressure that is characterised by both magnitude and likelihood), vulnerability as the capacity of the system to mitigate that threat, and impact as the potential consequences of that threat. Economy and technical science prefer to use mathematic models to assess risks related to a certain phenomenon (e.g. in engineering, production or environmental sphere) or decision making process. Here through the application of quantitative risk techniques a risk models that usually assess 1) a probability of undesired event 2) estimation of losses 3) modelling risk incorporating both variability and uncertainty in probability of failure and consequences are created (Arunraj *et al.* 2013).

Social processes, particularly those hidden due to their incompliance with legal norms as irregular migration, unfortunately cannot be assessed through more precise quantified assessment methods. Therefore in our study we do not use any particular risk assessment model, but rather adapt different approaches to serve the needs of our multidimensional risk research. While we mainly conduct qualitative analysis we also pursue quantitative assessment when the appropriate data is available.

The definition of risk to be applied in this paper comprises of three main elements: 1) undesirable outcomes, 2) the likelihood of an occurrence of these undesirable outcomes and 3) how these outcomes are perceived by a bearing actor.

We will investigate the following risk's components, separately for each category of actors involved (migrants, the state, the EU):

Failures and their effects - what failure means to each specific category of actors; what categories of failure related to irregular migration may be associated with activities of migrants, source, transit and destination states and the EU as a whole; what are the potential consequences of failure for each of the actor;

Failure likelihoods and modes of failure - likelihoods of these failures materializing and the mechanics of their occurrence ;

Failure significance - how important are failures for the functioning of each actor; what measures could be adopted to avoid or mitigate the risks of failure.

This research is based on qualitative and quantitative data concerning: 1) irregular immigration of Ukrainian and Belarusian nationals to the EU and 2) irregular transit immigration through Eastern Europe to the EU. We use among others Frontex reports and other migration and border statistics data. When data on all EU countries bordering Ukraine and Belarus (Poland, Slovakia, Hungary, Romania, Lithuania and Latvia) is not available, the study focuses on Poland as the most representative regional case given the length of its

eastern border and the intensity of border crossings. We also draw on monitoring reports compiled by international and non-governmental organisations on migrants' human rights observance.

2.3. Micro-, mezzo- and macro- perspectives

At the micro level, i.e., from an individual migrant's perspective, risk is perceived as the likelihood of failure to achieve the goal of irregular migration, e.g., to reach a particular destination state and to find a job. Such undesirable outcomes may range from a failure to cross a specific border when not in possession of proper documents to failure to find undeclared employment at destination. It is then necessary to consider the effect of each type of failure and its importance for the migrant and his/her family/household.

At the mezzo level, risks for the destination and transit states are the functions of possible unwanted outcomes of irregular migration. Among other these are: threats to public security related to human trafficking and smuggling activities, an increase in the informal sector of economy, threats to social cohesion in receiving societies, rise of xenophobia, inability to effectively integrate migrants. Risk may also derive from organisational failure of the institutional structure in competence of migration and border management. At the same time, some irregular migration may actually be wanted by receiving states, thus not perceived as risk, as it facilitates relatively a fast inflow of required low-skill labour force with no additional social burdens. And, as in the public discourse irregular migration is often associated with security threats, there is risk that both the political elite and the society at large may oppose even moderate levels of migration, desirable for economic or demographic reasons.

Institutionalization of migration and asylum policy at the EU level that we have been observing for the last two decades interacted with the securitization of migration, rapid increase in number of irregular migrants coming to the EU through the Mediterranean routes, as well the growth in the number of (sometimes unjustified) asylum applications. We shall try to see how these factors influence the way Eastern European migration is perceived at the EU level (at the macro perspective). Of interest are the main risks for the EU associated with irregular migration from Eastern Europe, the undesirable outcomes of that phenomenon and their significance at the EU level.

3. Micro-perspective: migrants' failure of irregular migration - modes, likelihood, significance and effects

What is the goal of an irregular migrant? Usually, to reach the destination country via legal or illegal channels and to find in that country unofficial work to support him/herself and his/her family. This may be considered a successful irregular migration for both those who attempt to migrate only temporarily, such as labour migrants, and those who have more long-term plans in regard to the country of destination, such as victims of armed conflicts. However, a number of potential events during this journey may result in its failure. What are these possible events adding up to failure? In other words – in what way does failure occur? What is the likelihood of these events occurring? How many of such events have to occur for a migrant to fail reaching his/her final objective? To what extent are these migrants aware of these possible unwanted outcomes? And what will be the effects of failing – i.e. not reaching

their destination and finding a financially decent job? What is the significance of failure for the migrant and his/her family? We can ask also – which categories of irregular migrants are at what risks?

Migrants carry out a risk assessment process when it comes to the choice of their migration destination. They weigh the safety of one destination country against potential higher financial gains as well as higher risks of another. The migrants assess the migration related risks against those they face in their country of origin, which may be mild or severe. Irregular migrants may be concerned with a string of risks, depending on the information – its quality - about their migratory route and destination they have received. In general, such information is passed through migrant networks and ties. This information is usually shared in the form of stories that are retold several times, having their culmination points and not necessarily being close to the facts (Kindler 2012). The information can be distorted, migrants wanting to hide their failures – minimising the risks in the story they share. They may also do the opposite – inflate the threats to underline their bravery and success or to stop others from going (due to concern for their wellbeing or seeing them as potential competitors). On that basis migrants construct the image of the potential dangers of failure. This means that they remain unaware of a number of risks related to their future journey.

To illustrate the potential risks from the perspective of irregular migrants let us analyse the paths of the two types of migrants along the Eastern European route: first - transit migrants, second - non-transit migrants i.e. Ukrainian and Belarusian nationals. Transit irregular migrants from other CIS states, South Asia and Africa are engaged in risky behaviours, including the use of smuggling channels to cross borders illegally, while irregular migration of Ukrainian and Belarusian nationals to the EU manifests itself mostly in undeclared employment and to some extent overstaying. Among these types we can distinguish a number of diversifying factors increasing the possible risk with women or migrants travelling with dependents seen as more at risk of different negative outcomes of irregular migration.

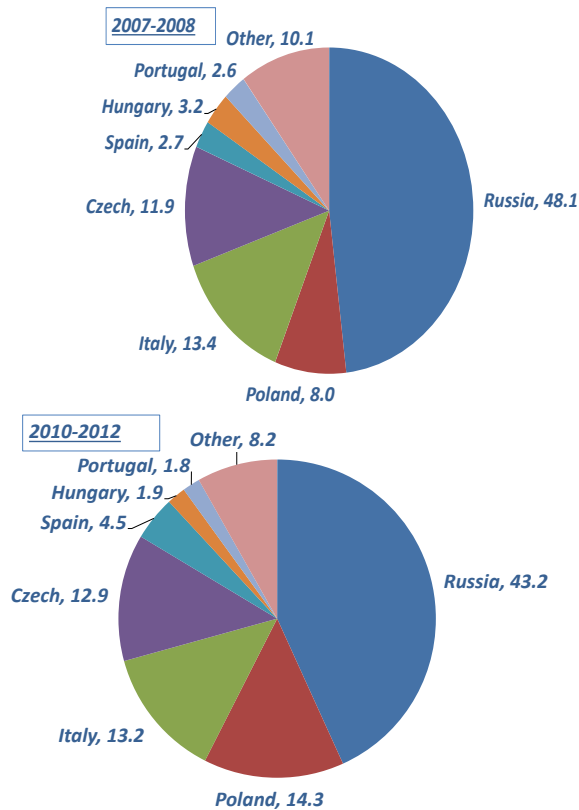
Before engaging in this exercise, let us remind the reader that failure likelihood of irregular migration is difficult to approximate as the actual numbers of irregular migrants who have successfully completed their journey are unknown. According to the estimates in 2008 from 1.9 to 3.8 million irregular migrants resided in the European Union (27 Member States) (Clandestino 2009). But we do not know how many of these have used the Eastern EU border to enter the EU. Meanwhile, in 2011 the number of apprehended irregularly staying non-EU nationals was approximately 468 500. In 2012, at Eastern land border EU MS border guards recorded 1597 apprehensions of illegal border crossers through the “green” border, while the Ukrainian, Belarusian and Moldovan border guards apprehended 3702 people (see Annex, Table 2). Deputy Chief Commander of Ukrainian Border Guards claimed that around 30,000 irregular immigrants were staying in Ukraine in 2012 (Interview with Deputy Chief Commander of Ukrainian Border Guards P. Shhysholin 2012). However it is not clear how that number was estimated. Nevertheless, it appears to be realistic if we assume that only every seventh or eighth irregular migrant has been apprehended (about 2000 persons were apprehended for irregular border crossing and around the same number for irregular stay in the country). Thus, we can assume that the failure likelihood for migrants crossing illegally

the Ukrainian and Belarusian border is rather small, but failure likelihood when crossing the EU border is relatively higher.

At the peak of labour migration from Ukraine around the turn of the century, it was estimated that 2-3 million Ukrainians were working abroad (Malynovska 2011, Jaroszewicz & Szerepka 2007). According to the results of the first nation-wide Ukrainian survey of labour migrants conducted between 2005 and 2008, 1.5 million Ukrainians, or 5.1% of working age population, worked abroad (State Statists Committee of Ukraine 2009). The second labour immigration survey, performed in 2012, showed a decrease down to 1.2 million Ukrainians working abroad or 4.4% of the working age population (National Statistical Service of Ukraine 2013). The actual number is most likely to be higher as the estimate excludes those who decided to settle abroad with their whole families. It can be also assumed that migrants, who went abroad irregularly, particularly if they crossed the border illegally, would not want to divulge information about their irregular migration experience to an investigating researcher. Using the results of 2008 survey Pozniak assessed the number of Ukrainian labour immigrants abroad as 2.1 million (Pozniak 2012). According to calculations of the EU Neighbourhood Migration Report 2013 as many as 1.052,184 Ukrainian nationals were residing in the EU in 2012 (Fargues 2013).

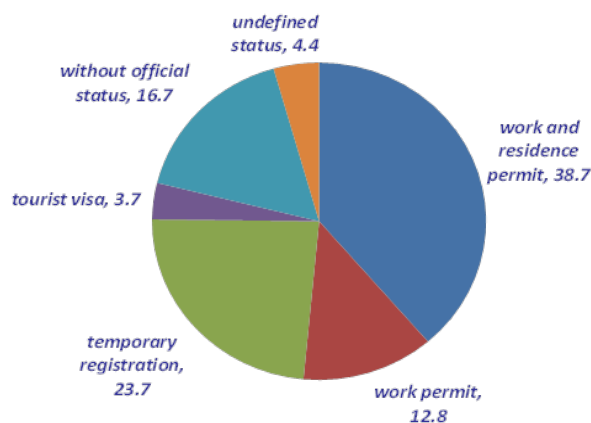
It is not possible to estimate the proportion of irregular migrants in the stock of Ukrainian labour immigrants in the EU. As shown in Figure 2, in 2008 only 38% of interviewed Ukrainian migrants declared that they had 'full' legal status (both work and residence permits). Others were subject to different forms of irregularity. However, only 16.7% had no "official status at all". The results of 2007-2008 survey of Ukrainian immigrants in Russia and the EU conducted by Caritas Ukraine and Ukraine's National Academy of Science showed that most Ukrainian migrants were residing illegally in their destination countries (Markov 2009).

Figure 1. Main destinations countries for Ukrainian labour immigrants*



Source: Data from the first and second nation-wide Ukrainian survey of labour migrants conducted by the Ukrainian Statistical Service and Ukrainian Centre for Social Reform (in the second survey by the Ukrainian Academy of Sciences ordered by International Labour Organisation).

Figure 2. The irregularity patterns of Ukrainian labour immigrants abroad



Source: Data from first and second nation-wide Ukrainian survey of labour migrants

The investigation of border crossing flows data may bring some clues. As Table 3 (see Annex) reveals, the number of Ukrainian nationals apprehended by the Polish Border Guard

for illegal border crossing peaked in 2008-2009 and then decreased. In 2012, a record number of short-term Schengen visas – 1 284 908 – was issued to Ukrainian citizens (European Commission 2013a). Simultaneously the number of refusals of entry and apprehensions for illegal stay in country has grown among Ukrainian nationals in the whole EU (Frontex 2013b). Migrants have also started to use false entry/exit stamps in attempt to conceal overstay in the EU.

Table 1. Main irregular migration indicators for EU eastern land border in 2012: Frontex data

| Indicator | EU totals | EU Eastern land border | Share of EU total (%) | Sub-total for Ukraine, Belarus, and Moldova |
|---------------------------------------|-----------|------------------------|-----------------------|---|
| Illegal border crossings between BCPs | 77 437 | 1 597 | 2.1 | 3 702 |
| Clandestine entries | 591 | 5 | 0.8 | 6 |
| Facilitators | 7 720 | 39 | 0.5 | 96 |
| Illegal stay | 344 928 | 7 761 | 2.3 | 32 373 |
| Refusals of entry | 115 305 | 39 749 | 34.0 | 28 588 |
| Applications for asylum | 272 208 | 30 460 | 11.0 | 271 |
| False travel documents | n.a. | n.a. | n.a. | 236 |
| Return decisions issued | 269 949 | 36 973 | 14.0 | n.a. |
| Effective returns | 159 490 | 20 461 | 13.0 | n.a. |

Source: Frontex Eastern Borders Annual Risk Analysis 2013

Table. 2 Illegal border crossing between BCPs and at BCPs in 2010-2012 at Eastern European route: numbers and main nationalities
Between BCPs

| Top nationalities | 2010 | 2011 | 2012 |
|--------------------|-------|-------|-------|
| Ukraine | 2 077 | 2023 | 1475 |
| Moldova | 1 933 | 1 384 | 937 |
| Georgia | 431 | 544 | 645 |
| Russian Federation | 677 | 590 | 510 |
| Somalia | 127 | 201 | 342 |
| Afghanistan | 259 | 268 | 328 |
| Belarus | 237 | 266 | 198 |
| Vietnam | 58 | 42 | 193 |
| Bangladesh | 3 | 15 | 100 |
| Not specified | 30 | 36 | 86 |
| Others | 377 | 403 | 4 85 |
| Total | 6 209 | 5 772 | 5 299 |

At BCPs

| Top nationalities | 2010 | 2011 | 2012 |
|--------------------|-------|-------|-------|
| Ukraine | 1 175 | 1 495 | 1 192 |
| Moldova | 580 | 624 | 566 |
| Russian Federation | 187 | 139 | 98 |
| Romania | 42 | 77 | 73 |
| Tajikistan | 118 | 90 | 53 |
| Belarus | 62 | 37 | 43 |
| Kyrgyzstan | 99 | 81 | 34 |

| | | | |
|---------------|-------|-------|-------|
| Not specified | 49 | 29 | 24 |
| Poland | 12 | 9 | 11 |
| Georgia | 10 | 8 | 10 |
| Others | 156 | 161 | 132 |
| Total | 2 409 | 2 750 | 2 236 |

Source: Frontex, Annual Risk Analysis 2013; EU data and Ukrainian, Belarusian and Moldovan border statistics

We may assume that irregular migration of Ukrainian nationals most likely exhibits a downward trend (see Table 1). However, a significant number of irregular immigrants is probably staying in the EU. The economic crisis in the EU might have prompted some of them to return to their country of origin. And there are not too many ‘newcomers’. Most probably the same stock of irregular migrants travels through the EU in search of better employment possibilities, returns to Ukraine, and then explores opportunities to enter the EU again, thus, operating as circular migrants.

If the phenomenon of Ukrainian labour immigration has not yet been studied in depth, the data available for Belarus are even more patchy. The difference between the able-bodied population of working age and the number of people both employed and unemployed² totals around 1 million, which indicates that many of these statistically “missing persons” may be working abroad (Yeliseyev 2012, Luchenok and Kolesnikova 2011). At the same time, it is likely that Belarusian citizens are not willing to migrate to work in the EU because of the statist approach to employment protection in Belarus and job opportunities in Russia available under the Union State and now Customs Union arrangements (Shakhotko & Bobrova 2012, Titarenko 2012). There is, however, a small Belarusian diaspora in the EU (Germany, Lithuania, Latvia, Estonia, Poland) that left the country for political or economic reasons. The EU data show that in 2010 only 58,006 Belarusians resided in the EU member states (CARIM East database). However, the EU Neighbourhood Migration Report 2013 calculated that 285,187 Belarusian nationals stayed in the EU in 2012, mainly in Poland, Latvia and Lithuania (Fargues 2013). Unfortunately there only few studies of Belarusian immigrants carried out in the EU MS (Brunarska & Lesińska 2014; Chubrik & Kazlou 2012).

3.1. Transit migrants

We can divide irregular migrants transiting Ukraine and Belarus into two groups: migrants from CIS area and migrants from Asia and Africa. The character of irregular migration of these two groups differs and so does their failure.

Table 3. Apprehensions of ‘illegal migrants’ at Ukrainian borders*

| 1999 | 2005 | 2011 |
|--------|-------|-------|
| 14 651 | 6 614 | 1 828 |

Source: Ukrainian Border Guard Service

Note:* By ‘illegal migrants’ Ukrainian Border Guard Service considers third-country nationals from the so-called states of migration risk; the actual numbers of persons apprehended for illegal border crossing are higher (in 2008 - 6,100 , in 2009 - 4,800, in 2010 - 4,800).

Table 4. Illegal border crossing/illegal border crossing attempts detected by Polish Border Guards in 2007-2013

| Country of origin | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 (Jan-May) |
|-------------------|------|------|------|------|------|------|-------------------|
| Ukraine | 654 | 2309 | 1085 | 289 | 153 | 98 | 20 |
| Belarus | 44 | 175 | 63 | 91 | 144 | 10 | 3 |
| Russia | 249 | 303 | 211 | 215 | 131 | 39 | 29 |
| Georgia | 26 | 39 | 79 | 130 | 64 | 45 | 37 |
| Moldova | 120 | 263 | 80 | 48 | 15 | 8 | 1 |
| Afghanistan | 1 | 11 | 4 | 11 | 9 | 37 | 0 |
| Turkey | 29 | 43 | 68 | 51 | 77 | 11 | 0 |
| Vietnam | 52 | 108 | 79 | 31 | 13 | 37 | 12 |
| Pakistan | 17 | 18 | 12 | 3 | 3 | 63 | 3 |
| Somalia | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Source: Polish Border Guard statistics

Table 5. Apprehensions for illegal border crossing 2010-2013 recorded by the Polish Border Guard at border sections with Ukraine and Belarus by main nationalities

| Year | Border with Ukraine | Border with Belarus |
|----------------|--|---|
| 2013 (First Q) | 146 (mainly Ukrainians) | 137 (Belarusians, Georgians, Russians) |
| 2012 | 722 (mainly Ukrainians, Turks, Georgians, Moldovans) | 447 (Belarusians, Georgians, Afghans, Russians) |
| 2011 | 758 (mainly Ukrainians, Moldovans, Afghans) | 196 (mainly Belarusians, Russians) |
| 2010 | 924 (mainly Ukrainians) | 143 (Belarusians, Vietnamese, Russians) |

Source: Polish Border Guard statistics

Table 6. Number of irregular migrants' groups revealed by the Belarusian MIA

| Year | Revealed groups of irregular migrants | Number of foreigners in groups |
|------|---------------------------------------|--------------------------------|
| 2006 | 26 | 127 |
| 2007 | 8 | 53 |
| 2008 | 13 | 70 |
| 2009 | 9 | 41 |
| 2010 | 5 | 21 |
| 2011 | 4 | 17 |
| 2012 | 12 | 74 |

Source: Ministry of Internal Affairs of Belarus*

Note: *MIA is responsible for the detection of irregular migrants inside the country and at the Belarusian-Russian borderland

Table 7. Number of irregular migrants staying at the main Migrant Accommodation Centres (MACs) and Temporary Holding Facilities (THFs) in Ukraine in 2010-2012

| Period | Volyn MAC | Chernihiv MAC | Chop THF | Mukachevo Dormitory for Women and Children | Total | Main countries of origin |
|-----------------|-----------|---------------|----------|--|-------|---|
| 2010 Jan-March | 376 | 382 | 211 | 69 | 1038 | Afghanistan, Pakistan, Georgia, Vietnam, Somalia, Ukraine, Russian Federation |
| 2010 April-Jun | 342 | 341 | 401 | 110 | 1194 | Afghanistan, Vietnam, Somalia, Georgia, Ukraine, Pakistan, Moldova |
| 2010 Jul-Sept | 282 | 342 | 412 | 108 | 1144 | Afghanistan, Vietnam, Somalia, Georgia, Moldova, Pakistan |
| 2010 Oct-Dec | 277 | 397 | 355 | 122 | 1151 | Afghanistan, Somalia, Georgia, Moldova, Russia |
| 2011 Jan-March | 151 | 364 | 114 | 43 | 672 | Somalia, Afghanistan, Georgia, Russia |
| 2011 April-Jun | 116 | 264 | 257 | Facility closed | 637 | Somalia, Afghanistan, Georgia, Moldova |
| 2011 Jul-Sept | 191 | 172 | 323 | Facility closed | 686 | Somalia, Georgia, Afghanistan, Moldova |
| 2011 Oct-Dec | 312 | 155 | 202 | Facility closed | 669 | Somalia, Afghanistan, Georgia, Vietnam |
| 2012 Jan-March | 402 | 183 | 111 | Facility closed | 696 | Somalia, Afghanistan, Russia, Vietnam, Georgia |
| 2012 April-June | 346 | 216 | 263 | Facility opened as Mukachevo TFH | 825 | Somalia, Afghanistan, Moldova, Eritrea, Bangladesh, Russia |
| 2012 Jul-Sept | 369 | 289 | 200 | 44 | 858 | Somalia, Afghanistan, Georgia, Bangladesh, Moldova |
| 2012 Oct-Nov* | 246 | 195 | 110 | 17 | 551 | Somalia, Afghanistan, Bangladesh, Georgia |

Source: Own calculations based on IOM-run Observatory Mechanism data.

Note: *Data for Dec 2012 is not available.

Transit migrants from CIS area

Migrants from CIS area transiting Ukraine and Belarus are mainly Georgians, Russian citizens originating from North Caucasus and Moldovans. As a rule, they legally enter the territories of Ukraine and Belarus and then they either 1) illegally cross the EU border or 2) claim asylum (either already in Ukraine or Belarus or when crossing the EU border) and attempt to then illegally cross the EU border. They rarely use the service of organized crime groups specialized in people smuggling. Having successfully crossed the border without proper documents they continue among others through Poland to countries in Western Europe – we can assume Germany to be one of such destinations (see for example IOM 2008).

The main event causing irregular transit migrants to fail is not reaching the country of destination in the EU. For migrants from CIS area this can occur when a migrant is apprehended at one the borders he/she has to cross. For those who apply for asylum in Ukraine or Belarus and attempt later on to continue their journey further west failure may

occur when caught by border authorities already inside the EU. For example, a number of migrants from Georgia have been recently claiming asylum in Belarus. They either arrive in Minsk directly by air or enter Belarus through uncontrolled border with Russia. Afterwards they attempt to illegally cross the Belarusian border with Lithuania, Poland or Latvia, usually at the “green border” sections (Frontex 2013b). According to Belarusian sources, irregular migrants often use false travel documents when attempting to cross the Belarusian-EU border (Belapan Press Agency 2011). Although there was an increase in 2012 of illegal border crossing attempts at the EU Eastern border, the number of apprehended migrants from CIS area at the Lithuanian-Belarusian and Polish-Belarusian border sections was not that high, because the Belarusian Border Service has reduced its surveillance of the EU border sections as well as exit control at western borders due to financial constraints (Belapan Dec 2012). This means that the likelihood of this event leading up to failure is rather low. In the Western Belarusian city of Brest, a migrant accommodation centre was opened in 2007 with the assistance of international community. Although international organisations have access to this facility, no information on the numbers, nationalities and detention conditions is currently available.

The failure’s effects of not reaching the country of destination faced by CIS irregular transit migrants are primarily of economic character, but also to some extent a security one. The economic effects may involve the inability to get a job and send remittances to family left home as the result of the interception and forced return. The effects for the migrants’ safety range from loss of freedom due to detention or ‘getting stuck’ in the asylum procedure in Ukraine or Belarus (Uehling 2004).

Transit migrants from Asia and Africa

Migrants from Asia and Africa who illegally cross Ukrainian and Belarusian borders with Russia or use flight connection and afterward are smuggled through the EU borders originate primarily from Afghanistan, Somalia and Vietnam. The port of Odessa together with Luhansk and Sumy on the Ukrainian-Russian frontier are (used to be before the eruption of armed conflict in Eastern Ukraine) the main entry points for those migrants. We can assume that likelihood of failure in the case of migrants from Asia and Africa is relatively higher than that of CIS migrants, knowing that Somalis and Afghanis constitute around half of all irregular migrants apprehended. This group also relies more often on smugglers, which increases also the likelihood of being cheated by these ‘intermediaries’ or becoming victims of human trafficking. What is known as that those who attempt to enter the EU are mainly caught in the Transcarpathian region (Zakarpattia oblast), where Ukraine borders Slovakia and Hungary (in the West), Romania (in the South) and Poland (in the North). Proximity of few EU border sections along with hilly terrain makes the region particularly prone to irregular migration. The Ukrainian-Slovakian section is most exposed to illegal border crossing, despite equipping Slovak part of the border with the system of technical protection and permanent monitoring (EMN Slovakia 2012).

The failure’s effects of not reaching the country of destination faced by this group of transit migrants are both of economic character and a security one. The economic effects, similar as in the case of migrants from CIS, involve the inability to get a job and send remittances to family left home (and to repay debt) as the result of the interception and forced

return. However, due to the costs of the journey – the significance of failed irregular migration although potentially severe in the case of CIS migrants, may be assumed to be catastrophic for migrants from Asia and Africa. Another effect of failed irregular migration is ‘getting stuck’ without a proper legal status in Ukraine or Belarus, having to cope with lack of opportunities for gainful employment (Uehling 2004). The significance of failure may be in this scenario less severe than in the case of forced return, with migrants attempting to function in the informal labour market in Ukraine.

The effects for the migrants’ safety in this group range from loss of freedom due to detention, loss of health due to physical abuse, to other forms of exploitation by smugglers or traffickers. Not knowing the geographic location and weather conditions they may get ill or even die (however such cases are very rare along the Eastern European migratory route) when illegally crossing the border. Particularly vulnerable are single women, families with children and unaccompanied minors.

As far as irregular border crossing is concerned, for those migrants who are caught and are detained, the impact of failure is severe and potentially catastrophic. The consequences of detention in Ukraine and Belarus mean for migrants the lost chances of a normal life (education of minors, and having a family/being with family). Detention also translates into additional costs of failure, which decreases the likelihood of continuing their migration journey. Basic minimum standards that guarantee health (both physical and mental), safety, and access to social services are often not met.

3.2. Non-transit migrants

By non-transit migrants we refer here to Ukrainian and Belarusian labour migrants. The irregularity of Ukrainian and Belarusian migrants in the EU is primarily due to undeclared work (Adamiec 2008, Antoniewski & Koryś 2002, Kindler 2012, Kindler & Szulecka 2010, Marouf, Lesińska & Brunarska 2014, Nikolova & Szulecka unpublished, Shakhno & Pool 2005, Uehling 2004). The main objective of migrants from Ukraine and Belarus is to earn unofficially abroad. One of the most obvious events that may result in failure of reaching this objective is being caught for violation of rules of stay and work and not being allowed to re-enter the country of destination (meaning one’s work place). By engaging in undeclared work they violate the rules of both stay and work. Usually when Belarusians or Ukrainians are apprehended by the EU law enforcement agencies they are ordered to leave the country, sometimes they are not allowed to enter the Schengen territory for a certain period of time. However, the number of irregular migrants being caught working in an undeclared fashion has been small. For example, in Poland in 2009-2012 1908 Ukrainians and 78 Belarusians were found to be working without work permits (General Labour Inspector 2013). This means that the likelihood of being caught while working unofficially is small, thus the actual failure of irregular migration due to this event is small.

In general, Ukrainian and Belarusian migrants enter the EU in a legal fashion – having a short-term visa or using one of the official channels of entry. However, they experienced a change in entry conditions in such destination countries as Poland from non-visa entry when Poland was still not a member of the EU, to increasing restrictions with the introduction of visas, and not with a period of relaxation of entry restrictions. Not being able to receive the necessary travel documents (among others rejected visa application) or being refused to enter

at the border – meaning not being able to legally enter the EU - is an event, which may result in failure of irregular migration. However, In 2012, a record number of short-term Schengen visas – 1 284 908 – was issued to Ukrainian citizens (European Commission 2013a). Simultaneously the number of refusals of entry has grown among Ukrainian nationals in the whole EU (Frontex 2013b). Thus, the failure likelihood due to not receiving a visa is rather low, however it has increased in the case of entry refusal.

Overstaying is currently an important event increasing the likelihood of failure in the case of Ukrainians. In 2012 the number of apprehensions for illegal stay in country has grown among Ukrainian nationals in the whole EU (Frontex 2013b).

Another event that may lead to failure is not finding/retaining a job in the destination country. The chances of this to happen have increased due to the ongoing economic recession in some EU members states such as Spain. However, apart from the construction sector, most of the migrants work in jobs that have not been much affected by the crisis. Not being able to retain the job is however linked also with the first event mentioned, as well as with the costs and time involved in getting a visa.

Finally, an event that may lead to failure of irregular migration in the case of non-transit migrants is linked to the unofficial character of work. Such work may due to its exploitative nature does not produce the expected income, thus not allowing migrants' to reach their objective - to send remittances home, and/or to support oneself in the host country, and what can follow is also loss of health. The character of work places (households, small farms, etc.) of the migrants increases the risk of labour exploitation, for example, the possibility of not being paid the agreed amount or anything at all.

The mode of irregular migration impacts the likelihood of failure. For example, the circular character of irregular migration allows Ukrainians to minimise the risks of being detained or subjected to forced expulsion, the migrants having a façade legal tourist status of stay (decreasing the likelihood of failure). A more liberal visa policy of Schengen states, particularly of neighbouring ones, allows Ukrainian and Belarusian citizens to relatively easily obtain a tourist Schengen visa. Those who cannot provide required accompanying documents or prove that they possess sufficient financial means, often resort to the assistance of companies who provide them with false supporting documents or bogus invitations (authors' interviews with migration experts). The procedure of granting of the so-called Card of a Pole or a Card of a Hungarian to persons of Polish or Hungarian origin, that facilitates access to residence permit in these EU states, may also lead to some abuses or arbitrary decisions since the legal definition of such a subjective category as one's ethnic origin causes many difficulties (Łodziński 2008). Finally, when deciding to illegally cross the border (mainly Ukrainian-Polish, Ukrainian-Slovak and Belarusian-Lithuanian sections), Ukrainian and Belarusian nationals usually do not use the facilitators' assistance, they rather cross the border on their own in small groups (Frontex 2013b). This means that they are not exposed to the potential abuses by smugglers, as are transit migrants. However, they are relying then on the trustworthiness of their own migrant networks, whose members also may be deceptive. Some of the Belarussian and Ukrainian migrants overstay the officially allowed period of stay in the host country not wanting to lose their job.

The failure's effects experienced by expelled Ukrainian and Belarusian migrants, who treat particular destination countries as their 'work-place' and often the only source of

income, are economic and indirectly social – the moment they are refused a travel document, refused entry or deported, they cannot earn and support their dependents and both the material and social status of the family deteriorates.

Migrants use various strategies to overcome failure and continue their irregular migration. They sometimes attempt to falsify the exit stamps when leaving the EU or acquire new passport after returning home that would not contain travel ban stamp placed by the EU border guard or immigration police however the creation of electronic databases by Ukrainian border guards and Ministry of Interior makes this behaviour more risky (authors' interviews with migration experts). Migrants also misuse opportunities created by the aforementioned Polish scheme of temporary migration which allows them to obtain work-visas, after presenting at the consulate an invitation from the future employer, but subsequently not to show up at the designated workplace. But the scale of this phenomenon is unknown (State Labour Inspector 2012).

Important in discussing the failures' significance for irregular migrants from Ukraine is the degree to which the household in Ukraine is dependent financially on the remittances sent by the migrant – and in many of the studied cases they seem to be very much dependent (Kindler 2012, Kupets 2012, Leontiyeva & Tollarová 2011).

There are a number of costs related to engaging in irregular migration per se, such as the inability to adapt in the host society, even in very limited way. For legal reasons institutional and social exclusion of irregular migrants has become a part of their everyday experience. Moreover, social intolerance and xenophobia may further narrow the social space that migrants function in. This may reduce their chances of finding an irregular job or shifting from irregular to regular legal status. Irregular patterns of stay/work may also lead to other economic negative effects: failure to develop professionally with the attendant loss of professional credentials when migrants are employed in jobs below their qualifications, failure to provide adequate savings for retirement, and so on.

Irregular migrants – both transit and non-transit face risks that are 1) systemic – due to particular political and economic conditions – in the country of origin and destination, 2) that are human-induced (for example, being cheated by smugglers) and that are 3) the outcome of the character of work they engage into (usually DDD –dirty, dangerous and dumb jobs). All of these are linked or the likelihood of their occurrence is increased by irregularity in one way or another.

4. States failures: effects, modes, likelihood and significance

The state's failure as such is the undesired presence of irregular migration in country, particularly when the scale of irregular migration is high, when it is resented by the host society, and/or results in a significant social cost when irregular migrants are to be assisted by the host community. From the states' perspective, we may speak either of the policy failure (society is hostile towards foreigners, zero migration policy in its place and others) and/or failure of policy implementation (border surveillance or migration management system is working poor). If we look at the possible failures for the migration and border management systems we may assume that each case of irregular border crossing, undeclared stay or illegal work of migrants constitute potential failure for those systems. The failure of states is also a particular (mis)perception of irregular migration by their political elites and societies.

4.1. Failure effects

Ukraine and Belarus are countries of origin of irregular migrants and thus they face various failure effects related to human capital outflow but also irregular nature of that phenomenon. Their failure with regard to Ukrainian and Belarusian emigrants is the inability to manage emigration originating from their states – lack of bilateral agreements with countries of destinations, which would guarantee migrants legal channels of entry, stay and work, including social security measures etc. All that require from states of origin additional efforts if they desire to efficiently re-integrate returning migrants. In those circumstances, failure's effects for Ukraine and Belarus may be twofold: firstly those state loose workforce and worsen their demographic position, secondly because their migrants stay illegally abroad they have a group of vulnerable citizens abroad who are not protected by any safety nets.

For a state that is a transit state or receives irregular migrants, a state failure's effect is also lack of institutional and political solutions to effectively manage immigration. A state receiving irregular migrants may turn a blind eye to the presence of irregular migrants and consider it beneficial for its economy (e.g., cheap labour force). On the other hand, it may attract a large number of irregular labour migrants resulting in excessive growth of the “informal economy”, and a potentially growing group of people vulnerable to exploitation.

The main financial failure's effects for the transit or destination state are caused by those irregular migrants who either ask for asylum either are unidentified and require costly identification procedures or come from distant locations and thus the state requires additional funds for their accommodation and eventual return. In particular case of those EU states that neighbour Ukraine and Belarus we may distinguish the organizational and financial burdens related to increasing number of asylum claims from inhabitants of North Caucasus and Georgia. If previously, particularly during armed conflict in Chechnya and later Russian-Georgian war, the recognition rate of asylum claims was pretty high, it seems that most of current (2011-2013) asylum claims are rather submitted by economic migrants who are using that legal loophole to get into the EU territory. Moreover additional financial and organisational encumbrance may be experienced by small states like Slovakia or Lithuania whose borders are prone to irregular migration. The other problem is related to existence of migrants who cannot return to their states and cannot move to desired destination due to absence of legal status. Many return decision cannot be implemented due to the lack of cooperation with the countries of origin or because of problems with migrants' documentation. And, EU countries are not always willing to regularize the status of 'unreturned' foreigners, who in consequence are forced to participate in irregular migration flows inside the EU.

However, if irregular migrants constitute significant share in overall number of migrants either/or it is in economic or humanitarian interest of a given state, it may decide to conduct so-called regularization (legalization) campaigns among irregular migrants. Then the risk of failure related to the growing number of migrants with no legal status of whom states have no knowledge decreases, however such campaigns require financial resources and may stimulate further irregular immigration. If economic situation of a given country is not favorable, it may lead to the higher number of unemployed immigrants as previous employees may not require to hire previous employees due to increased labour costs. So far Italy, Spain, Portugal, Greece

and Poland conducted regularization campaigns which among others covered Ukrainian irregular workers. (Kraler 2009)

Another negative outcome related to irregular migration, however in indirect way, is a rise in a number of asylum seekers coming to the EU through Ukraine and Belarus. As recent Frontex reports state asking for asylum by economic migrants has been recently exploited as a way to enter the EU (Frontex 2013a). Almost all the main nationals that claim asylum in the EU exploit Eastern migratory route. In 2012 Afghan nationals with 26,000 applications headed the list followed by, among others, Russian nationals with 23,000 applications, Somalis with 12,000 and Georgians with 10,000 applications. The increase in asylum applications lodged at the EU borders with Ukraine and Belarus has heavily burdened asylum systems of few EU member states. This also includes Germany as a state where a quarter of all asylum applications in the EU are lodged (Frontex 2013a).

Another affected state is Poland with significant increase in asylum claims from Russian and Georgian nationals. This tendency is even more worrying since the numbers for the first half of 2013 shows that asylum dynamics may be much higher than in 2012. Since 2010 most of the asylum applications lodged in Poland have been rejected as they neither met the criteria required for a refugee status nor for subsidiary protection. It appears that most of current asylum claims are submitted by economic migrants and the observed growth in a number of applicants reflects the worsening economic conditions in countries of origin, smoother travel possibilities and the stronger facilitation networks. (Polish Office for Foreigners 2013).

Since most failures and its effects for the states stay in the realm of policy, a perception component may actually decide whether a particular occurrence may be treated as failure or no. The public discourse in the EU on irregular migration is exceptionally unfavourable which seriously influence a perception of failure of irregular migration in both the EU states and Ukraine and Belarus. After 2005, with the increase in irregular migrant flows through the EU southern border, irregular migration has become a declared 'public enemy' in many EU states (Triandafylidou & Ilies 2010). Discourse on the impact of irregular flows through the Eastern route has not been as vocal as that concerning migration through the Mediterranean route. The issue has been on the periphery of public debate in major destination countries for Ukrainian migrants, e.g. in Central and Southern Europe. However the situation may change very quickly. Following recent events in Ukraine, both EU politicians and the media within have canvassed the possibility of a large inflow of Ukrainian refugees.

4.2. Failure likelihoods and modes

Irregular migration by its very nature is an unregistered phenomenon and the data that states possess as a rule relate to identified/detected irregular migrants. Due to the poor quality of data we are neither able to present qualitative estimates of the expected risk of failure nor the data on stocks and flows of irregular migrants moving along the eastern migratory route. The same also applies to assessments of likelihoods of irregular migrants being caught at the border or when transiting or staying in the relevant transit/destination state. Therefore we assess failures' likelihoods and modes altogether for all actors researched.

However one should remember that the perspective of a state and that of a migrant are the opposites: for a migrant a high likelihood of being caught when crossing a border illegally implies a high risk of failure while for a state it implies a high success rate of border controls

and a low risk of unauthorized entry by irregular migrants. The same relates to the EU but since it views irregular migration through the prism of all member states, the scale of the phenomenon is higher when it is aggregated across all EU member states. In short, an irregular migrant's failure to jump a particular hurdle is likely to be viewed as success by destination states and the EU although not necessarily by transit states where successful interception is costly and where the best policy could involve letting such migrants through and, thus, passing the buck to the next state in line.

The most prevalent modus operandi of Ukrainian and Belarusian migrants' irregularity is overstaying the validity of visa and undeclared work on the tourist visa. Immigrants sometimes attempt to falsify the exit stamps when leaving the EU or acquire new passport after returning home that would not contain travel ban stamp placed by the EU border guard or immigration police however the creation of electronic databases by Ukrainian border guards and Ministry of Interior makes this behaviour more risky (authors' interviews with migration experts). Migrants also misuse opportunities created by the aforementioned Polish scheme of temporary migration which allows them to obtain work-visas, after presenting at the consulate an invitation from the future employer, but subsequently not to show up at the designated workplace. But the scale of this phenomenon is unknown (State Labour Inspector 2012).

As regards Ukraine, the main nationalities who pass through that state are: Afghanis, Somalis, Moldovans, Georgians, Russians and Vietnamese. Somalis and Afghanis constitute around half of all irregular migrants apprehended. The port of Odessa together with Luhansk and Sumy on the Ukrainian-Russian frontier are the main entry points for those migrants who enter Ukraine illegally. Those who attempt to enter the EU are mainly caught in the Transcarpathian region (Zakarpattia oblast), where Ukraine borders Slovakia and Hungary (in the West), Romania (in the South) and Poland (in the North). Proximity of few EU border sections along with hilly terrain makes the region particularly prone to irregular migration. The Ukrainian-Slovakian section is most exposed to illegal border crossing, despite equipping Slovak part of the border with the system of technical protection and permanent monitoring (EMN Slovakia 2012).

As experience of Schengen states bordering Ukraine has shown (EMN Poland, EMN Hungary, EMN Slovakia 2010-2012) irregular immigrants usually cross the border at the "green border" section by foot, organised in small groups with the assistance of a facilitator (local inhabitant or foreigner with residence permit in the EU). Smuggling process is thoroughly organised with the earlier analysis of border control situating, border surveillance of weakest points by local residents from both sides and the involvement of local persons responsible for provision of shelters for migrants. Hiding inside the vehicle during border control is another mode of entry (EMN Hungary 2012). The dynamics of Illegal border crossing is highly seasonal. It is usually lower in winter months when weather conditions are severe and irregular migrants refrain from crossing the border except, sporadically, through forests and mountains.

Belarus has recently gained importance as a for economic migrants claiming asylum (mainly from Georgia, but also from Afghanistan and Russia) and Vietnamese labour immigrants moving from Russia and heading towards the EU. They either arrive in Minsk directly by air or enter Belarus through uncontrolled border with Russia. Afterwards they

attempt to illegally cross the Belarusian border with Lithuania, Poland or Latvia, usually at the “green border” sections. However, cases of migrants hidden in trucks at the BCP were also reported (Frontex 2013b). According to Belarusian sources, irregular migrants often use false travel documents when attempting to cross the Belarusian-EU border (Belapan, 30.03.2011). In the Western Belarusian city of Brest, a migrant accommodation centre was opened in 2007 with the assistance of international community. Although international organisations have access to this facility, no information on the numbers, nationalities and detention conditions is currently available.

4.3. Failure significance

No matter how restrictive its immigration policy a state, it is very unlikely that it could avoid all forms of irregular migration to or through its territory. In this sense, a state is an actor which cannot choose whether to accept irregular migrants based on significance of possible failure criterion.

First of all, it should be underlined that the very significance of irregular migration is created by a country’s natural unease with inability to control who crosses its borders (Koser 2005, Guild 2009). Secondly in current times of heavy ‘politicisation’ and ‘securitisation’ of migration phenomenon, political significance of irregular migration exceeds its numerical importance (Koser 2005, Kraler & Rogoz 2011). Thus, we may distinguish different impacts of irregular migration for the states. We will analyse here both EU member states as transit and destination countries and Ukraine and Belarus as origin and transit states.

Economic significance

Besides the scale of irregular migration, economic situation in a given country (recession or economic boom) vastly influences the significance of irregular migration. An important consequence of economic recession is the decrease in labour demand, dwindling opportunities for legal entry and a restrictive migration climate. Unemployment rates in case of third-country nationals are more volatile (Kraler & Rogoz 2011). States attempt to reduce the risk of irregular migration and lower social costs related to migration. But, unemployed migrants do not necessarily return home; they often prefer to wait stranded and rely on assistance from informal migration networks or family. Spain, a popular destination for Ukrainian immigrants, sharply reduced its annual regional quotas for non-seasonal migrants. As a result, Ukrainians who had earlier been employed in industry or services either moved to jobs in agriculture or left. Italy, another country with high number of irregular workers from Ukraine, also lowered quotas for non-EU workers, tailoring them mainly to domestic and personal care sector (IOM 2010).

In times of economic prosperity, irregular migration is often beneficial as low-skill and low-paid workers arrive to take jobs which locals refuse to work and to depopulated regions. While legal migration is subject to arbitrary selection criteria and bureaucratic delays (Hanson 2007), countries with deregulated economies and large informal sectors offer more opportunities for irregular migrants (Duvell 2011). This has been the case with Ukrainian labour migrants in EU southern states as Italy, Spain, Portugal. However the scale of irregular migration from Eastern Europe has been too small to have a significant impact on local wages and labour market in the EU countries. The occupational distribution suggested that Ukrainian

and Belarusian migrants constitute complementary, not substitution group, towards local workers at the EU labour markets (Barbone 2013).

In both Ukraine and Belarus, to a greater extent in more liberal Ukraine, both informal unemployment and undocumented labour immigration exist. However, migrants attempting to get into the EU, in majority cases are not interested in employment in those two countries. Undeclared employment mainly concerns citizens of CIS area, mostly from South Caucasus, who work at the bazaars and in the service sector. With kind of starting point in Eastern Europe, they are looking for opportunities to move into the EU or establish business contacts with neighbouring EU states.

Significance for internal security

Continuing high levels of irregular migration may undermine the rule of law and weaken the governments' ability to enforce residence or labour market regulations (Hanson 2007). However, it is not the case of Eastern European immigration in the EU states, its negative impact can be found at the local level. Most of the border regions in Eastern Europe are relatively densely populated and lagging behind in terms of economic development (compared to other regions in both the EU member states and the neighbouring countries). In that situation, cross-border contacts and exchange are often the most important means to overcome economic and social underdevelopment. All these facts resulted in the creation of Central and Eastern Europe after 1991 as a specific 'unique area of liberalised movement of people' with a very high dynamic of mobility, numerous trade and commercial links (Wallace 2001). Yet most of these economic activities rely on loopholes in legal and tax rules. Prolonged character of irregular migration, engagement of local inhabitants in migrants smuggling, together with other smuggling activities, among other cigarettes and fuel, may stimulate local communities to live behind accepted legal rules and do not create incentives to leave the informal sector.

The second most prominent risk related to irregular immigration is migrant smuggling. People smuggling operations range from small, local ones, with facilitators assisting only in illegal border crossing (it is usually the case of Ukrainian and Belarusian nationals smuggling) to huge transnational organized crime groups that arrange the whole transfer from the starting to the destination point. Organized channels of migrants smuggling have been recorded in the case of transit migration through Ukraine and Belarus. The local press and NGO reports quote interviews with smuggled migrants who claim that the average price for transfer from their home in Asia or Africa varies from 4 to 10 thousand USD dollars. Most of the migrants are smuggled through the territory of Russian Federation and afterwards through Ukraine or Belarus. When migrants arrive close to the EU border, they're often located in Ukrainian and Belarusian border town and await the right moment to cross the EU border.

The other dangerous phenomenon linked to irregular migration, however more loosely, is human trafficking. Trafficking is less strictly associated with irregular migration since most of the victims depart on a voluntary basis, often with legal documents (Turukanova 2009). Researches argue that human trafficking is more a side effect of labour migration, than specifically of irregular migration. In general, traffic risk increases with the scale of regional emigration. The 2005 International Labour Organisation report suggested that since the collapse of the Soviet Union at least 200,000 people from Eastern Europe and Central Asia

had fallen victims to human trafficking (ILO 2005). According to 2008 IOM estimates, around 100,000 Ukrainians have been trafficked abroad since 1991 (IOM 2008). The 2006 GFK human trafficking survey suggests that Ukraine and Belarus experience high levels of human trafficking a part because of large labour migration, but also because of their institutional inability to fight/deter corruption and criminality (GFK 2006). In majority cases, victims of human trafficking in Ukraine and Belarus were young women trafficked to sex industry in Russia, US, Turkey and the EU. The most recent trend is trafficking for the purposes of labour exploitation (Jaroszewicz 2012).

The corruption among state border guards and migration officers is another possible risk that accompanies irregular migration with significance for state's internal security and people smuggling. All Central European states recorded cases of corruption among border guards officials at the EU eastern border in the past.

Significance for public discourse and social attitudes towards migrants

Public discourse on irregular flows through the Eastern route has not been as vocal as that concerning migration through the Mediterranean route. In general, this issue has been on the margins of public debate in major destination countries for Ukrainian migrants. However, the rapid growth of Ukrainian labour migration to Portugal, Italy and Spain has led to debates about its roots. Portugal is the best example since the number of registered Ukrainian migrants to this country increased from 127 in 1999 to 52,000 in 2002. It was also estimated that another 100,000 Ukrainians stayed in Portugal as irregular migrants. It is interesting to note that this surge in migration from Ukraine caused protests not among native inhabitants, but among 'traditional' immigrants from Portugal's former colonies, who were afraid of losing jobs to newcomers. These social protests forced Portuguese authorities to curb further inflow of Ukrainians (Susak 2002).

In Poland, Ukrainian nationals constitute around 90% of all foreigners employed in country. Polish society in general demonstrates indifferent attitude towards migrants although it is more open to migrants from Western Europe and the US than migrants from Eastern Europe (Lodziński 2002, Konieczna 2004). On the other hand, the Polish migration policy is one of the most liberal in the EU as it aims to facilitate arrivals of seasonal workers for construction industry and agriculture (Duszczuk 2012). The Czech Republic also hosts significant group of Ukrainian labour migrants. However, the global financial crisis has made Prague cease its proactive admission programmes for Ukrainian workers. Also, economic hardship caused that public opinion in Czech Republic started to grow impatient with liberal attitudes towards foreigners (Drbohlav 2009). The Baltic states, Lithuania, Latvia and Estonia, which host small Ukrainian and Belarusian diasporas, have adopted rather conservative and restrictive migration policies, in part for historic reasons and in part in response to challenges posed by the need to integrate their Russian-speaking minorities that remained in these countries after the Soviet Union collapse (Freidrich Ebert Foundation 2007).

The current debate on irregular immigrants in Ukraine and Belarus is mostly focused on national security issues. However humanitarian threads also appear. Emigration of own citizens is perceived rather negatively in the context of depopulation and loss of working force, while transit migration is mainly entangled with ethno-politics, protection of national identity and social cohesion issues. Both Ukrainian and Belarusian societies are rather

xenophobic in their attitudes towards “non-traditional” immigrants. This is mainly due to the lack of governmental policies aimed at fostering tolerance and due to deliberate fomenting of ethnic mistrust by politicians. High levels of xenophobia in Russian society and related negative discourse in Russian mass media had also profound impact on attitudes of Ukrainian and Belarusian societies. According to the opinion polls conducted in 2012 by Institute of Human Rights and Prevention of Extremism and Xenophobia, Ukrainians are characterized by relatively high index of interethnic distance (intimate or aversive social relationship between members of different ethnic or national groups). There is the latent xenophobic aim towards Roma, ‘black people’, ‘Asians and Arabs’, and Caucasians in Ukrainian society (Institute of Human Rights and Prevention of Extremism and Xenophobia 2012). In Belarus, regular opinion polls on the subject of xenophobia and racism are not conducted. However, the 2002 opinion survey revealed that around 48% of responders thought a terrorist act by ethnic Chechens in the territory of Belarus was possible (Sova 2003) which may indirectly indicate that Belarusian society has been also influenced by negative Russian public discourse towards people of “Caucasian” origin.

Ukrainian labour emigration is as a rule not presented in a positive light by most of the Ukrainian press. Labour migrants are rather shown as passive victims of economic circumstances, dishonest employers and facilitators rather than as entrepreneurial individuals actively seeking to improve their living conditions (Volodko 2011). Irregular transit migrants are presented as unneeded financial burden on the state, although they are also pictured as vulnerable and potential victims. Images of irregular migrants with close links to criminality and terrorism prevail in Belarus.

5. European Union failures: effects, modes, likelihood and significance

Since operational competencies related to border and migration control remain within EU MS responsibilities and the EU as such has not been conducting any serious operations aimed at assisting national authorities in fighting irregular migration on Eastern migratory route, we can rather speak of indirect possible failures of the EU in relation to irregular migration from/through Ukraine and Belarus, rather than direct ones.

At the same time in the recent years EU has been broadening its influence on national authorities in border management by inter alia: establishing rules of border control and surveillance at the EU external border, developing EU integrated border management strategy and creating additional financial instruments (European Border Fund) and agencies (Frontex). The European Commission answer to national government proposals to reintroduce internal border control raised after Arab Spring, was to develop a stronger “Union-led” approach to Schengen governance. If the EU plans to develop new EU-wide border control mechanisms under so-called “smart borders package” are to materialize, it will further expand the EU influence on EU MS border and migration policies

Currently the risk of irregular migration from Ukraine and Belarus generates mainly political challenges for the EU. At the same time EU policy on migration and borders has been run by security logics, in which border control and readmission component prevail under mobility facilitation or migration and development. Under those circumstances, the most important possible failure relates to the mismatch between implemented policy and the migration challenges in Eastern Europe. The main threat one can observe here is

disproportion between strict border control policy with sophisticated technical measures applied at all external borders and rather moderate scale of irregular migration deriving from Ukraine and Belarus. Thus the future effect of pursuing strict border policies at the Eastern migratory route could be reduced mobility between Ukraine, Belarus and the EU while the risk of irregular migration will remain at the permanently low level. Moreover, if security/political/economic situation in so called hot spots deteriorate migrants desiring to enter the EU may come to Ukraine and Belarus and remain there for good not having opportunity to move further West.

The other failure's effect concerns disparities and possible incoherence between EU external migration policy and its foreign policy. On the one hand, EU promotes European Neighbourhood Policy and Eastern Partnership based on "inclusive" logic and aimed at creating stable and friendly environment and facilitation of people-to-people contacts (European Commission 2011). On the other, in practical terms, law enforcement aspects of EU migration policy prevail. That includes: implementation of readmission agreements, provision of technical assistance aimed at enhancing border management, detention and return capacities of partner states. At the same time, achievements in mobility and facilitation of people-to-people contacts are strongly linked to the principle of conditionality. Visa obligation abolishment is not possible without significant remodeling of state functioning by Eastern Partners, at least in the area of justice and home affairs (Jaroszewicz 2012). Meanwhile in the last three years we have been witnessing rather unfavorable political dynamics in both Ukraine and Belarus: strengthening of authoritarian trends, poor progress in reforms, rise of corruption. In practice, this means that EU only recently (January 2014) launched visa dialogue with Belarus, while EU-Ukrainian visa liberalisation process is lagging behind. Meanwhile, as recent social turmoil in Ukraine related to the withdrawal of Ukrainian authorities from the signature of EU-Ukraine association agreement showed that EU "soft power" that includes hassle-free travel and enhanced mobility has been the most welcomed instrument by societies in the neighbouring states.

As already mentioned due to the moderate scale of irregular migration coming from Ukraine and Belarus the significance of possible failures related to that phenomenon for the European Union has not been meaningful so far.

Significance for the EU is mainly related to the general coherence and efficiency of EU migration policy, including implementation of so-called Global Approach to Migration (GAM) – overarching framework for the EU external migration policy (European Commission 2011). The main focus of GAM has been Southern Mediterranean and Sub-Saharan Africa, however it has also addressed some needs of Eastern Partnership region, including enhanced mobility (European Commission 2014). In practice, EU is interested in efficient implementation of its migration policy instruments at all its borders, e.g. mainly readmission agreements, but also visa liberalisation action plans as well as productive dialogue in the framework of multinational dialogue platforms in all neighbouring regions. In this sense, however both Ukraine and Belarus do not belong to the group of state that make significant progress in terms of getting closer to the EU norms and standards, they do cooperate with the EU in various aspects and they contribute to the stability and security at the EU eastern borders. Due to a global EU approach to migration some local (typical only for Eastern European migratory route) peculiarities may not be taken into account by the EU,

including specific needs of EU states bordering Ukraine and Belarus and border regions of those states.

6. Summary and conclusions

Irregular migration is a specific form of migration that is not legally accepted, however the legal and social tolerance of different categories of “irregularity” varies significantly. Presented working paper has been aimed at research of irregular migration from Ukraine and Belarus through the prism of risk theories. Risk approach has been acknowledged as the most suitable analytical instrument to investigate irregular migration since it enables to study sociological/legal phenomena with very scarce qualitative and quantitative data, but which future prospects and perceptions strongly influence present visions and policies. Risk approach also allows for comparison of different perspectives of irregular migration as well as different effects and significance of that phenomenon for each actor involved.

Irregular migration from Ukraine and Belarus to the EU, both of Ukrainian and Belarusian nationals as well as of transit migrants, does not pose a significant challenge for the EU as such. There are no prerequisites to assume that that situation may drastically change over time, however as recent political turmoil in Ukraine showed political landscape in Eastern Europe is still unstable. Over the last ten years the phenomenon of irregular migration has been characterised by stable, rather decreasing dynamics. Nevertheless irregular migration from Ukraine and Belarus may pose some serious challenges for those EU countries that directly neighbour Ukraine and Belarus as well as serious challenges for Ukraine, to a lesser extent Belarus, as origin and transit states at the same time. In case of migrants, risks faced by transit migrants are much higher and cumbersome than those faced by Ukrainian and Belarusian nationals. Since the results of conducted three-dimension analysis of various aspects of irregular migration risks have been very complex authors decided to present them in a form of a table (see below).

Table 8. Three-dimensional risk analysis of irregular migration from Ukraine and Belarus to the EU

| Level | Failures and their effects |
|----------|--|
| Migrants | <p><u>Failures:</u> possibility to be detected during illegal border crossing or inside the EU for violation of rules of stay/work; getting stuck’ in transit state without a proper legal status; inability to change status from irregular to legal one</p> <p><u>Effects:</u> Economic – loss of resources spent on travel; inability to get a job and start sending remittances to family; exclusion from migrant “labour market” Security – loss of freedom due to detention, loss of health due to physical abuse, other forms of exploitation by smugglers or traffickers</p> |
| States | <p><u>Failures:</u> existence of irregular migration on its territory, particularly when the scope of that phenomenon is high, it is not accepted by society and requires significant economic expenses (destination & transit states); lack of bilateral agreements with countries of destinations, which would guarantee migrants legal channels of entry, stay and work (sending states)</p> <p><u>Failure effects:</u></p> |

| | |
|--------------------|--|
| | <p>problems with social security provision for returning migrants (sending states)</p> <p>lack of institutional and political solutions to manage immigration (transit & destination states)</p> <p>funds required for accommodation and eventual return of irregular migrants (transit & destination states)</p> <p>prolonged and costly asylum procedures (destination states)</p> <p>financial and social costs of “regularisation” campaigns (destination states)</p> <p>negative public discourse and “securitization” of migration</p> |
| EU | <p><u>Failures:</u></p> <p>Currently only indirect political failures for the EU, including mismatch between implemented policy and the migration challenges in Eastern Europe</p> <p><u>Failures effects:</u></p> <p>Reduced mobility between Ukraine, Belarus and the EU</p> <p>Migrants desiring to enter the EU may come to Ukraine and Belarus and remain there for good</p> <p>incoherence between EU external migration policy and its foreign policy – inclusive logic of Eastern Partnership policy and “exclusive” logic of EU border and migration policy</p> |
| | Failures likelihood and modes |
| Migrants/States/EU | <p><u>Likelihood:</u></p> <p>More likely for transit migrants, less likely for Ukrainian and Belarusian migrants</p> <p><u>Modes:</u></p> <p>Ukrainian and Belarusian nationals: overstaying the validity of visa and undeclared work on the tourist visa, obtaining visa on false supporting documents, irregular border crossing without facilitators</p> <p>Transit migrants: irregular border crossing, asylum claims, false employment and education, operations of smuggling networks</p> |
| | Failures significance |
| Migrants | Very huge; depends on degree of migrants’ households dependence on remittances; varies depending whether a migrant has been detained or not; exploitation by smugglers |
| States | Medium or low; economic significance; significance for internal security; significance for public discourse and social attitudes towards migrants |
| EU | Low, rather political one, significance for cohesion in EU global approach to migration |

Source: Own results

Since the failure, its effects and significance is the most harmful for the migrants, the micro perspective has been analysed in the greatest detail. However even that group is not homogenous in terms of likelihood of possible failure and the significance of that failure. Therefore we decided to distinguish three groups of irregular migrants at the Eastern European migratory route with different hypothetical paths of failure.

CIS transit migrants:

- Legal entry to Ukraine or Belarus - caught at EU border attempting to cross with false documents (mode of failure) – low likelihood – detained (failure effect – data missing) – forced return - mild to severe significance.

- Legal entry to Ukraine or Belarus - caught at the EU ‘green border’ (failure mode) – low likelihood – detained – data missing – forced return.

Asian and African transit migrants:

- Caught at Ukrainian/Belarusian border – detained (failure mode) a) asylum procedure – unable to send remittances (severe significance of failure) - if successful

application process may attempt to continue journey to EU – caught - deportation; b) deported – unable to send remittances (catastrophic significance of failure)

- Caught at EU border – send back to Ukraine/Belarus – scenario as in 1
 - Caught at EU border – detained in Poland – a) asylum procedure – if successful may attempt to continue journey further west; b) deported (effect of failure) - catastrophic significance of failure.
 - Cheated by smugglers – irregular stay in Ukraine or Belarus – attempt to continue to the EU alone.
 - Death at EU border (failure mode) – likelihood low, significance catastrophic.
- Ukrainian and Belarusian non-transit migrants:
- Caught in the EU working unofficially (failure mode) – low likelihood - ordered to leave EU – a) return to Ukraine, attempt to re-enter legally, b) illegal stay in EU country
 - Caught in the EU working unofficially (failure mode) – low likelihood - ordered to leave EU and ban on entry for a period of time – a) return to Ukraine, attempt to re-enter in an irregular fashion b) illegal stay in EU country
 - Rejected visa application (mode of failure) – low likelihood - a) another attempt to apply (at different consulate/embassy), b) attempt to enter without proper travel documents
 - Refused entry at border – a) another attempt with different border-shift, b) change of travel documents (in case of stamp in passport of entry refusal), c) illegal entry
 - Caught in the EU for overstaying – high likelihood
 - Not finding/retaining job
 - Labour exploitation – informal employer refuses to pay or pays less than agreed (mode of failure) - unable to send remittances (failure effect) – significance depends on family financial conditions in Ukraine, may range from mild to severe.

It should be emphasised that prepared framework has been tested only in one particular case, authors believe that it could serve as methodological frameworks for irregular migration investigation in other geographical locations and in other social, legal and political conditions.

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