

Ukrainian Parliament
Commissioner for Human Rights



**ON THE STATUS OF OBSERVANCE
AND PROTECTION OF THE RIGHTS
OF UKRAINIAN CITIZENS ABROAD**

**SPECIAL REPORT
OF THE UKRAINIAN PARLIAMENT
COMMISSIONER FOR HUMAN RIGHTS**



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Nina Karpachova

**С 76 On the Status of Observance and Protection
of the Rights of Ukrainian Citizens Abroad**

Special Report of the Ukrainian
Parliament Commissioner for Human Rights

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INTRODUCTION

In accordance with generally accepted rules of international law, whenever a citizen of any country is abroad he can count on the diplomatic protection of his country of origin if his rights and freedoms are infringed.

This universal principle, enshrined in the constitutions of the majority of countries worldwide, has become a cornerstone for building the interrelations between the state and its citizens.

In Ukraine, this principle is secured in the Constitution of 1996, Article 25: "Ukraine guarantees care and protection to its citizens who are beyond its borders." Thereby the state actually undertakes to ensure the protection of the rights and freedoms of its citizens during their stay abroad.

For Ukraine the problem of protecting its citizens abroad became especially acute right after the country gained its independence. After the visa regulations and frontier regime were liberalized, the migration flows across Ukraine's territory increased sharply: while a large number of Ukrainian citizens traveled abroad for different reasons, the inflow of aliens into the country's territory went up markedly.

To a large extent these were spontaneous processes, because no legal framework was in place and the government lacked the experience in controlling migration flows. Neither were there any effective mechanisms to protect the rights of a large number of Ukrainian citizens who were abroad during crises situations.

From the mid-1990s an ever growing number of Ukrainian citizens was leaving the country for economic reasons, primarily to seek employment elsewhere.

For Ukraine migration for employment abroad gained dangerous proportions during the past five years following the aggravation of the socioeconomic situation in the period from 1994 to 1999.

Millions of Ukrainian migrant workers, most of whom have been finding jobs in Russia, Western Europe and North America, have compelled the government to assess in a new way its role in the protection of the rights and freedoms of our citizens.

The situation has become the more complex, since the majority of Ukrainians abroad are illegal migrants, one of the most discriminated and unprotected category of aliens whose rights are grossly infringed.

As a result, more and more of our countrymen abroad are appealing for help to Ukrainian bodies of state authority, in particular the Ministry of Foreign Affairs. Quite a few of such appeals have been addressed to the Ukrainian Parliament Commissioner for Human Rights. Every appeal is an expression of human pain and frustrated hopes of finding a personal solution or else saving the appellant's dignity and frequently his life.

Therefore, the Commissioner for Human Rights initiated a special monitoring to study the complex problems related to the status of observance and protection of human rights and freedoms of Ukrainian citizens abroad, above all of migrant workers.

The purpose of this study is to make an in-depth analysis of the mentioned issues and offer recommendations and proposals to improve the available mechanism of protecting the rights of Ukrainian citizens abroad, and also formulate a long-term government policy in the domain of migration relations with allowance for the prospects of global development and the interests of Ukraine and its citizens.

The Special Report of the Commissioner for Human Rights is based on the analysis and generalization of the materials in the possession of the Commissioner as well as on the information received from the central bodies of state authority, specifically the Ministry of Internal Affairs (MIA), State Committee for Guarding the State Border (SCGSB), National Academy of Sciences (NAS), state administrations in the oblasts, Ukrinjurokelgia (Ukrainian Foreign Legal Collegium), and from a number of Ukrainian banks. By request of the Commissioner relevant information was also kindly provided by the diplomatic missions of foreign states accredited in Ukraine. The committees of the Ukrainian Parliament, such as the Committee for Foreign Affairs, Committee for Human Rights, Ethnic Minorities and Inter-Ethnic Relations, Committee for Health Care, Motherhood and Childhood, and the Committee for Social Policy and Labor, also addressed the issues under review.

In compliance with paragraph 3, Article 18 of the Law of Ukraine *On the Ukrainian Parliament Commissioner for Human Rights*, the Commissioner for Human Rights hereby presents the Special Report *On the Status of Observance and Protection of the Rights of Ukrainian Citizens Abroad*.

I. MIGRATION FROM UKRAINE FOR EMPLOYMENT WITHIN THE CONTEXT OF GLOBAL MIGRATION PROCESSES

1. MAIN CAUSES OF MIGRATION FOR EMPLOYMENT

Judging from different estimates, the world today numbers *from 150 million to 175 million people (over 3% of the world population) who live outside of the countries of their origin*, including about 12 million refugees and asylum seekers. This figure grows by at least three millions each year.

Migration appeared and developed simultaneously with mankind itself. There is not a single country in the world that at different stages of its development was not affected by global migration processes in one way or another — either as a donor country supplying labor resources or as a receiving (host) country of labor.

This development became the more evident with the emergence of the modern global economic system, when all countries are becoming more interdependent and interrelated. The global trends of today show that the problems of migration continue to distress mankind, becoming one of the most important factors of global changes.

The understanding of the reasons of emergence and regularities of development of global migration processes makes it possible for every state to frame such a policy that would accord as best as possible with its national interests in this area.

Without disputing the comprehensive nature of the reasons of global migration processes, the Commissioner for Human Rights believes that their main factors are socioeconomic.

If we look at the dynamics of the distribution pattern of incomes between different countries, we see the evident upward trend of the already disproportionately large *gap in the population's average incomes between the industrially developed countries and the countries of the Third World*.

While in **1870** *per capita income in the US exceeded nine times the similar rate in the world's poorest countries*, in **1960** *this gap was 50 times as large*. Accord-

ing to the data of UN experts, the developing countries will be inhabited by an absolute majority of the world population – 7.8 billion (currently 4.8 billion of the 6 billion). Today 80% of the world population is trapped in a struggle for survival, while in 25 years this rate will be about 90%.

The opportunity to earn more than is possible at home is one of the reasons why hundreds of thousands of people leave their countries in search of a better lot abroad.

What is *decisive* in this case is not so much the average income a migrant can earn as the *difference in the incomes between the country of his destination and the country of his origin*.

There are a number of economic indicators which make it possible to assess the level of a country's development and which, accordingly, impact on the geographical pattern of migration for employment.

One of the indicators is the *gross domestic product (GDP) per capita adjusted to the purchasing power parity (PPP)*. Throughout many years they have been calculated by the UN and are among the three indicators that are taken into account when measuring the human development index (HDI).

The main data of adjusted GDP per capita of the countries of Europe, North America and the CIS for the year 2000 are presented in *Table 1.1*. The latter also states the rate of adjusted GDP per capita of each country relative to Ukraine.

According to UN data, in terms of adjusted GDP per capita, the indicator of which in 2000 for Ukraine amounted to US \$3,816, our country holds 102nd place in the world beside Guatemala and Surinam and 8th place among the countries of the former Soviet Union after Estonia, Russia, Belarus, Lithuania, Latvia, Kazakhstan and Turkmenistan (*see Annex 1*). The ratio between the richest country in this list, Estonia, and Ukraine was 2.64, while between Ukraine and the poorest Tajikistan 0.3.

The indicator for Luxembourg – the country with the world's largest GDP per capita in 2000 – exceeded the similar indicator for Ukraine 13.12 times, while the gap between the US and Ukraine was 8.95 times, Germany – 6.58 times, Italy – 6.19 times, the UK – 6.16 times, Spain – 5.1 times, Portugal – 4.53 times, and Greece – 4.32 times.

A marked gap is also evident between Ukraine and the countries of Central and Eastern Europe. In 2000 GDP per capita in Ukraine was 3.67 times less than in the Czech Republic, 3.25 times less than in Hungary, 2.95 times less than in Slovakia, 2.37 times less than in Poland, and 1.68 times less than in Romania. *The ratio between Ukraine and the EU countries in 2000 was on the average 6.75 times, while for the countries of Eastern Europe 2.15 times. GDP per capita in the Russian Federation in 2000 exceeded 2.2 times the corresponding Ukrainian indicator.*

The marked gap in the GDP per capita between Ukraine and other countries of Europe and the world is among the objective factors that impact on

Table 1.1. GDP per capita in different countries in 2000

Rank by UN	Country	GDP per capita	Ratio to Ukraine
1	Luxembourg	50,061	13.12
2	USA	34,142	8.95
3	Norway	29,918	7.84
4	Ireland	29,866	7.83
5	Iceland	29,581	7.75
6	Switzerland	28,769	7.54
7	Canada	27,840	7.30
8	Denmark	27,627	7.24
9	Belgium	27,178	7.12
10	Austria	26,765	7.01
13	Netherlands	25,657	6.72
15	Germany	25,103	6.58
16	Finland	24,996	6.55
17	Sweden	24,277	6.36
18	France	24,223	6.35
19	Italy	23,626	6.19
20	United Kingdom	23,509	6.16
22	Cyprus	20,824	5.46
25	Spain	19,472	5.10
29	Slovenia	17,367	4.55
30	Portugal	17,290	4.53
31	Malta	17,273	4.53
34	Greece	16,501	4.32
39	Czech Republic	13,991	3.67
43	Hungary	12,416	3.25
46	Slovakia	11,243	2.95
48	Estonia	10,066	2.64
53	Poland	9,051	2.37
55	Mexico	9,023	2.36
58	Russia	8,377	2.20
59	Croatia	8,091	2.12
63	Belarus	7,544	1.98
65	Lithuania	7,106	1.86
66	Latvia	7,045	1.85
67	Turkey	6,974	1.83
69	Romania	6,423	1.68
78	Kazakhstan	5,871	1.54
80	Bulgaria	5,710	1.50
85	Macedonia	5,086	1.33
100	Turkmenistan	3,956	1.04
102	Ukraine	3,816	1.00
109	Albania	3,506	0.92
112	Azerbaijan	2,936	0.77
114	Kyrgyzstan	2,711	0.71
115	Georgia	2,664	0.70
117	Armenia	2,559	0.67
119	Uzbekistan	2,441	0.64
124	Moldova	2,109	0.55
134	Tajikistan	1,152	0.30

the migration processes and occasion, in particular, the destinations of Ukraine's migrant workers. The *difference in the amount of average pay in different countries* is yet another *important criterion*, which considerably affects the dynamics of world migration processes, relative to Ukraine included. The corresponding figures are presented in *Table 1.2*. The basic point of departure in this respect is the average hourly pay in industry.

According to the data of the State Statistics Committee of Ukraine (SSC), wages per one industrial worker *in 2002* came to UAH 3.26 per one hour (US \$0.6). When compared with what workers earned in other countries in 1995, the approximately estimated gap in average hourly pay in industry, specifically between Ukraine and the Czech Republic, would be not less than twice as much, Hungary – three times, Poland – 3.4 times, Spain – over 21 times, Italy – over 27 times, France – over 32 times, Austria – over 42 times, and Germany – more than 53 times.

However, it should be pointed out that migrant workers earn less than the nationals for the same qualification and even much less if they work illegally. For all that, their earnings are higher than what their fellow countrymen receive back home.

Table 1.2. Hourly pay in industry (in US \$)*

Country	1980	1985	1995
Austria	8.9	7.6	25.3
Belgium	13.1	9.0	26.9
Denmark	10.8	8.1	24.2
Finland	8.2	8.2	24.8
France	8.9	5.7	19.3
Germany	12.3	9.6	31.9
Italy	8.2	7.6	16.5
Netherlands	12.1	8.8	24.2
Norway	11.6	10.4	24.4
Spain	5.9	4.7	12.7
Sweden	12.5	9.7	21.4
Switzerland	11.1	9.7	29.3
United Kingdom	7.6	6.3	13.8
USA	9.9	13.0	17.2
Canada	8.7	10.9	16.0
Japan	5.5	6.3	23.7
South Korea	1.0	1.2	7.4
Czech Republic	–	–	1.3
Hungary	–	–	1.7
Poland	–	–	2.1
Russia	–	–	0.6

* Source: Morgan Stanley and Co. Inc., 1996

For example, a Ukrainian construction worker in Italy earns an average of 1,200 liras a month, i.e. about US \$520 dollars, while an Italian is paid for the same work not less than US \$2,000.

Economic growth of a host country is also an important factor of migration processes when there is need in more workers, low-skilled workers included. It is an additional factor that stimulates the inflow of migrant workers. Such a process is now under way in Portugal, where economic growth and demand in cheap labor stimulates the mass inflow of migrant workers, from Ukraine included.

There are other factors, mostly national, that impact considerably on the rates of migration for employment.

In the opinion of the Commissioner for Human Rights, poverty and unemployment affect the migration processes in Ukraine to a large extent.

The overwhelming majority of migrant workers are persons who, as a rule, have a little money to travel abroad and pay for a visa and travel documents as well as for the services of mediators. This is also true for Ukraine. Despite the availability of such financial resources, most of the Ukrainians who go abroad to seek employment lack a stable income to ensure a decent subsistence minimum for themselves and their families.

What forces Ukrainians to go abroad is the prospect of being doomed to beggary and poverty in their homeland.

A sociological survey carried out by the West Ukrainian Center Women's Prospects (Lviv) among Ukrainian migrant workers in Italy showed that the reasons why they went abroad were low wages (52.8%), unemployment (31.7%), and the need to repay loans (29.7%).

In January 2001, during a visit to a prison for deportees in Greece, the Commissioner met with Ukrainian citizens who had worked illegally in that country and were detained for this offense. During a frank conversation with the Commissioner, one of them said: "If I had the opportunity to receive 200 hryvnias a month in Ukraine, I would've never gone to Greece."

Such observations are repeated worldwide by hundreds of thousands of Ukrainian migrant workers who for lack of permanent jobs and regular wages – even holdback pay of many years that had to be cleared off by court decisions – are forced to leave their homeland to seek a better lot elsewhere.

In the First Annual Report in 2000, the Commissioner for Human Rights drew attention of all branches of power to the issues of poverty in Ukraine.

Since then some measures were taken to alleviate the situation. A *Strategy of Poverty Reduction* was approved by Presidential Edict No.637 of August 15, 2001. In pursuance of the Edict, a *Comprehensive Program of Ensuring the Implementation of the Strategy of Poverty Reduction* was elaborated and approved by Cabinet of Ministers Resolution No.1712 of December 21, 2001 on the basis of macroeconomic stabilization, economic growth, and more extensively effected social-oriented reforms. Poverty reduction was among the policy prior-

ities of Prime Minister Victor Yanukovych who was appointed to office in November 2002.

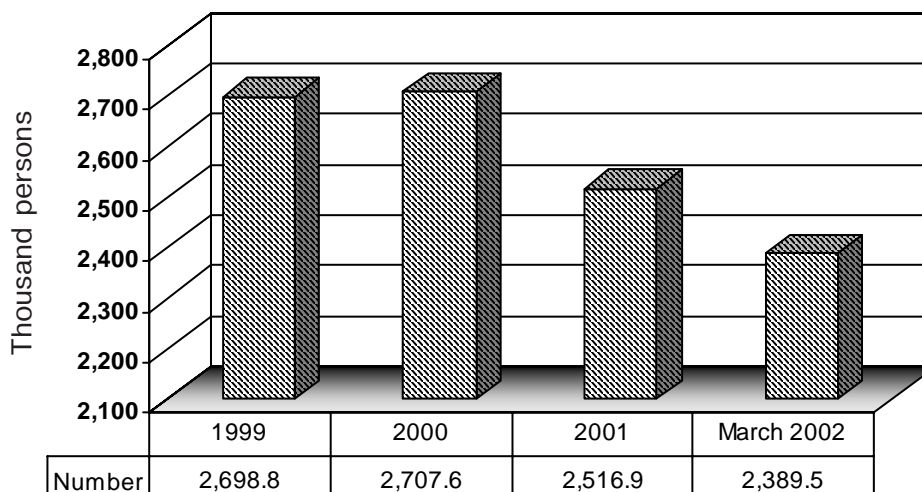
In its exercise of parliamentary control over the implementation of the said Strategy, the Ukrainian Parliament held its session devoted to Government Day on September 10, 2002. After discussing the principal agenda “On the Status of Implementation of the Strategy of Poverty Reduction in Ukraine,” the Parliament adopted a resolution on September 26, 2002, stating, in particular, that *since the situation in poverty reduction in Ukraine remains unsatisfactory, the work of the Cabinet of Ministers in effecting the measures for implementing the Strategy of Poverty Reduction has been recognized as insufficient.*

Despite the expectations encouraged by economic growth, the poverty rate in the country has been dangerously high throughout the past few years. Judging from official government data, the average poverty rate in 2001 was 27.2%. In Transcarpathian oblast the poverty rate that year was 46.6%, while in the Autonomous Republic of Crimea it was 38.4%, in Khmelnytsky oblast 36.8%, in Kherson oblast 36.0%, in Mykolaiv oblast 35.6%, in Volyn oblast 35.5%, and in Luhansk oblast 33.1%.

This means that on the average every fourth Ukrainian does not have enough resources to meet the minimal requirements for his physiological survival.

Apart from the mentioned scope of poverty, high unemployment rates also affect the migration processes. According to ILO figures, ***Ukraine’s unemployment rate at March 2002 was 10.6%*** of the economically active population from 15 to 70 years of age, i.e. 2.4 million Ukrainian citizens (*Fig. 1.1*). Judging from the latest data of the Ministry of Labor and Social Policy, ***3 million people*** are unemployed.

Fig. 1.1. Number of unemployed in 1999–2001 and March 2002*



* Source: State Statistics Committee of Ukraine

Unemployment in the country is of a persistent nature. A study conducted by the Ministry of Labor and Social Policy and the State Statistics Committee showed that the average duration of job-hunting in 1999 was nine months, while the duration of unemployment 18 months. Besides, the rate of *forced part-time employment is high*. Such a phenomenon as *family unemployment* is also widespread, especially in multifunctional cities.

The situation is aggravated by the problem of arrears of wages, which has not been dealt with to the present day. It is especially true for the public sector and is a grievous burden that causes suffering for many families.

In their totality, all these factors cause the large outflow of migrant workers who leave Ukraine to find a job in the developed countries of the West.

In the opinion of the Commissioner for Human Rights, Ukraine's economic performance, regardless of some good headway made in 2000-2002, will for a long time lag behind not only the developed countries of Western Europe, but also its nearest neighbors – Russia, Poland, Hungary, and the Czech Republic. Therefore, employment outside the country will remain a vital factor of Ukraine's economic life. But with the growth of the population whose earnings will exceed the minimum subsistence level and with the reduction of poverty and unemployment ever more Ukrainian citizens will choose their country as the main place of employment.

Whenever a migrant worker decides to go abroad, he takes into consideration not only the opportunity to earn some money, but also the negative consequences: separation from his family, risk of professional level reduction, lack of stability in social status, discomfort in a different cultural environment, discrimination, and the like.

Such a conclusion is also confirmed by international experience. Throughout the 1960s, when Western Europe tended to reduce the gap in economic growth between the poorest countries (Portugal, Spain and Italy) and their richest neighbors (France and Germany), the above-mentioned trend considerably reduced the number of migrant workers: in the period from 1966 to the 1970s, about 250,000 citizens of Italy left the country, while in 1976-1980 Italy had a favorable migration balance.

Another example is Romania. In the mid-1990s when Romania was suffering from an economic crisis, about 50% of graduates of higher technical educational establishments left the country; today the rate is a mere 10%. This came as a result of more new jobs following economic growth and higher wages of skilled labor.

In the opinion of the Commissioner for Human Right, the priority objective of dealing with the negative consequences of migration for employment should be the pursuance of a weighted economic policy oriented primarily toward reducing poverty and unemployment, increasing the share of wages in the population's real incomes, ensuring stable economic growth, and gradually approximating the incomes of Ukrainian citizens at first to the level of the

neighboring countries (Russia, Slovakia, Poland, Hungary) and, eventually, to the level of Greece, Portugal and Italy whose economies are currently absorbing a substantial number of Ukrainian migrant workers.

2. ANALYSIS OF STATISTICAL DATA ON UKRAINIAN CITIZENS DEPARTING ABROAD

Official and unofficial Ukrainian sources, the mass media included, give different figures of migrant workers leaving the country. Their number *ranges from two to seven million people*. Estimating the exact or at least approximate number of migrant workers is extremely difficult, what with the prevalently illegal nature of their stay abroad and reluctance to register with both Ukrainian consular posts and the migration services of the host countries.

Yet another difficulty is that the quantity of migrant workers is never stable and fluctuates periodically, reaching its peak in summer.

One of the reasons behind the inefficiency of the existing system of recording statistical information about migrant workers is the absence of a single government agency for collecting, generalizing and analyzing such information.

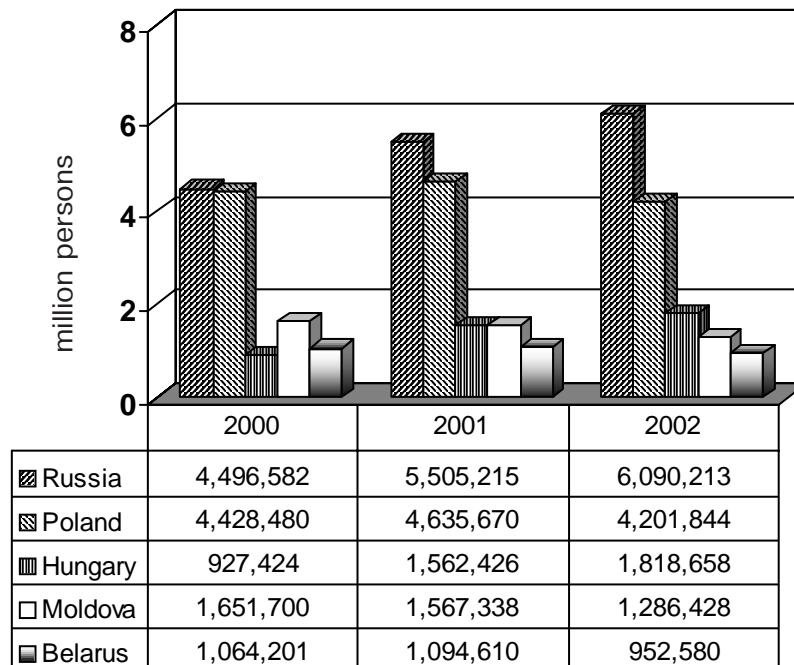
During the preparation of this Special Report, the Commissioner authorized to make a thorough study of the statistical data provided by the Ministry of Foreign Affairs, Ministry of Labor, the State Committee for Guarding the Ukrainian State Border, and the foreign embassies accredited in Ukraine.

Regrettably, the received data made it impossible to arrive at a definite conclusion, since the information about Ukrainian migrant workers was fragmentary and occasionally contradictory.

According to the data of the State Committee for Guarding the Ukrainian State Border, 14.2 million Ukrainian citizens departed from the country for different purposes, while in 2001 their number was 15.6 million, and in 2001 – 15.6 million. The number of those who entered Ukraine within this period was as follows: 15.3 million Ukrainian citizens in 2000, 15.3 million in 2001, and 15.1 million in 2002. The overall “migration balance” was (+)1.14 million in 2000, (-)0.28 million in 2001, and (-)0.48 million in 2002. The presented figures show that approximately 0.38 million more Ukrainian citizens entered the country than left it in the period from 2000 to 2002.

Among the most frequented countries in 2002 were *Russia* (6.1 million), *Poland* (4.2 million), *Hungary* (1.8 million), *Moldova* (1.3 million), *Belarus* (0.9 million), *Slovakia* (262,000), *Turkey* (177,000), *Romania* (116,000), *Czech Republic* (97,000), and *Germany* (96,000). (see Fig.1.2).

Apart from the geographical factor, the large number of Ukrainian citizens crossing the border into Russia, Poland, Hungary, Moldova and Belarus is explained, first of all, by the free-visa entry procedure in effect with these countries and, except for Moldova, corresponds on the whole to the traditional destinations of Ukrainian migrant workers.

Fig. 1.2. Dynamics of border crossings by Ukrainian citizens in 2000–2002

At the same time the information about Ukrainian citizens crossing the border into Western Europe does not accord with the real situation of things.

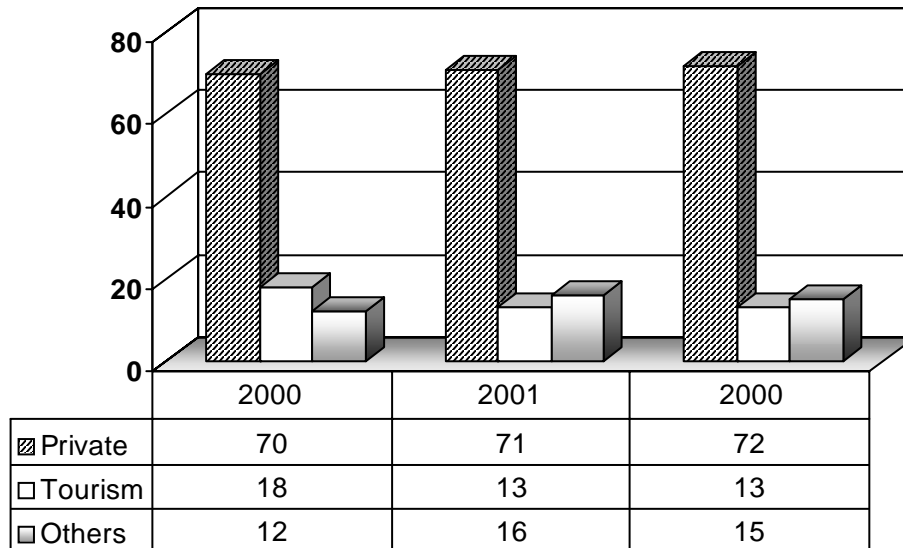
When a Ukrainian citizen departs for Poland or Germany it does not necessarily mean that these countries are his final destinations. Once he officially enters Spain under an Schengen visa issued by the Spanish Embassy in Ukraine, he can become an illegal migrant worker in any country of the Schengen zone, in particular in Portugal or Italy.

According to the official data of the SCGSB, 105 Ukrainians departed for *Portugal* in 2000–2002. How then did 140,000 Ukrainian migrant workers appear in this country, as Ukrainian expert estimates show? On the other hand, Portugal's mass media put the figure at 200,000.

Analyzing the Ukrainian citizens' officially stated purpose of travel abroad, it can be concluded that the overwhelming majority pursues a private purpose (about 70% in 2000, 71% in 2001, and 72% in 2002) or as organized tourists – 18.13% and 13% respectively). Those who went on business trips, or as attending personnel and servicemen accounted for 12%, 16% and 15% of all the Ukrainian citizens who traveled abroad in 2000, 2001 and 2002 respectively (see Fig.1.3).

In the past few years there has been a slightly upward trend in the share of business travel by Ukrainian citizens against the backdrop of a reduction in tourist travel.

Fig. 1.3. Dynamics of changes in the purpose of travel



Relevantly, the *data of the SCGSB give an idea only about the general size and destinations of migration flows from the country. Therefore it is impossible to determine precisely how many Ukrainian citizens are sojourning in one or another country, in the capacity of migrant workers included.*

First, the cited figures represent the total number of Ukrainian citizens crossing the border for certain specific destinations as well as those who in the said period crossed the border twice and even more. This is especially true for what are called “*shuttles*,” i.e. vendors who cross the border several dozens of times a year.

Included in these data are also Ukrainian citizens who are staying on the territory of other countries as migrant workers over a lengthy period of time and have not returned to their homeland since then.

The **official data of the Ministry of Labor and Social Policy on the number of employed Ukrainian citizens abroad** seem to be more precise.

In the first six months of 2002, according to these data, 20,617 Ukrainian citizens held temporary jobs abroad, of which 20,199 were migrant workers, 227 seasonal workers, 152 hired interns, and 39 contract workers. The largest number of Ukrainian citizens holding temporary jobs was in *Greece* – 7,249, *Cyprus* – 2,914, *Liberia* – 2,266, *the United Kingdom* – 1,287, *United Arab Emirates* – 703, *Germany* – 551, and *Russia* – 543 (see Annex 2).

These figures relate only to those citizens who were employed directly either by the Ministry of Labor and Social Policy through state employment centers on the basis of bilateral Agreements on employment or by employment firms holding official licenses awarded by the Ministry of Labor and Social Policy.

Accordingly, the figures take into account only legally employed citizens, i.e. those who entered a country on the basis of an employment visa, but not a tourist or visitor visa, and received permits for employment and permits for stay.

At the same time Ukrainian citizens legally working in the host countries account only for a negligible percent of illegal workers.

Judging from some unofficial estimates, not more than 5% of Ukrainian citizens leaving for work abroad, specifically to Russia, are entered in the registration lists of the Ministry of Labor and Social Policy.

The official data of the Ministry of Labor and Social Policy also do not adequately present the picture of migration for employment, such as its scope, destinations, and the like.

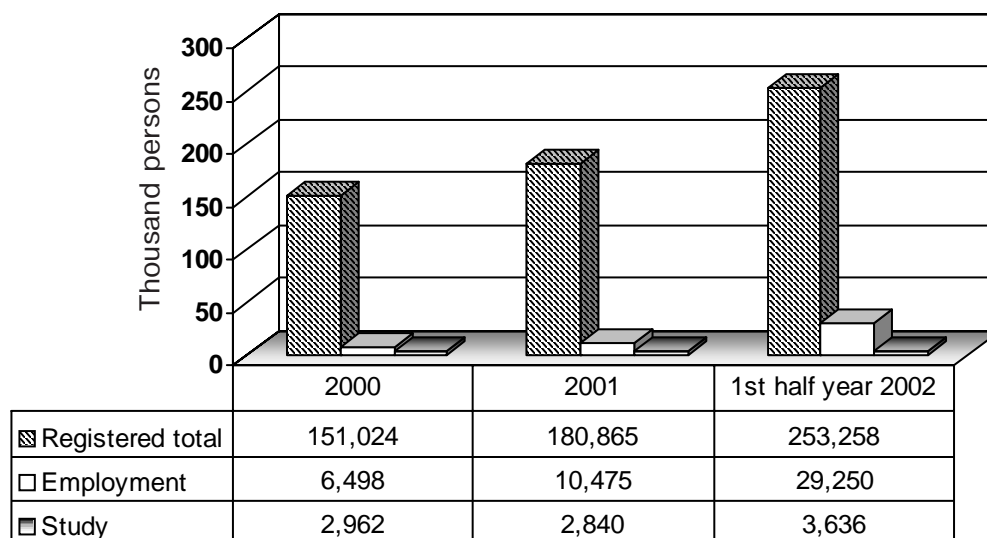
Another source of information about the number of Ukrainian citizens working abroad are the **data of the Ministry of Foreign Affairs' consular posts**.

At July 1, 2002, as the Ministry of Foreign Affairs data show, 82 consular posts *in 69 countries had permanently registered 200,806 Ukrainian citizens and temporarily registered 52,452 Ukrainian citizens*; of this number 3,636 were studying, 29,250 working, and 327 undergoing medical treatment.

As we see in Fig.1.4, there has been an upward trend of those permanently and temporarily registered with consular posts, along with the growing share of citizens staying in the countries for the purpose of employment.

Thus, the largest number of Ukrainian citizens registered with consular posts (over 60%) is in three countries – Germany, Israel and the US. But where the presence of Ukrainian migrant workers is the largest (Russia, Poland, the Czech Republic, Italy, Portugal and Turkey) only a little over 14% of the total are registered with Ukrainian consular posts.

Fig. 1.4. Number of Ukrainian citizens registered with consular posts



This proves that the overwhelming majority are reluctant to register for different reasons, or simply do not want to because most of them are illegal migrant workers. At the same time citizens who are legally employed abroad also assume such reluctance. *According to the information of the Ukrainian Embassy in Iraq*, Ukrainian citizens working with oil recovery companies in that country on a contractual basis in 2002 refused to undergo registration even after repeated meetings with the consular officers of the embassy.

A similar situation is observed in Turkey. As the *Ukrainian Embassy in Turkey informed*, only 625 Ukrainian citizens were temporarily or permanently registered with its consular service at July 1, 2002. *But according to the information of the Embassy of Turkey in Ukraine*, 2,300 Ukrainian citizens, i.e. 3.5 times more, resided on the territory of Turkey at August 1, 2002. Experts estimate the number at about 35,000.

This means that even those Ukrainian citizens who sojourn in Turkey on legal grounds do not wish to undergo consular registration for certain reasons. One of the reasons is the fear that once they provide objective information about their place of residence and purpose of travel, it will end in negative consequences for their further stay in that country. Also, quite a few Ukrainian citizens do not understand the purpose of registration and its positive aspects for the protection of their rights and freedoms.

In this connection, Ukrainian citizens should be informed more comprehensively about the need of consular registration and how their rights and freedoms can be protected by consular posts. Since consular registration implies definite legal implications and concerns persons sojourning on the territory of a foreign state on legal grounds, the existing procedures of consular registration should also be made more flexible with regard to the current contingents of Ukrainian citizens staying abroad, in particular to illegal migrants.

The information about consular registration of Ukrainian citizens temporarily or permanently employed abroad, though more extensive compared with the data of the Ministry of Labor and Social Policy, does not, nonetheless, reflect the real number of our citizens working abroad.

In response to the inquiry of the Commissioner, the Ministry of Foreign Affairs, apart from official data, also provided its *expert evaluation about the number of Ukrainian migrant workers illegally employed throughout the world*.

The *Ukrainian Embassy in the Russian Federation* estimated that in 2002 there were about *one million* Ukrainian citizens illegally employed in that country, while the seasonal peak reached *three million*.

According to the Ministry of Foreign Affairs' expert estimates, up to 300,000 Ukrainian citizens sojourned *in Poland*, 200,000 *in Italy*, 100,000 *in the Czech Republic*, 140,000-150,000 *in Portugal*, 100,000 *in Spain*, 35,000 *in Turkey*, 20,000 *in the US*, 5,000 *in Slovakia*, 4,000 *in Argentina*, 4,000 *in Belarus*, and up to 3,000 *in Greece*. In all, over 2 million Ukrainian citizens work abroad illegally.

In the opinion of the Commissioner, these figures are also underestimated and do not accord with reality. The Commissioner cited some figures about Ukrainian migrant workers in the First Annual Report. Constant monitoring of this issue makes it possible to state that *not less than five million Ukrainian citizens* is a more realist figure. Taking into account that the country has 28 million citizens of employable age, it can be concluded that *to date at least every fifth economically active Ukrainian* is working abroad.

3. GLOBAL PROBLEM OF MIGRATION OF HIGHLY SKILLED LABOR AND THE BRAIN DRAIN FROM UKRAINE

The *loss of highly skilled labor, above all scientific workers of the highest professional qualification, is one of the consequences of migration for employment.*

The process of migration for employment, which includes the migration of highly skilled workers, is more or less in evidence in every country. But it can gain dangerous dimensions, if the share of skilled migrant workers in the overall size of the population grows out of proportion.

According to International Monetary Fund data, despite a substantial number of skilled workers leaving every year for good such countries as *India, China, the Philippines and South Korea*, they account for a relatively small percentage of the population (India and China – up to 1%, the Philippines and South Korea – 6%) and therefore do not bring much harm to the economies of these countries.

But for a number of countries, above all the ones that are small in terms of territory and population, this problem may gain the dimensions of a national catastrophe. For example, 60% of the citizens of *Jamaica, Trinidad and Tobago* with a higher education are currently living in the US. *Hawaii* lost 70% of graduates of higher educational establishments, *Iran* 15%, *Mexico* 13%, and *Taiwan* 8%.

This is the result of a **purposeful policy of the developed nations in attracting skilled labor**. To this end flexible and favorable programs have been put into effect. Experts estimate that the *loss of one specialist with a higher education costs about US \$20,000, while the arrival of a skilled migrant worker enriches his new country of residence by exactly such an amount, impoverishing his country of origin by the same amount.*

The *US can serve as a unique example of pragmatism* in creating favorable conditions for the work of scientists. It is a truly scientific Mecca of the world. Apart from investing in scientific research more than any other country (3% of GDP), the US government gives scientists unbounded freedom for the self-fulfillment of their creative potential. Small wonder that the US is a leader in many branches of science. From 1920 medical scientists residing in the US were awarded one-third of all Nobel prizes. Effective scientific performance in the US is determined by the following factors: publications in leading scientific

journals; entry in the list of 250 authors who gained outstanding results; membership of the National Academy of Sciences and technical academies; and implementation of innovations. In physics and mathematics almost two-third of scientists of the highest qualification are not of US origin, while in medicine and biology the rate is 30%. Over a long period of time the US has been gaining substantial profits from investment in education made by other countries, thereby causing them damages.

According to the Brookings Institution, the scientific work of foreign specialists in the US in the period from 1950s to 1975 was gaining an annual profit of US \$8.6 billion. The seriousness of the approach to supplying the country with highly skilled personnel is confirmed by the fact that throughout the 1990s the US government adopted laws to issue 65,000 visas to qualified foreign specialists. In early 1998 this quota was increased and the Senate gave its permission to accept an additional 30,000 foreign specialists. *In the period from 1999 to 2003, the annual quota of foreign specialists was 115,000.* The main motive of such a decision was the urgent need of the US economy in specialists engaged in information technologies, computer technologies, medicine and biology.

For example, the number of foreign specialists who gained scientific degrees in the US (in percent to the total of scientists originating from a definite country) was as follows: China – 85.5%, India – 79.1%, the UK – 69.3%, Germany – 55.7%, Canada – 55.4%, and South Korea – 36.1%. Several decades ago the emigration of highly skilled specialists to the US was viewed only as a single-ended movement that involved the best and most talented. Today this movement is viewed as a “circulation of brains,” i.e. the possibility of scientists returning to their homeland where they will enjoy preferential terms of employment.

In *Germany* and *the UK* investment in science amounts to 2.4% and 1.8% of GDP respectively. By 2004 the government of Germany intends to increase budgetary appropriations for science and thereby avoid the emigration of scientists from the country, and the UK wants to follow suit before the year 2008, because the brain drain in these countries is quite marked.

It is worthwhile taking a look at the experience of some post-socialist countries, such as Poland and Hungary in dealing with the brain drain. *Poland*, in particular, expends a lot of effort to keep its skilled labor at home, especially specialists working in leading areas of research. Besides, *it tries as much as possible to engage scientists who had earlier left the country.* The first exodus began in 1970. *The government views the establishment of working contacts with Polish scientists/emigrants as a promising effort to reduce the negative consequences of the brain drain.* According to a survey, 93% of the interviewed emigrants maintain professional contacts with the scientific community in Poland. Polish experts arrived at the conclusion that the problem of the brain drain is bound up with a substantial improvement not only of the conditions of scientific work, but also of the system of science and education as a whole.

Some radical changes are taking place in the official policy of *Hungary* relative to science. Here the brain drain is held back by the creation of necessary conditions for the work of scientists and their involvement in international programs. In the period from 1986 to 1992, the Hungarian Academy of Sciences, jointly with international organizations, took part in about 800 different international programs, 33% of them carried out in Hungary. For instance, by joining the EUREKA programs in 1992, Hungary “internationalized” the scientific process and intensified its scientific cooperation with the EU countries.

Belarus has also gained certain experience in government regulation of the process of intellectual migration. It put in place a corresponding legal framework and infrastructure. For this purpose a State Committee for Science and Technologies and the State Migration Service (currently the Committee for Migration under the Ministry of Labor) were established and a State Migration Program for 1998-2000 and Subsequent Years adopted.

Now it is suggested to set up a forecasting system for keeping track of these processes in order to assess the movement of scientific personnel, of migrant scientists included. The Belarus Academy of Sciences (BAS) has been effecting cooperation with scientific centers and organizations of other countries under agreements between academies and research institutes of 64 countries. In 1998 the BAS institutes performed 235 agreements and contracts with foreign scientific institutions, firms and organizations. Of the 110 international projects involving Belarus and foreign scientists within the framework of the INTAS program, the BAS members perform 63 projects. In 1998 a special competition for Belarus was conducted for the first time within INTAS. A survey conducted by the BAS and higher educational establishments of Belarus in the period from 1996 to 1998 revealed that the country had over 2,200 scientists who were traveling abroad in the performance of commitments under contracts and foreign grants.

International practice proves that the outflow of skilled scientists from Ukraine can be successfully dealt with. *Given the widely acknowledged scientific, technical and intellectual potential in Ukraine*, a lot of socioeconomic problems could be resolved quickly, thereby promoting better safeguards for the economic, social and cultural rights of Ukrainian citizens.

According to the State Statistics Committee, the country's economy at October 1, 2002 employed 73,700 highly skilled specialists, which was 3.4% more than in the same period the year before. Of this number 11,000 held D.Sc. and 62,700 M.Sc. degrees. Women accounted only for one third of the specialists, including 15.9% of doctors and 36.3% masters of science.

Most of the specialists with scientific degrees are concentrated in the economically developed regions that have a substantial number of scientific institutions and higher educational establishments. The city of Kyiv had 28.5% of all doctors and masters of science, Kharkiv oblast 15.4%, Dnipropetrovsk oblast 7.1%, Lviv oblast 7.0%, and Donetsk oblast 6.6%. On the whole, the regions employed over 70% specialists with D.Sc. and M.Sc. degrees.

Regrettably, this potential is not used effectively. As the most intellectual part of the workforce disappears from the real economy, the country incurs substantial losses. Experts estimate that *over one million engineers, technologists, economists and other specialists with a higher education cardinally changed their jobs* to engage in something else that by its nature does not add anything to the national wealth. Instead, *up to 30% of Ukrainian scientists are working abroad for the benefit of the science and economy of other countries.*

The high demand in Ukrainian specialists is mostly met on the unofficial market, which causes direct damage to Ukraine. Experts believe that the *damage amounts to more than US \$1 billion annually.* It's not difficult to make this estimation, but what's much more difficult is to evaluate the country's losses from the uncontrolled outflow of specialists and scientific workers. In the US alone, Ukrainian scientists patented dozens of inventions they had developed in their home country. For Ukraine these inventions are lost forever, since they won't be even registered in this country.

During the past 15 years Ukraine provided intellectual assistance to practically all developed countries, finding itself in a situation when it had to work out organizational measures to mobilize human and financial resources for its own science.

The brain drain is experienced practically by all countries undergoing economic reform, especially when the economy cannot ensure jobs for specialists with a higher education. Experts concede that the main reasons why scientists are forced to leave their jobs are: *first*, low pay; *second*, impaired prestige of scientific work in society; and *third*, worsened conditions for normal scientific work or no prospects for self-fulfillment.

So not only economic factors, but also **the impossibility to achieve a professional career** are behind the reasons of the brain drain.

Ukrainian researchers studied the scientific-social orientation of senior university students and young NAS scientists as to their desire to go abroad to work, since the annual outflow of young scientists and promising specialists with a university education considerably worsens the composition of the scientific community and makes the scientific community and faculty much younger.

The purpose of departure abroad *among the students* is in most cases related to financial interests and this group accounts for 63%, professional interests are pursued only by 37%, while 7% of the students are willing to take up any jobs for the sake of high pay.

Young scientists, however, want to achieve an absolutely different purpose: 63% intend to raise their skills abroad, gain new experience, engage in advanced research, and, finally, earn prestige in the international scientific community. Only 30% of the scientists are guided by financial considerations.

Also interesting is the attitude of the interviewed managers of scientific institutions to the problems of migration. In particular, they hold in high regard the development of Ukrainian science (8.5 points of 10 by world standards). In their opinion, the *prestige of Ukrainian scientific institutions is rather high* –

76% of them are known worldwide, and 16% are leaders in their respective fields. The international activity of Ukrainian scientists is extensive as well: 800 scientists took part in scientific programs abroad in 2000, i.e. an average of 32 per scientific institution. Therefore, *the managers of scientific institutions (93% of those interviewed) believe that better financial and material support of science can to a considerable extent check the outflow of young scientists abroad.*

Listed below are the measures that are proposed to check the departure of young scientists from and their return to Ukraine:

Nos.	<i>Measures to check the departure of young scientists abroad (49 experts – managers of scientific centers). June-July 2001</i>	%
1	Raise the prestige and pay of scientists	45
2	Improve material and technical support	26
3	Raise the living standards of scientists in all aspects	17
4	Raise financing science to the level of European standards	5
5	Prohibit scientists from going abroad as it was practiced in the USSR	5
6	Exercise free egress	2

Nos.	<i>Measures to return young scientists to Ukraine. June-July 2001</i>	%
1	Create attractive conditions and pay	35
2	Create favorable scientific, material and social conditions	22
3	Provide scientists with modern equipment and materials for research	12
4	Offer comfortable housing and high pay	8
5	Increase funding of science	8
6	Exercise free egress	5
7	Offer all opportunities for self-fulfillment	3
8	Once the situation in Ukraine becomes stable, they will return	2

Source: Results of interviews with managers of the NAS and the Ministry of Education and Science with the assistance of the Ukrainian International Committee for Science and Culture

The emigration of scientists occurred in several phases.

1988–1991 – the first wave was headed to the West. As a rule, these were “dissidents” and young scientists who were awarded scholarships for study or performance of scientific research programs.

1991–1993 – emergence of an independent scientific and technical domain that coincided with the economic crisis when funding of science and its prestige declined and more attractive areas of activity were offered on the market. *This phase saw the largest internal and external outflow of scientists. For instance, in 1992 the Ukrainian scientific community lost one sixth of its members.*

1994–1999 – new wave of emigration and natural ageing of scientific personnel caused by a deepening economic crisis and stagnation of transformation processes in science.

According to government statistical reports, in 2002 Ukrainian agencies and institutions lost 4,610 specialists with scientific degrees, of which 19.3% went into retirement, 10.4% passed away, and 3.4% went abroad. Out of the total

number of specialists who went abroad that year, 29% were scientists under 40 years of age and one-third were from 41 to 50 years old.

According to SSC data, 89,777 Ukrainian citizens with a higher education, almost 8,000 with an incomplete higher education, and 122,522 with a secondary special education left the country in the period from 1977 to 2001.

Almost 40% of the specialists who emigrated had the highest professional ranks in their areas of research: seven professors, 32 assistant professors, and 21 senior scientific research associates. The NAS institutions lost 54 doctors and masters of science, the Ministry of Education and Science 49, and the Ministry of Health Care 19. The largest number of doctors and masters of sciences departed for the US (32), Russia (23), and Germany (29).

In 2001, according to SSC data, the average annual number of personnel engaged in science amounted to 183,000 persons, while in the 1990s it was 553,000 persons. During the past ten years the largest decline in scientific personnel was registered in the NAS and academic research sectors – by 2.5 times and 1.7 times respectively.

Within ten years the number of specialists engaged in research decreased by a half. **30% of the scientists that are still employed actually perform research for foreign clients.**

In his report *On the Activity of the National Academy of Sciences of Ukraine in 2001 and the Main Areas of its Further Work*, the **NAS President Boris Paton** pointed out that the provision of personnel remains a critical problem for the Academy. In 2001 alone, 500 scientists at the average age of 35 years quit the Academy. The Academy did not manage to overcome the negative consequences in the dynamics of training scientific personnel. In 2001 only 260 employees of the NAS institutes managed to defend their M.Sc. theses against the 330 in 2000, while only 77 and 78 respectively defended their D.Sc. theses.

At the 2nd All-Ukraine Congress of Educationists in 2001, the **Minister of Education Vasyl Kremen** said: “We are observing the reluctance of young people to work in secondary schools, and for this reason the latter employ an *unjustifiably* high percentage of teachers of pension age. We also observe a serious outflow of personnel from higher educational establishments – in the last two years alone (1999–2000), almost 1,7000 doctors and masters of science from 25 to 50 years of age quit higher educational establishments of III-IV level of accreditation.”

In 2001, different sectors of the economy employed 71,250 personnel with D.Sc. and M.Sc. degrees (15% of D.Sc. and 85% of M.Sc.).

The number of scientists engaged in research in 2001 amounted to 113,300, including 21,400 doctors and masters of science. By comparison, more than 313,000 scientists, including 32,500 doctors and masters of science were in-

involved in research in 1990, i.e. the total number decreased almost threefold, while the number of scientists of the highest qualification (doctors and masters of science) went down to 11,100 or by one-third (34.2%).

Quite a few of the scientists are forced to hold more than one job. During the past ten years the number of scientific workers combining jobs, primarily in education, increased half as much again and now amounts to 48,000 persons. According to SSC figures, 55,400 persons (36,000 in 1990) are now carrying out research as a second job; of this number 24,500 (24,000 in 1990) hold D.Sc. and M.Sc. degrees. Over a half of the D.Sc. and M.Sc. degree holders (54%) are engaged in research and teach at institutions of higher education, almost one third (28%) work in the NAS institutes, and the remaining 18% are employed in scientific organizations of specific industries or enterprises.

The inadequate operation of scientific institutions is the main reason why specialists engaged in scientific research leave Ukraine, thereby causing widespread hidden unemployment, such as half-time working week or day, administrative leaves, and the like.

Lately, such unemployment rates have been going down. *From 1999 on a number of important measures were taken and laws adopted to change government policy in the field of science.* Judging from SSC data, forced part-time employment in science caused by administrative leaves in percent to all the employed accounted for 24.1% in 1999, 16.3% in 2000, and 4.4% in 2001; those employed part-time accounted for 29.8% in 1999, 22.9% in 2000, and 17.6% in 2001.

Analysts point out the negative changes that have occurred in the qualitative composition of scientific personnel, namely: a) reduction in the share of scientists with scientific degrees taking a direct part in research and development; b) unjustified numerical growth of specialized scientific councils (about 700) that hardly promote the quality of awarded scientific ranks and titles; c) substantial reduction in the personnel involved in sectoral science, which hinders the innovational development of the economy; d) critical status of the age structure of personnel.

At January 1, 2000 the mean age of scientists with a D.Sc. degree was 59 years (55 years in 1991) and with a M.Sc. degree 51 years (47 years in 1991).

During the past five years the mean age of Masters of Science almost did not change and in 2002 was 51 years, including women – 48 years, and men 53 years. The mean age of D.Sc. holders went up by one year and was more than 60 years (58 years for women and 60 years for men, see tables 1.3 and 1.4).

Although the overall number of D.Sc. holders increased by 844 in 2001 as compared with 1995 and M.Sc. holders by 3,037, they had aged considerably within this period. While in 1995 scientists with a D.Sc. degree of pension and senior age accounted for 36.9% relative to all age categories, in 2001 this rate was 51.8%.

Table 1.3. Scientific personnel of the highest qualification (persons)*

	Specialists with scientific degrees							
	D.Sc.				M.Sc.			
	1995	1999*	2000*	2001*	1995	1999*	2000*	2001*
Total, including with scientific ranks of	9,759	10,233	10,339	10,603	57,610	59,547	58,741	60,647
NAS members	1,224	1,407	1,433	1,458	389	445	427	433
NAS corresponding members	4,511	518	519	540	476	532	532	542
Professors	5,369	5,281	5,193	5,418	877	909	894	914
Assistant Professors	1,373	126	1,909	1,939	24,602	24,007	22,982	23,611
Senior Research Associates	2,198	2,270	2,219	2,222	8,037	7,151	6,565	6,527

Table 1.4. Breakdown of scientific personnel of the highest qualification by age (persons)*

	Specialists with scientific degrees							
	D.Sc.				M.Sc.			
	1995	1999*	2000*	2001*	1995	1999*	2000*	2001*
Total, breakdown by age (years)	9,759	10,233	10,339	10,603	57,610	59,547	58,741	60,647
under 30	1	1	2	1	1,104	1,427	1,815	2,184
31–40	270	224	232	221	11,463	9,415	9,305	9,408
41–50	1,826	1,736	1,698	1,650	17,426	17,113	16,654	16,620
51–55	1,461	1,463	1,658	1,730	8,003	8,620	9,365	9,935
56–60	2,604	1,849	1,639	1,513	12,097	9,047	7,398	6,599
61–70	2,671	3,680	3,778	3,950	6,488	11,972	12,201	13,435
71 and older	926	1,280	1,332	1,538	1,029	1,953	2,003	2,466

*Source: *Statistical Yearbook of Ukraine for 2001* published by the State Statistics Committee of Ukraine (as of October 1 by age)

B. Malysky, D.Sc.(Econ.), Director of the Center for the Study of the Scientific and Technical Potential and the History of Science under the NAS of Ukraine, maintains that the numerous reorganizations of the government agencies administering science had a negative effect on the status of science and scientific personnel. In 1991–1992 the Committee for Scientific Progress was set up, in 1992–1995 it was modified into the State Committee for Science and Technologies, in 1995–1996 it was converted into the State Committee for Science, Engineering and Industrial Policy, in 1996–1998 it was transformed into the Ministry of Science and Technologies, which again, in 1998–2000, was restructured into the State Committee for Science and Intellectual Property, and, finally, it was liquidated as an independent central agency for the administration of science and subordinated to the Ministry of Education, called from then on the Ministry of Education and Science.

Such a strange metamorphosis caused the degradation of the government's responsibility for the operation of the country's key sectors. It affected negatively not only science as a whole, but practically every scientist as well. Small wonder that **in the period from 1991 to 2002, as SSC data confirm, 574 holders of D.Sc. degrees emigrated, while from 1996 to 2002 an additional 907 M.Sc. degree holders followed suit** – almost one-third of them promising specialists under 40 years of age and another one-third from 41 to 50 years of age.

According to the figures of the NAS Presidium, in the period from 1994 to 2001 the NAS institutes alone lost 3,838 scientific workers, including 3,399 who left to seek temporary jobs or become interns, 842 of them Doctors of Science and 2,358 Masters of Science. In 1992-2001 a total of 439 scientists (101 Doctors of Science and 275 Masters of Science) departed for permanent residence abroad. Besides, within this period 3,544 scientific workers, including 778 Doctors of Science and 2,226 Masters of Sciences, were temporarily employed abroad.

Individual invitations for employment mostly for **young skilled scientists present yet another threat to our national security**. In 2001 alone, 162 scientists with D.Sc. and M.Sc. degrees, i.e. 11% more than the year before, left the country for more attractive jobs.

In view of such a situation in Ukrainian science, the Commissioner considers as opportune the **recommendations of the European Commission on how to deal with this problem**, namely by:

- setting up networks of international scientific centers in Europe and virtual centers with modern interactive communication systems. The best scientists and engineers will thus bring to light their talent and receive high pay for what they do;
- concentrating such scientists in these centers and making the latter attractive for young talented scientists, since for scientists of middle and senior age the availability of the best conditions for work and self-fulfillment as well the opportunity to acquire a merited reputation in the world's scientific community are the decisive factors of employment abroad;
- introducing legal (preferential/taxation) measures for private companies and enterprises that are interested in investing capital in the advanced developments of such centers;
- coordinating national and European research to avoid their duplication;
- promoting investment in improvement of production methods;
- enhancing the mobility of research and introducing a uniform "European standard" for scientific careers;
- unifying the scientific and professional associations of Eastern and Western Europe.

In the opinion of the Commissioner for Human Rights, Ukraine has turned into a supplier of cheap skilled labor for the rest of the world. From 1994 on Ukraine has an unfavorable migration balance. Every year emigration reduces

the population size by an average of 90,000 people from among the economically active, enterprising and educated citizens.

A monitoring of the status of migration processes in the scientific community conducted by the Commissioner proves that emigration of scientific workers of the highest skills is a phenomenon that can be observed in every country with a developed economy. In Ukraine this process is, regrettably, beyond any control and, the main thing, is not used for either the interests of the state and society or the interests of the citizens. A reasonable use of the country's intellectual potential could promote its preservation and growth and also become a source of revenues derived from countries where our specialists are employed on a contractual basis. The government, but not dubious limited liability companies, should be the intermediary in effecting such contracts. When signing a contract with a worker for his employment abroad, the government should undertake his protection and control over the performance of the contract by his employers in other countries and their compliance with his rights.

The Commissioner's monitoring also proves that, except for occasional researchers, nobody in the government is really studying the reasons and causes of the outflow of specialists from scientific institutions. Neither does the State Statistics Committee of Ukraine keep any proper statistical records of this outflow.

Also disappointing is the fact that the outflow of scientists has not merited the attention of either the Central Committee of the Trade Union of Educational and Scientific Workers or the Central Committee of the NAS Trade Union.

4. FINANCIAL AND POLITICAL CONSEQUENCES OF MIGRATION OF LABOR FROM UKRAINE

The main positive result of migration for employment is that it generates additional earnings that flow back into the country of a migrant worker's origin, because he wants to earn as much as possible and send the money to the family he left in his homeland. This makes him save as much of his earnings as he can and spend them only for such essentials as food, accommodation and clothing. The earnings reach his family through both official and unofficial channels, i.e. by money transfers or direct upon his return. It has been observed worldwide that what a migrant transfers officially practically equals what he himself brings home.

According to the official estimates of the International Monetary Fund, the money migrant workers transferred in 1999 to Eastern Europe, Asia, Africa, the Middle East, Latin America and the Caribbean countries amounted to US \$65 billion. If we take into account what had reached these countries through unofficial channels, the sum would be over US \$100 billion. Table 1.5 presents data about such transfers and their share of GDP.

As far as Ukraine is concerned, there are no such estimates at the government level. Therefore it is extremely difficult to say what amount of money migrant workers bring into the country.

Table 1.5. Ten countries that received the largest money transfers in 1999

Nos.	Country	US \$ million	Percent of GDP
1	India	11,097	2.6
2	Philippines	7,016	8.9
3	Mexico	6,649	1.7
4	Turkey	4,529	2.3
5	Egypt	3,196	4.0
6	Morocco	1,918	5.5
7	Bangladesh	1,803	4.1
8	Pakistan	1,707	2.7
9	Dominican Republic	1,613	11.0
10	Thailand	1,460	1.1

The Commissioner monitored the transfers our citizens made through banks from the countries of employment.

Bank transfers of individuals are governed by the Law *On Payment Systems and Money Transfer in Ukraine* of April 5, 2001. This law sets out the principles of operation of payment systems, defines the terms used in it, and establishes the procedure for remitting money within the country as well as the liabilities of subjects of money transfers. Under operative Ukrainian legislation and the regulations of the National Bank of Ukraine the *banks are entitled to open and keep current accounts of clients and correspondent banks (residents and non-residents) in foreign currency*, remit money from these accounts and place funds on them on the basis of a bank license, provided they have a NBU permission in writing to effect the said transactions. *The right to effect such transactions is enjoyed by 150 Ukrainian banks.*

The effective regulations do not provide for the NBU receiving information from banks about the amount of money the clients remit and the number of respondents and countries from which the money is received.

As the bank managers informed the Commissioner, the international money transfers for the benefit of individuals do not state the citizenship of the persons who remit the money. The funds are credited to the current accounts of individuals and also upon statement of passport particulars without opening current accounts. Transfer operations of individuals via the system of correspondent accounts are effected to the opened current accounts of individuals and as subagents of the Money Gram, Western Union and SWIFT payment systems without opening accounts.

Money Gram and Western Union make it possible to provide remittance services through applied software based on the “person-to-person” system. But the system does not record on the remittance receipt information about the country of the remitter.

In view of the circumstances described above, it is also impossible to determine how much Ukrainian migrant workers transfer money through official channels.

In response to the inquiries of the Commissioner, the following data was received from some of the banks: *Polikobank (Chernihiv)* disbursed money transfers through the Money Gram system to 826 persons in the amount of US \$287,653 in 2000-2003; *JSB Prykarpattia (Ivano-Frankivsk)* paid through Western Union US \$3,016,741.64 in 2000, US \$4,453,504.2 in 2001, and US \$2,678,032.5 in 10 months of 2001; *Privat-Bank (Dnipropetrovsk)* paid to 11,840 persons through Money Gram US \$4,683,950.03; and *JSB Elektron-Bank (Lviv)* disbursed to 253 individuals through Money Gram a total of US \$671,384 – US \$109,595 in 2001 and US \$561,789 in 2002. In these cases as well the banks did not have any information about the remitters.

O.Lohoshniak, Chairman of the Pravex Bank Board of Directors, informed the Commissioner about the following: “Since the Instruction *On the Procedure for Opening and Using Accounts in National and Foreign Currency* approved by NBU Board of Directors Resolution No.527 of December 18, 1998 does not regulate the verification of information about senders of payments in favor of individuals, the bank cannot provide information about the cash Ukrainian citizens transferred from abroad. Not a single payment system, specifically SWIFT or Western Union, has such payment requisites as citizenship of remitters.”

A survey conducted in Ternopil oblast in 2001 by the Ministry of Labor and Social Policy, the oblast state administration and the oblast employment center (at January 1, 2001 the oblast had 1,151,100 residents, i.e., 2.3% of the country’s population) revealed some interesting figures. The village radas polled 994 villagers as to the local residents who went abroad for work. At October 1, 2001 there were 20,095 such persons, or 6.33% of the oblast residents of employable age, including 11,925 men and 8,170 women. Judging from conservative estimates, the *migrant workers of Ternopil oblast were remitting about US \$100 million annually, i.e. over half a billion hryvnias* or an average of US \$4,000-6,000 per person. Under the program of investment in the economic development of Ternopil oblast for 2002-2005 official foreign investments amounted to UAH 12.4 million, i.e. approximately 2% of what the migrant workers send back home as their personal earnings. These facts show what a great potential remains untapped for using these earnings as investment in the economy for the welfare of the migrant workers’ families.

The information the Commissioner for Human Rights received from the Dnipropetrovsk oblast state administration can serve as an example of how much money is remitted to this region (see Table 1.6).

In all, US \$9,070,441 and 431,293 were remitted within three years.

Table 1.7 presents data on how much money in foreign currency from abroad the banks of Ivano-Frankivsk oblast disbursed as remittances to Ukraine’s residents and non-residents in 2000–2001.

Some experts estimate that Ukrainian migrant workers earn over UAH 2 billion a month, i.e. about US \$400 million.

The largest part of this money returns to Ukraine. This benefits not only the families of migrant workers, but also the whole country, since *unemployment rates go down*, aggregate demand increases, and the market capacity enlarges, thereby positively affecting the economic situation, especially the development of production. *The money migrant workers make abroad exceeds by a dozen times the average wages of Ukrainian citizens* and offer ample opportunities for building houses, buying cars, durable goods, products of the light and food industries, and financing education of children in prestigious educational establishments.

Besides, upon their return from abroad the migrant workers use a large share of the earnings to set up their own businesses, providing work for themselves and their relatives as well as creating jobs for others.

The work of Ukrainian migrants under conditions of a real economy enriches them both with a positive and negative experience. Above all, they acquire additional skills in their trades and professions, as they are introduced to the latest in technologies, expand their vision of the world and gain confidence in their own powers. Among the negative consequences of the inflow of additional money into the country are the growing prices for goods and services on the domestic market without a corresponding rise in the purchasing power of the bulk of the population.

As the families of the migrant workers keep receiving the money transfers from abroad, they frequently tend to gain a distorted understanding of the real situation within the country when it comes to identifying poverty and providing social assistance to those who really need it.

In the opinion of the Commissioner, the migrant workers' money transferred through the banking system should be registered in order to have an accurate estimation of the income of families and to determine the subsistence minimum in the country.

In studying how the problems of migrant workers are dealt with in the world, the Commissioner arrived at the conclusion that the government should create preferential conditions for legalizing the money transfers and legislatively establish a simplified system of transfers that would reduce the cost of services the banks provide for this purpose.

Such a conclusion is confirmed by international practice. Migration for employment is among the most acute social problems in *Mexico*. According to an approximate estimate, there are about eight million Mexicans working legally and illegally in the US and their number is growing with each passing year. Mexico accumulated unique experience in government regulation of migration processes and this issue is in the focus of attention of the country's parliament and government. The issue was the main point of discussion during the meeting of the Ukrainian Parliament Commissioner for Human Rights with *Gustav Mareno*, Foreign Relations Commission Chairman of Mexico's

**Table 1.6. Receipt of bank transfers for individuals
in Dnipropetrovsk oblast (oblast state administration data)**

No.	Country	Currency	Total amount of transfers (in foreign currency)			
			2000	2001	2002	Total
1	Israel	US \$	111,329	206,063	110,641	438,756
		Euro	–	253	–	253
2	Spain	US \$	16,846	35,549	94,849	148,726
		Euro	–	–	17,231	17,231
3	Italy	US \$	224,462	48,7901	401,526	1,311,963
		Euro	798	9,661	62,798	73,257
		Italian lira	3,000,000	2,473,217	2,700,000	8,173,217
4	Canada	US \$	48,837	157,363	134,998	361,583
		British pound	400	–	–	400
		Canadian dollar	–	–	500	500
5	Netherlands	US \$	127,294	115,056	42,211	291,733
		Euro	–	6,633	15,198	21,831
		Dutch Gulden	–	–	500	500
		German Mark	–	600	–	600
6	Germany	US \$	221,351	287,979	231,008	777,693
		Euro	94,683	41,913	142,079	297,432
		German Mark	462,136	155,624	–	684,878
7	Poland	US \$	11,796	1,632	19,148	53,338
		Euro	–	–	1,173	1,173
		German Mark	3,698	–	–	3,698
8	Portugal	US \$	5,369	21,579	35,872	62,820
		Euro	–	–	20,116	20,116
9	Russia	US \$	310,295	498,705	379,872	1,284,847
		Euro	–	–	107,544	107,544
		Ruble	2,098,346	2,101,044	5,254,198	9,453,588
10	US	US \$	1,160,501	902,554	2,086,538	4,395,759
		Euro	–	–	4,789	4,789
11	Turkey	US \$	43,070	27,901	3,332	74,303
12	Czech Republic	US \$	13,428	1,889	2,829	28,146
		Euro	–	–	615	615
13	Japan	US \$	28,961	27,380	48,958	110,676

Table 1.7. Disbursement of foreign currency transfers from abroad to Ivano-Frankivsk oblast in 2000-2001 (US \$ thousand)

Year	Sum of disbursed transfers (total)	Sum of transfers via Western Union	Sum of transfers via Money Gram	Sum of transfers via Vigo	Sum of transfers via other systems
2000	33,047.15	32,414.80	632.25	–	–
2001	56,547.72	52,786.66	2,525.76	540.79	594.11

National Congress. He informed his guest that Parliament was seeking ways and means to reduce the cost of transferring the money Mexico's migrant workers earn in the US. For this purpose the government intended to introduce special plastic cards for the families of migrant workers. By conservative estimates *Mexico's migrant workers remit to their homeland about US \$10 billion, which accounts for one-third of the country's budget revenues.*

The government's concern over this problem is compounded by the refusal of the US government to sign a bilateral Agreement with Mexico on the protection of the migrant workers' rights in connection with the events of September 11, 2001, after which the US substantially limited the entry of migrant workers into its country.

In the opinion of the Commissioner for Human Rights, the study of Mexico's experience as well as of other countries in the protection of the migrant workers' rights will be of benefit for formulating a corresponding government policy in Ukraine.

The large number of Ukrainian migrant workers abroad, which has not been decreasing over a long period of time, proves that for all the difficulties they experience in an alien environment the advantages of work abroad exceed by far the inevitable inconveniences.

According to the information of the Ministry of Labor and Social Policy, the majority of migrant workers are satisfied with their employment in other countries. About 73% of them are prepared to go there again if such an opportunity presents itself, and 84% expressed this desire, provided they have the support, assistance and relevant social protection guarantees of government institutions.

Besides, there is a stable trend of employment abroad becoming a principal practice and not something sporadic. The above-mentioned poll of the Ministry of Labor and Social Policy revealed that 81% of the migrant workers did not hold a permanent job in 2000 in their homeland. Therefore, a ***large part of the population sees migration for employment not as an alternative way of pursuing their economic activity, but as the only possibility of earning wages and realizing their labor potential.***

Political implications of migration of labor from Ukraine. Ukrainians are distinguished for their industriousness, tolerance, and ability to quickly adapt to a new environment. Small wonder that in a lot of countries they have earned

the reputation of welcome workers, which strengthens the positive image of Ukraine.

As a well-known Ukrainian diplomat pointed out during a conversation with the Commissioner, *“Ukrainian migrant workers are doing much more for popularizing and raising the image of Ukraine abroad than all our diplomats taken together.”* Exaggerated as this opinion might be, many countries began seeing Ukraine not only through the prism of the Chernobyl tragedy or yet another political scandal, but also through the eyes of millions of Ukrainians who sincerely love their country and promote a positive attitude to it abroad.

Regrettably, not all of our countrymen deserve such an opinion. Some of them are part of international organized criminal groups. Operating in the countries of Western, Central and Eastern Europe, they are involved in racketeering and trafficking in persons, specifically in Poland, the Czech Republic and Portugal, and now and then prey on Ukrainian citizens.

However, those of the Ukrainians who by their conscientious work introduce the world to their country are in the overwhelming majority. It is much to be regretted that this aspect of the life of Ukrainian migrant workers is almost never reflected and commented on in the national mass media.

In the opinion of the Commissioner, our society should understand more deeply and justly appreciate the contribution of Ukrainian migrant workers to the assertion of a positive opinion about Ukrainians and the Ukrainian state in the world.

5. IMPACT OF MIGRATION PROCESSES ON THE DEMOGRAPHIC SITUATION IN THE WORLD AND IN UKRAINE

Migration for employment, what with the huge number of people it involves, *directly impacts on the demographic situation both in the countries/donors and countries/hosts of migrant workers.*

It is common knowledge that most of the countries, especially the developed ones, are faced with a critical demographic situation: negative population growth is persistent because of lower birth rates and ageing. Accordingly, the age structure of the population changes, as the elderly swell the unemployable age group, while the employable age group and children decline. This increases the number of consumers of manufactured products and reduces the number of those who manufacture the products.

The worsening demographic situation arouses serious concern of governments and the public in many countries and affects society and its socioeconomic development. Since the demographic processes are slow, the required economic development of a country can be achieved by attracting migrant workers from elsewhere. Precisely this factor is used where the demographic situation becomes tense.

Given a zero migration and stable death rate, the *birth rate should be 2.2 children per one woman of childbearing age* in order to sustain a population balance. To date this rate is *1.4 in the EU countries.*

For the EU countries the only salvation from the negative consequences of the demographic crisis is to increase immigration, because otherwise they will be doomed to *gradual extinction*. Experts estimate that by 2050 the population of *Italy* will drop from 57 million to 41 million and in the *UK* from 59 million to 56 million. Apart from that, the people in these countries will be steadily ageing. While in 1950 only 12% of the population of the most developed countries reached the retirement age (over 65 years), in 2000 this rate was 19% and in 2050 it is expected to be 33%. This will gradually increase the pressure on the employed population who will be forced to support socially an ever-growing number of pensioners whose maintenance is 2.5 times as costly as the maintenance of children.

One way out of this crisis situation is the objective need to increase the flow of migrant workers into the most developed countries of Europe and the world. According to the estimates of UN demography specialists, **in the next 25 years the EU countries will need 135 million immigrants in order to compete on the global world market.**

Such a prospect *offers an additional opportunity for Ukraine to pursue a more active policy of lobbying the interests of Ukrainian migrant workers, in particular within the context of concluding with EU countries bilateral and multilateral agreements on employment and social protection.*

At the same time there arises another question — **how will migration for employment affect the demographic situation in Ukraine?**

In other countries the share of the population working abroad is comparatively negligible (7% in Mexico and 6% in the Philippines), while in Ukraine this rate is higher and, as experts estimate, *accounts from 10% of the population when correlated with the five million migrant workers.* But unlike countries that traditionally supply extra labor abroad and have a stable natural population growth, ***Ukraine's population has been steadily declining since 1993 because of a sharp decrease in birth rates and increase in death rates.*** The main reasons behind such a development are the deteriorating socioeconomic situation that resulted in the poverty of a substantial part of the population, worsening medical services, and unfavorable environmental and sanitary conditions. In the rural areas the decline began some 15-20 years earlier. These factors caused the ***population of 52.2 million in 1993*** (the largest population size in all of Ukraine's history) ***to shrink to 48.5 million in 2002***, i.e. by almost four million. Scientists predict that by 2026 the population size will drop to 42 million.

Growing emigration from Ukraine will mean a dangerous decline in the population size. This is quite probable when viewed against the upward trend in the growing number of migrant workers who remain in the countries they had gone to for temporary employment.

To deal with these problems, the government will have to effect comprehensive measures by eradicating poverty and mass unemployment, raising standards of living, as well as improving social protection and medical services.

Some experts believe that one of the options of dealing with these problems is to permit the entry of more immigrants into Ukraine, from Third World countries included.

Under such a situation the Commissioner thinks that it is urgent for the government to build up a concept of migration policy that would take into account the current demographic situation in the country as well as the processes related to the egress of Ukrainian citizens for employment abroad and the immigration into Ukraine of migrant workers from other countries.

6. THE LEGAL STATUS OF UKRAINIAN MIGRANT WORKERS AND THE STATUS OF OBSERVANCE OF THEIR RIGHTS AND FREEDOMS

Depending on their legal status, all Ukrainian citizens sojourning on the territory of other countries for employment can be divided into several categories:

- *persons who have permits for permanent residence* on the territory of a foreign state, which simultaneously entitles them *to employment without limit of time*;
- persons who have temporary permits for sojourn and employment;
- *persons who on legal grounds temporarily sojourn* on the territory of a foreign state (for medical treatment, study, as tourists or on private business) and work illegally;
- *persons who sojourn* on the territory of a foreign state *illegally and work there illegally*.

The category to which a person belongs determines to a considerable extent his rights and freedoms in a country, such as access to medical aid, pension provision, social security, and the like.

The most protected among the Ukrainian migrants are in the first two categories.

Under a general rule, a permit for permanent or temporary residence in another country means that a person enjoys the same rights as its nationals, of social security included. Judging from experience, such persons do not have any problems in the exercise of their rights, specifically the right to proper terms and remuneration for work, employment guarantees, and the right to medical services, because they usually concluded contracts with employers in writing and are protected by the operative labor legislation of the countries of stay.

The most frequent violations in respect of this category of migrants is the refusal of employers to hire Ukrainian citizens who have permanent residence permits, which automatically entitles them to unhindered employment without limit of time. The largest number of such violations was recorded on the territory of the Russian Federation and Kazakhstan.

For migrant workers *who have temporary permits for sojourn and employment in other countries* the scope of rights, such as social security or medical serv-

es, is usually narrower compared with the rights of the country's nationals, although the rights can nonetheless be exercised without hindrance.

If labor or other rights are impaired, the person concerned can use all the legal mechanisms of protection up to legal recourse.

An analysis of the appeals addressed to the Commissioner shows that in some countries Ukrainian migrants of this category are plagued by problems.

This is especially true for young women who depart for *Turkey* and *Japan* for employment in the entertainment industry, such as nightclubs and restaurants. Although their stay and employment in these countries are legal, the specifics of their occupation frequently make them victims of discrimination and their rights are grossly violated by employers. Among the most widespread violations are coercion to prostitution and nonperformance of a contract's terms and conditions in so far as it concerns adequate and timely remuneration.

N. Vinogradova and *M. Andreyev* appealed to the Commissioner on behalf of *Anastasia Kh.* who in August 2001 departed for Japan with a properly executed contract to work as a dancer in a Tokyo nightclub. After some time Anastasia phoned her relatives to inform them that in violation of the contract terms she was taken to Kanishi, deprived of all documents and a return ticket to Kyiv, and forced to be a stripper. Besides, she was coerced into prostitution, systematically threatened and physically abused.

In response to the appeal, the Commissioner addressed the Ambassador Extraordinary and Plenipotentiary to Japan, Yuri Kostenko, with the request to take measures to protect the rights of Anastasia K. on the territory of Japan and facilitate her return to Ukraine.

The Ukrainian embassy immediately dispatched a corresponding note to the Ministry of Foreign Affairs of Japan, officials of the embassy met with officers of the Tokyo police, and soon Anastasia K. returned home.

Ukrainian citizens who have a right to be legally employed on a temporary basis frequently have to grapple with problems in such countries as *Greece, Portugal, Italy, Spain, the Czech Republic and Russia*. After the adoption of relevant legislation, in particular in *Greece* and *Portugal*, most of the *Ukrainian citizens*, who sojourned there without legal grounds, were offered the opportunity to legalize their status and formalize their contractual relationships with local employers, thereby gaining the right to legal protection, including the right to have recourse to the protection of Ukrainian diplomatic missions, as well as legal assistance.

More often than not such protection is needed in cases of settling claims against employers for disbursement of unpaid wages, compensations for injuries caused by industrial accidents or the death of migrant workers.

The role of the Ukrainian diplomatic missions in dealing with such issues can be extremely important. In ten months of 2002 alone, they facilitated the recovery of US \$624,600 in holdback pay of 183 of our citizens. But frequently the efforts of the diplomatic missions are not enough, especially in claims for damages caused by industrial accidents and death of migrant workers.

Such claims require thorough knowledge of national legislation of the host countries as well as immense effort and time to arrive at a logical conclusion, especially when court proceedings are involved. Since the diplomatic missions in the above-mentioned countries are overloaded with other work and lack sufficient personnel, financial and other resources, consular officials cannot always render comprehensive assistance in executing all documents required for the receipt of compensations. Seeking the assistance of lawyers is more realistic for this purpose.

MP I.Havryliuk addressed the Commissioner on behalf of *Mrs.L.Meleshchuk of Stary Sambir, Lviv oblast*. The husband of the applicant worked legally with a construction company in the Czech Republic since 1997. He died on March 21, 2002 when performing measurement works. All her claims to the employer to pay damages for the death of her husband were disregarded. In this connection the Commissioner asked the Consular Service Department of the Ministry of Foreign Affairs to help the applicant. In its response the Ministry recommended that she apply to a competent court in the Czech Republic through a Ukrainian legal firm specializing in dealing with such problems.

The cooperation of the Ministry of Foreign Affairs and the specialized lawyer association Injurkolegia can serve as a good example of how the violated rights of migrant workers can be remedied through the association's partner organizations in other countries.

According to the information provided to the Commissioner for Human Rights by Injurkolegia, there has been an upward trend in cases that require legal intervention. For instance, in *Portugal* some 500 cases of death of our countrymen were registered in 2000-2002 alone, to say nothing about occupational injuries that are difficult to establish, since the victims are reluctant to inform about them because of elementary ignorance of their own rights, while the employers are equally unwilling to speak out to avoid undesirable contacts with the police. At best the victims can apply for medical aid and occasionally receive negligible cash compensations. But in most cases the employers put up a stiff resistance to avoid meeting their contractual obligations.

In the opinion of the Commissioner for Human Rights, precisely in such situations the protection of rights under civil law should be actively combined with the political and diplomatic influence of the Ministry of Foreign Affairs. Such interaction should be based on precisely formulated principles and government support, financial included, of the law firms (both Ukrainian and foreign) that provide real assistance for the protection of the Ukrainian citizens' rights abroad.

The opportunities for protecting the rights of Ukrainian citizens can also be extended by using extrajudicial mechanisms of human rights protection, in particular through the intercession of ombudsmen (commissioners for human rights) who operate in more than 100 countries, including in those with the largest number of Ukrainian migrant workers.

There are some obvious advantages of such an institution as the ombudsman – accessibility, flexibility, free assistance, and informal procedure for examining complaints, which makes it possible to gain more effective diplomatic protection. This is confirmed by a number of positive examples of the Commissioner's cooperation with the Ministry of Internal Affairs in resolving the case of Mr.S.Kudria, who was shot by the Polish police, and of the Ukrainian crew of the motor ship *Funda* in Greece (these cases are discussed in greater detail in the following chapters of the Report).

The Ukrainian Parliament Commissioner for Human Rights concluded an agreement on cooperation with the Commissioner for Civil Rights Protection of the Republic of Poland and similar agreements are to be concluded with the ombudsmen of Moldova and Romania for more effective protection of our citizens.

But, as pointed out earlier, **legally employed Ukrainian citizens account for a negligible share of migrant workers from our country.**

Apart from the mentioned categories of migrants in Italy, Spain, Portugal, Greece and Russia, such a status is the privilege of the most skilled Ukrainian citizens, such as engineers (Iraq), scientists and academic instructors (Mexico), doctors (Libya, Yemen), and programmers (US, Germany) who travel to other countries on the basis of properly executed contracts and other documents.

Most of them formalize their applications through government employment centers or private agencies within the framework of bilateral agreements of employment between Ukraine and these countries.

In response to the Commissioner's inquiry, the Ministry of Labor and Social Policy informed that to date **Ukraine concluded relevant agreements with Belarus, Armenia, Vietnam, Latvia, Lithuania, Moldova, Poland, Portugal, the Russian Federation, and Slovakia** (see Annex 3). Corresponding agreements with *Azerbaijan, Argentina, Belgium, Greece, Georgia, Iran, Spain, Kazakhstan, Cyprus, Congo, Hungary, the Czech Republic, and Switzerland* are in the process of conclusion.

Such agreements are among the most effective mechanisms for protecting the rights of Ukrainian migrant workers.

As a rule, the agreements provide for employment duration *from six months to four years*.

Some agreements stipulate certain restrictions as to the number of Ukrainian citizens who can be employed for the said period on the territory of another contracting state. In the *Agreement between the Government of Ukraine and the Government of the Slovak Republic on Reciprocal Employment of Citizens of March 7, 1997* the yearly quota of Ukrainian citizens ranges *from 200 to 1,800 persons*, depending on categories of trades and professions. Yet by the information of the Ministry of Labor and Social Policy, this quota is not completely supplied. The reason why rests ***in the inadequate mechanisms of performance of the said*** agreement, because the majority of our citizens lack the real possibility to avail themselves of what has been negotiated in their interests.

Agreements on employment abroad also contain important guarantees of compliance with the rights and freedoms of migrant workers, such as full application of the host country's legislation to migrant workers as to remuneration, pension provision, medical insurance, health insurance, and the like. Besides, employers are obligated to compensate for damages caused by industrial accidents or death of migrants as well as for the expenses for transporting the deceased to their countries of origin.

Also important are the guarantees with respect to the forms and language of labor contracts as well as the mandatory information they have to contain.

Apart from agreements on employment, important guarantees of the migrants' rights and freedoms are also stipulated in **agreements on social security** and other special agreements in this area. Today such agreements with states and governments *are in effect between Ukraine and Azerbaijan, Belarus, Bulgaria, Georgia, Spain, Estonia, Latvia, Lithuania, Moldova, Mongolia, Russia, Romania, Slovakia, Hungary, and the Czech Republic* (see Annex 4). Similar Agreements are to be concluded with *Argentina, Brazil, Georgia, Kazakhstan, Netherlands, Russia, Tajikistan, Turkey, and Hungary*. A substantial body of multilateral agreements in this area is also in effect within the framework of the CIS countries.

In view of the aforesaid, the Commissioner for Human Rights believes that it is necessary to invigorate the process of concluding bilateral agreements on employment and social security, especially with the countries where the largest number of Ukrainian migrant workers are employed, specifically in Spain, Italy and Greece. What is also needed is to monitor how the already operative bilateral and multilateral agreements are complied with in order to assess their effectiveness and improve the mechanisms of their execution in the interests of Ukrainian citizens. The existing universal and regional mechanisms for protecting migrant workers' rights should also be used more extensively, especially as concerns speeding up the ratification of the European Convention on the Legal Status of Migrant Workers, 1977.

Back in the year 2000 the Commissioner drew the attention of the Cabinet of Ministers to the need of Ukraine acceding to international legal instruments that establish the basic standards of the rights and freedoms of migrant workers. **On February 25, 2000 the Commissioner addressed a petition to the Prime Minister with the request that he consider the possibility of Ukraine ratifying the *International Convention on the Protection of the Rights of All Migrant Workers and members of Their Families* adopted by UN General Assembly Resolution of December 18, 1990.**

After a corresponding analysis, the Cabinet of Ministers arrived at the conclusion that it was too early to ratify the said Convention because of a number of factors, primarily the lack of interest of ratifying it by the EU countries that were the main destinations of the bulk of Ukrainian migrant workers. It was also pointed out that Ukraine's accession to the Convention would raise certain difficulties in securing the rights of migrant workers (mainly from the

developing countries) in Ukraine, in particular as far as budgetary appropriations for their social protection were concerned.

On December 24, 2001 the Commissioner repeated the request about the advisability of Ukraine acceding to the *European Convention on the Legal Status of Migrant Workers*, 1977, which was more acceptable for the country under the then conditions.

The accession to the said Convention would more adequately protect the rights of Ukrainian citizens working abroad, above all in the States Parties to the Convention, such as France, Italy, Portugal, Netherlands, Norway, Spain, Sweden and Turkey, and in the future, in yet another four countries that signed the Convention – Belgium, Germany, Greece and Luxembourg.

The purpose of this European Convention is to ascertain the status of migrant workers and ensure that in all aspects of life and work they be treated as much as possible in the same way and manner as the nationals of a host country.

The Convention governs the fundamental aspects of a migrant worker's status – employment, medical examination, professional tests, compensation for travel costs, issue of residence and employment permits, guarantees of family reunification, labor safety, money transfer, social and medical assistance, termination of labor contracts, discharge and repeated employment, and the like.

The Commissioner's request also emphasized that the European Convention applies only to the migrant workers of the Council of Europe member countries that are parties to this Convention. Ukraine's accession to the Convention will not require any obligations to the migrants who came to Ukraine from countries (the East, in particular) that are not members of the Council of Europe.

The Cabinet of Ministers supported the initiative of the Commissioner in its response of January 27, 2003 signed by the *Deputy Prime Minister of Ukraine*. After analyzing the Commissioner's proposals, the Cabinet of Ministers instructed all central bodies of the executive concerned to launch preparatory work for Ukraine's accession to the *European Convention on the Legal Status of Migrant Workers*.

*The protection of the rights and interests of Ukrainian migrant workers could also be better sustained by Ukraine's accession to the relevant instruments elaborated within the framework of the International Labor Organization, such as the *Convention Concerning Migration for Employment* (No.97) and the *Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers* (No.143), which set out the main norms for conditions of work, wages, housing, transportation, and social insurance.*

Most of the migrant workers are employed without properly executed permits, i.e. illegally. Some of them reside on the territory of other countries on legal grounds, but work illegally. This is practiced in the countries with which Ukraine concluded Agreements on visa-free entry into a host country, in particular Russia, Poland and Kazakhstan. Such persons enjoy all the rights concerning the status of foreigners who stay on the territory of a foreign state.

The overwhelming majority of Ukrainian migrants are illegal persons in the full sense of the word, i.e. they reside and work outside the requirements and protection of the law. *Precisely this category suffers the most from the irregular situation.* Those who stay in the EU countries are deprived of almost all rights and completely dependent on their employers. Usually, they buckle down to a job under a verbal agreement that, more often than not, is not complied with by the employer when it comes to proper conditions of work, adequate and timely remuneration, social guarantees, and the like.

The Commissioner is receiving numerous complaints by illegal migrant workers who describe how their human rights are violated. Their illegal status — compounded by complete lack of knowledge about the scope of their rights and methods of protection — complicate and restrict the efforts of Ukrainian diplomatic missions to remedy the violations.

Since such migrants do not have properly executed contracts, they are not in a position to have recourse to a court, and any application to official bodies automatically dooms them to deportation from the host country.

As a rule, a non-documented worker has no other choice but to engage in a job that does not take into account his skills and qualification or guarantees him any protection.

Such a situation of things has a logical explanation. An ever-growing number of people in the developed countries refuse to engage in hard, hazardous and dirty jobs even to the point of remaining jobless, because they can count on government social assistance. As more and more young people in the developed countries acquire a higher education, they, accordingly, want to have highly paid and prestigious jobs. Unskilled labor is the lot of those who do not care what job they take up as long as the wages are high. Illegal migrant workers, from Ukraine included, are among this category.

The *employers in the host countries* are instrumental in enlarging the scope of illegal migration, *because illegal labor* offers them the opportunity to reduce production costs and flout legislatively established social standards.

Ukrainian migrant workers are hired mostly to perform unskilled jobs at small firms or for individuals. In the private sector they are engaged in harvesting, construction, to care for children and the elderly, and to work in bars and other entertainment establishments.

Some countries attract more women migrants, while others men. *Italy* belongs to the first category where Ukrainians (over 90% women and almost 40% men, according to sociological surveys) work as domestics or else take care of children and the elderly — traditionally “women’s” jobs, while in *Turkey* and *Japan* the demand is in female services in the entertainment industry. To the second category of countries belong *Portugal, Spain and Russia* where mostly men are preferred to work in construction, services, and agriculture. But such a trend is rather relative, because the market of the developed countries offers a broad range of jobs for both women and men.

Migration of workers from Ukraine to Western Europe tends to acquire the nature of a chain reaction. After a migrant's successful employment period in one of the above-mentioned countries, his relatives and acquaintances usually join him during the next trip. Small wonder that entire villages from Ternopil oblast can be found on construction sites in Portugal or families from Chernivtsi harvesting oranges in Greece. Occasionally such sporadic trips account for rather stable migration destinations.

A typical migration trend is the egress of young and able-bodied people from 21 to 45 years of age, i.e. the potentially energetic and enterprising who could render substantial benefit to their own country.

Relying on the information received from almost all of Ukraine's regions, the Commissioner arrived at the conclusion that the population of all of them is involved in the migration processes; people from the western and central regions prefer going to Western Europe, while those from the southern and eastern regions travel to Russia.

As a rule, *the conditions of work of Ukrainian migrant workers do not meet minimum standards*. A study conducted by the Ministry of Labor and Social Policy in 2000 revealed that over one-third of the migrants work ten hours and more and one-fourth over 12 hours a day. Some migrants even had to work more than 18 hours.

The living conditions they have to put up with can hardly be called worthy of humans, for several persons are made to share one little room or else lodge in crammed trailers on construction sites.

Non-compliance with the terms of remuneration is a typical violation of the migrants' rights. According to the above study, only 11.6% of the migrant workers had properly executed contracts. For all that, in 27.5% of cases the terms of the contracts were infringed (mostly conditions of work). Employers in the **Czech Republic** (43% of contracts) committed the largest number of violations. Of those who had worked in that country, 85% stated that they lacked protection against extortion, blackmail and theft, 77% – legal assistance, and 64% – a sense of security. But, as the study points out, the conditions of work in **Russia** and **Poland** are much worse than in the Czech Republic.

During a visit to **Greece** in 2001, the Commissioner learned of cases when migrants, after having worked for a private employer some time without receiving any pay whatsoever, were handed over to the police on the eve of settlement for subsequent deportation.

In such cases the migrants are deprived of all means for subsistence and return to Ukraine; many of them apply to the diplomatic missions that cannot always help them financially.

Mr. and Mrs. Klius applied to the Commissioner to have their son, *H. Klius*, found and brought home. *H. Klius*, 1959, departed for the Czech Republic in December 1999 and since then his whereabouts are unknown. His parents wrote: "*From people who returned from the Czech Republic in 2000 we learned that our son was*

living there under horrible conditions after he was beaten and injured and now cannot get out of the country. Please help us, old and lonely parents that we are, reunite with our son if he is still alive." The Commissioner addressed the Ministry of Foreign Affairs which issued a corresponding instruction to the Ukrainian Embassy in the Czech Republic. The search for H.Klius is still going on.

Yet another painful problem migrant workers have to grapple with abroad is the exercise of their ***right to medical services***.

The hard labor and psychological stress most of them go through every day result in numerous cases of illness, not to say about facts when they become victims of criminal infringement on their life and health.

The legislation of most countries does not grant temporarily residing aliens equal rights with nationals when it comes to access to medical services, if otherwise not provided for under bilateral and multilateral treaties.

One such agreement was in effect between Ukraine and Poland not so long ago, but through the position of the Ukrainian party the negotiation process on its renewal was, regrettably, suspended (this issue is considered in greater detail in the analysis of migration of Ukrainian citizens for employment in Poland).

Bilateral Agreements on medical services are effective only when they maintain at least approximate *migration parity between the two contracting parties*. Since the migration flows from Ukraine are predominantly of a one-side nature, the prospects of concluding such Agreements is rather bleak.

As mentioned earlier, the provisions on medical services are secured in the majority of bilateral Agreements on employment and social protection. In particular, in case of illness or an accident of a migrant worker, the employer covers all the attending expenditures. Similar provisions are also stipulated in the overwhelming majority of labor contracts Ukrainian citizens conclude directly with employers.

The problems begin when a labor contract is lacking or when a person resides and works illegally on the territory of another country. In such cases the migrant has to pay for his medical treatment, because his employer is not under any obligation to pay.

Neither can this problem be solved by *acquiring an insurance policy*, because, as a rule, it is effective only for the period of legal stay in a country and does not apply to illegal migrants.

Absolutely all migrant workers experience constant emotional and psychological stress, as they fear to be detected and deported to their countries of origin. The very fact of their stay on the territory of another country is already a valid reason for their deportation, while their illegal employment is considered as a dual breach of the law.

Therefore, such persons usually avoid contacts with Ukrainian consular posts, because they fear to be persecuted for violating the laws of the host country and apply to our diplomatic missions only in emergency cases.

The situation is compounded by the fact that most of the migrants *pay intermediate agencies from US \$300 and more* for employment abroad, frequently putting in pledge their houses and real estate and running into huge debts in Ukraine. This reason makes them take up any job that is offered.

The overwhelming majority of people who stay and work abroad illegally receive preliminary information about their future country of stay from relatives and friends and frequently decide themselves how to get there either *as tourists* or through the services of illegal intermediaries. There are facts to assert that entire groups of migrant workers depart the country *through the intermediation of criminal groups that engage in trafficking in persons*. Those who are lured by promises of good wages abroad frequently do not know what sort of slavery is in store for them. This issue was described and commented on in the First Report of the Commissioner for Human Rights.

A lot of our countrymen also enlist the services of dubious employment or tourist agencies, which under the guise of rendering tourist services also engage in employing people abroad.

According to unofficial data, up to 85% of all potential migrant workers go abroad by tourist visas (predominantly short-term). As a rule, they lack documents for employment, not to say anything about guarantees. The advertisements of such tourist agencies transmit almost one and the same message to the willing: "Travel abroad by a tourist visa and we'll take care of the rest." In her appeal to the Commissioner, *Maria Ch. of Poltava oblast* informed that her son, *Olexiy Ch.*, who went to *Italy* to work paid a tourist agency in Kyiv a total of US \$800 for the service. Once he arrived in Italy, all the promises for employment proved to be a sham and he was left without any means of subsistence.

In some of the host countries, the agents of such intermediaries actually turn their credulous clients into slaves. While legally employed migrants are paid directly by an employer, illegal migrants get their pay through agents who take away 50% of the earnings ostensibly as pay for accommodation, transportation to the workplace, or protection against racketeers and thieves. Such agents have become a real bane for Ukrainian migrant workers in Russia, Poland, the Czech Republic, Portugal and Italy. *There have been cases when apart from appropriating wages, the criminal groups resort to murder of the migrants*. At every large railroad station groups of Ukrainian criminals wait for new arrivals to demand from them money for the use of territory as it were. An illegal worker will hardly inform the police, knowing too well that he will be deported to his homeland immediately. In some cases representatives of law enforcement bodies use for their own ends the irregular situation of an arrival to receive additional financial benefit.

The information of the Ministry of Labor and Social Policy also proves the gross violations of national legislation on employment by the intermediaries operating in Ukraine. As of *July 1, 2002 Ukraine numbered 749 entities that held licenses* to act as *intermediaries for employment abroad*. In the period from 2000 to the first six months of 2002, 454 licenses were revoked, because the majority of these agencies were unscrupulous in complying with established requirements.

Among the most serious violation is charging advance fees for employment abroad. After the clients leave the country, the intermediaries are not liable to them for anything. Such facts were brought to the notice of the Commissioner in the petitions of the *Lviv oblast residents R.Motsak, V.Honcharsky, R.Pariychuk and A.Savarin*. On the basis of these facts the Commissioner initiated an inspection of the activity of the agencies stated in the applicants' petitions.

In connection with the aforesaid, the Commissioner for Human Rights deems it necessary to exercise constant supervision over compliance with operative legislation and license terms by agencies that mediate the employment of Ukrainian agencies abroad, and also to explain through the mass media what people should know about the work of such agencies and their liabilities to the clients.

It is also necessary to make more stringent the control over tourist companies that under the guise of tourist services frequently act as intermediaries for employing Ukrainian citizens abroad. For this purpose work should be continued on putting in place a legal framework governing inter-state migration and social protection of migrant workers.

One of the important steps in this direction could be the adoption of the Law *On Enterprises Acting as Intermediaries for the Employment of Citizens Abroad*, which was drafted by *MP V.Shybko* and is currently under the consideration of the Ukrainian Parliament.

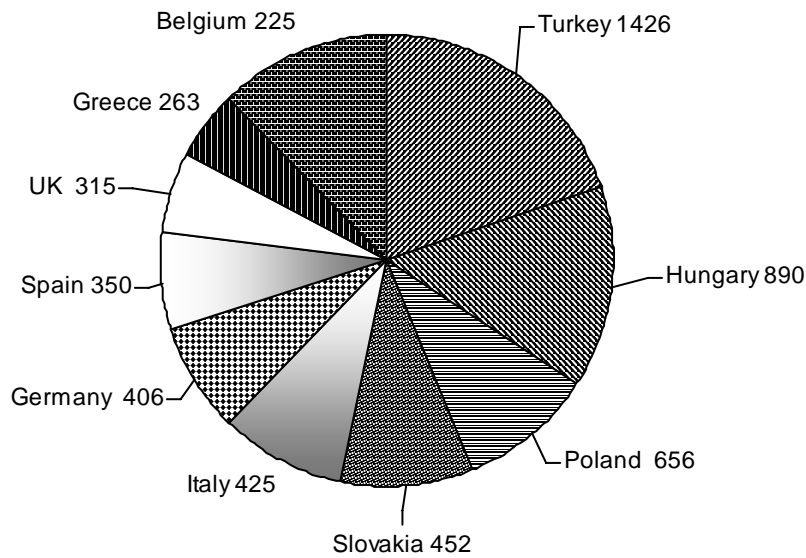
7. THE PROBLEMS OF RETURN AND DEPORTATION OF UKRAINIAN MIGRANT WORKERS TO THEIR HOMELAND

Illegal migrant workers account for a substantial number of our citizens who are deported from the host countries for violations of the rules of stay and other administrative offenses. According to the information the Commissioner requested from the Ministry of Foreign Affairs and the State Committee for Guarding the State Border, ***23,620 of our citizens were deported to Ukraine in the period from 2000 to 2002***. Among the most frequently cited reasons were the following:

- violation of duration of stay in the country stated in the entry visa;
- sojourn without a valid passport;
- employment without a proper permit;
- offenses related to forgery and use of visa documents;
- illegal crossing of the host country's border;
- crimes entailing criminal liability;
- refusal of granting refugee status (typical for the Scandinavian countries);
- return to the country of origin after serving a prison term or early termination of prison term.

Of these reasons the most common were violations of visa rules in a host country and employment without a relevant permit. Fig. 1.5 presents data on the largest number of Ukrainian deportees in 2002.

Fig. 1.5. Countries from which the largest number of Ukrainian citizens were deported in 2002



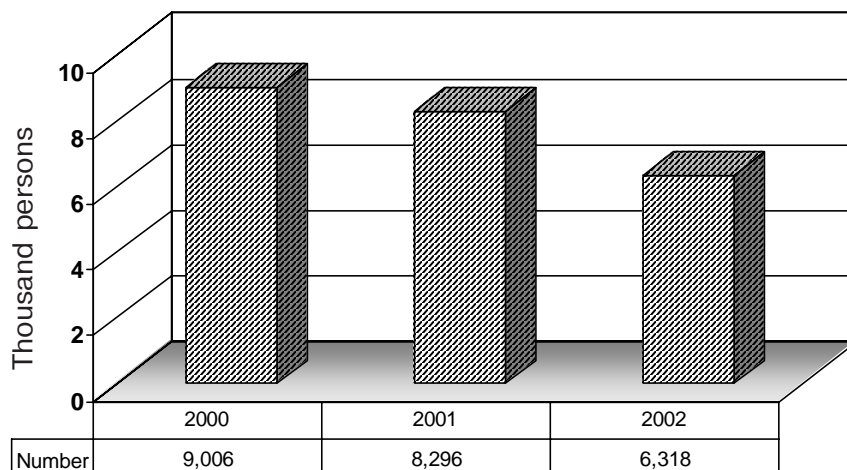
As we see, the largest number of Ukrainian citizens was deported from *Turkey, Hungary, Poland, Slovakia and Italy* – the principal destinations of our migrant workers.

The scope of deportation depends on a number of factors, such as stringent government control over the stay of illegal migrants and the enterprises that employ them as well as the amount of funding a country allocates for deportation. In the opinion of the Commissioner, this explains why so few Ukrainian migrant workers are deported from *Russia* where their number is the largest. The latter is also explained by the *visa-free entry regulations introduced between Ukraine and Russia* and the liberal treatment of non-documented Ukrainian workers by Russia's bodies of state authority.

Interestingly, a downward trend in the deportation of Ukrainian citizens was observed in 2001–2002 (see Fig.1.6)

In the period under review fewer Ukrainian deportees were also registered in Turkey, Greece, Germany and Portugal. *One of the reasons behind the decline, as the Commissioner sees it, is primarily the large-scale legalization of illegal migrant workers, particularly in Greece and Portugal.*

Fig. 1.6. Number of deported Ukrainian citizens in 2000–2002



For all that, the Commissioner is receiving complaints about the rights of Ukrainian citizens being impaired during deportation by the law enforcement bodies of foreign states.

For example, *Y.Kozhemiakin of Kyiv*, resided permanently in **Germany** for seven years, and in October 2000 was deported to Ukraine under the charge of having violated German laws on the status of aliens.

Since the age of seven Mr.Kozhemiakin has been suffering a severe form of diabetes and is insulin dependent. While in Germany, he was under constant medical supervision by local doctors who implanted in his body a new-generation artificial insulin pump, thus restoring his normal life. Upon deportation he is actually on the verge of life and death, because such a pump is not maintained in Ukraine, while insulin is difficult to get by.

The Commissioner forwarded a letter to *the ambassadors plenipotentiary and extraordinary of Ukraine to Germany and of Germany to Ukraine* with an appeal to facilitate the applicant's exercise of his right to life. Besides, a petition was forwarded to the competent authorities of Germany with a request to look into the matter and lift Mr.Kozhemiakin's ban on entry of Germany, taking into consideration the exceptional circumstances of his case.

Regrettably, the German side did not find it possible to heed the proposal of the Commissioner and the case has not been resolved to this day.

Another case concerns *Zh.Tarasova*, a Ukrainian citizen who arrived in Israel as an honorary guest on the invitation of Y.Palamarchuk (Rondel), an Israeli citizen residing in Haifa. During the Second World War, the host, then a 13-year-old Jewish girl, was saved from death by the grandmother of the applicant – N.Tarasova-Polishchuk who on August 31, 1997 was awarded the high title of the World's Nations Righteous by the Jad-Vashem Institute.

As Zh.Tarasova informed the Commissioner, the Israeli police detained her and took away her foreign passport and return air ticket when she arrived in Israel at Ben-Gurion airport on April 2, 2002. For two days she was held captive at the airport in a special room for deportees, suffering from insults and humiliation. The young woman was accused of arriving in the country for the purpose of illegal employment. For this reason she was denied entry and deported to Ukraine on April 4.

To protect the rights of Zh.Tarasova, the Commissioner forwarded letters to the Ministry of Foreign Affairs of Ukraine and the *Extraordinary and Plenipotentiary Ambassador of Israel to Ukraine, Ms. Anna Azari*.

This problem, as the Ministry of Foreign Affairs informed, was discussed during Ukrainian-Israeli consular consultations, but the Israeli side did not see anything unlawful in what happened in Israel. A similar conclusion was also forwarded to the Commissioner by the Israeli ambassador to Ukraine.

Deportation is also closely related to the issuance of return documents to those Ukrainian citizens who lost their passports.

The people who apply to Ukrainian diplomatic authorities to be issued such documents cite most frequently the following reasons for the loss of their passports:

- theft of personal effects and documents (as a rule, in public places, public transport, as well as in criminally dangerous places);
- confiscation of documents from women who against their will are used in the sex industry;
- failure to return documents to persons who – to execute contracts for purchase or sale of, say, cars and other property – entrusted the documents to citizens of the host countries;
- loss of documents by the applicants through negligence;
- mechanical damage of documents;
- loss of documents by the migration services of the host countries during the procedure of deportation.

According to the information of the Ukrainian Embassy in Russia, quite a few Ukrainian citizens “lose” their national passports in order to acquire dual citizenship, because when Russian citizenship is ensued the preceding secession from Ukrainian citizenship is not required.

Also, many of our citizens take the loss of their passports rather lightly and do not know who to apply to in such cases.

Both a citizen and a body of state authority in a host country can initiate the issuance of documents for return to the country of origin.

In some countries *there is an upward trend of migration services of the host countries issuing return documents*. While in 2001 return documents were issued to 40% of Ukrainian citizens upon request of the British authorities, in the first six months of 2002 this rate was 60%.

Within this context some Ukrainian citizens tend to misuse their irregular situation when applying for return documents, especially in countries with a substantial number of illegal migrant workers.

According to the information of Ukrainian diplomatic missions in Western Europe, the overwhelming majority of persons who apply for return documents do so in order to evade responsibility for their illegal sojourn in a host country, because anyone crossing the borders of the Schengen zone is entered in a single database, which automatically **imposes a ban on entry throughout five years**. Therefore, applying for a return document is more attractive, since it costs much less compared with the inevitable trouble the ban on entry to the EU implies and the prospect of blasting the chances of traveling abroad for employment in the future.

But now and then unjustified problems arise when the return documents are executed.

The time for executing such documents can range from several days to several months, depending on the promptness of the local bodies of the Ministry of Internal Affairs of Ukraine. In the majority of regions, as the MIA informed, the materials they receive are handled rather promptly, but in some regions unjustified delays occur.

It should also be noted that a citizen who lost a foreign passport frequently has to travel over large distances and wait a long time until his return documents are executed, thereby incurring considerable expenses.

Now and then Ukrainian citizens cause the unjustified delays themselves when the issue of return documents is initiated by the migration service of the host country. In such cases Ukrainian citizens frequently provide false information to continue their sojourn in the country.

In the opinion of the Commissioner for Human Rights, additional measures have to be taken to make more effective the interaction between the MIA and corresponding local departments of the Ministry of Foreign Affairs in the identification of persons who execute the documents for return to Ukraine.

There is also the need to resolve the question of the cost of executing the return documents, which range from US \$5 to US \$100 depending in what country they are handled. According to the information of the Ukrainian diplomatic missions abroad, an illegal migrant frequently does not have the money to pay a consular fee, while the corresponding services in the host countries frequently regard the requirement to pay as an additional insult for our citizens. This, in turn, impacts negatively on the image of Ukraine.

The Commissioner for Human Rights believes that the Ukrainian consular authorities abroad should more flexibly take into account the circumstances of a definite case and relieve Ukrainian citizens from payment of consular fees when issuing them documents for return to their homeland. For this purpose it is necessary to reconsider the relevant procedures governing this issue.

II. STATUS OF OBSERVANCE OF UKRAINIAN MIGRANT WORKERS' RIGHTS IN THE RECEIVING COUNTRIES

1. RUSSIAN FEDERATION

Today the Russian Federation has the largest number of Ukrainian migrant workers – about one million and over three million at the seasonal peak, as estimated by the Ukrainian Embassy in the Russian Federation. According to unofficial data, legal workers account for an average of 5–7%, while the overwhelming majority of our countrymen work illegally.

Judging from the information of the Russian Federal Migration Service, over six million “illegals” are now working in Russia, most of them from Ukraine, China, and other countries of the Middle and Far East.

In Tyumen oblast alone, Ukrainians, who do not hold Russian citizenship, account for 32% of the alien labor force.

Such a large number of Ukrainian migrants in the Russian Federation, as compared with other countries, can be explained by the following:

- cultural and lingual closeness, similar attitudes and a common historical past of Ukraine and Russia;
- ties of relationship (according to a monitoring of the Institute of Sociology under the Ukrainian Academy of Sciences, 40% of the residents in Ukraine had relatives in Russia in 2001) and well-established migration flows since the times of the USSR (for employment in the oil and gas industries, construction, etc.);
- simplified procedure for border crossing and traditionally tolerant attitude of local authorities to the Ukrainians' stay in Russia;
- Russia's huge demand in skilled labor for the construction, industrial, lumbering and wood processing enterprises, especially in the northwestern regions.

The main areas where Ukrainians find employment are Moscow and Moscow oblast, the Republic of Komi, the Khanty-Mansi and Yamalo-Nenets autonomous districts, Belgorod oblast, Leningrad oblast, Rostov oblast, Krasnodar oblast and the Krasnoyarsk region.

The overwhelming majority of our countrymen are employed in construction, transportation, coal mining, at industrial enterprises and in the private sector, performing work that Russians refuse to take up.

There are a number of factors that induce the overwhelming majority of Ukrainian citizens to work in Russia outside the law.

One of the factors is the *activity of recruitment agencies in Ukraine*, which select workers for their subsequent transfer to Russian partners to be used at jobs in circumvention of Russian laws.

As a rule, Russian employers are not interested in formalizing the employment of Ukrainian workers, especially the unskilled ones, because this entails substantial expenses. To legalize an alien worker, the employer has to pay a special fee, its amount depending on the skill of the worker. Besides, legalization imposes on the employer additional obligations, such as guarantee of minimum wages, social and medical protection, proper conditions of work, and also deprives him of the advantages he has when hiring an “illegal” – the possibility to pay less than to a Russian citizens, no liabilities for social security, greater leeway for dismissal and admission to work, and the like.

According to the *information of the Sumy oblast state administration*, the local employment center was receiving verbal job offers for Ukrainians from Russian enterprises whose representatives did not want to officially execute documents for employment.

In such a situation Ukrainian citizens have no choice but to agree with the employers' terms without any guarantees.

Very frequently legalization is of little advantage for the migrant worker himself, because even if his wage is raised to a minimum rate, the real amount he gets from the employer will be less than what he could earn as an “illegal.”

As a result, ***90% of migrant workers are engaged in a shadow economy controlled mostly by criminal elements***. This is the reason behind the numerous violations of the migrant workers' rights.

The consular department of the Ukrainian Embassy in the Russian Federation is receiving a lot of complaints. In 2002 the embassy received complaints from 964 persons, i.e. 246 more than in 2001. Over 50% of the points at issue were of a social nature, 20% related to civil law and 15% to administrative law. Ukrainian citizens in Moscow, Moscow oblast and Russia's frontier regions filed the largest number of complaints.

The most frequently cited violations concerned labor relationships:

- violated rules of hire (without effected labor agreements and contracts);
- violated conditions of work, specifically the employers' failure to meet the sanitary requirements to the migrants' lodgings;
- marked difference in wages as compared to what Russian citizens receive.

The Ministry of Foreign Affairs of Ukraine cited facts of enterprise managers denying employment to Ukrainians permanently residing in Russia just because they were not citizens of that country. This induces some of our countrymen to acquire Russian citizenship.

Medical insurance is yet another urgent issue of protecting the human rights of Ukrainian citizens in Russia. The Ukrainian Embassy in the Russian Federation holds that relevant Ukrainian government agencies and their Russian counterparts should jointly analyze the progress of compliance with the inter-governmental treaty of October 28, 1999 on medical insurance of Ukrainian citizens temporarily staying in the Russian Federation. Since the methods of calculating insurance rates are not harmonized, the treaty is practically not effective. As a result, Ukrainian citizens in Russia just like Russian citizens in Ukraine are denied the possibility to *take out insurance policies* for medical treatment and emergency aid.

The referred to violations are also confirmed by the appeals of Ukrainian migrant workers to the Commissioner for Human Rights: nonpayment of wages, inadequate conditions of work, disrespect for human dignity, forced or compulsory work, infringements by law enforcement bodies, and the like.

In his appeal to the Commissioner, Yevhen S. stated how he was forced to work on the construction site of a hotel in the *city of Anapa*. In connivance with the local law enforcement bodies, as the appellant wrote: *"our documents were taken away from us and we were carried off by truck to an unknown destination. We were accused of having failed to register within three days. So now we have to work where we have been told to, and under guard for that matter. Our letters have to carry only good messages, since they are checked. There are twelve of us, all from Ukraine who came here to harvest grapes. As cheap labor, we are working for Armenians. We were told that once we completed our work, we could go home. Escaping is not a problem, but it's impossible getting anywhere without documents and clean clothes, because you'll get nabbed right away and be worse off..."* In response to the complaint, the ***Commissioner for Human Rights addressed an appeal to Oleg Mironov, Commissioner for Human Rights in the Russian Federation.***

Improving the procedure for crossing the state border of Ukraine and Russia is an important component of migration processes for safeguarding the rights of migrant workers.

This issue ***became a subject of scrutiny by Ukrainian and Russian commissioners for human rights*** during an inspection tour of the ***Hoptivka-Nekhoteyevo border checkpoint on the territory of Kharkiv oblast and Belgorod oblast.***

During the tour the managers of the frontier oblasts as well as the border and customs services of both countries discussed issues of cooperation, specifically possible ways of simplifying the procedure of border crossings to expedite and improve the quality of services. The commissioners also suggested combing

individual control functions of the Ukrainian and Russian customs services, which are currently discharged autonomously.

After studying the situation, *the commissioners of the two countries signed a joint statement* about their intention to continue their monitoring effort to assess the dynamics of changes, meet in consultations to safeguard the rights of Ukrainian and Russian citizens, and resolve the problems that might arise during their cooperation.

For Ukrainian migrant workers the **restraining laws of the Russian Federation on money transfers** is a serious problem. Under Russia's legislation taking and even remitting foreign currency in cash is permitted only on condition of its preceding import or remittance upon presentation of relevant customs and bank documents, which expressly violates the rights of Ukrainian citizens working legally in the Russian Federation.

Therefore, the overwhelming majority of Ukrainian citizens working in Russia have to bring home their earnings in cash, frequently becoming objects of attention of criminals and dishonest employees of law enforcement and customs agencies.

As Ukrainians who temporarily worked in Moscow evidence, a "hunt" for them is staged on their way back home first in the subway and other public transport, then at the Kiev Railroad Station in Moscow, and after that on the train up to the Ukrainian border. In the subway they are checked by the policemen on duty, at the railroad station by shady characters dressed in camouflage uniform, on the train by employees of the Moscow transport police, and at the border by Russian customs officials. The average amount of the kickbacks they have to pay to keep their earnings range from 50 to 100 Russian rubles. At worst they run the risk of losing their Ukrainian passports that are demanded for presentation for inspection and practically all the money they earned can be taken away from them. As a rule, only a negligible part of Ukrainian citizens file complaints with law enforcement bodies and public prosecutors of the Russian Federation. Since proving such facts is extremely difficult, people lose faith in the possibility of seeing their rights and freedoms safeguarded.

Some of these violations are occasioned by the lack of a legal status of migrant workers. This problem is especially acute in the capital of the Russian Federation, Moscow.

What makes migration from Ukraine to Russia different from this process in other countries, in particular in Western Europe, is the fact that a **substantial number of Ukrainians stay in Russia on legal grounds, only engaging in illegal work**. Accordingly, Ukrainian migrant workers, as aliens legally staying on the territory of the Russian Federation, should enjoy all the rights and freedoms their status implies. But in practice, regrettably, that is not always the case.

The Commissioner is especially concerned about the numerous complaints against the violations by Russia's law enforcement bodies, such as humiliating treatment of Ukrainian citizens, extortion of bribes and abuse of power.

During the visit of the *Commissioner for Human Rights in the Russian Federation, Oleg Mironov*, to Ukraine in September 2002, Ukraine's Commissioner for Human Rights requested to raise the question of the leadership of the Ministry of Internal Affairs and the Attorney General of the Russian Federation taking additional measures for the prevention of such cases. Besides, in 2001-2002 the Ukrainian Commissioner forwarded to the Russian counterpart 20 petitions on violations of our citizens' rights by the law enforcement agencies of the Russian Federation.

In the opinion of the Commissioner for Human Rights, Ukraine's diplomatic missions in the Russian Federation should adequately respond to the facts of violation of our citizens' rights by Russia's law enforcement bodies, stand up more vigorously to safeguard these rights, and use the available diplomatic and extrajudicial remedies, such as the interventions of the Commissioner for Human Rights in the Russian Federation, when there are systemic violations caused by fallible and discriminatory laws. Ukrainian citizens should also be more comprehensively informed about the independent legal protection they can afford when their rights are impaired.

Also urgent is the need to discuss with the Russian party the issue of liberalizing the existing mechanisms of money transfers by Ukrainians.

Decisive within this context was the *Law of the Russian Federation "On the Legal Status of Foreign Citizens in the Russian Federation,"* which came into force on November 1, 2002. In pursuance of this law, a number of government resolutions and regulations will be adopted for the additional control and management of migration flows, of migrant workers included, on the territory of Russia. In particular, it is planned to introduce *the payment of a fee of 4,000 Russian rubles* for persons seeking employment in Russia, a *migration workers quota* (500,000 persons, according to the RF Federal Migration Service) determined by the subjects of the Russian Federation and approved by the government, as well as work cards to improve recording migrants on the territory of the Russian Federation.

Besides, *Russia raised requirements to alien migrant workers.* In particular, the Ministry of Internal Affairs began to check to what extent the presence of foreign citizens in Russia was justified and also to establish the sources of their existence and incomes. *Every foreign citizen has to undergo general registration* and also register with the tax administration to pay a tax on his business or any other monthly income. *It is also planned to introduce amendments and additions to the RF Criminal Code in so far as they concern criminal liability for organizing illegal migration.*

What followed was a greater number of complaints.

In this respect the regional employment centers should be more active in deepening cooperation with relevant Russian services so as to deal with the inconsistencies in the laws of the subjects of the Russian Federation, which are at variance with federal legislation and incorporate discriminatory provisions with

regard to foreign citizens. The *Consular-General of Ukraine in Tyumen* informed that the Law *On the Procedure and Conditions for Attracting and Using Foreign Labor in the Yamal-Nenets Autonomous District* came into force on March 22, 1998. Adopted by the State Duma of the Autonomous District on March 26, 1998, Article 11 of this law is inconsistent with Presidential Edict *On Attracting and Using Foreign Labor Force in the Russian Federation* of December 16, 1993, because the law sets not only a fee for issuing employment permits that is ten times higher, but additionally stipulates payment for the consideration of applications for permits in the amount of a minimum monthly wage.

In the opinion of the Commissioner, such a situation calls for a more thorough monitoring of Russia's labor market for the purpose of concluding mutually beneficial bilateral agreements on employing Ukrainian workers in the Russian Federation and also for concluding such agreements between regions.

2. REPUBLIC OF POLAND

After the Russian Federation, Poland is the second country absorbing the largest number of Ukrainian migrant workers. According to official data, about six million persons cross the Ukrainian-Polish border every year. Ukrainian migration to Poland is not homogeneous in its pattern and purpose. It involves several categories of Ukrainian citizens whose work is related to Poland in one way or another:

- people engaged in what is called “shuttle” business without permanent employment in Poland;
- people engaged in “frontier” business, mostly in trade in such excisable goods as alcoholic beverages and cigarettes;
- “short-term” migrant workers (performing seasonal work in agriculture, in particular harvesting crops, or on construction sites);
- “long-term” migrant workers.

Those engaged in the “shuttle” business account for the overwhelming majority crossing the Ukrainian-Polish border. They buy clothes, footwear, fruits and vegetables and take them back home by car, bus or train. The goods are bought both for subsequent sale and personal use. Lately, the shuttle business has undergone changes, as small and middle-sized agencies appeared on the scene and pushed out the amateurish “shuttles”.

The “shuttle” business is frequently risky for the life and health of the people who in this way want to ensure their families a decent living. An example in point is the case of *Varvara P.* who in the summer of 2002 arrived in Warsaw to buy soft goods for their resale in Ukraine. In a local market she was groundlessly accused of settling accounts with forged dollars and detained by the Polish police. Upon detention no one took into consideration her health (she had undergone 26 operations, including an implant of a cardio stimulator). After several hours her condition got so bad that she was rushed to a hospital and placed in an

intensive care ward. Since the charge was not proved, she was acquitted, but her personal effects and the US \$207 that were taken away during the detention were not returned to her. Thus she found herself in a strange city, in a bad condition and without money. Only some days later did she manage to return to Ukraine with the assistance of casual acquaintances. The Commissioner took up her case and measures were taken to redress the wrong.

Criminal groups operating on the territory of Poland are an acute problem for the “shuttles” and other migrant workers as well. *According to the information of the Embassy of the Republic of Poland in Ukraine, our citizens committed over 2,800 offenses in the Republic in 2002.* The migrants are tracked down on buses and trains, at railroad stations, bus stations, markets as well as in crowded public places, forced to surrender their money and robbed by threats and violence with a frequently fatal outcome. Judging from unofficial data, *Ukrainians are the second ethnic group after the Germans who are victimized by criminals.*

Quite a few complaints concern the attitude of the Polish law enforcement bodies that more often than not ignore such cases and do not take effective measures to protect Ukrainian citizens against organized crime.

To do justice to the Polish police, they have lately stepped up their fight against criminal groups involved in robbery and extortion and there is hope that for Ukrainians the situation will change for the better.

“Frontier business” is a special form of migration for employment between Ukraine and Poland. Ukrainian citizens cross the Polish to sell alcoholic beverages and cigarette products throughout not more than one day.

Back in December 2000 the Commissioner, jointly with the Commissioner for Civil Rights Protection of the Republic of Poland, Andrzej Zoll, inspected compliance with human rights of persons crossing the Ukrainian-Polish border at the *Shegyni-Medyka* checkpoint and the *Krakovets-Korczova* checkpoint.

As the inspection proved, the Shegyni-Medyka checkpoint was built to handle 600 persons a day, while in actual fact there were from 3,000 to 6,000 – 90% of them Ukrainian citizens – crossing the border both ways. In the majority of cases their purpose was to sell excisable goods, specifically alcoholic beverages and cigarettes.

On February 5, 2001 the Commissioner for Human Rights addressed an appeal to the state customs and border services to draw their attention to the violations during crossings of the Ukrainian border and proposed definite measures to have the infringements curbed. In particular, it was proposed to: speed up the reconstruction of the pedestrian passageway at the Shegyni-Medyka checkpoint to prevent the violations and ensure the dignity of the persons crossing the border; study the possibility of drafting and putting into effect the Code of Honor of Ukrainian Border Guards and Customs Officers; and jointly with their Polish counterparts to identify the opportunities of simplifying the existing border crossing procedure in so far as it concerns stamping the foreign passports of Ukrainian citizens going abroad.

In April 2003 it is planned to jointly scrutinize how human rights are complied with at the border checkpoints of the two countries.

According to the information of the Ministry of Foreign Affairs of Ukraine, there are up to 300,000 undocumented Ukrainian migrant workers in Poland. The reason behind such a large number is the **visa-free entry** into the country under the *Treaty between the Government of Ukraine and the Government of the Republic of the Republic of Poland* of June 25, 1996. The citizens of both countries can stay on the territory of the other contracting state on a visa-free basis not more than 90 days. Besides, Ukraine and Poland signed a treaty on reciprocal employment of their citizens in effect since 1994.

The majority of Ukrainian migrant workers come to Poland from the western and central regions of Ukraine and many of them have a higher education. Although they see employment in Poland as something temporary, a certain part of them stays there for years. In most cases they are engaged in harvesting fruits and vegetables, working on construction sites, or else in the private sector. The wages they earn have not changed throughout the past few years: US \$200-250 for the care of the elderly and 40-70 zlotys for occasional cleaning of homes and preparation of meals.

Since Poland has a high unemployment rate of 19%, Ukrainians take up any job that comes their way, performing menial work without a fixed working day. Polish employers stand a lot to gain from the work of our citizens, since the latter agree to get minimum pay.

The semi-legal status, lack of knowledge of Polish laws, language and the market situation pushes Ukrainian citizens to the lowest rungs of the social and professional ladder in the most unfavorable sectors of the Polish economy where they are discriminated against and victimized by criminals.

Visa regulations to be introduced in July 2003 are an important factor that will impact on the size and nature of migration to Poland. In consequence, there will be a substantial reduction in the migration flows between the two countries, the number of illegal migrants in Poland will go up, and the national labor market, especially in Ukraine's western regions, will become tense. The dimension of the consequences will depend a lot on how liberal the new visa regulations will be. This, as the Commissioner for Human Rights believes, should be the priority objective of the Ministry of Foreign Affairs of Ukraine.

Another problem for Ukrainian migrants in Poland is the lack of medical insurance that, in turn, creates the problem of paying for medical services and, when necessary, transporting the sick back to Ukraine.

In July 1993 the *Treaty on Cooperation in Health Care and Medical Sciences between the Ministry of Health of Ukraine and the Ministry of Health and Social Security of the Republic of Poland* for 1993 was signed to govern some issues of medical aid to Ukrainian and Polish citizens during their stay on the territory of one of the contracting parties. The validity of the treaty terminated on

December 31, 1996 and since then no bilateral instruments governing these issues were signed.

On August 7, 2002 the Commissioner for Human Rights forwarded an appeal to the Prime Minister of Ukraine, stating, in part that *“the absence in Ukraine of a law on medical insurance governing the referred to issues on a bilateral level with the Republic of Poland will make it possible to provide medical aid to Ukrainian citizens temporarily staying on the territory of the Republic of Poland. During accidents and illness Ukrainian citizens are subjected to humiliation and discrimination, because most medical establishments of Poland refuse to provide medical services at no charge. There have been cases when our citizens died while waiting for emergency aid in vain, as it happened with a Ukrainian citizen in Szczecin who died in an ambulance after three hospitals refused to admit him.*

“But at the same time, according to the information received by the Commissioner, medical establishments in Poland billed the Ukrainian Embassy US \$360,000 for services provided to Ukrainian citizens in the first six months of 2002 alone.”

In this connection the Commissioner raised the question about the need to urgently settle this problem on a bilateral basis by concluding treaties between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on medical insurance and treaties between the Ministry of Health of Ukraine and the Ministry of Health of Poland on health protection and medical sciences. The Ministry of Foreign Affairs of Ukraine informed that the Polish party reviewed the drafts of the treaties, but their conclusion was suspended because the Ukrainian party failed to take part in the consultations of experts.

In a letter of September 16, 2002, the Minister of Health informed the Commissioner that the Ministry forwarded a request to the Ukrainian Embassy in Poland to agree the possible time for the Ukrainian and Polish experts to hold consultations and settle the controversial issues of the draft government treaties on cooperation in medical insurance as well as the draft inter-ministerial treaty on medical care and medical sciences. The Commissioner expressed the hope that this problem would be resolved at last.

3. TURKEY

According to the information provided by the Embassy of Turkey in Ukraine in response to the request of the Commissioner for Human Rights, Turkey at August 1, 2002 had 2,300 Ukrainian citizens, 876 of them staying there for the purpose of employment, 412 for acquiring an education, and 1,012 for other reasons.

Depending on their legal status, Ukrainian citizens in the labor market of Turkey can be divided into **three categories**:

- those who have the right to permanent residence in Turkey;
- those who are employed on legal grounds under employment visas issued by diplomatic missions of Turkey in Ukraine;

- those who work in Turkey illegally.

The *Embassy of Turkey in Ukraine* informed the Commissioner that, as a rule, permits for employment are issued to:

- aliens who want to work in private companies receive permits for employment at the Sub-secretariat on Treasury Matters in compliance with the *Law On Encouraging Foreign Capital*;
- aliens who want to work in tourist companies receive permits for employment at the Ministry of Tourism in compliance with the *Law On Encouraging Foreign Capital*;
- aliens who want to work in private companies as architects or engineers receive permits for employment at the Ministry of Public Welfare in compliance with the *Law On Associations of Turkish Chambers of Engineers and Architects*;
- aliens who want to work as football players in sports clubs receive permits for employment at the Football Federation, while aliens who want to be engaged in other types of sport receive their permits at the Main Authority for Youth and Sport Affairs.

The Consulate-General of Ukraine in Istanbul informed that social security and conditions of work of Ukrainian citizens of the first category practically do not differ from what Turkish citizens enjoy and are absolutely satisfactory.

Social security and conditions of work of migrant workers of the second category depend on the terms and conditions of a contract and the nature of the jobs. Within this context the most problematic category are Ukrainian women who work as dancers in nightclubs or disco bars where they render sex services either by consent or by force or else are placed next to clients to induce their excessive spending (covert extortion). Besides, the owners of such entertainment establishments take away from the women their passports lest they seek employment in other clubs or change the nature of their jobs.

An employment visa and air ticket cost an average of US \$500, an expense usually covered by employers or mediators. Apart from that, employers pay for medical checkups and residence permits. If an employer conscientiously abides by his commitments, a migrant worker can repay this debt in a month or a month and a half.

At the present time, as the Ukrainian Embassy in Turkey informed, the number of women who want to work in such establishments exceeds the availability of vacancies. Employers practically have unlimited opportunities to dismiss anyone who defies their mostly unlawful requirements. Selection of the humblest begins right at the outset of recruitment: if a woman insists on having all her rights and obligations specified in a contract, she immediately loses the chance of getting a job. The **most frequently committed violations** with regard to this category of migrants is the **unwillingness of Turkish employers to conclude contracts** and, even if they are concluded, to subsequently comply with their contractual obligations.

The absence of contracts gives the employers a free hand to misuse his power in restricting or violating the workers' rights. Among the most typical violations is **exploitation after working hours, coercion to prostitution and covert extortion of clients, and application of unspecified penalties** for, say, failure to arrive at work on time, absenteeism, failure to perform or to perform properly an assignment. Now and then passports are taken away to deny women the opportunity to change jobs or terminate employment before the earlier established six months.

Frequently financial conflicts arise between the employers and workers. In such cases employers tend to compromise for fear of investigation by the police or auditors. After all, the *employers who invited aliens to the job are liable for their actions on the territory of Turkey*. If it is proven that an employed alien is involved in something unlawful, the employer runs the risk of having his establishment closed. In Ankara, for example, precisely this was the reason why the number of nightclubs diminished by a half during the past two years. To minimize risks, employers prohibit the women from leaving the premises of hotels or nightclubs in the evening or at night.

Yet a **vast majority of Ukrainian citizens work in Turkey illegally**. At the Turkish border they buy a monthly tourist visa for *US \$10* without the right to work.

In view of the legal consequences, Ukrainian illegal migrants can be divided into three subgroups:

- those who upon termination of a visa leave Turkey for a short time and then return again, thereby avoiding violating visa regulations and paying fines upon departure;
- those who, apart from illegal employment, remain in Turkey illegally because the validity of their visas expired;
- those who legalize their status by soliciting the service of mediators to fraudulently vise foreign passports with tourist visas at a price of *US \$100* to *US \$150*.

Under Turkish legislation the two latter categories grossly violate the laws of the country and are subject to deportation or, in specific cases, to short-term detention for forging visas.

The *absolute majority of illegally employed Ukrainian women engage in prostitution*.

Istanbul is Turkey's largest labor market for both legal and illegal job seekers. Among the other centers that absorb illegal migrant workers are the provinces of Antalya and Izmir.

Ukrainian women bent on engaging in prostitution arrive in large numbers (mostly from the Donbas) in the cities of Hopa, Rize and Trabzon on the southeastern coast of the Black Sea. Hopa is the largest center of prostitution with about 1,000 women from the CIS countries, some 300 to 500 of them from Ukraine. Here *prostitution is plied in hotels*.

Unlike the eastern Black Sea provinces, the western Mediterranean region has a ***ramified system of procurement of women***. Such a system is not typical of the eastern Black Sea provinces, because here sexual services are cheap (from US \$10 to US \$30, while in Antalya a minimum US \$40-50), the prostitutes and the hotel owners being the only ones who stand to gain.

Upon expiry of the legal term of stay (the tourist visa for one month is not extended), Ukrainian citizens solve the problem of their continued stay by:

- paying at departure from Turkey a fine for exceeding the visa time limit;
- filing with a Ukrainian consular post an application for the issue of a return document (for US \$60) in lieu of a lost passport, which costs less than paying the fine for exceeding the visa time limit;
- departing for a neighboring country for one-two days, if the place of residence is close to the border, and then returning to Turkey with a new tourist visa;
- forging a stamp in the passport for entry into Turkey. The police frequently detect the forgery, place the migrant under pretrial detention for a number of weeks, then he/she is brought to justice and deported.

The women who come to Turkey to engage in prostitution cannot count on any social protection. They apply to Ukrainian consular offices only when their life is seriously endangered or when they lose their passports. This category of migrants is involved in the largest number of lamentable cases.

Foreign prostitutes are practically non-existent in the inland provinces farther away from the sea, where the local population adheres more strictly to traditions.

Referred to the **category of illegal workers are also “barkers” at shopping centers as well as guides and interpreters** who work in large resort centers. Their desire to work is easily satisfied by Turkish laws, but their job permits for three-four months hold little economic attraction for the employers. Therefore, the “barkers,” guides and interpreters deal with their visa problems in the same manner as the other migrant workers. On the whole, this group of “illegals” practically does not stir up any serious problems.

Relevantly, Ukrainian citizens practically do not apply for work in agriculture and none of them is willing to take up menial jobs in garbage disposition or loading, although in Turkey the percentage of aliens performing these jobs is rather high.

4. OTHER CENTRAL AND EASTERN EUROPEAN COUNTRIES

CZECH REPUBLIC. Owing to its territorial proximity and cultural affinity, the Czech Republic, just like Poland, has one of the largest groups of migrant workers from Ukraine. ***By expert estimates of the Ukrainian Embassy in the Czech Republic, this number is on the average from 100,000 to 200,000, although unofficial Czech sources set the figure at about 300,000 persons.***

The conditions of the migrant workers' stay in the *Czech Republic* are similar to those in Poland with the only difference that **visa regulations between Ukraine and the Czech Republic are in effect since June 2000** and the Czech government pursues a more rigid policy in relation to all the "illegals."

In March 1996 Ukraine and the Czech Republic signed the Treaty on Reciprocal Employment of Ukrainian and Czech Citizens providing for a limited number of Ukrainians permitted to work in the Republic. In 1997, for instance, the quota set by the Czech government was 60,000.

However, in reality, the number of employed Ukrainians and those seeking jobs was much higher than the established quota.

The introduction of visa regulations almost did not change the situation. As the Ministry of Foreign Affairs of Ukraine informed, the reason of this continuity is the long-standing and terribly bureaucratized procedure for granting employment visas. The whole process lasts up to six months, which, of course, goes against the requirements of both employers and job seekers.

To speed up the process, our countrymen solicit the services of tourist companies (Ukrainian and Czech) and **depart for the Czech Republic with tourist visas for subsequent employment, illegal, as a rule.** The flaws in Czech legislation explain why the *employers themselves are interested in illegal migrant workers*. However, the authorities have lately introduced harsher sanctions against employers for hiring illegal workers and also established more stringent control over the dormitories, enterprises and places of residence of illegal migrants within the context of fighting terrorism after the events of September 11, 2001.

Ukrainian citizens commit a large number of offenses, felonies included, in the Czech Republic, which has made the local law enforcement bodies introduce stricter control over both legal and illegal Ukrainian migrant workers.

According to the information of the Czech mass media, the murder of a Czech policeman by a Russian citizen in August 2002 was followed by a three-day check of 173 facilities where aliens resided. Out of the 1,165 aliens, most of them Ukrainian citizens, 171 persons were detained for violations of visa regulations. On August 10-11, 2002 alone, 205 persons, mainly Ukrainian citizens, were deported.

HUNGARY. *By the information of the Ukrainian Embassy in Hungary, the number of Ukrainian citizens working there legally and illegally is negligible, and in the summer it reaches several hundreds. Migration to this country is of a typically seasonal nature.* Most of the illegally employed come from the border districts of Transcarpathian oblast and work *in agriculture or on construction sites in summer*, staying legally in Hungary throughout one month without visas.

Notably, the *overwhelming majority are ethnic Hungarians* who have a good command of the language and reside in the homes of their relatives or acquaintances. For this purpose they cross the border under simplified procedure on the basis of Ukrainian national passports with an insert permitting them entry

only into the border districts of Hungary for ten days in accordance with the provisions of the *Treaty between the Government of Ukraine and the Government of the Republic of Hungary on the Simplified Procedure for Crossing the State Border by Citizens who Reside in the Frontier Regions* signed on February 26, 1993 at Budapest.

Among the legally employed Ukrainian citizens predominate also those residents in the districts neighboring on Hungary, who, being, as a rule, of Hungarian origin and having a command of Hungarian, went to Hungary for permanent employment, eventually acquired citizenship, and therefore are interested in legal residence and employment in that country.

REPUBLIC OF BELARUS. Since Belarus has a higher standard of living than Ukraine, *our citizens have been traveling to Belarus to work. Their overwhelming majority comes from Volyn oblast to work mainly in Brest oblast and Grodno oblast of Belarus. By the information of local bodies of state authority, approximately 1,500 Volynians depart for Belarus every day where they work legally and then return to their original homes in the evening.* Our citizens are engaged in unskilled work in agriculture, wood processing, transportation, education and health care.

Besides, as the Ukrainian Embassy in Belarus informed, every year, from May to December, in compliance with a regulation of the Council of Ministers of Belarus, *approximately 5,000 Ukrainian citizens are engaged in agriculture in the above-mentioned oblasts. In June and September their number swells to 6,500.*

REPUBLIC OF LATVIA. *Latvia has a comparatively small number of Ukrainian citizens. By the information of the Ukrainian Embassy in the Republic of Latvia, 1,030 Ukrainian citizens were registered with its consular department as of July 1, 2002.* Such a small number is explained by the lengthy procedure of handling documents by the State Employment Service of Latvia and the Department of Citizenship and Migration of the Ministry of Internal Affairs of Latvia.

According to the embassy, all relevant *documents are issued in about two months* and within this period Ukrainian citizens are not permitted to work. Such a procedure denies Ukrainian specialists the chance of applying for urgent and short-term jobs, which employers offer now and then when they cannot guarantee permanent employment of applicants. Therefore, Ukrainian job seekers and Latvian companies draw up the documents and receive corresponding permits for a validity period of one year. The costs of executing the documents are extremely high and tell on the pay of each invited specialist. Besides, the employer is not bound by any obligations to provide lodgings for the migrant workers.

When a migrant worker rents a room, he cannot receive a tenancy certificate that is required by the Department of Migration. That is why Ukrainian citizens

are lodged in dilapidated dormitories. To resolve this problem, the *Ukrainian Embassy in Latvia* advises that migrants submit to the Department of Citizenship and Migration tenancy contracts concluded with the employers.

Neither does the government of Latvia provide any guarantees of partial or full compensation for disability or loss of breadwinner in case of his death. The only thing a worker can count on is to be paid under insurance policies against accidents and medical insurance contracts.

Yet another problem is that the employment permits are issued for a definite locality, say the cities of Riga or Liepāja, which denies the migrant worker the right to perform jobs elsewhere. *The Ukrainian Embassy in Latvia* advises that just “*Republic of Latvia*” be stated in the employment permit so that the employer could have a free hand for admitting invited workers.

Currently, Latvia offers the prospect of hiring 300 Ukrainian specialists for the shipbuilding sector.

During the past two months another problem complicated the employment of Ukrainian citizens in Latvia. For applicants who want to work with shipbuilding companies the Latvian Embassy in Kyiv issues short-term visas for 14 days with no right to extension. The Department of Citizenship and Migration issues permits for the receipt of visas for one month. Under such conditions residence permits and other permits have to be made out as quickly as possible and the total amount of duties and all sorts of charges comes to US \$1,000.

In January 2002 employment permits per one alien cost US \$120, while an annual permit for work in Liepāja came to 800 lats (US \$1,250).

Judging from the information of the mass media, Latvia derived about 11 million lats in profits for ship repair in 2001. The share contributed by Ukrainian specialists accounted for more than 50%, and by simple estimates not less than US \$1 million was transferred to the Latvian budget.

CROATIA, BOSNIA AND HERZEGOVINA. *According to the Ukrainian Embassy in the Republic of Croatia, consular registration at July 1, 2002 covered 238 Ukrainian citizens, including 42 persons seeking jobs. There is no definite information about the number of illegally employed Ukrainian citizens on the territory of Croatia as well as Bosnia and Herzegovina. Most of them, as the embassy informed, are women from 18 to 30 years of age, who provide sexual services.* The Ministry of Internal Affairs of Croatia informed that the largest number of women was present in the country in the period from 1995 to 1998. Croatia's internal affairs agencies conducted in 1998 a number of “cleansing” operations to liquidate this illegal business, after which the number of Ukrainian women decreased sharply. From 2000 on, the official statistics of the Department of Illegal Migration of Croatia's Ministry of Internal Affairs does not mention Ukraine as a source from which illegal migrants originate.

In Bosnia and Herzegovina the situation is somewhat different. Judging from the information of the Ministry for Human Rights and Refugees, Ukrainian

women rank first among those who engage in prostitution and are deported for illegal stay in the country.

5. EUROPEAN UNION MEMBER COUNTRIES

The European Union is the most economically developed regional organization integrating 15 countries of Western and Central Europe with a population of more than 400 million. Its high standards of living and receptive labor market lure a vast number of migrant workers from all over the world. By approximate estimates of experts, 25% of Ukrainian migrant workers are now in the EU countries. This number will grow markedly after ten Eastern European countries accede to the EU in 2004.

Proceeding from the number of Ukrainian migrant workers in the EU, the following categories of countries can be singled out:

- countries traditionally attracting substantial migration flows from Ukraine – Portugal, Spain, Italy, Greece;
- countries with relatively few Ukrainian migrant workers – Austria, Germany, France, the UK;
- Scandinavian countries with a negligible number of Ukrainian migrant workers.

PORTUGAL. According to the information of the Ukrainian Embassy in Portugal, there is a large inflow of Ukrainian migrant workers, as the country tries to meet its requirements in extra labor. Not so long ago entry into the country followed a simplified procedure of legalization: a contract for employment certified by the General Inspectorate for Labor entitled the applicant to an employment visa for one year and the possibility to extend it to five years. Under *Decree No.4/2001 of January 10, 2001* a migrant worker holding an employment visa is permitted to be joined by a wife/husband, children under the age of 21, and parents, and many of our countrymen availed themselves of this opportunity. *By estimates of the Ukrainian Embassy, there are some 150,000 Ukrainian citizens in Portugal to date. Relying on the information of the mass media, experts estimate the number to be 200,000.*

On November 30, 2001 the government of Portugal adopted a regulation under which employment visas could be issued only to those aliens who proved that they stayed in the country before that date.

Through the mediation of dubious tourist agencies a lot of Ukrainians continue arriving in the Portugal by scheduled bus runs from the largest Ukrainian cities. The arrivals are peasants, industrial workers, doctors, engineers, and former army officers, who borrow money (the tour, along with promise of employment, costs from US \$1,000 to US \$1,200) or apply for a credit on real estate (house or apartment). The men usually work as builders, drivers, mechanics and fitters, while the women as office cleaners, domestics or fac-

tory workers. **They all are in great demand on the Portuguese market because of their high educational attainments and industriousness.** The majority of the job seekers are young people, since applicants of 45 years of age and older have little chances to land jobs.

The vast majority of the migrant workers come from Ukraine's western regions, above all Chernivtsi, Ternopil and Ivano-Frankivsk oblasts as well as from other regions and the Autonomous Republic of Crimea.

Their large number causes a lot of problems – they become victims of unscrupulous employers who do not pay them what they deserve, and they are robbed by criminals (originating from our country as well), who take away not only their earnings, but also their passports and personal effects.

A bilateral treaty on temporary migration of Ukrainian citizens to the Portuguese Republic, signed on February 13, 2003 by the ministers of foreign affairs of Ukraine and Portugal, is intended to check entry into the country through the mediation of fictitious agencies (occasionally criminal) and to make easier the protection of the rights and interests of legally employed Ukrainian citizens.

Ukrainian citizens are recruited under a centralized procedure through the State Employment Center of the Ministry of Labor and Social Policy of Ukraine and the Institute of Occupation and Professional Training under the Ministry of Social Security and Labor of the Portuguese Republic. Portuguese employers forward all vacancies through the Embassy of the Portuguese Republic in Ukraine to Ukraine's State Employment Center that selects the candidates and facilitates the issue of their labor contracts and employment visas.

The Ukrainian citizens who migrate to Portugal under the provisions of this treaty enjoy the same treatment as Portuguese citizens as regards pay and social guarantees. They have the same rights and safeguards as Portuguese citizens under operative legislation on health care and labor safety.

According to the information of the Ministry of Foreign Affairs of Ukraine, the **Ukrainian Embassy in Portugal assists our citizens in placing them with employers** – the consular department posts hundreds of job offers and addresses of free courses in Portuguese, maintains close contacts with the Lisbon Labor Exchange that has a Ukrainian interpreter, and distributes two Russian-language newspapers, *Slovo* (Word) and *Nasha gazeta* (Our Gazette), which carry advertisements for employment.

In 2002 a new law on immigration came into effect in Portugal. Under this law local authorities are granted the **right to set quotas of alien workers for their regions**, employment visas for up to two years are issued only in the country of the migrants' origin and extended if there is a need in specific specialists, and immigrants are denied unemployment assistance.

GREECE. Greece traditionally enjoys popularity with both Ukrainian and other migrant workers. **With a population of 10 million, Greece has one million migrant workers from all over the world.** *However, the number of Ukrainian il-*

legal migrant workers has sharply decreased during the past few years. By expert estimates of the Ukrainian Embassy in Greece, illegal migrants from Ukraine numbered 3,000 by mid-2002, which was four times less than in 2000. This is explained by the enactment of the Law *On Aliens* in May 2001, which stipulates the granting of residence permits to those illegal migrants who resided on the territory of Greece not less than two years before the law came into effect.

As a rule, Ukrainian citizens are engaged in the private sector as nurses of the elderly, domestics, and dancers in restaurants and cafes.

By estimates of both the Ukrainian Embassy in Greece and experts, the overwhelming majority of Ukrainian citizens (women, as a rule) legalized their status, which considerably blunted the acuteness of the problem of illegal migrants. This was also caused by the substantial decline of demand in unskilled labor.

But in the opinion of the Commissioner for Human Rights, the legalization of a certain number of Ukrainian illegal migrant workers, though smoothing out the problem for the time being, will bring about in the future a further influx of "il-legals" encouraged by the positive results of their countrymen.

In this connection, it is extremely important to continue concluding bilateral treaties on employment. In response to the Commissioner's inquiry, the Embassy of the Hellenic Republic in Ukraine informed that the ministers of foreign affairs of both countries discussed the possibility of concluding bilateral treaties on social security and reciprocal employment between Ukraine and Greece when the Ukrainian Minister Anatoliy Zlenko visited Athens on April 18, 2002. Ten days later, on April 24, the Ukrainian Embassy forwarded to the Ministry of Internal Affairs of Greece a draft of such a treaty for the consideration of the Greek party.

Trafficking in persons remains a troublesome problem for Greece. In January 2001 the members of the National Coordination Council for the Prevention of Trafficking in Persons under the Ukrainian Parliament Commissioner for Human Rights visited Greece in order to establish working contacts with relevant government agencies to design a joint program of actions.

On the delegation were MPs, competent employees of the Ministry of Internal Affairs, Ministry of Labor and Social Policy, Ministry of Foreign Affairs, the Office of the Attorney General, as well as representatives of NGOs and the mass media.

During meetings with the Greek MPs as well as managers of relevant ministries and agencies the complex migration situation in the country was discussed, in particular the lot of Ukrainian women migrants as potential victims in the sex industry. In order to curb prostitution, Greece adopted the *Law On Aliens*. When it was drafted, Greek lawmakers took into account the provisions of Article 124¹ of the *Criminal Code of Ukraine*, which establishes criminal liability for trafficking in persons (in the 1998 version of the Criminal Code).

The Greek MPs expressed the desire to cooperate with Ukraine for the prevention of trafficking in persons and also for liberalizing visa regulations for Ukrainian citizens.

The working meetings expedited the drafting of bilateral ministerial agreements. In particular, the Ministry of Internal Affairs of Ukraine and the Ministry for the Protection of Public Order of Greece are drafting an agreement on cooperation in combating terrorism, illicit turnover of narcotic substances, and organized crimes.

During the visit, the Ukrainian Commissioner, jointly with the managers of the consular department of the Ukrainian Ministry of Foreign Affairs, visited a prison for women who were to be deported – 19 Ukrainians from among 200 alien women. Three of them were returned to Ukraine (described in greater detail in the next chapter).

SPAIN. *According to the information of the Ukrainian Embassy in Spain, there is a stable upward trend of “hidden” migration of Ukrainian citizens to Spain. Experts estimate that their number is over 100,000 persons.*

The vast majority of Ukrainian migrants travel to Spain legally with tourist visas, although 95% of them intend to find jobs. When their tourist visas expire, they stay on and become “illegals.”

In the opinion of the Commissioner for Human Rights, it is important to conclude a bilateral treaty on employment and social protection between Ukraine and Spain. The draft of a treaty, as the Ministry of Foreign Affairs of Ukraine informed, is to be discussed by the Spanish party shortly.

ITALY. *To date Italy has one of the largest groups of Ukrainian migrant workers.*

According to the information the Italian Embassy in Ukraine forwarded upon request of the Commissioner, the embassy issued to Ukrainian citizens 469 visas for study, 44 visas for medical treatment, and 3,660 employment visas, i.e. for more than 4,000 people, from 2000 to 2002 (first six months).

Relying on the information of the Italian Embassy, it is nonetheless difficult to judge about the total number of Ukrainians in Italy. Officially, there are 11,205 Ukrainian citizens who have residence permits issued by the Ministry of Foreign Affairs of Italy. But there are a lot more staying there illegally. According to the estimates of the Italian Embassy in Ukraine, their number ranges from 50,000 to 100,000. Experts estimate this number to be around 200,000.

As mentioned earlier, Italy is a traditional destination for a large number of women migrants, although men do not seem to be less. The women mainly care for the elderly and children, work as office cleaners, domestics, in bars and the like. Quite a few of the men are engaged in the private sector as well as on construction sites and in agriculture.

In response to the request of the Commissioner, the Italian Embassy in Ukraine informed that the “Ukrainian migrants are distinguished for their peaceable nature. Ukrainians have asserted themselves as a community, which the Italians favor with a lot of goodwill.”

By request of the Commissioner the Western Ukrainian Women's Prospects Center in Lviv conducted in January 2002 a sociological poll among 441 Ukrainians who left for Italy to work.

The poll showed that over 45% of the respondents worked in Italy one year, 30% from one to two years, over 13% from two to three years, and 10% for more than three years.

52.6% of the respondents arrived from Ukraine's oblast centers, 20.2% from district centers, 2.3% from townships, and 6.6% from villages.

36.7% of the respondents had a higher education, 36.5% a secondary special education, 24.9% a secondary education, and 0.9% an incomplete higher education.

Over a half of the respondents were married, and more than 70% of them had one or two children.

Most of the violated rights of Ukrainian migrant workers in Italy are related to: failure of employers to abide by their remuneration commitments, unfair remuneration as compared with what Italians earn, medical aid, sexual abuse of women, and trafficking in persons.

For the Ukrainian Embassy in Italy it is very difficult to come to the assistance of our citizens, because theirs is an illegal status and, accordingly, they lack insurance contracts and cannot count on proper medical aid and social security.

In the opinion of the Commissioner for Human Rights, the conclusion of agreements on social insurance and employment of Ukrainian citizens in Italy could to a considerable extent improve the situation of compliance with their rights.

The Italian Embassy in Ukraine informed that the conclusion of bilateral treaties on legal protection and social assistance of Ukrainian citizens in Italy was blocked by decision of the Ukrainian government not to sign with Italy a treaty on readmission. Given the enactment of a new immigration law, such a treaty proves of little relevance, since the new law governs the aggregate of relationships (access to the labor market, measures to regulate the status of some categories of illegal migrants, and the like).

The new law, stipulating stricter treatment of illegal migrants, will make it possible to improve the conditions of the migrants after they legalize their status and acquire better guarantees for their stay in Italy.

GERMANY. According to the information of the Ukrainian Embassy in Germany, no expert estimates have been made regarding the number of Ukrainian illegal migrant workers in that country. *As the German Embassy in Ukraine informed, it issued 708,523 visas in the period from 200 to 2002 (nine months).* The embassy also provided information about cases when Ukrainian citizens fraudulently acquired visas supposedly for visiting Germany as tourists, while in real fact their intention was to engage in illegal work in the countries of the Schengen zone. Most of such applicants, as the German Embassy in Ukraine

holds, have their documents forged in our country. In Germany a pretrial investigation is going on now against the organizers of illegal trafficking of migrant workers from Ukraine.

Under operative German legislation an alien permanently residing in Germany can be employed if he has a permit issued regardless of the conditions of work. ***Permits are issued only if the duration of the job does not exceed three months.*** It can be limited in time depending on the group of professions, specific enterprises, sectors of the economy or regions of the country.

The legal provisions of employment of foreign workers undergoing training or upgrading their skills in the country also offer a lot of opportunities for employment. *Also permitted is employment of graduates of foreign higher and special educational establishments* as well as of other students who have a diploma in professional education or a corresponding professional qualification.

Conclusion of employment treaties is an important area in safeguarding the rights of migrant workers. The treaties stipulate that hire and remuneration is provided under the national principle, i.e. on the very same grounds as for German citizens.

The Ukrainian Embassy in Germany informed that the German party drafted and forwarded for review of the Ukrainian party a *draft of a Treaty in the Field of Labor Policy and Social Policy*. The draft treaty provides for, in part, cooperation for encouraging labor and prevention of transboundary illegal labor.

UNITED KINGDOM. Experts estimate that the UK has a comparatively small number of migrant workers from Ukraine. At July 1, 2002 the ***consular service of the Ukrainian Embassy in the UK had registered 285 employed Ukrainian citizens.*** Such a situation is explained that the UK is an insular country that has not joined the Schengen zone, some of its cultural aspects are different from the continental nations of Western Europe, and it exercises a rather effective control over the labor market and migrant workers.

In response to the inquiry of the Commissioner, the UK Embassy in Ukraine informed that 8,825 persons visited the country for education, 40 for medical treatment, 963 for employment, and 8,627 for agricultural work (with allowance for the forecast for 2002) ***in the period from 2000 to 2002 (first six months).***

As the embassy informed the Commissioner, the main problems in issuing visas arise with persons who pose as eager students of English who want to study it under short-term visas. More often than not they intend to work illegally in the UK. Women advertise themselves on the Internet in the hope of finding husbands, and when they succeed they leave their Internet partners. Some of these women informed that they suffered abuse by their partners in the UK and asked to be returned home.

A UK employer who wants to hire a Ukrainian citizen has to file an application with Work Permits, UK. Since the UK needs highly skilled workers, a *concession was granted not so long ago, under which highly skilled workers from*

other countries can be admitted to the UK without any work permits. Applications are filed with the visa department of the UK Embassy and then forwarded to Work Permits, UK, where the final decision is made.

As the Ukrainian Embassy in the UK informed, a much more complicated situation arises when Ukrainians enter the country for employment. As a rule, they lack knowledge of the language, conditions of residence, requirements of the labor market, and money. Frequently they enter with forged documents or without any documents at all. Fearing to apply to local bodies of authority or consular posts, they can fall an easy prey to all sorts of shady dealers and criminals.

The main bulk of Ukrainian citizens who do not have properly issued permits work in hotels, on construction sites, at poultry farms, and harvest strawberries.

A typical practice in the UK is the **work of students**. Under British laws persons who entered the country to study on the basis of a respective visa have the right to work up to 20 hours a week without a permit. However, in reality this time limit is not adhered to and students, from Ukraine included, run into conflict with the UK migration service and, now and then, are deported.

FRANCE. Owing to the fact that *France exercises remarkably effective control over migration processes on its territory* and employers are strictly accountable for using illegal labor, the number of illegally employed Ukrainians in France is negligible. *As the Ukrainian Embassy in France informed, 236 Ukrainian citizens (mostly illegal migrant workers) were deported from the country in the period from 2000 to 2002 [first six months].*

The embassy stated that this category of citizens do not trust Ukrainian diplomatic missions and turn to their assistance only in emergencies.

In the overwhelming number of cases, Ukrainian migrant workers do not know the French language, neither do they realize what problems they have to grapple with, and in their attempts to integrate into society they associate mainly with illegal migrants, remaining in the end strangers in the eyes of French citizens.

As far as social and legal aspects are concerned, the “illegals” are the most vulnerable category of persons, because they are not insured, lack means of subsistence, and are under constant threat of arrest and deportation. Such an environment breeds a lot of violations, deaths, and psychological disorders. In crisis situations, specifically in case of loss of documents, theft, illness, or death, their country of origin, Ukraine, is the only one they can rely on to resolve their vitally important problems. An ever-growing number of complaints are filed with the Ukrainian consular post in France, but it is impossible to provide even minimal financial assistance to those who need it.

According to the information of the Ukrainian Embassy in France, there have been no registered cases of law enforcement bodies having violated the legal rules and provisions of international law concerning this category of Ukrainian

citizens. In the period from 2000 to 2002, the Commissioner did not receive a single complaint about violations of Ukrainian migrant workers' rights in France.

SWEDEN. In this country, the presence of Ukrainian migrant workers is negligible. But in the light of *the Scandinavian countries acceding to the Schengen Treaty in March 2001*, this problem might gain actuality.

The *Ukrainian Embassy in Sweden informed that most Ukrainian migrant workers travel to Sweden to engage in seasonal work*. Lacking an elementary knowledge of employment requirements, they suffer from the whims of local employers who avoid signing contracts stipulating, in part, the amount of monthly wages, conditions of travel and lodging, duration of a working day, and the like. As a result, Ukrainian citizens learn about the real conditions of their job only after they arrive at the working place, which causes a lot of misunderstanding.

Information about employment opportunities abroad is spread, as a rule, by intermediary agencies or even simply by private persons who bear no responsibility for the consequences of their activity. Intermediaries also draw up the visa documents, thereby substantially increasing their cost (up to US \$200 and more against the actual cost of US \$26-30).

During a meeting with representatives of Sweden's migration service, when the Commissioner was on an official visit to the Kingdom of Sweden in April 2002, it was stated that **more and more Ukrainian citizens apply to government agencies of Scandinavian countries, especially Sweden and Norway, to be granted political asylum** (in this context Norway, although it is not a EU member).

NORWAY. Regardless of how the would-be asylum seekers enter the country—legally or illegally, with or without documents (frequently intentionally destroying or hiding them), poor knowledge or total lack of knowledge of foreign languages—they nonetheless file applications for asylum precisely in Norway. This can be explained by two main reasons: the liberal attitude of the immigration authorities, and the “loopholes” in Norwegian immigration practices. Until recently such applicants were paid 400 Norwegian Kroner (US \$50) a week while their applications were under consideration.

Potential job seekers have to submit to a Norwegian embassy abroad an application for a work permit. Either because of lack of knowledge of such a procedure or, perhaps, disregard of it, the job seekers travel to Norway direct or through other countries of the Schengen zone.

At the present time the Norwegian immigration authorities are concentrating their efforts to reduce as much as possible the time for considering applications for asylum. As the Norwegian party informed, the time was reduced from 15 months to an average of 11 weeks. For all that, Norwegian authorities cannot refuse accepting such applications.

As the Norwegian Immigration Authority informed, to regularize the problem of potential job seekers in Norway, measures will be taken shortly to design a program for the employment of Ukrainian citizens, which would provide for singling out Ukrainian migrant workers from among the asylum seekers.

6. OTHER COUNTRIES

IRAQ. *According to the information of the Ukrainian Embassy in Iraq, there were about 400 Ukrainian citizens in that country by the end 2002.* Their number changed constantly because of the validity of contracts (as a rule, from three to six months, occasionally up to one year). Most of the Ukrainians worked for Russian companies under the Oil for Food UN Program.

The Ukrainian workers were represented predominantly by welders, riggers, engineers, and high-class geodesists. The Ukrainians built and modernized the electric power stations at Nadjibia, Bidji, Yusifia, An Nasiriya, Basra and other cities, and also set up and repaired oil and gas pipelines. Most of the specialists came from Kharkiv, Donetsk, Khmelnytsky and Zaporizhia oblasts.

According to the information of the Ukrainian Embassy in Iraq derived from conversations with Ukrainian workers and managers of Russian companies, the conditions of work of our specialists are fairly good. This concerns, above all, remuneration (arrears of wages or failure to pay wages are very rare), life insurance, and provision of lodgings. Depending on the qualifications of workers and terms of the contracts, *average monthly wages range from US \$600 to US \$1,500.*

When the US launched military operations in Iraq on December 20, 2003, all Ukrainian specialists were evacuated.

REPUBLIC OF KOREA. *By estimates of the Ministry of Justice of the Republic, there are about 800 Ukrainian citizens on the territory of that country.*

As the Ukrainian Embassy in the Republic of Korea informed, lack of social and legal protection are the main problems that plague Ukrainian migrant workers. As a rule, local enterprises hire unskilled labor for arduous work and low pay. In defiance of the laws on labor, the owners of such enterprises force the migrants to work from 10 to 12 hours five days every week as well as on Saturdays. Wages range from US \$300 to US \$400 and frequently are not paid at all.

The inflow of illegal aliens continues to grow. According to the data of the Korean National Police Agency, the growth rate of illegal aliens is 30.3%. Judging from the data of the Ministry of Justice of the Republic of Korea, 790 Ukrainian citizens violated visa and registration regulations at July 1, 2002, i.e. 56.1% more as compared with the rate in late June of the year before.

In March 2002, a two-month program was announced for illegal aliens who could voluntarily notify about their status and have it legalized for a certain period (before the date of departure, but not later than March 21, 2003). The Min-

istry of Foreign Affairs informed that the Ukrainian Embassy in the Republic of Korea did everything it could to spread this announcement and convince Ukrainian illegal works to avail themselves of the opportunity.

According to the Ministry of Justice of the Republic of Korea, about 96% of illegal aliens notified about their presence. But, as the Commissioner learned from the Ukrainian Embassy in that country, a substantial number of Ukrainian citizens who legalized their status for the established period do not intend to return home after its expiry. Many of them left their employers, which is prohibited for those who legalized their status, and took up occasional jobs instead. Some Ukrainian citizens have been residing in the country without foreign passports for many months.

JAPAN. *According to the information of the Ukrainian Embassy in Japan, there is a great demand in young women for the country's entertainment market. It is among the most profitable business that is completely under the control of criminal structures. Although prostitution in Japan is prohibited since 1957, international human rights organizations estimate that some 100,000 young women from around the world are hired annually by all sorts of nightclubs, massage salons and saunas to provide sexual services. While in the early 1990s the overwhelming number of the women came from Taiwan, Thailand and the Philippines, the trend since the late 20th century has been to hire women from the former socialist countries, especially Russia, Ukraine, the Czech Republic, Romania and Moldova.*

Ukrainian and Russian agencies as well as representative offices of Japanese companies specializing in employment abroad search and select the women in Ukraine. Lately, the *number of Japanese agencies has increased from eight to 12* and so has the number of contracts Ukrainian companies and their Japanese partners concluded for hiring Ukrainian women for the entertainment business in Japan (from seven contracts since early 2002 against the 12 contracts for the entire 2001).

Japanese business entities or their representatives act as so-called guarantors of the Ukrainian women's stay in Japan, thereby making it easier for the latter to acquire exit visas. Since *the laws of Japan stipulate punishment of persons who assist in illegal employment of foreign citizens by imprisonment up to three years and a penalty of 2 million yen (about US \$16,900), the Ukrainian women (18 to 30 years of age) are, as a rule, invited to Japan on ostensibly legal grounds to work as artistes from three months to one year.* To obtain such a visa at the Japanese consulate, the women are issued documents confirming qualification and a work record of not less than two years, while the consulate provides information about the employer and terms of employment (type of activity, pay of not less than 250,000 yen, i.e. about US \$2,000, and conditions of work – 48 hours per week).

Officially, Japanese laws govern the terms of work, lodgings, minimum pay, labor safety and hygiene, conditions of work, and the like. But in reality

the Ukrainian Embassy in Japan has to deal with a lot of conflicts when local employers do not comply with the terms and conditions of contracts. *The pay of a Ukrainian hostess is US \$500-700 for 60 hours of work a week.* There have been frequent cases when they were forced to provide sexual services to clients or when their honor and human dignity were brutally outraged.

Such facts are confirmed by the complaints filed with the Commissioner for Human Rights. One case in point is the appeal of Oxana S. who on behalf of her daughter, *Olexandra K., 23, of Kerch*, addressed to the Commissioner. In March 2002, the daughter departed for Japan (her second trip), having been issued a visa through a recruitment agency in Dniprodzerzhinsk.

The second trip did not prove to be successful. During her one and only telephone call to her mother the daughter complained about the intolerable conditions of her job and the humiliations she suffered. On July 10, 2002 she was found hanged.

By consent of her mother the deceased was cremated and the urn with the remains sent back home through the assistance of the Ukrainian Embassy in Japan. The deceased was survived by two children four and five years of age.

In response to the appeal, the Commissioner forwarded a petition to the Minister of Foreign Affairs to arrange the final settlement for the work of Olexandra K. in Japan, claim damages, and facilitate an objective investigation into the causes of her death.

Despite these difficulties, the overwhelming majority of this category of Japan women interviewed by the consular service of the Ukrainian Embassy in Japan or not against extending their short-term visas and staying on their jobs in Japan.

Among the mains reasons why Ukrainian women seek employment in Japan's entertainment business is the unsatisfactory financial status of their families and the impossibility to find jobs in their professions in their homeland. That is why they go out of the way to continue work after the termination of their visas. Some resolve this problem by marrying Japanese men or arranging fictitious marriages. The ones who decide to stay illegally inevitably get into trouble with law enforcement bodies. In six months of 2002 alone, *16 Ukrainian women* were deported for violating migration laws. The so-called guarantors and nightclub owners use this irregular situation to induce the women to engage in more dangerous activities, such as theft, fraud, storage and dissemination of narcotic substances.

According to the information of the Ministry of Foreign Affairs of Ukraine, employees of the Ukrainian Embassy in Japan, jointly with the police, have been repeatedly involved in settling conflicts related to the employment of Ukrainian citizens in that country. What impedes the effective protection of their legitimate rights and interests is the reluctance of these women to reveal their employment in the entertainment business, violations of laws and rules, and the fear of possible consequences after their return to Ukraine.

III. STATUS OF OBSERVANCE AND PROTECTION OF THE RIGHTS OF SPECIFIC CATEGORIES OF UKRAINIAN CITIZENS ABROAD

1. SAFEGUARDING THE RIGHTS OF UKRAINIAN SEAFARERS ABROAD

In the First Annual Report of the Ukrainian Parliament Commissioner for Human Rights, a whole chapter was devoted to the protection of the rights of Ukrainian seafarers who were taken hostage when their ships were arrested in ports abroad. The Commissioner addressed then a number of important issues on improving the protection of our seafarers' social rights abroad and put forward definite proposals to the Cabinet of Ministers of Ukraine.

A monitoring preceding the preparation of this Special Report gives the Commissioner reasons to conclude that, regrettably, nothing has changed for the better since then. Because of the crisis situation in the country's economy and also for other reasons, the maritime industry has practically collapsed. Suffice it to say that to date the *state-owned Black Sea Shipping Company* has only seven ships with a displacement tonnage of about 50,000 tons out of its formerly operated 260 cargo ships with a displacement tonnage of three million tons and over 30 passenger ships. As a result, more than 20,000 skilled seamen lost their jobs.

The *Sea of Azov Shipping Company* had 130 freight carriers with a cargo-carrying capacity of 700,000 tons, while today it has just 39 ships, most of which have been in operation from 25 to 30 years.

The *Danube Shipping Company* operated 62 dry cargo ships with a tonnage of 236,000 tons and 600 ships for different purposes, and employed 6,000 seamen. To date 2,000 of them are jobless and are on leave without pay.

Neither is the situation any better at other shipping companies that lost a part of their fleets. Lack of sufficient investment in the maritime industry compels the shipping companies to lease their ships to foreign bareboat charterers.

All these circumstances affected a sizable number of seamen and workers of other trades and professions who used to work on these ships and are now without any means of subsistence.

In the opinion of the Commissioner, bodies of the executive underestimate the acuteness of this problem and do not know about the real state of affairs. There

are no centralized records on unemployed seamen and nothing is done to take stock of the situation. By the estimates of the Ministry of Labor and Social Policy, the Trade Union of Maritime Transport Workers, and the Council of the Federation of Maritime Trade Unions, *the number of permanently unemployed seamen is over 70,000.*

The situation is being aggravated by an unreasoned government policy when 22 higher educational establishments and colleges (five in Odessa alone) continue graduating specialists for the maritime industry. All sorts of state and private courses keep on training ratings. Moreover, since a lot of educational establishments switched over to training for pay, the number of graduates is growing with each passing year. For instance, the Maritime College of Kher-son increased its student body threefold during the past five years. The State Maritime Academy of Odessa graduates 500 specialists every year.

Young specialists are trained intensively without taking into consideration that with the demise of the Ukrainian fleet graduate students are deprived of the opportunity to take seamanship practice on ships and no foreign shipowner will employ such half-baked specialists.

Lately, the situation on the international maritime labor market has become tense because of wage dumping, as the ratings from China, Pakistan, Cambodia, Latin America and the Philippines swell the maritime occupations. The seamen of these countries agree to work for wages two and three times below the established rates. Therefore, a number of Odessa crewing agencies recruiting our seamen on behalf of foreign companies stopped accepting applications from ratings.

Against this background, *the lure of much higher wages abroad makes our seamen go out of their way to be hired by foreign shipowners so as not to lose the slightest opportunity to keep up families.*

Numerous recruitment and placement agencies have cynically availed themselves of the dire circumstances of our seamen.

Ukrainian legislation is far from flawless in governing the activity of recruitment agencies. It does not even define such a term as *crewing*, let alone make allowance for the specific problems Ukrainian seamen have to deal with when hired by alien shipowners. *A monitoring conducted by the Commissioner for Human Rights proved that a large number of crewing companies are set up for a short period of time, and none of them is interested in their activities being governed by any laws.*

The activities of crewing companies are based on the Law *On Licensing Specific Types of Economic Activity* of 2000, Cabinet of Ministers regulations *On Approving the List of Licensing Agencies* of November 2002, and *On Approving the List of Documents Attached to Applications for Issue of Licenses for Specific Types of Economic Activity* of July 4, 2001, as well as State Committee for Regulatory Policy and Entrepreneurship and Ministry of Labor and Social Policy Order *On Approving the Licensing Conditions for Engaging in Economic*

Activity in Job Placement Abroad of December 19, 2001 registered with the Ministry of Justice on January 10, 2002.

Regrettably, none of these statutory acts stipulate that crewing agencies have to require from foreign shipowners guarantees of minimum wages, medical and pension insurance, compensation for disability or death, judicial protection of violated rights, and repatriation. Ukrainian operative legislation does not impose any restrictions on the excessive charges agencies impose for employment and conveyance to the ship, nor does it include any restrictions on spreading negative information about applicants who for one reason or another are black-listed and thus deprived of the right to employment.

Besides, the **monitoring of the Commissioner proved that there is no state control over the activity of crewing agencies**. No statistical data on the number of operating crewing agencies and their managerial composition is available at the Ministry of Labor and Social Policy which under the Cabinet of Ministers Regulation *On Approving the List of Licensing Bodies* is charged with the duty of awarding licenses to such agencies.

By estimates of the Trade Union of Maritime Transport Workers, the Federation of Maritime Trade Unions, the state Ukrcrewing Co., and the private V.Ships crewing company, in ***Odessa alone there are over 200 crewing companies and about 500 throughout the country.***

Only a few of the agencies go about their business seriously, such as the ***Ukrcrewing state-owned company and the V.Ships private company*** which strictly abide by the law and the requirements of international legal instruments, maintain solid business relations with a large number of foreign shipowners, annually place thousands of seamen with employers abroad and bear responsibility for what happens to them. However, the ***majority of crewing agencies are set up by people who lack the proper knowledge of managing their business*** and do not know national legislation, not to say anything about the legislation of other countries. Such crewing companies appear and disappear in no time, they do not have a database on foreign shipowners and ships offering vacancies, neither do they worry about creating any proper technical conditions for the registration and control over the destiny of the seamen they place with employers abroad.

Often such agencies do not know whether a foreign company or definite ship exists in reality, whether it goes by the name stated in a contract or has been arrested in a foreign port for technical or other reasons. Exploiting the growing demand in seamen on the labor market, precisely these crewing agencies extort large charges for placement. In violation of operative regulations, specifically the above-mentioned Order *On Approving the Licensing Conditions for Engaging in Economic Activity in Job Placement Abroad*, these agencies, when concluding contracts with the seamen, do not inform them about the nature of their future jobs, conditions of work, wages, social protection, or the procedure for covering transportation costs. The contracts do not reflect in full

scope the rights, duties and liabilities of the parties, the procedure for settling disputes, nor do they define force majeure circumstances and the actions of the parties when these circumstances arise. Taking advantage of the flaws in operative legislation, these agencies almost never set out the conditions of judicial protection of the seamen's rights, compensations for caused harm to health or death, and repatriation. There have been cases when documents drawn up in a foreign language are not translated into Ukrainian and notarized.

Notably, the services of such agencies are enlisted, as a rule, by seamen who under established international criteria cannot be hired by alien shipowners. The applicants do not know any foreign languages, are of unemployable age for seafaring, do not meet health requirements, and lack experience in their specific trades or in work on ships generally. In order to land a job on an alien ship, they are prepared to pay a lot of money to the crewing agencies, ignoring the gross violations when their documents are executed, which in the future renders them absolutely helpless as far as the protection of their rights and freedoms is concerned.

As the monitoring of the Commissioner for Human Rights revealed, such agencies, spurred by the desire to reap large profits, resort to dishonest practices and abuse when executing documents, and once they place a seaman with an alien shipowner, they leave the seaman in a lurch without any responsibility for his lot if the shipowner fails to meet his commitments or when the seaman finds himself in an emergency situation. Moreover, such agencies do not care at all whether their clients returned to Ukraine.

According to the information of the Ministry of Foreign Affairs, the Ministry of Transport, and the trade unions, the **flaws in national legislation and the absence of government control over the recruitment and placement of our seamen with alien shipowners** lead *a lot of the seamen into slavery when they cannot hope for any social protection: wages are not paid them for years, they are not entitled to medical services or social insurance for disability and death, their repatriation becomes an insurmountable problem, and they suffer from the lawlessness of local authorities.*

For instance, the *MS Eternal Love* flying the flag of Panama and manned by a crew hired by Antama, a recruitment agency in Odessa, was left to its own devices in the port of *Georgetown (Guyana)*. The shipowner arbitrarily refused to honor his commitments to pay wages to the crew and have it repatriated. The crew ran out of drinking water as well as food and fuel for the support of the ship's operation, and diseases spread among the seamen. The crew's appeal for repatriation addressed to the Ukrainian diplomatic mission did not produce any results because of the lack of required funds. After the intervention of the *International Transport Workers' Federation (ITF)*, the ship was arrested and the proceeds from its sale went for repatriating the crew to Ukraine.

The same lot was endured by Ukrainian crews of *MS High Glory* in the port of Dakar (Senegal), when the Senegalese shipowner did not pay wages from

January 1999 to January 2002, and of the motor ships *Alexander* and *White Clipper* in the port of Tuticorin (India) when wages were withheld for 14 months.

At the present time *MS Destiny* is stranded in the port of Cartagena (Colombia). The shipowner failed to pay the crew US \$180,000 in wages. In their appeals to the Trade Union of Maritime Transport Workers, with whom the Commissioner for Human Rights maintains constant contact, the crew described their predicament as “prison, hell and horrors taken together.”

Horrible trials and tortures were the lot of the *Ukrainian crew of the MS Kobe Queen 1* flying a Panamanian flag. It belonged to a dubious shipowner who hired the crew through the *Yunek crewing agency* in Odessa.

In May 2000, the Commissioner for Human Rights received an appeal from the close relatives of the crew who along with the ship were arrested on December 24, 1999 by the authorities of India in the port of Chennai. During the arrest the master died, the crew was subjected to inhuman treatment, kept under constant guard of soldiers, denied leave ashore, and refused their wages to buy food products, medicines, and articles of personal hygiene.

The Commissioner immediately forwarded an inquiry to the Ministry of Foreign Affairs of Ukraine and the consular post of the Ukrainian Embassy in the Republic of India and requested to thoroughly study the situation and assist the crew members in protecting their rights. A similar request was sent to the Embassy of the Republic of India in Ukraine. Besides, constant contact was established with the relatives of the seamen and an analysis was made of relevant international legal instruments. The Commissioner for Human Rights was in constant consultation with the Ministry of Foreign Affairs of Ukraine.

The Ukrainian consul in India, O.Herasymenko, informed the Commissioner that *Kobe Queen 1* (also known as *Glopia Kopp*) was really arrested by the border guard and customs service of Chennai port for suspecting the crew in smuggling contraband and drugs as well as changing the course of the ship and its name. Although this information was not proved, the entire crew was unlawfully kept on the ship in one premise under the guard of armed soldiers and denied medical assistance and quality food. They were also prohibited from communicating with the mass media and bodies of authority. *The master of the ship, Y.Levkovsky, committed suicide under mysterious circumstances.*

The consular post assured that it is keeping the problem under constant supervision and was doing everything possible for the crew to get their pay, including for account of selling the arrested ship and its cargo, and to have the seamen repatriated. For this purpose the consul of the Ukrainian Embassy in India visited port Chennai four times.

After taking all possible measures, seven of the seamen were repatriated at the expense of the embassy's funds. Yet the other 16 seamen were unlawfully kept on the ship under armed guard, although they were legally acquitted and a court of the highest instance in Chennai ruled that their wages be paid out of the proceeds derived from the sale of the ship's cargo. The situation was

aggravated by the disappearance of the shipowner, while the crewing company did not respond to all inquiries. The seamen remained detained on the ship throughout 11 months. All this time the Commissioner was in constant contact with the Ministry of Foreign Affairs and the Ukrainian Embassy in India. Throughout 2000 the Ukrainian Embassy forwarded to the Ministry of Foreign Affairs of India 17 notes on this issue and over 70 letters to various agencies. This issue was also discussed during a series of Ukrainian-Indian consultations. It was only in November 2000 that the seamen were permitted to return to Ukraine. In defiance of the court ruling, the Indian party did not pay *over US \$500,000 in arrears of wages for 15 months* and the seamen could not return home. In the end, the Trade Union of Maritime Transport Workers of Ukraine, upon advice of the Ukrainian Embassy in India, covered these expenses, although the crew were not even members of the trade union. On November 21, 2000, all the members of the Ukrainian crew returned to the country.

In February 2003, the Commissioner for Human Rights received a letter from 13 Ukrainian citizens – *members of the crew of MS Primexpress Island* – about the gross violations of their rights by the authorities of Cyprus. The ship was arrested in the *seaport of Limassol (Cyprus)* on September 7, 2001 in connection with an economic dispute between the co-owners – the Primexpress Tourist Co. of Odessa and a number of Cypriot firms. Hired through an Odessa crewing agency, the crew did not receive wages for 20 months; the ship was not supplied with drinking water and electricity. *An Odessa tourist company and an Israeli company, which had hired the ship, disappeared.* The situation aroused a protest of the crew who demanded their wages and repatriation, but this did not produce any positive results. They were kept on the ship. Within this time two families were founded and two children were born on the ship.

On February 18, the immigration service of the Limassol seaport invited to its office all the crew supposedly to have them photographed for new passes. The men and women were taken to separate premises, forced to stand at a wall, searched, some of their personal effects and mobile telephones were taken away, after which they were handcuffed. When a crew member, *O.Shchukin*, began to protest, he was knocked off his feet, beaten up, and handcuffed by force. *A.Karatnian* who wanted to come to the assistance of *O.Shchukin* was also manhandled. At that moment senior accountant *V.Maleyeva* felt unwell and she was taken to another room, but no medical aid was provided to her. The women screamed, wept and cried for help, but all in vain. Much as the crew demanded to meet with representatives of the Cypriot authorities or with a lawyer and Ukrainian consul, their demands were not heeded.

Thirteen crew members, including a woman with a three-month-old baby, were put in a car, driven to the airport, and, after their handcuffs were taken off, pushed into an airplane departing from Limassol for Kyiv via Odessa five minutes before takeoff. All their personal effects, documents and money re-

mained on board the ship. Upon arrival at the airport of Odessa, the border guards denied them entry to the country because they had no documents. Only after corresponding consultations the crew was permitted to stay in Odessa.

When the crew appealed to the Commissioner for Human Rights, a case was opened to protest the flagrant violations of the Ukrainian citizens' rights. A letter was forwarded to the Minister of Foreign Affairs of Ukraine with a request to examine the matter as quickly as possible and inform about the measures the consular post in Cyprus is taking to settle the conflict and restore the impaired rights of the ship's crew.

Besides, a letter was forwarded to the Ombudsman of the Republic of Cyprus, Eliani Nikolau, with an appeal to facilitate the restoration of the violated rights of our seamen.

The Federation of Maritime Trade Unions (Odessa) addressed the European Court of Human Rights to protect the seamen's rights. But to this day they have not received their wages and nothing is known about their personal effects and documents. The ship is still stranded in the seaport of Limassol and in all probability will be auctioned.

Unfortunately, such sad cases are many.

In the period from 1999 to 2001, the Trade Union of Maritime Transport Workers received appeals from 1,654 Ukrainian seamen asking for assistance in repatriation, payment of wages, as well as compensation for damaged health and legal assistance. In response, the ***Federation helped 976 seamen to recover through legal intervention US \$2.1 million owed them by shipowners.***

For the Ministry of Foreign Affairs repatriation and protection of our seamen's rights is not always easy because of the far-flung locations of employment. It is almost impossible to come to their assistance in emergencies on the African continent as well as in some Asian countries and the Caribbean where Ukraine does not have diplomatic missions.

In the opinion of the Commissioner for Human Rights, the causes that render Ukrainian seamen helpless abroad can be reversed by:

- improving national legislation on the activity of enterprises providing recruitment and placement services;
- *ratifying the main conventions of the International Labor Organization, specifically the Recruitment and Placement of Seafarers Convention (ILO Convention No.179)* which provides for the most effective and all-embracing international standards of protection of seamen's rights and governs and controls the activity of companies recruiting seamen for work abroad.

The Ministry of Foreign Affairs, the Ministry of Transport, and the Trade Union of Maritime Transport Workers advocated precisely such an approach to this problem.

However, almost all crewing agencies and, regrettably, some trade unions, such as the Federation of Maritime Trade Unions (Odessa), are against this idea. They believe that government control, legislative regulation and acces-

sion to the ILO Convention No.179 will disrupt the current recruitment practices and reduce the number of crewing agencies, thereby curtailing the employment opportunities for seamen.

Undoubtedly, legislative regulation that aims to prevent violation of the constitutional right to work is a serious factor that has to be taken into account.

But, *as the Commissioner sees it, the real reason for the objections by private crewing agencies is that they will be denied income at the expense of seamen who, as it is, are suffering morally and physically from unemployment in the country.*

Such an objection was bluntly voiced by Mr.V.Lang, director of an Odessa private agency, *Andriatico-Brig Ltd.*, and chairman of the Union for the Promotion of Employment of Seamen and Protection of their Social and Labor Rights, during an ILO-sponsored seminar on maritime labor rules held in Kyiv on December 10-11. He stated, in particular, that there is no need for concern over the protection of the seamen's social and labor rights, since they seek employment of their own free will and are prepared for everything to earn good money. Indeed, they pay "of their own free will" a lot for the services of the recruitment agencies.

At the same time the Commissioner draws attention to the fact that solid agencies do not, as a rule, charge anything either for recruitment and travel to the place of employment or for all sorts of "retraining courses." Under international practice these expenses are covered by the employers/shipowners.

In the opinion of the Commissioner, it is altogether inadmissible to resolve the problem of employing seamen by ruthlessly exploiting them and depriving them social protection. In this connection it seems strange that the Ministry of Labor and Social Policy abandoned its previous attitude and supported the opinion of private recruitment agencies on the prematurity of acceding to ILO Convention No.179.

In August 2002, Vancouver (Canada) was the venue of the 40th Congress of the International Transport Workers' Federation (ITF), the most influential trade union association, which adopted Resolution No.22 on crewing agencies in shipping. In assessing the state of affairs in this area, the Congress noted that:

- for marine transport workers crewing agents are the main international instrument of management and control that can be identified as a labor market without rules, norms and rights;
- in the majority of cases these agencies are managed by unscrupulous persons who guarantee seamen placement with crews, demanding from them a lot of money; exploitation is carried on by using exchange rates, different schemes of insurance contributions or training programs;
- in the majority of cases crewing agencies appear and disappear throughout a short period of time, which denies workers the opportunity to bring into effect the principle of the employer's liability.

Such an assessment, as the Commissioner believes, completely corresponds to what is going on in Ukraine.

The Congress appealed to all international institutions and organizations to prohibit all forms of exploitation, specifically by reaping benefits from hiring maritime transport crews; to make national legal systems consider such exploitation as a criminal offense; to set up a definite regulatory framework that would govern the activities of recruitment agencies, define the legal and illegal methods, criteria of professionalism and decency as well the principle of liability jointly with the shipowners for the terms and conditions of recruitment.

The ITF resolution aims to assure more adequate protection of the socio-economic rights of seamen of each member country of the ITF, which accords with the provisions of the Ukrainian Constitution.

As the Commissioner for Human Rights believes, the issues addressed by the ITF completely meet the interests of building a law-governed state. Therefore, it is absolutely groundless and inhuman for the private recruitment agencies to argue that Ukraine's broken-down maritime industry has to be revived first and only then can the issue of the seamen's social protection be addressed.

In this connection, the *Commissioner maintains that the ILO Recruitment and Placement of Seafarers Convention of June 22, 1996 should serve as the foundation for drafting national legislation in this area and demonstrate Ukraine's desire to integrate into the international community by creating conditions for the improvement of labor and social rights both in Ukraine and abroad.*

This Convention does not in any way affect or interfere in the economy of countries that ratify it. At the same time it stimulates the development of national legislation on ensuring reliable protection and social guarantees of seamen employed abroad. Since the seamen earn high wages and bring hard currency into the country, they are actually investing in its economy.

In particular, under ILO Convention No.179 an ILO member/country shall, by means of national laws or applicable regulations, ensure that no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer. The Convention also determines the conditions under which recruitment and placement services can operate, as well as sanctions applicable in case of violation of these conditions; provides that the management and staff of recruitment and placement services for seafarers should be adequately trained persons having relevant knowledge of the maritime industry; requires that recruitment and placement services adopt measures to ensure, as far as practicable, that the employer has the means to protect seafarers from being stranded in a foreign port; and provides for the establishment of a system of protection to compensate seafarers for monetary loss that they may incur. The ILO Convention lays down a number of basic requirements to these services when they conclude contracts of employment and provides for the establishment of a system of control over the activity of recruitment and placement services.

Notably, the ratification of ILO Convention No.179 and its incorporation into Ukraine's national legislation does not entail any material expenses. Nei-

ther is there any need in setting up a special control agency to exercise oversight of the activity of crewing companies. Such a body is actually identified in Cabinet of Ministers Regulation *On Approving the List of Licensing Agencies* – the Ministry of Labor and Social Policy of Ukraine.

In the opinion of the Commissioner, this Ministry – in compliance with international conventions, specifically ILO Convention No.179 incorporated into operative Ukrainian legislation – should frame uniform criteria for the establishment and operation of crewing agencies and also formulate government policy of protection of the labor and social rights of seamen employed by foreign shipowners. Besides, it is necessary to establish real control over compliance and make it binding on the recruitment agencies to submit full reports on each seaman from the moment of referral abroad to their return to Ukraine.

The ***draft Law On Enterprises Acting as Intermediaries for the Employment of Citizens Abroad*** registered with Parliament on December 10, 2002 (mentioned in Chapter I of the Report) would be a real step toward bringing national legislation into conformity with international norms. The draft law governs the specifics of operation of recruitment agencies hiring seamen and crew, such as the rule under which a seaman placed with a foreign shipowner does not have to pay any charges to the recruitment agency.

Insofar as it concerns the protection of the labor and social rights of seamen, the draft law, as the Commissioner holds, corresponds to the requirements of the Ukrainian Constitution and international standards, while the ratification of ILO Convention No.179 will enable Ukraine to join the international community and effectively protect the rights of Ukrainian seamen in this country as well as abroad.

2. OBSERVANCE OF THE RIGHTS OF UKRAINIAN CITIZENS DEPRIVED OF LIBERTY ABROAD

ANALYSIS OF STATISTICAL DATA

Quite a few of the appeals addressed to the Commissioner for Human Rights concern Ukrainian citizens deprived of their liberty. Allowing for their specific status, ***this category of our countrymen is the most vulnerable among all Ukrainian citizens who are abroad*** and, therefore, requires additional attention of the government.

A large number of the detained and arrested Ukrainian citizens are migrant workers who violated the rules of stay and employment on the territory of other countries.

Apart from that, our countrymen are frequently suspected and charged with more serious offense and crimes, such as theft, robbery, holdups, extortion and fraud; offenses against the life and health of persons: hooliganism, in-

fliction of bodily injury, murder, rape; drug traffic; violation of traffic rules, and the like.

According to the data of Ukrainian diplomatic missions and consular posts abroad reported at the collegium of the Ministry of Foreign Affairs on December 19, 2002, in which the Commissioner for Human Rights took part, *some 10,000 Ukrainian citizens were arrested (detained) for one or another reason at October 2002, while more than 2,500 were serving sentences delivered by foreign courts.*

By the information of 82 Ukrainian consular posts in 69 countries, the corresponding figures in 2000-2001 were as follows: 6,918 arrested for offenses and 2,967 enduring sentences in 2001; 6,267 and 2,936 respectively in 2000.

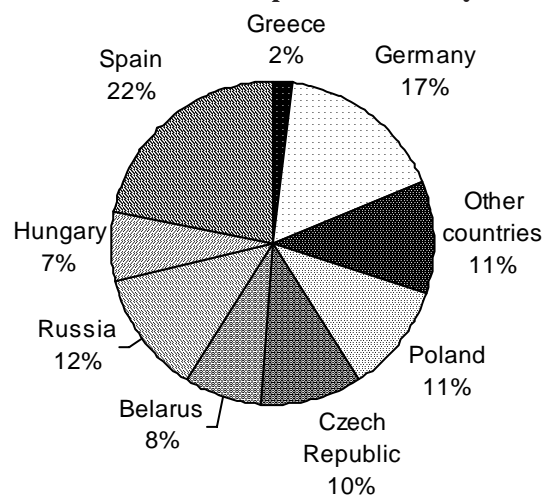
In 2000 and 2001, *the largest number of arrested and sentenced Ukrainian citizens* was registered in **Poland, Russia, Greece, Germany, the Czech Republic and Belarus.**

In 2002 as well, the situation did not change for the better. Besides, there has been an upward trend of detention of Ukrainian citizens in **Spain** during the past three years: 114 in 2000, 731 in 2001, and 1,117 in the first six months of 2002 alone.

Also, in 2002 a growing number of arrested and sentenced Ukrainian citizens were registered in such countries and *Portugal* and *the US*.

However, in **Poland and Russia in 2002** there was a downward trend in the number of detained Ukrainians. In **Greece** the number of arrested Ukrainians went down substantially (1,637 in 2000, 1,020 in 2001, and 94 in the first six months of 2002), while the number of sentenced remains almost invariable (31 in 2000, 37 in 2001, and 32 in the first six months of 2002). Following are the ratios of arrested and sentenced Ukrainian citizens on the territory of foreign states (Fig.3.1).

Fig.3.1. Countries with the largest number of Ukrainian citizens deprived of liberty in 2002



But these numbers may be greater, because Ukrainian consular posts do not always know about the arrest (detention) or our citizens.

Referring to the *Vienna Convention on Consular Relations of 1963*, the law enforcement agencies of some nations, such as **Canada and the EU countries**, inform the foreign diplomatic missions and consular authorities about the arrest of their citizens only upon request of the arrestees. A number of countries violate the provisions of bilateral consular agreements that bind them to inform Ukrainian consular posts about the arrest (detention) of Ukrainian citizens.

**LEGAL FRAMEWORK OF PROTECTION OF THE RIGHTS OF UKRAINIAN
CITIZENS DEPRIVED OF LIBERTY ON THE TERRITORY OF FOREIGN STATES
(International standards and national legislation)**

Since deprivation of liberty is a serious restriction of the rights of any person, the mechanisms of their protection traditionally merits special attention in both national legislation and in international legal instruments.

The majority of countries worldwide recognize and undertake to comply with the international standards of protecting the rights of arrested (detained) and sentenced persons, as secured in such international documents as the *Universal Declaration of Human Rights 1948*, *International Covenant on Civil and Political Rights 1966*, *Convention for the Protection of Human Rights and Fundamental Freedoms 1950*, *UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984*, and the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1987*.

Article 9 of the *International Covenant on Civil and Political Rights* and Article 5 of the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* enshrines the most important safeguards of a person's freedom and inviolability:

- no one shall be subjected to arbitrary arrest or detention;
- no one shall be deprived of his liberty save in accordance with a procedure prescribed by law;
- anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him;
- anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful;
- anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 14 of the *International Covenant on Civil and Political Rights* and Article 6 of the *European Convention on Human Rights* contains a minimum scope of rights of a person arrested (detained) on charges of criminal offense, in particular:

- to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- to be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The referred to international documents contain principles under which each member state is bound to respect and ensure the rights and freedoms stipulated in these documents for *all its own citizens as well as aliens and stateless persons within its borders and under its jurisdiction*.

Apart from these rights, *every alien by virtue of his affiliation to the citizenship of a definite state is also entitled to diplomatic protection of the country of his citizenship*, which, as a rule, is vested with corresponding consular posts. *This also refers to Ukrainian citizens deprived of liberty abroad.*

Ukraine's consular relations with foreign states are based on multilateral and bilateral agreements as well as generally recognized principles and rules of international law with due allowance from the legislation of the countries concerned.

For instance, the rights and duties of diplomatic missions and consular posts of our country with regard to the protection of Ukrainian citizens, who are arrested (detained), sentenced or otherwise deprived of liberty on the territory of foreign states, are secured in the *Vienna Convention on Consular Relations* 1963, of which Ukraine is a signatory.

Article 36 of this Convention sets out the basic guarantees of the activity of consular posts and officers as to the protection of the rights of their citizens who for one or another reason were deprived of liberty on the territory of the country of stay, in particular:

- consular officers shall be free to communicate with nationals of the sending State and to have access to them (foreign citizens deprived of liberty enjoy the same right);
- if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner;
- any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded to the said authorities without delay;

- the said authorities shall inform the person concerned without delay of his above-mentioned rights;
- consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation.

The *Vienna Convention on Consular Relations* also stipulates that the laws of the country of stay should facilitate in full the exercise of the referred to rights and safeguards.

The majority of countries have acceded to the *Vienna Convention on Consular Relations* (160 as of January 1, 2000).

The functions of Ukraine's consular posts relative to the protection of Ukrainian citizens are also secured in many bilateral consular treaties (conventions, agreements) signed with foreign states. There are several score of such treaties. Most of them set out in detail and supplement the provisions governing consular protection, with allowance for the specifics of bilateral relations.

A number of agreements include provisions to the effect that competent bodies of each party are *bound in all cases to inform without delay (as a rule, within three days) the consular post of the other contracting party accredited on its territory about facts of arrest (detention) of its citizen.* Yet the *Vienna Convention on Consular Relations* stipulates that parties are obliged to communicate such information only when requested by the citizen who is deprived of liberty.

Apart from the referred to international legal instruments on the protection of the rights of Ukrainian citizens detained (arrested) and sentenced on the territory of foreign stations, the consular officers of our country take guidance from the provisions of the ***Consular Statute of Ukraine approved by Presidential Edict of April 2, 1994.***

Central within this context is Article 39 of the Consular Statute, under which a consul is obliged to watch whether in relation to Ukrainian citizens deprived of liberty for one or another reason on the territory of a foreign state were kept the laws of the country of stay and the conditions of the treaties concluded between Ukraine and this state as well as the international agreements to which Ukraine and the country of stay are parties. Besides, a consul is bound to take measures for the restoration of the violated rights of Ukrainian citizens.

Upon request of the persons concerned and on his own initiative, a consul is obliged to visit Ukrainian citizens deprived of liberty and watch over compliance with the sanitary and hygienic conditions of their custody and with the requirements to the prevention of torture and inhuman or degrading treatment or punishment. For this purpose a consul is bound under all circumstances to insist on a personal meeting with the Ukrainian citizen to become convinced that the latter is not victimized or deprived of his rights.

ANALYSIS OF THE STATUS OF OBSERVANCE OF THE RIGHTS
OF UKRAINIAN CITIZENS DEPRIVED OF LIBERTY ABROAD

An analysis of the complaints addressed to the Commissioner for Human Rights as well as the information provided by the Ministry of Foreign Affairs of Ukraine proved that our citizens deprived of liberty abroad suffer from a number of serious violations of their rights and freedoms, such as:

- violations of the requirements of the *Vienna Convention on Consular Relations* 1963 and Ukraine's bilateral consular treaties as to informing Ukrainian consular posts about the detention (arrest) of Ukrainian citizens on the territory of the host country;
- violation of our citizens' rights concerning prompt notification of Ukrainian consular posts;
- gross violations of laws on criminal procedure during arrest (detention), pretrial investigation, and trial, **in particular**:
 - delay in notifying the reasons and grounds for detention (arrest);
 - delay in ensuring the rights of detainees (arrestees) and convicts to legal protection and services of an interpreter; low qualification of government-appointed counsel and interpreters;
 - biased and discriminatory attitude to Ukrainian citizens by legal investigators and judicial bodies of the host country;
 - long periods of pretrial investigation and judicial review of criminal cases;
 - unsatisfactory conditions of custody (specifically violations of sanitary and hygienic standards, bad food and medical services);
 - abuse by enforcement bodies of foreign states: threats, torture, inhuman or degrading treatment, demand for bribes.

Most of the complaints are addressed to the Commissioner from the relatives of Ukrainian citizens deprived of liberty abroad.

The relatives cite facts about violated rights and ask additional information about the circumstances of detention (arrest), conditions of custody, and the progress of pretrial investigation. Frequently the complainants cannot establish direct contact with our consular posts to obtain the needed information. Some receive responses with great delay or do not receive them at all.

Any information about the nature of the charges and the location of the detainees, especially at the initial stage of their detention, is extremely important for the protection of their rights and freedoms. In this case relatives are in a better position to come to their help by hiring a lawyer, passing on money or food, visiting the detained, or simply writing a letter of moral encouragement.

In the opinion of the Commissioner, the Ministry of Foreign Affairs should devise more specific internal procedures for providing information to relatives of the detained (arrested) Ukrainian citizens (in particular, its sequence and amount), taking into consideration the real possibilities of our consular posts abroad. This would reduce the complaints against the failure of consular authorities to respond to inquiries.

ENSURING PROPER CONDITIONS OF CUSTODY
OF UKRAINIAN CITIZENS ABROAD

According to the information of the Ministry of Foreign Affairs, the conditions of custody of Ukrainian citizens abroad are, on the whole, satisfactory, except for what occurs in some countries of the CIS, Africa and the Middle East.

This problem merits a lot of attention by the Commissioner for Human Rights. Every time during visits abroad the Commissioner requests to see the places where our citizens are confined (as was the case in *Russia, Poland, Greece and China*). In cases when the rights of our countrymen are violated, the Commissioner draws the attention of competent bodies of the receiving state and Ukrainian diplomatic missions to such facts.

Such inspection tours are often conducted jointly with the ombudsman of a respective country.

During an official visit to the Russian Federation in March 1999, the Ukrainian Parliament Commissioner for Human Rights and the Commissioner for Human Rights in the Russian Federation, Oleg Mironov, visited an isolation ward near Moscow where quite a few Ukrainian citizens were confined. The inspection revealed violations relating to the conditions of confinement of Ukrainian citizens and other detainees. Such violations are typical of most of the penitentiary establishments of Russia. *The Commissioner for Human Rights in the Russian Federation, Oleg Mironov, cited among the reasons the extraordinary overcrowdedness (the average confinement area per one detainee occasionally exceeded three-four times the generally recognized world standards), bad food and inadequate medical services, high morbidity of tuberculosis, AIDS and other dangerous diseases; and unsatisfactory sanitary and hygienic conditions of custody (sleep by shifts [frequently without mattresses and bed linen], presence of lice, inadequate lighting and ventilation).*

Such conditions persist practically in all the former Soviet republics that after the collapse of the USSR suffered a deep economic crisis and had to grapple with serious socioeconomic problems. Given such conditions, compliance with the rights of detainees was relegated to the background, especially in *Moldova* and *Belarus* where, just like in Russia, a large number of our countrymen are confined. When most of these countries joined the Council of Europe and acceded to international legal instruments on human rights, the attitude to the latter changed for the better, although at an all too slow pace. The referred to problems are also true for the places of confinement in Ukraine (discussed in greater detail in the annual reports of the Ukrainian Parliament Commissioner for Human Rights).

In the countries of Central and Southern Europe, the situation is somewhat better, but there, too, certain problems arise, e.g. in *Poland, Hungary, Slovakia, Romania, Turkey and Greece*.

During fact-finding trips to Poland, the Commissioner for Human Rights visited some penitentiaries, in particular a prison in Bilolenka and an investigatory isolation ward in Cracow where Ukrainian citizens are confined.

On the basis of the observations as well as a monitoring conducted by the Commissioner for Civil Rights Protection of the Republic of Poland it can be concluded that the penitentiary system of that country is much better than in Ukraine. Throughout the 1990s *Poland managed to make good headway in improving the conditions in its penitentiary establishments* by, specifically, increasing the confinement area per every inmate, providing adequate food and medical services, and even granting leaves during imprisonment. When at a meeting with detained Ukrainians in the *prison of Bilolenka* the Commissioner for Human Rights suggested that the Ukrainians continue serving their sentences in their homeland, all of them refused, arguing that the conditions of custody in Poland were much better. Yet *a part of the inmates complained against the abasement of their human and national dignity when the Polish police apprehended them.*

During a visit of the *investigatory ward in Cracow*, made together with the Ukrainian consul, none of the Ukrainian citizens complained about their conditions of custody. The only complaint came from a detainee whose request was ignored by the administration when he asked to order glasses because of his poor eyesight. After the intervention of the Commissioner the problem was settled.

In the Czech Republic problems of confinement arise now and then, especially as concerns the violation of sanitary standards of confinement. These and other reasons caused numerous mass strikes at penitentiary establishments. In the autumn of 2000, as the *Ukrainian Embassy in the Czech Republic informed*, 6,000 inmates in different Czech penitentiary establishments staged a hunger strike and other actions of protest against the overcrowdedness of prisons (sometimes twice the normal standards) and demanded that their personnel be changed. The authorities took some measures to settle the conflict, but the next year, *in October 2001 new hunger strikes broke out, this time involving 200 inmates from the CIS countries (mostly Ukrainian citizens).* The confrontation was provoked by a conflict between a guard at Valdice prison and a Ukrainian inmate. *In July 2002 the Ukrainian inmates went on a hunger strike again.*

In 2001, during a working visit to the Hellenic Republic, the Commissioner for Human Rights, together with representatives of the consular department of the Ukrainian Ministry of Foreign Affairs, visited a deportation prison for women, from Ukraine included. During the visit a lot of violations of their custody were detected: the women were denied walks outdoors, their food was horrible, up to 20 inmates shared one cell and slept on the floor, assignment of counsel was out of the question, and deportation was being delayed for months. Apart from the Ukrainians, the same horrible conditions were the lot of 200 women from *10 countries, such as Albania, Macedonia, Moldova and Russia.* Their only hope was the visit of the Ukrainian Commissioner. The unexpected visit was commented on by the leading newspapers of Greece. The next day the *Commissioner for Human Rights met with the Minister of Justice of the Hellenic Republic and the managers of the Association of Lawyers of Greece.* The conditions of

confinement were immediately changed, all the women were permitted to have walks outdoors, and the Commissioner managed to free three Ukrainian women and bring them back home on an airplane.

Proper conditions of confinement depend on the general state of the penitentiary system in each individual country. Therefore, cardinally improving the conditions of confinement for Ukrainian citizens is extremely difficult, since they cannot be much better than the conditions for citizens of other countries.

In the opinion of the Commissioner, Ukraine's consular posts abroad should constantly monitor the conditions of confinement of Ukrainian citizens and take all possible measures to protect their rights in case of violations.

SAFEGUARDING THE RIGHTS OF UKRAINIAN CITIZENS DEPRIVED OF LIBERTY ON THE TERRITORY OF FOREIGN STATES

Right of Ukrainian citizens to consular protection. The right to consular assistance is an extremely important mechanism for the protection of Ukrainian citizens deprived of liberty abroad. In some countries obstacles are put in the way of the exercise of this right, such as establishing communication with consular officers and arranging visits with them.

As the Ukrainian Embassy in the Russian Federation informed, the main problem during the detention (arrest) of Ukrainian citizens in Russia is that **Russian law enforcement bodies frequently violate the provisions of the Consular Convention between Ukraine and the Russian Federation insofar as they concern the duty of competent bodies of Russia to notify Ukraine's consular posts without delay but not later than within three days about the detention, arrest or any other restriction of a Ukrainian citizen's liberty (Article 13 of the Consular Convention).** This denies the consular authorities the opportunity to visit detainees on time or get into contact with them to provide legal assistance. Besides, the *detained Ukrainian citizens often do not insist on their right to meet with or telephone to a Ukrainian consular employee.*

These facts are also confirmed by the appeals addressed to the Commissioner for Human Rights. For instance, *O. Rusyniak*, a resident of Tovste in Ternopil oblast, complained that her son was arrested in Moscow in August 1999. Neither the complainant nor the Ukrainian Embassy in Russia was notified about the arrest. The Commissioner for Human Rights set in motion an investigation and forwarded a letter to the Russian Ombudsman. The latter addressed an inquiry to the Kuntsevo inter-district public prosecutor's office in Moscow with a request to investigate this case.

Similar problems also arise in other countries, such as Kazakhstan, Poland and Libya. *As the Ukrainian Embassy in Kazakhstan informed*, in the majority of cases the law enforcement bodies of that country are late in notifying the embassy about the detention (arrest) of Ukrainian citizens.

An analysis the Commissioner for Civil Rights Protection of the Republic of Poland conducted in 2000 upon the request of the Ukrainian Parliament Commissioner for Human Rights revealed that in two cases the Polish police violated the provisions on notification stipulated by the *Consular Convention between Ukraine and the Republic of Poland*. The Polish Ombudsman forwarded respective letters to the Ministry of Justice and the Attorney General for them to curb such violations in the future.

The *Ukrainian Embassy in Libya* also informed the Commissioner about cases when Libyan law enforcement bodies denied detained (arrested) Ukrainian citizens the right to notify their whereabouts to consuls.

In the opinion of the Commissioner for Human Rights, these problems should be constantly in the focus of attention during bilateral talks and consultations at all levels in the countries where the referred to infringements have been registered. Accordingly, the Ukrainian side should take proper measures to safeguard the right of aliens to consular protection by the countries of their origin.

Ensuring legal assistance to Ukrainian citizens abroad. The right to legal assistance of every person, who has been detained (arrested) on suspicion or charges of committed offenses, is one of the basic procedural human rights.

Perhaps the largest number of problems arises in this respect, as evidenced by the complaints to the Commissioner. In their letters, the complainants cited cases when their rights to protection were impaired, such as denial of counsel, especially at the stage of pretrial investigation. Even when legal assistance is provided, the quality of performance of the defense counsel is frequently the cause of a lot of complaints. Such facts are especially typical of the *CIS countries and some countries of Western and Eastern Europe (Poland, Slovakia, Hungary and the Czech Republic)*. To this effect *L.Olexenko*, *O.Rusyniak* and *O.Yalovetska* addressed complaints to the Commissioner on behalf of their relatives held criminally liable in *Poland, Russia and Spain respectively*.

L.Olexenko repeatedly appealed on behalf of her son *I.Breiter* who was arrested for an offense in Poland and was not provided with effective counsel during the pretrial investigation and judicial review. She wrote that the government-appointed counsel was not adequately defending the interests of the accused and evaded participation in the sessions of the court. In response to the inquiry by the Commissioner, the *Ukrainian Embassy in Poland* informed that the cited facts did not exactly correspond to the real circumstances of the case, but it took additional measures to safeguard *I.Breiter's* right to proper legal defense. Besides, the Commissioner for Human Rights reached an agreement with the Ukrainian Foreign Legal Collegium (UFLC) on additional assistance for the protection of *I.Breiter's* rights. Following the taken measures, he was freed in early 2003.

During the Commissioner's visit to the investigatory ward in Cracow, all the Ukrainian citizens confined there wished that they had more effective legal assistance.

The *Ukrainian Embassy in Poland* points out the low quality of defense by appointed counsel as the principal problem that negatively affects the defense of Ukrainian citizens in the course of pretrial investigation and judicial review. This problem was repeatedly brought to the attention of competent bodies in Poland, but so far nothing has radically changed.

This problem is especially acute in Russia where, as *Ukrainian consular posts inform*, counsel for the defense is of slender efficiency: not all lawyers engaged to defend the accused Ukrainian citizens perform their work conscientiously, even when awarded substantial fees. For instance, Ukrainian citizens forwarded to the *Ukrainian Consulate-General in St. Petersburg* several complaints against the low-quality work of lawyers. The consular employees took measures to rectify this situation.

Inadequate legal assistance and bad faith of defense counsel are frequently manifested not only in criminal but also in civil cases, specifically during claims for material and moral damages.

Upon the request of the Commissioner, the UFLC informed that it came across quite a few cases when foreign lawyers performed poorly in defending Ukrainian citizens, in particular in *Portugal, Italy* and some other countries. Occasionally, the lawyers appropriated a lion's share of the cash indemnity that belonged to the aggrieved or relatives of deceased Ukrainian citizens.

Since our countrymen do not know their own rights, local laws, and language, they become an easy prey for unscrupulous lawyers. The experience of the UFLC proves that the attempts of our countrymen to deal with legal problems "locally" do not produce the desired results.

Apart from the most scandalous and blatantly publicized cases, Ukraine's consular posts, overburdened with routine duties that they are, have little time to regularly check the activity of foreign lawyers.

In order to improve the legal protection of our citizens abroad, the Commissioner for Human Rights suggests taking the following measures:

- provide for expenditures in the budgets of Ukrainian consular posts to pay for legal assistance to Ukrainian citizens charged with offenses or crimes on the territory of a host country, when such assistance is required for ensuring efficient delivery of justice and exercise of human rights (along with the establishment of clearly defined criteria for the selection of cases that require funds for buttressing legal defense);
- consular posts should establish close contacts with lawyers specializing in defending the rights and interests of aliens in order to set up and maintain a database of the most experienced and reliable lawyers who can be recommended to Ukrainian citizens charged with offenses;

- draw up consular reports on lawyers performing their duties in bad faith during the defense of Ukrainian citizens' rights.

Compliance with procedural rights during arrest (detention), pretrial investigation, and judicial review. The flaws in national legislation and the judicial system in some countries as well as the biased attitude to Ukrainian citizens frequently, apart from non-compliance with the right to effective legal defense, result in violations of the Ukrainian citizens' procedural rights.

The *Ukrainian Embassy in Poland* informed that in 2001 and in the first six months of 2002 its consular service received 88 complaints of our citizens against violations of their rights during pretrial investigation.

Quite a few identical complaints are also addressed to the Commissioner for Human Rights. In such cases the Commissioner cooperates with ombudsmen of other countries to settle the problems. Occasionally, the Commissioner also cooperates with Ukrainian consular posts abroad.

For instance, in early 2002 the *Consul-General of the Ukrainian Embassy in Poland, Anatoliy Hamaliy*, addressed the Commissioner about the matter of Ukrainian citizens *R.Filoneko* and *M.Liushch* who were charged with assaulting a Polish woman. From the moment they were apprehended the accused insisted that they were not involved in the offense and the victim mistakenly identified them as the culprits. Serious violations of operative Polish laws of criminal procedure were detected in this case: the accused were not provided with an interpreter at the stage of apprehension; the identification by the victim was handled improperly; the counsel neglected his duty when defending *R.Filonenko*; and the pretrial investigation officers examined the documents submitted by the accused with prejudice, not taking into account the evidence of eyewitnesses and other facts confirming the alibi of the accused. After the intervention of consular officials the District Court of Radom acquitted *M.Liushch* on January 8, 2002. As to *R.Filonenko*, the court passed a guilty verdict and pronounced a five-year prison sentence. The verdict was appealed by the accused and the case referred to the Court of Appeals of Lublin, while he remained in the isolation ward of Radom. *Upon the request of the Ukrainian Parliament Commissioner for Human Rights the Commissioner for Civil Rights Protection of the Republic of Poland* scrutinized the case of *R.Filonenko* and informed that the Court of Appeals of Lublin, taking into consideration the procedural violations, reversed the verdict of the District Court of Radom and referred the case for reconsideration.

Not rare are also cases of biased treatment of Ukrainian citizens in the *Czech Republic*, even of those who reside and work there legally. This is manifested during arrest (detention), pretrial investigation, judicial review, and delivery of decisions.

An example in point are the cases of *V.Patsai* of Drohobych and *S.Kachmar* of Ternopil, which were investigated by the Commissioner jointly with the Ukrain-

ian Embassy in the Czech Republic so as to ensure an impartial and objective judicial review.

The **application of preventive measures alternative to detention** is a problem that directly affects the exercise of the rights of Ukrainian citizens, especially at the initial stages of investigation.

As a rule, all Ukrainian citizens who are apprehended abroad are automatically arrested and practically no alternative measures are applied, such as bail or recognizance not to leave.

As the Ukrainian Embassy in Hungary informed, the courts of this country satisfy, as a rule, the requests of investigators and public prosecutors for detaining in custody Ukrainian citizens charged with offenses. Local courts do not often apply such a preventive measure to Hungarian citizens.

Similar practices are also imposed in the Russian Federation where measures alternative to detention are almost never applied to our citizens. This problem was brought to the attention of the Ombudsman of Russia, Oleg Mironov, during the visit of the Ukrainian Parliament Commissioner for Human Rights to the Russian Federation.

Law enforcement agencies and courts of some countries frequently explain that they resort to such practices for fear that the aliens might evade investigation and trial.

In the opinion of the Commissioner, it is necessary to raise the question of replacing detention in case of minor offenses or in relation to Ukrainian citizens who have permits for permanent residence or close family ties on the territory of a respective country. In any case, a differentiated approach should be applied depending on the definite circumstances of a case.

In accordance with item 3, Article 9 of the International Covenant on Civil and Political Rights: *“Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and should occasion arise, for execution of the judgment.” Ignoring such requirements essentially amounts to discrimination on grounds of citizenship, which should not be beyond the attention of Ukraine’s consular posts abroad.*

A lot of violations of the rights of Ukrainian citizens occur during their **detention (arrest) by law enforcement bodies of the host countries**. The acuteness of this problem is evidenced by that fact that in 10 months of 2002, after direct interventions by Ukraine’s diplomatic missions, 1,053 Ukrainian citizens were released from custody, primarily *in the CIS countries and Central Europe* (specifically *Poland and the Czech Republic*).

An awfully sad incident occurred **on January 28, 2001 in Poland** when the county police of Zwidnik **mortally wounded a Ukrainian citizen, Serhiy Kudria**

who, along with his pregnant wife, was returning to Ukraine by car from the *Czech Republic*. The incident was widely publicized in Ukraine and Poland.

Right from the outset the case was taken under the personal supervision of the Commissioner, because the police's actions that caused the young man's death were extraordinary. The incident immediately called for an all-round and impartial investigation and the gravest responsibility, once the guilt of the police was proved.

Proceeding from a bilateral agreement on cooperation, the Ukrainian Commissioner addressed on February 2 the Commissioner for Civil Rights Protection of the Republic of Poland, Andrzej Zoll, with a request that the investigatory agencies within his jurisdiction thoroughly scrutinize the circumstances of Mr. Kudria's death. The Commissioner also requested the reception of a special representative of the Ukrainian Ministry of Foreign Affairs, Olexandr Mishchenko, who was dispatched to Poland at that time.

The Commissioner for Civil Rights Protection immediately demanded from the county public prosecutor of Lublin investigating the case to provide constant information about the progress of the case and requested the State Police Authority to forward exhaustive information about all the actions of the Ukrainian citizen on the territory of Poland throughout the past two years.

Subsequently, the Commissioner for Civil Rights Protection kept the Commissioner regularly informed about the progress of pretrial investigations, such as the results of ballisticians' examination, investigative experiments, examination of the accused and witnesses, and the like.

Concurrently, the mother of the deceased, *Yevdokia Kudria*, constantly communicated relevant information to the Commissioner. The latter met with the widow and brother of the deceased and assisted in providing proper medical attention to the newborn child at the Institute of Cardiovascular Surgery under the Mykola Amosov Academy of Medical Sciences.

As far as this specific case was concerned, the Commissioner was closely cooperating with the Ministry of Foreign Affairs and the Ukrainian Embassy in Poland, which expended a lot of effort to clarify this matter. Right after the tragedy a note of protest was forwarded to the Polish party, funds were allocated to pay for the services of a Polish lawyer, and material assistance was granted to the mother.

The last court hearing is scheduled for April 8, 2003, when the final verdict will be announced. This case is still under the supervision of the Commissioner.

Right to a fair trial. The observance of a reasonable duration of pretrial investigation and judicial review poses a problem for a number of countries that lack an adequately operating law enforcement and judicial system. This is a direct violation of the requirements of *Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms*, in particular the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

This problem is also typical of the former Soviet republics, the countries of Central Europe, some Western European nations, as well as Third World countries.

In 2000 and early 2001, the Commissioner received petitions from the mothers of *Ukrainian citizens S.Mishuk and N.Holub* who in June 1999 were detained **on the territory of Slovakia** on charges of plunder. The petitioners complained against the long detention in custody of their sons and undue delay in pretrial investigation and judicial review.

The Commissioner addressed the Ukrainian Embassy in Slovakia with a request to look into the compliance with the rights of the accused during the judicial review. In response, the **Ukrainian Consul-General in Slovakia** met with the Attorney General and Minister of Justice of Slovakia to raise the question of the undue delay in the judicial review of this case.

As the Commissioner for Human Rights was informed by the Ukrainian Embassy in Slovakia, such violations of Ukrainian citizens' rights in that country are galore, and although the embassy has taken a series of measures to have the rights restored, there is no definite improvement of the situation.

The Commissioner also received complaints against undue delay in pretrial investigation and judicial review in Germany and Moldova by the wife of *S.Halak* and mother of *A.Shevchuk* respectively.

According to the information of the Ukrainian Embassy in Hungary, pretrial investigation of criminal cases in this country is conducted at a slow pace as well. As of the first six months of 2002, eight out of 39 Ukrainian citizens were held in custody since 2000 and two since 1999.

Our countrymen have to grapple with similar problems in the **Hellenic Republic**. This is true, for example, in the **case of six Ukrainian seamen of the MS Funda**, who in 2000 were convicted to ten years in prison and fined US \$12,000 each (on charges of smuggling a group of illegal migrants into Greece).

In response to the **appeal by the seamen and MP Yuri Kruk**, the Commissioner for Human Rights initiated an investigation. By instructions of the Commissioner a representative of the Commissioner's Secretariat, along with a Ukrainian lawyer, flew to Athens where they held talks with the **Ombudsman of Greece, Nikiforos Diamanturos**, met with the Greek counsel who handled the case at the Supreme Court, and together with the Ukrainian consular officials visited the convicted seamen in the prison at Patras.

After the joint intervention, the convicts acquired employment and were provided with better conditions of custody.

Because of the long delay in the consideration of the seamen's appeal by the Supreme Court of Greece, the Commissioner for Human Rights addressed the Minister of Justice of Greece through diplomatic channels to have the appeal considered more quickly. This case is still under the supervision of the Commissioner.

Within the context of ensuring the Ukrainian citizens' rights to fair trial and impartial court proceedings, the participation of consular officials in court hearings gains great importance. Judging from practice, their presence frequently produces a positive outcome.

As the *Ukrainian Embassy in Poland informed*, employees of its consular department took part in 42 court sessions in the period from 2000 to 2001 and the first six months of 2002, after which the convicted and accused Ukrainian citizens were released from prisons and right in the court room.

Such a practice is attended by objective difficulties, because *Ukrainian diplomatic missions and consular posts are understaffed*. Of the diplomatic missions that responded to the Commissioner's inquiry, *almost one-third emphasized the need to enlarge the staffs of their consular services*.

This is especially true for the countries that have a lot of Ukrainian migrant workers. When two officers are on the staff of a consular section, they physically cannot take part in a court hearing hundreds of kilometers away from the diplomatic mission or visit the detainees as required by the *Consular Statute of Ukraine*. For instance, in the *Czech Republic* in 2002 there were only three consular officers to 515 of our imprisoned countrymen, while in Spain just two diplomats doubled as consular officers per 1,169 sentenced Ukrainians.

In order to make more effective the defense of the rights of Ukrainian citizens abroad, *the Commissioner deems it necessary to enhance the personnel of Ukrainian consular posts, especially in the countries with the largest number of Ukrainian migrant workers, such as Spain, Italy, Poland, Turkey, Portugal, Hungary and the Czech Republic* where quite a few of our countrymen are held in custody. It is also advisable to make more frequent the practice of consular officers participating in court hearings, especially in cases where there is a reason to suspect prejudice of the investigating and judicial authorities of the host country against Ukrainians whose rights might be infringed.

CASES OF UKRAINIAN CITIZENS SENTENCED TO DEATH ABROAD

Since a large number of Ukrainian citizens are abroad, they occasionally commit offenses, including serious crimes, for which severe punishment is meted out in the host countries.

Lately, Ukraine has had to deal with cases of Ukrainian citizens sentenced to death in some countries that had not ratified Optional Protocol No.2 to the *UN International Covenant on Civil and Political Rights* and Protocol No.6 to the *Convention for the Protection of Human Rights and Fundamental Freedoms*. Two Ukrainian citizens were sentenced to death abroad in the period from 2000 to 2002.

In the summer of 2001, Ukrainian citizen V.Mamontova, 30, was condemned to death in the Kingdom of Thailand on charges of keeping drugs. From the moment of her apprehension she denied any involvement in the committed crime, but the court adjudged the death penalty that had to be executed within one month.

Given the abolition of the death penalty in Ukraine in December 1999, the verdict of the Thai court caused a passionate outcry in the Ukrainian press and society as a whole.

This news reached the Commissioner for Human Rights in South Africa where she was on the Ukrainian delegation taking part in the UN World Conference Against Racism, Racial Discrimination and Xenophobia.

That same day the Commissioner had a telephone conversation with the *Ambassador Extraordinary and Plenipotentiary to the Socialist Republic of Vietnam, Rostyslav Bilodid*, who was assigned by the Ministry of Foreign Affairs of Ukraine to supervise this case, then she met with the *advisor to the UN High Commissioner for Human Rights, Brian Burdekin*, and held negotiations with the *leader of the Thai delegation at the World Conference, Ruengdeiom Mahaf-saradonom, who represented the Kingdom of Thailand in the United Nations*.

Completely supporting the requirement to severe punishment of drug offenders, the Commissioner expressed the stand that the citizen of a country that had abolished capital punishment could not be deprived of life by the laws of another country.

The Ministry of Foreign Affairs and the Ukrainian Embassy in Vietnam expended a lot of effort to settle the matter by initiating an appeal of the *Secretary General of the Council of Europe, Walter Schwimmer*, to the government of Thailand, while the *Minister of Foreign Affairs of Ukraine, Anatoliy Zlenko*, held talks with his Thai counterpart. Apart from these measures, Ukrainian diplomats assisted in enlisting quality legal defense for the accused, repeatedly visited her in the prison, and carried on negotiations with competent agencies of Thailand.

The efforts to mitigate the punishment were far from easy and took a long time to bring to a positive outcome. At last in early January 2003, the Court of Appeals of Thailand ruled to commute the death penalty of V.Mamontova to imprisonment of 33 years and four months.

On February 9, 2002, the criminal court of the first instance in Dubai (*United Arab Emirates*) adjudged guilty the Ukrainian citizen *Andriy Svyryd*, 28, and his Russian accomplice in the murder of a jewelry store proprietor and condemned them to death. An appeal against this verdict was lodged with the UAE Court of Appeals. No final judgment has been delivered in this case to date.

TRANSFER OF UKRAINIAN CITIZENS SENTENCED TO IMPRISONMENT BY FOREIGN COURTS TO SERVE OUT THEIR SENTENCES IN UKRAINE

While held in custody in the penitentiary facilities of other countries, Ukrainian citizens are in most cases deprived of the opportunity to meet with their families and close relatives, receive any essential items they might need during custody, and in any other way communicate with their homeland. The best way of dealing with this problem would be to transfer them to Ukraine to serve out their sentences.

Legal relations in this area are governed by multilateral conventions, to which Ukraine is a party, as well as by corresponding bilateral agreements. The most comprehensive legal instrument is the *Convention on the Transfer of Sentenced Persons signed in 1983 within the framework of the Council of Europe*. The Convention came into force in 40 European countries, Ukraine included (from January 1, 1996), as well as in 10 other countries.

In effect to date are bilateral agreements on the transfer of sentenced persons which Ukraine signed with Georgia, Armenia, Azerbaijan, the People's Republic of China, Uzbekistan, Kazakhstan, and Finland.

According to the information of the Ministry of Justice and the Office of the Attorney General of Ukraine, 24 sentenced citizens were transferred in 2000 from other countries to serve out their sentences in Ukraine (seven from Kazakhstan, four from the Czech Republic, three from Azerbaijan, two from Hungary, two from Moldova, and one each from Slovakia, Poland, the UK and France), 13 citizens were transferred in 2001 (from Kazakhstan, the US, Uzbekistan and the Czech Republic), and 21 in the first six months of 2002 (five from Poland, five from Kazakhstan, three from Russia, three from the Czech Republic, one from Lithuania, and two from Azerbaijan).

But the most troublesome and, regrettably, not yet regularized problem is the transfer of sentenced citizens by Russia, Belarus and Moldova, because, *first, Russia and Belarus are not parties to the Convention on the Transfer of Sentenced Persons, although Moldova acceded to the Convention but has not ratified it, and second, there are no corresponding bilateral treaties between Ukraine and these countries. This causes a lot of additional problems, because these countries have the largest number of sentenced Ukrainian citizens. Also, since Ukraine has common borders with Russia, Belarus and Moldova, the transfer of sentenced persons does not present any special difficulties or entail extra costs for transportation either overland or by air.*

The *Attorney General of Ukraine* addressed his counterpart in Russia with the proposal to conclude a bilateral agreement and forwarded its draft to the Russian party. But the issue remains unresolved to this day.

To tackle this predicament somehow, the Attorney General, on the instruction of the Ukrainian Parliament, enters into negotiations with the competent bodies of these countries (as an exception). But this does not deal with the problem properly. According to the information of the Attorney General's Office, only *three Ukrainian citizens* were transferred from Russia to serve out their sentences in Ukraine, while by the end of the first six months of 2002 there were about 240 of our countrymen servicing sentences in Russia.

In the opinion of the Commissioner for Human Rights, the conclusion of appropriate bilateral agreements, specifically with Russia, Belarus and Moldova, would dispose of the problematic issues in this area.

3. OBSERVANCE OF HUMAN RIGHTS IN CASE OF DEATH OR BURIAL OF UKRAINIAN CITIZENS ABROAD

GENERAL ANALYSIS

Among the millions of Ukrainian migrant workers abroad there is a growing number of deaths caused by accidents, crimes and other reasons.

Every human death, apart from grief and a sense of irreparable loss, confronts families and relatives with the problems of paying the last respects to the deceased. These problems become the more complicated when the deceased is far away from home and relatives have to transport his remains to his homeland, raise the money to pay for the expenses, execute the required documents, and, generally, worry who to apply to in such cases.

The Commissioner for Human Rights has been receiving a lot of petitions raising these questions. Unfortunately, they are growing in number with each passing year. The Commissioner tries to tackle these problems in close cooperation with the Ministry of Foreign Affairs.

According to the figures provided by 82 Ukrainian consular posts abroad in response to the Commissioner's inquiry, 2,424 Ukrainian citizens died on the territory of 60 countries in the period from 2000 to the end of six months of 2002, including 795 cases registered in 2000, 1,029 in 2001, and 601 in the first six months of 2002, which speaks of an upward trend in the death rate among Ukrainian citizens abroad.

Among the countries where the largest number of Ukrainians died within the referred to period were *Germany – 655, Portugal – 297, Poland – 250, Italy – 204, and Russia – 143*, which, on the whole, corresponds to the main destinations of Ukrainian migrant workers.

The main categories of the deceased abroad are migrant workers, the causes of their death being:

- industrial accidents;
- traffic accidents;
- murder;
- domestic accidents;
- suicide;
- acute cardiovascular disorders;
- natural death (by age).

Industrial accidents are the most common causes of death. In the overwhelming majority of cases, such deaths occur among illegal migrants: they work more hours than set by standards, are in a state of constant fatigue without elementary conditions for work and observance of labor safety rules, which results in tragic consequences. Besides, employers try to gain from their cheap labor the largest possible profits at the least incurred cost. The largest number of industrial accidents occurs on construction sites and in factories.

Ukrainian seamen are frequently subject to accidents while performing their contractual commitments on Ukrainian and alien ships.

Quite a few Ukrainians die in *traffic accidents* because of violation of traffic rules, such as exceeding speed limits and driving in an intoxicated state. Occasionally they become innocent victims of careless drivers.

A *team of construction workers from Transcarpathia* suffered from a driver's negligence. On October 12, 2002, they were waiting for a bus in Budapest to reach the railroad station and board a homeward bound train. Suddenly a Mercedes plowed into the group at high speed, killing five people and gravely injuring another two. Hungarian television commented on the tragedy in Budapest for several days in great detail, because nothing like it had ever happened in the country before.

A number of fatal traffic accident cases have also been registered in neighboring *Poland, Russia, Belarus and Slovakia*.

The Commissioner ascertains with deep regret that quite a few Ukrainian citizens abroad are victimized and murdered for the purpose of robbery, by their fellow countrymen included. Such cases occur most frequently in the *Czech Republic and Poland*, through which our migrants pass in transit to Ukraine from Western Europe. Similar offenses are also widespread in *Portugal and Italy*. Every country that has a large concentration of Ukrainian migrant workers is immediately "infested" by criminal groups that want to make a profit out of their countrymen's work.

In such cases, as the *Commissioner for Human Rights holds, it is very important to expand cooperation between Ukrainian law enforcement bodies and their foreign counterparts and also to enhance the number of Ministry of Internal Affairs personnel at diplomatic missions abroad so as to make more effective the fight against international criminal groups.*

The growing number of suicide cases among Ukrainian citizens abroad is an alarming symptom. Such cases also occur at the penitentiary facilities where our countrymen are held in custody.

For instance, the Commissioner was addressed by *Olexandr B. of Lviv oblast* to look into the circumstances of death of her son, *Orest B.*, who was held in custody in a prison in the ***Czech Republic***. He was apprehended by the Czech policy on suspicion of having committed an offense against a Czech citizen. After some time his relatives were informed that Orest B. hanged himself. As the petitioner asserts, his body had bruises that might have been inflicted by the personnel of the prison.

The Commissioner for Human Rights initiated an investigation and forwarded an inquiry to the Ministry of Foreign Affairs of Ukraine. The Ukrainian Embassy in the Czech Republic took measures to clarify the circumstances of the Ukrainian citizen's death and requested the official results of the Czech forensic medical examination, which identified the cause of death as "asphyxia of respiratory tracts that ensued in consequence of strangulation." Besides, an

investigation by competent Czech authorities established that owing to a dispute between the petitioner's son and a fellow inmate, also a Ukrainian citizen, the prison administration transferred Orest B. to a solitary cell where he hanged himself. The circumstances of the death are far from being unambiguously clear, because the results of the Ukrainian forensic medical examination are at variance with what the Czech party produced. The case is still under the supervision of the Commissioner.

As the Commissioner believes, diplomatic missions and consular posts abroad should center particular attention on such cases and check their handling.

Chronic diseases in countries with arduous climatic conditions are also the cause of deaths, as, for instance, in **Iran and Iraq** where Ukrainians work under contracts at oil recovery enterprises and oil refineries. According to the information provided by the Ukrainian Embassy in Iraq, the overwhelming majority of Ukrainian workers employed there by the end of 2002 were of middle age or short of retirement age. Working outdoors at temperatures ranging from +35 C° to +60 C° or else in poorly ventilated premises, they often suffer from health disorders. In the first six months of 2002 two fatal cases caused by cardiovascular disorders were registered on the territory of Iraq. In Iran, where they work in similar conditions, six lethal cases were registered within this period.

PROBLEMATIC ISSUES THAT ARISE IN CASES OF DEATH OF UKRAINIAN CITIZENS ABROAD

The death of a Ukrainian citizen abroad is attended by a number of problems, such as notification of the relatives of the deceased, adoption of decisions on transporting the corpse to Ukraine, execution of required documents, and the like.

As a rule, a criminal case is initiated and appropriate investigations are launched whenever a Ukrainian citizen suffers violent death abroad. *In this connection the Commissioner is receiving a lot of complaints against the careless attitude of competent bodies abroad during the investigation of such cases, especially those involving the death of an illegal migrant, as well as complaints against the refusal of initiating criminal cases.* This is especially true for the attitude of the authorities in **Poland, the Czech Republic, and Western European countries**, as evidenced by the petitions of, say, *Zinaida V. from the Autonomous Republic of Crimea, and Kapitolina H., a resident of Cherkassy oblast.*

When the guilt of a definite person is established, the relatives of the deceased *are entitled to compensation for damages*, for which purpose it is extremely important that the criminal case be investigated properly.

Now and then the complaints against the refusal of foreign law enforcement authorities to initiate criminal cases are not sufficiently substantiated. Some petitioners request that the Commissioner open investigations into the circumstances of their relatives' death when the absence of grounds for initiating crim-

inal cases have already been proved. Frequently such requests are based on essentially subjective considerations. Families and relatives usually do not attach importance to such evidence as bruises or other injuries on the bodies of the deceased. After paying the last respects, they regret having been inattentive and often groundlessly relate such injuries to violent death.

Judging from the monitoring of the Commissioner, some serious problems arise when it comes to notifying the relatives about the death of a Ukrainian citizen abroad.

As a rule, Ukrainian consular posts try to promptly inform the relatives so as to help them take appropriate measures and, when necessary, come to their assistance.

This is especially important in countries that have *established time limits for making a decision on what should be done with a corpse*. If by that time relatives fail to claim the corpse or do not inform the competent authorities about their intentions, *the corpse is cremated, buried or transferred to a medical institution for research*. Under the laws of some states in the US, a corpse is cremated if the relatives failed to arrive at a decision 24 hours after the death of a person. According to the laws of some other countries, a corpse not claimed from a morgue within three months is transferred to a medical institution for anatomical purposes.

When relatives decide on the location of burial of the deceased, they occasionally face yet another problem, to which the Commissioner wants to draw attention. For instance, *Liubov Y. of Mykolaiv* asked the Commissioner's assistance in transporting to Ukraine the remains of her son who tragically died *in Argentina*. As the petitioner informed, she addressed the Ministry of Foreign Affairs of Ukraine for assistance and the Ministry made a decision to allocate respective funds for transportation. At the same time, the wife, who had lived with the deceased in Argentina, refused to have the remains of her deceased husband transported to Ukraine and sent a respective letter to the consular department of the Ukrainian Embassy in Argentina. The deceased was temporarily placed in a vault in a cemetery at Santa Fe (Argentina) and has been there for the past three years. Since Ukrainian legislation does not govern such legal relations, and also taking into consideration that both the mother and the wife have equal rights to determining the burial place of the deceased, the Commissioner informed the petitioner that only a court could resolve this matter.

Natalia R. from Kyiv filed a similar petition with the Commissioner for Human Rights. It concerned a family dispute about the burial place of her son who resided in the US together with his father and tragically died there.

As the monitoring of the Commissioner revealed, a lot of problems also arise when decisions are made on transporting the remains of the deceased to Ukraine, specifically as regards raising funds for this purpose.

In case of death or an accident, the provisions of legally concluded contracts with employers usually make allowance for such contingencies. *Most of the bilateral treaties* on employment and social protection concluded between Ukraine and other states *stipulate the obligation of an employer to cover all costs related to the death of a Ukrainian citizen, including transportation of his remains to his homeland.*

But now and then, when contracts are concluded directly with employers, the latter evade their obligations on paying transportation costs and compensations.

One way of dealing with this problem, as the Commissioner sees it, is to conclude insurance contracts stipulating compensation in case of death of the insured.

If an employer or insurance company cannot cover the transportation costs, it is the relatives or the government that must shoulder the financial burden.

This is exactly what *Liudmyla T. of Kyiv* had to go through. Her husband, *Volodymyr Z.*, worked as a roentgenologist in the ***Republic of Yemen*** on the basis of a properly executed contract, receiving only US \$50 a month. The management of the clinic he worked at promised to make a final settlement upon the termination of his contract in December 2002. On the eve of the settlement Volodymyr Z. met a tragic end under so far unclear circumstances, without receiving the remuneration due to him. After his death, it proved that he had only US \$800 on his personal account, while the contract did not stipulate any commitments of the employer to cover the cost of transporting his remains to Ukraine in case of death or pay anything in claims to his relatives. Liudmyla T. had to choose between the option of either agreeing to have his remains buried in Yemen or covering the cost of transportation. In a petition addressed to the Commissioner for Human Rights the widow asked to safeguard her right to pay the last respects to the deceased. On instructions of the Commissioner negotiations were commenced with the ***Ukrainian Consul in Saudi Arabia (combining this duty in the Republic of Yemen), O.Drevetniak***, and also with the Ministry of Foreign Affairs' consular department on the possible transportation of the deceased to Ukraine. The problem was settled positively through the active assistance of the Ministry of Foreign Affairs.

In this case, as in a multitude of similar cases, the relatives lack the funds for transportation. ***According to the information of the Ukrainian Foreign Legal Collegium (UFLC), not less than euro 3,000 are required to transfer a corpse from, say, Italy, Portugal and Spain.*** More often than not the relatives find it difficult to raise such an amount immediately. There have been cases when the burial of deceased Ukrainians was delayed for over half a year while their families were strenuously trying to find the required funds.

Under such circumstances the relatives are compelled to have the deceased buried on the territory of a foreign country or else have the remains cremated and the ashes transferred back home in an urn, which costs somewhat less – a

minimum of euro 1,500. **Out of all the Ukrainian citizens who died abroad in the period from 2000 to the end of the first six months of 2002, the remains of only about a half were transported to their homeland for burial – 377 of the 795 deceased in 2000, 556 of 1,028 in 2001, and 388 of 601 in the first six months of 2002.**

The financial support to relatives of the deceased by Ukrainian diplomatic missions abroad is crucial in such cases, i.e. *allocation of costs for ritual services, transportation of corpses or urns with ashes. For these purposes US \$236,333 and US \$287,959 were allocated to the Ministry of Foreign Affairs in 2001 and 2002 respectively.* Yet, as a rule, diplomatic missions cover such costs in exclusive cases when all other options have been exhausted. The money is mostly drawn from other sources of financing, such as charities and foundations.

The largest amount of financial assistance in the first six months of 2002 was allocated for transporting the deceased from countries with the largest number of migrant workers, primarily *Portugal, Italy, Israel, France, Greece and Spain.*

The Commissioner believes that owing to the high poverty rates of Ukraine's population, the allocation of state funds for transporting Ukrainian citizens who died abroad is an important factor of protecting the rights of our countrymen, and such a practice of the Ministry of Foreign Affairs should be continued in the future. To this end, it is necessary to provide annually for corresponding expenditures in the State Budget of Ukraine.

A lot of the petitions filed with the Commissioner concern problems the relatives of the deceased have to tackle when it comes to receiving death certificates and have them legalized. They also complain about the long delays in issuing such documents. This hinders their right to succession, social assistance when paying for public utilities, and the like.

Occasionally, consular employees do not adequately respond to the referred to problems, or the government agencies of the host countries are slow in issuing the needed documents.

In October 2002, *Victor B. of Ivano-Frankivsk* asked the Commissioner's assistance in receiving a death certificate of his wife who died ***on the territory of Italy.*** Although the wife died in 2001, he could not get the certificate. The Commissioner addressed the Ministry of Foreign Affairs to help in this matter. ***In response, the consular department of the Ministry informed*** that the reason behind the delay was the discrepancy between the dates of birth in the documents of the deceased.

Other complaints addressed to the Commissioner concern the *legalization of death certificates issued by competent government agencies in countries where Ukraine has no consular posts*, specifically in the African countries.

The Commissioner received a complaint from *Lidia S.* whose husband died in Angola that does not have a Ukrainian consular post. Throughout eight months the petitioner could not bury her deceased husband nor apply for social assistance as a dependent, because she had no legalized death certificate issued

by an Angolan state authority. Since there is no diplomatic mission in Angola, the applicant's appeals to the Ministry of Foreign Affairs of Ukraine did not produce any desired results. It was only through the efforts of the *Ukrainian Embassy in the Republic of South African* that the problem was resolved at long last.

Within this context it should be mentioned that *in January 2002 Ukraine became a party to the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents*. The Ukrainian President signed a law to this effect on January 10, 2002. After Ukraine joined the Convention our citizens have the possibility to use the documents issued by competent bodies of foreign states parties to the Convention without legalizing the documents at Ukrainian consular posts. This step, as *the Commissioner for Human Rights believes, will make it much easier for the applicants to have their documents accepted*.

Another important issue is the compensations families and relatives are to receive upon the death of Ukrainian citizens abroad. Although it was mentioned in the first chapter within the context of the migrant workers' right to compensation in case of industrial injuries, this issue has to be discussed in greater detail.

As the Commissioner's monitoring revealed, most of the relatives of deceased Ukrainian citizens do not even know that they are entitled to compensation and lack the possibility to familiarize themselves with corresponding provisions of international legislation governing the referred to legal relations. The relatives expect assistance in such cases from the Ukrainian consular posts abroad. But *taking into consideration the civil law nature of such cases*, the positive outcome depends on a lengthy and laborious effort. Because of the restricted human resources of Ukrainian diplomatic missions as well as their tremendous workload, they can hardly provide in full the required assistance.

So the relatives of the deceased have no choice but to reconcile to the impossibility of receiving compensations or enlist the services of private lawyers, either foreign or Ukrainian.

In the second case there is a great danger that the lawyers can defraud the potential recipients of compensations.

D.Kurdelchuk, President of the Ukrainian Foreign Legal Collegium (UFLC), provided an in-depth analysis of such facts when the Special Report was drafted. Some Portuguese lawyers acting as intermediaries of migrant workers from the CIS countries, mostly from Russia and Moldova, contact relatives of deceased Ukrainians and persuade them to sign certain documents (letters of attorney, applications, statements of refusal to refer cases to court, and the like – all in one copy made in Portuguese). Such a practice has nothing in common with lawyer-principal relationships – the agent never concludes an agreement on providing legal assistance, nor are the rights and obligations of both parties spelled out. Essentially, the work of local lawyers is not governed by any rules.

Lack of control over the activity of foreign lawyers and their failure to comply with financial transparency results in the beneficiaries receiving indemnities that are much less than what they should actually be. In one case an Italian lawyer reaped a fee of euro 25,000, while the relatives of the deceased Ukrainian migrant worker received only euro 5,000 in compensations.

As the UFLC informed, compensations sometimes run into dozens of thousands of Euro. However, when Ukrainian citizens receive what is due to them (at best), they never know what was pocketed by the enterprising “defender” who is so satisfied by his reward that he does not mention anything about the less attractive prospect of insisting on the payment of pensions to minors and assistance to dependents, because this is a more arduous and time-consuming effort.

Such facts, as the Commissioner for Human Rights believes, confirm once again the need for the Ukrainian diplomatic missions to exercise more determined control over the activity of dubious and unscrupulous legal intermediaries, and also to design a clearly formulated strategy of interaction with and comprehensive support of those Ukrainian and foreign lawyers and law firms that are capable of ensuring real and effective protection of the rights and interests of Ukrainian citizens abroad, caring not only for their direct material gain, but also for the interests of their clients.

The above-mentioned considerations relate to cases when the death of a Ukrainian citizen abroad becomes known to his family and relatives, who then have at least the opportunity to pay their last respects to the deceased and take certain measures that are required under such circumstances.

But the situation becomes much more complicated in the *absence of documents identifying the deceased*. This is especially true for illegal migrant workers who for fear of prosecution do not carry any documents or IDs.

If the competent authorities of a foreign state have reasons to believe that the deceased is a Ukrainian citizen, they forward a corresponding inquiry to a Ukrainian consular post. Under generally accepted practice, a Ukrainian consular post forwards a photograph of the deceased to the Ministry of Internal Affairs of Ukraine for identification. If the deceased cannot be identified, his remains are buried or used for research purposes. There have been cases when deceased Ukrainian citizens were not entered in official registers because of muddled up registration procedures at police stations.

In such cases relatives do not know what happened to their kin and begin inquiring about their disappearance many months or even years later. The Commissioner received quite a few inquiries of this sort from our citizens, such as *O.Kochura, I.Buhai, L.Zhurkina, S.Ishchenko, N.Kurkova, N.Likhachova, O.Marchuk, and O.Semenets*, whose relatives were missing in *Poland, Spain, the Czech Republic, Italy, United Arab Emirates, the US, Russia and Portugal respectively*.

According to the information of 82 Ukrainian consular pots in 69 countries, there were 903 such inquiries in the period from 2000 to the end of the first six months of 2002. Of this number 539 Ukrainian citizens were located within the referred to period. The whereabouts of the others are still unknown.

The Ministry of Internal Affairs' cooperation with Interpol plays an extremely important role in searching missing Ukrainians abroad. In quite a few cases their whereabouts were established after a long period of time.

Yet another problem related to the death of our citizens abroad is that *in some countries cases were registered when internal organs of the deceased were used for donor purposes.* Usually, the legislation of most countries provides for preliminary consent of relatives for using the internal organs of a deceased. But judging from the petitions received by the Commissioner, the flaws in the national legislation of some countries cause serious collisions in this respect.

One example in point is the appeal of Halyna Babiy of Khmelnytsky, who questioned the legality of an Israeli hospital removing the heart of her deceased husband for donor purposes.

Mrs. Babiy husband worked under a contract at an Israeli enterprise. When his health failed, he was delivered to a clinic at Bet Shemesh where he died soon afterward. When his remains arrived in Ukraine for burial, it proved that his heart was missing. His wife immediately filed an application with law enforcement bodies. The investigation that followed proved that the patient was diagnosed for poisoning when he was admitted to the hospital whose administration supposedly received a permission to use his heart for donor purposes. But in real fact neither the wife nor his relatives gave such consent. The case is still under investigation. In January 2003 the Attorney General of Ukraine forwarded an official inquiry to Israel. No response has been received yet. This case remains under the supervision of the Commissioner for Human Rights.

4. PENSION PROVISION OF UKRAINIAN CITIZENS ABROAD

Ever more Ukrainian citizens of pension age go abroad for permanent residence upon invitation of their relatives. In this connection there arises *the problem of safeguarding the right to pensions of such people.*

According to the information of the Pension Fund of Ukraine, in the period from 2000 to 2002, 34,460 pension files were sent to the CIS countries in connection with departure for domicile, which was twice as much than what Ukraine received from these countries in the same period.

In accordance with operative Ukrainian legislation, specifically Article 1 of the Law *On Pension Provision*, Ukrainian citizens who reside abroad are entitled to pensions on the basis of agreements (treaties) with other states.

To date Ukraine has concluded such treaties with most of the countries where Ukrainian citizens of pension age reside. Underlying the rules of the treaties

for calculating and disbursing pensions are two principles: territorial and proportional.

Under the first principle, persons who reside in another state/party are pensionable in compliance with the legislation of the party on whose territory they reside. The job seniority gained in the other state/party is included in the overall seniority. When a pensioner resettles from the territory of one state/party to the territory of another state/party, disbursement of pensions for the previous month at his place of domicile is suspended and granted by a competent body at the new place of domicile, if such a type of pensions is provided by the legislation of this state/party. Ukraine concluded such treaties with *Russia, Kyrgyzstan, Armenia, Tajikistan, Uzbekistan, Turkmenistan, Kazakhstan, Hungary, Moldova, Georgia, Belarus, Azerbaijan, Mongolia, Bulgaria and Romania*.

In such countries as *Latvia, Spain, Lithuania, Estonia and Slovakia* pensions are granted under the proportional principle, i.e. each of the states/parties grants pensions according to the job seniority gained on its territory. Previously, if a pensioner resettled to another country, the party of his former domicile disbursed the pensions. The proportional principle is also the underlying basis of the bilateral treaties concluded with *Bulgaria* and *the Czech Republic*, which will soon come into force. But this principle causes a number of problems, especially in the Baltic countries where quite a few Ukrainians of pension age reside.

The problems become the more acute for the Ukrainian citizens in the countries with which Ukraine has not concluded treaties on pension provision.

The Commissioner for Human Rights is receiving a lot of petitions from Ukrainians domiciled in the Czech Republic, Germany, Israel, the US and other countries concerning disbursement of pensions they had earned in Ukraine.

Since such treaties are lacking, and taking into account the provisions of Article 92 of the Law of Ukraine *On Pension Provisions*, citizens who resettled to these countries for domicile are not granted pensions; the latter are paid them only once six months before their departure abroad.

In this connection the petitioners raise the question of Article 92 of the Law *On Pension Provision* not conforming to the provisions of articles 25 and 46 of the Ukrainian Constitution. This problem was brought to the attention of the Commissioner by the *Kashtanovs (Poland)*, *Zvolovyches (US)*, *V.Boiko (Czech Republic)*, *Gershenson (Germany)*, and *R.Sverdinskaya (Israel)*.

In the opinion of the Commissioner for Human Rights, this problem merits attention and needs to be additionally examined by Parliament, the Ministry of Labor and Social Policy, and the Pension Fund. It is also monitored by the Commissioner. One way of tackling the problem is for the Ministry of Labor to conclude bilateral treaties with the countries that attract Ukrainian citizens most of all, such as the Czech Republic, Israel, Germany, the US and Canada.

Petitions are also filed relative to **pension provision of citizens who worked in Russia's Far North**. This issue is governed by the *Provisional Treaty between the Government of Ukraine and the Government of the Russian Federation on Guarantee of the Rights to Pension Provision of Citizens who Worked in the Regions of the Far North and Localities Equated with the Far North* signed on January 15, 1993.

Under the provisions of this treaty, persons who reside in Ukraine and worked 15 calendar years in the regions of the Far North or 20 calendar years in localities equated with the Far North *are entitled to an old-age pension*: men upon attaining the age of 55 years and a job seniority of not less than 25 years, and women upon attaining the age of 50 years and a job seniority of not less than 20 years. A part of the pensions – which corresponds to the job seniority gained in the regions of the Far North or localities equated with the Far North – is compensated according to the rules of Russia's legislation from January 1, 1991 on.

According to the information of the Ministry of Social Policy of Ukraine, our country has been meeting its commitments throughout the entire period of effect of the Provisional Treaty and financing pensions ahead of schedule five years before the attainment of the generally established pension age. *During the visit of the Russian Commissioner for Human Rights, Oleg Mironov, in September 2002* upon invitation of the Ukrainian Commissioner, the question was raised about an irregularity: *of the 2,500 Ukrainian citizens who worked in the Far North and had their documents forwarded to Russia's Pension Fund, only 955 persons were receiving pensions*, while for the rest the pensions were delayed. At the present time this problem is under the examination of the Russian government.

Apart from that, the *following issues have also to be regulated*:

- continuation of disbursement of pensions for employment in the Far North upon attainment of the generally established retirement age (currently, 50 to 55 years for women and 55 to 60 years for men);
- requirement to apply (when granting pensions) the List of Far North Regions in effect in the Russian Federation to date (under the Provisional Treaty the List as of January 1, 1991 is applied).

As the Pension Fund of Ukraine informed, the *Treaty between the Government of Ukraine and the Government of the Russian Federation on Guarantee of the Rights to Pension Provision of Citizens who Worked in the Regions of the Far North and Localities Equated with the Far North* was forwarded to the Russian party.

The Commissioner believes that under the current circumstances the Pension Fund, the Ministry of Labor, and the Ministry of Foreign Affairs of Ukraine should take additional measures for protecting the rights of Ukrainian citizens to pension provision in accordance with the operative Provisional Treaty.

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Given the actuality and social importance of the issues of migration for employment abroad, the **Commissioner for Human Rights, while drafting the Special Report, sent out written requests to the Chairman of the Council of Ministers of the Autonomous Republic of Crimea as well as to the chairmen of state administrations in the oblasts and the city state administrations of Kyiv and Sevastopol** that they provide information along with analyses of the problems that arise in connection with the migration of the regions' residents for employment abroad and offer their proposals for dealing with them and improving the observance and protection of the Ukrainian citizens' rights during their stay in other countries. The Commissioner also requested available information about the number of citizens who died or perished abroad in the period from 1999 to 2002 and the causes of their death.

Judging from the received responses, the local bodies of state authority have a different understanding of the issues: it ranges from approval and implementation of comprehensive regional programs and definite measures on dealing with the negative consequences of migration for employment to dissatisfaction with the lack of adequate information about migration for employment.

Quite a few of the responses reflect a deep understanding of the problems and support the given monitoring.

The most substantiated responses and proposals were received from the state administrations of Transcarpathian, Ivano-Frankivsk, Lviv, Odessa, Sumy, Ternopil, Kherson, Chernivtsi and Chernihiv oblasts, which, on the whole, shows that these problems are quite acute for the frontier oblasts from which the bulk of migrant workers originates.

Most of the regions met with difficulties in collecting and generalizing the information, because *local bodies of the executive relied only on statistical data provided by employment centers, which did not reflect the real picture about migration for employment abroad.* Each region had its own understanding of the problems, depending on how migration for employment affected the local econ-

omy, labor resources, and the demographic situation. It was only *Dnipropetrovsk oblast, Ivano-Frankivsk oblast and Ternopil oblast that provided information about how much money migrant workers transferred through the banking system from abroad*. Referring to the lack of centralized statistical records, a part of the regions could not furnish any information about the real number of residents employed abroad, their age, gender, as well as those who died and were missing.

Following is a short overview of employment for migration as reported by Ukraine's regions.

TERNOPIL OBLAST. The region was the first in Ukraine to monitor this problem diversely. Its survey, "Migration of Ternopil Oblast Residents for Employment," was made in quantitative and geographical aspects jointly with the Ministry of Labor and Social Policy and the oblast state administration. Such a monitoring is a source of valuable experience for other regions and can be used when formulating government policy for controlling and coordinating migration processes.

According to the survey and the *information of the oblast state administration deputy chairman, L. Pivets*, the migration of the local population was caused primarily by the sharp decline in standards of living and the need to find better-paid jobs abroad. People leave the region mostly illegally, under the guise of tourist travel included. At the present time no reliable information is available about the main destinations of migrant workers, their number, age, gender composition and areas of employment.

Official statistics register only several thousands of people who leave the region annually. The authors of the survey consider Ternopil oblast a mean statistical region as regards the activity of migrant workers. *At July 2002*, as the oblast employment center informed, *about 100,000 residents of the region left it for employment abroad*.

According to the information of village radas (councils), the number of residents working abroad in 2001 amounted to 20,000, i.e. 6.33% of the rural population of employable age, including 11,925 men and 8,170 women (see Table 4.1)

According to the *Treaty between Ukraine and the Czech Republic on Reciprocal Employment of Ukrainian Citizens and Czech Citizens* of March 21, 1996, the oblast employment center referred 53 people to the Czech Republic for employment in nine months of 2002.

Among the problems that arise in connection with migration for employment are the following:

- region's temporary loss of labor potential;
- partial loss of professional skills of workers;
- moral and psychological damage, maladies among a certain number of migrant workers and members of their families;

Table 4.1. Destinations and number of rural migrant workers from Ternopil oblast in 2001

No	Destination	Number	Including	
			men	women
1	Poland	6,194	3,975	2,219
2	Italy	4,237	908	3,329
3	Russia	2,673	2,378	295
4	Portugal	2,415	2,021	394
5	Spain	1,017	559	458
6	Czech Republic	852	645	207
7	USA	524	288	236
8	Germany	504	343	161
9	Greece	486	91	395
10	UK	366	234	132
11	Israel	199	80	119
12	Canada	136	69	67
13	France	87	63	24
14	Other	405	271	134

- devaluation of publicly useful work for the country, drinking, dissolute behavior among a part of the men (women);
- social orphanhood of children caused by the departure of parents;
- growing prices of goods and services on the domestic market without a corresponding increase in the purchasing power of the bulk of the population.

As of nine months of 2002, *four persons were reported missing abroad* (one in Italy, one in Poland, and two in Hungary).

In nine months of 2002, 37 persons *died and perished abroad* (22 in Poland, eight in Portugal, two in Russia, two in Italy, two in the Czech Republic, and one in Germany). Causes of death: road accidents, industrial injuries, and cardiovascular disorders.

The remains of all the dead were returned to Ukraine. In response to the applications of families of the deceased, cash aid was granted for burial and vehicles were provided for transporting the deceased from the Ukrainian-Polish border.

In the opinion of the oblast state administration, Ukraine should accede to the European Convention on the Legal Status of Migrant Workers, 1977, and the ILO 97 Convention in order to safeguard the rights of Ukrainian migrant workers, and also conclude inter-governmental treaties on reciprocal employment of citizens.

ODESSA OBLAST. *The response of the oblast state administration chairman, P.Smahlii, merits special attention, since the problems of migration for employment and the protection of Ukrainian migrant workers abroad is of paramount importance for this maritime region.*

According to official statistics, *13,360 citizens (12,672 men and 688 women) migrated for employment abroad in the first six months of 2002 through the services of intermediary agencies. In 2001, 22,423 departed abroad – 20,787 men and 1,636 women (see Table 4.2).*

The number of employed abroad in 2001 was as follows: 5,078 aged from 18 to 28 years (4,619 men and 459 women); 10,228 aged from 28 to 40 years (9,723 men and 505 women); and 7,117 aged 40 and more years (6,445 men and 672 women). Number of citizens who were temporarily employed abroad in the first six months of 2002: 2,864 aged from 18 to 28 years (2,571 men and 293 women); 5,996 aged from 28 to 40 years (5,711 men and 285 women); and 4,500 aged 40 and more years (4,390 men and 110 women).

About 97% of the migrant workers are engaged in maritime transport abroad, which reflects the economic aspect of the region. At a time when Ukraine's maritime industry is in a drastic decline, employment of our seamen on foreign ships offers them the opportunity to retain their qualification and care for their families back home. The situation requires the government's more determined control over the activity of crewing agencies and their compliance with the terms of contracts concluded with Ukrainian seamen.

It is also doubtful whether Odessa oblast should operate a total of 220 licensed crewing agencies. For example, in Russia there are only about 350 such agencies.

By some indications the illegal migration rates are too high and government agencies exert insufficient influence to keep them down. *According to Interpol data, the whereabouts of nine of the oblast residents were unknown in 2002. In 10 months alone, the Odessa port received 539 Ukrainian citizens deported from Turkey for violations of residence rules, illegal employment, and prostitution.*

Taking into account that the main factors of migration for employment abroad will persistent for a long time, *bodies of state authority should concentrate their efforts on improving the conditions of work of Ukrainian citizens, exercising more effective state control over the migration processes, and protecting the rights of Ukrainian citizens temporarily employed abroad, and to this end they should:*

- formulate and approve state policy of migration for employment for the next few years. The Ministry of Labor and Social Policy should enhance the staff of its departments for employment abroad, charging them with the duty of collecting and processing relevant information, counseling citizens and intermediary agencies, drafting regulations, and studying the practice of employing people abroad;

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Table 4.2. Ukrainian citizens employed abroad (in 48 countries)

No.	2001		First six months 2002	
	Countries	Number of employed	Countries	Number of employed
1	Georgia	24	Georgia	11
2	Russia	110	Russia	25
3	Turkmenistan	3	Turkmenistan	3
4	Australia	2	Australia	2
5	Austria	16	Austria	8
6	Belgium	5	Belgium	5
7	Bulgaria	22	Bulgaria	5
8	UK	2,816	UK	913
9	Greece	8,848	Greece	4,751
10	Estonia	36	Estonia	18
11	Israel	61	Israel	40
12	Spain	60	Spain	24
13	Italy	106	Italy	87
14	Canada	1	Poland	8
15	Cyprus	4,263	Cyprus	2,790
16	China	282	China	236
17	Latvia	21	Latvia	23
18	Germany	949	Germany	372
19	United Arab	459	United Arab Emirates	245
20	Romania	4	Slovakia	2
21	Slovakia	1	USA	344
22	USA	660	Turkey	124
23	Turkey	328	France	14
24	Hungary	16	Switzerland	63
25	France	3	Netherlands	32
26	Switzerland	393	India	66
27	Sweden	9	Iran	54
28	Algeria	195	Liberia	2,266
29	Netherlands	67	Japan	16
30	India	69	Bahamas	56
31	Iran	165	Malta	455
32	Liberia	337	Saudi Arabia	44
33	Malta	446	Panama	64
34	Japan	18	Monaco	8
35	Bahamas	1,086	Lebanon	9
36	Lebanon	2	Sudan	17
37	Saudi Arabia	79	Tanzania	7
38	Panama	29	Singapore	41
39	Portugal	6	Nigeria	14
40	Singapore	277	Cambodia	62
41	Indonesia	7	Syria	5
42	Norway	99	Kenya	4
43	Luxembourg	23	Ireland	2
44	Kenya	11	Bahrain	1
45	Mozambique	1	Vanuatu	1
46	Ireland	1	Marshall Islands	1
47	Croatia	6	Saint Vincent and the Grenadines	5
48	Bahrain	1	Antigua and Barbuda	17

- speed up the conclusion of treaties on reciprocal employment and citizens' social protection with countries that have a large concentration of Ukrainian migrant workers. Concurrently, draft treaties on recognizing professional education so as to retain and advance the qualification of national specialists during their temporary stay abroad;
- study the issue of Ukraine's accession to international conventions safeguarding migrant workers' rights, primarily the *European Convention on the Legal Status of Migrant Workers*, 1977;
- introduce at Ukrainian diplomatic missions of the host countries the office of attaché for labor issues charged with the duty to protect the rights of migrant workers;
- the Ministry of Internal Affairs, the State Security Service, and the State Committee for Guarding the State Border should develop a single database of persons crossing the state border, and set out the procedure for accessing and using such information;
- raise requirements to the issue of licenses for recruitment and placement agencies and make more stringent the control of law enforcement bodies and employment services over the agencies' compliance with license terms and conditions;
- draft and put into effect a legal rule under which a worker referred to a country/signatory of a treaty on social protection is bound to be insured in Ukraine through an intermediary agency and a foreign employer who contributes a corresponding insurance premium. A similar model of insuring migrant workers is in effect in Indonesia (Astek Program);
- raise to a proper level government informational and publicity activity in the migration process. Develop a database of countries inviting migrant workers and ensure the citizens' access to this information.

LVIV OBLAST. The Commissioner received the information about the compliance with migrant workers' rights abroad from the *oblast state administration chairman, M. Yankiv*.

By the observations of the oblast state administration, migration for employment abroad affects the region in the following way: outflow of highly skilled specialists; separation of families; absence of parental care of minors over long periods; reduction of birth rates.

In order to reduce migration, the oblast state administration maintains that the following measures should be taken:

- create a much larger number of jobs;
- improve conditions of work;
- raise wages;
- promote the development of small and medium-sized businesses;
- facilitate employment of young specialists.

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The overwhelming majority of citizens work abroad illegally and therefore they are reluctant to have the violations of their rights' made officially public.

The Directorate for Resorts and Tourism under the oblast state administration polled 20 tourist companies in order to reveal what problems citizens would have to tackle with the establishment of a visa regime between Ukrainian, Hungary and Poland. The poll also covered the difficulties that might arise after the introduction of a visa regime with the Czech Republic and Slovakia, namely:

- complex procedure of application for and issue of visas at the Embassy of the Czech Republic for our citizens traveling abroad for rest, medical treatment, official and business purposes;
- discordant system of border and customs control resulting in unjustified delays from two to three hours on the border;
- absence of a Slovak consular outlet in the oblast, which hinders speedy application for and issue of visas.

Judging from state statistical reports, the number of tourists traveling abroad has dropped drastically in some cases (see Table 4.3).

Analyzing the breakdown of tourists by destinations, we see an upward trend of travel for rest and a downward trend for employment abroad. This observation is supported by the increasing number of tourists visiting countries that are famous for their resorts (Bulgaria, Hungary, Austria and Turkey).

Problems that might arise, once a visa regime between Ukraine, Poland and Hungary is introduced, and proposals to deal with them:

- complex procedure of application for and issue of visas at the Polish Embassy in Kyiv for citizens who live in Ukraine's western regions.

Proposal: set up a department for issuing visas for residents of the western regions on the basis of the honorary Polish Consulate in Lviv.

**Table 4.3. Breakdown of Ukrainian tourists
by countries visited in 2000–2001**

No.	2000		2001	
	Country	Number of tourists	Country	Number of tourists
1	Czech Republic	4,000	Bulgaria	5,892
2	France	2,500	Hungary	2,463
3	Poland	2,500	Austria	2,234
4	Italy	2,200	Turkey	2,707
5	Bulgaria	2,000	Italy	1,833
6	Hungary	1,600	Germany	1,737
7	Germany	1,500	France	1,695
8	Turkey	1,500	Poland	1,421

- longer duration of customs clearing and border control on the borders of Poland and Hungary that will result in unnecessary inconveniences for tourists and the companies servicing them.

Proposal: set up additional checkpoints for organized tourist groups and tourists/invalids.

Another problem is the execution of travel documents for minors of single families. More often than not it is simply impossible to receive consent from one of the parent whose whereabouts are unknown.

At October 1, 2002, 14 residents of the oblast were reported missing.

The oblast state administration has no information about how many people died or perished abroad and what financial resources were allocated for burials from the local budgets.

CHERNIVTSI OBLAST. As *reported by the oblast state administration deputy chairman, S. Vyshniakov*, migration for illegal employment abroad is lately intensively practiced by the residents of Chernivtsi and the region's rayons (districts). *People seek such employment under the guise of tourist travel or by guest visas through agencies that have no right to engage in such business. The agencies demand a lot of money for their services, bearing no responsibility for what might happen to their clients. Permitted to engage in tourism only, such agencies actually recruit people for illegal employment outside the country.*

The region's residents work mostly in *Italy, Portugal, Greece, Spain, Israel, the UK, and Germany* as domestic help as well as workers on construction sites and in agriculture. Unemployment in the region was caused by structural changes in the local economy, restructuring of enterprises, their bankruptcy and liquidation. *Low wages and arrears of wages have contributed to the growing dimensions of illegal employment abroad.*

Since 2000 the Main Directorate for Labor and Social Protection under the oblast state administration, jointly with village and township radas, has been monitoring illegal employment of the region's residents abroad. However, there is no information about how many residents of Chernivtsi are among the illegal migrant workers. As to the rural areas, the number of people who are employed abroad amounts to some 40,000 (against the approximately 25,000 in 2000).

Chernivtsi oblast has seven tourist companies that recruit people for work abroad under licenses awarded for this purpose. All of them are bound to conclude contracts with foreign employers and submit reports to the oblast employment service every six months. Judging from statistical reports for the current year, only seven persons were employed legally.

Illegal migrant workers are deprived of all social safeguards, which impairs their human dignity and, now and then, endangers them. *According to the official information of the oblast Directorate for Statistics, 10 persons died in the period from January to September 2002: one drowned, one met his death in a car*

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accident, five died of diseases, one from alcohol poisoning, one from a fatal beating, and one was murdered.

In nine months of 2002, according to unofficial information of rayon state administrations, the remains of 25 migrant workers were transferred to the districts for burial, and one person was reported missing. Cash assistance for burial was provided under operative legislation.

No official information is available about bank transfers from the host countries. Most of what the migrant workers earned is passed on to families and relatives either by car and truck drivers or by intermediaries. But by unofficial information the earnings are substantial. ***The region's statistical data show that expenses exceed their income 1.6 times. The disproportion in favor of expenses is growing annually.***

Guarantee of decent wages back home is perhaps the only possible alternative to stem the outflow of labor.

To safeguard the rights of Ukrainian citizens abroad, the government should speed up the conclusion of international treaties on official employment of our countrymen throughout the world.

CHERNIHIV OBLAST. The *Chernihiv oblast state administration deputy chairman, M. Murashko*, informed that 1,628 residents left the region in 2001, 86 of them for employment abroad.

The number of the oblast residents who departed at October 1, 2002 to seek employment abroad is presented in Table 4.4.

Migration for employment is carried on under the guise of tourist travel.

To deal with the problem of migration, the oblast state administration proposed the following:

at the national level:

- extend the practice of concluding bilateral inter-state and intergovernmental treaties on employment and social protection of citizens working abroad;
- ensure the distribution of individual laws guaranteeing protection of the life, health, rights and freedoms of Ukrainian migrant workers. Make it a binding condition for these rights to be stipulated in employment contracts;
- exercise more determined control over recruitment agencies placing Ukrainian citizens with employers abroad.

at the local level:

- establish smooth interaction and cooperation with the law enforcement bodies of the executive and employment services to check illegal migration, raise the quality of public awareness, especially among young people who intend to seek employment abroad;
- facilitate search of official employers outside Ukraine for reorientation of surplus labor flows. Publish through the mass media vacancies and conditions of employment abroad;

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Table 4.4. Number of Chernihiv oblast residents who went abroad for employment, as of October 1, 2002 (data of village and township radas)

No.	Destination	Total of departed citizens (persons)	of them by age groups:					
			18-28 years		29-45 Years		45 years and older	
			in all	including women	in all	including women	in all	including women
1	Russian Federation	1,826	629	176	955	209	242	74
2	Belarus	60	12	4	43	7	5	5
3	Georgia	3	1		2	1		
In all for CIS countries		1,889	642	180	1,000	217	247	79
4	UK	22	17	6	5	4		
5	Argentina	5	1		4	2		
6	Bulgaria	2	1		1			
7	Greece	52	11	4	27	9	14	2
8	Denmark	2			2	1		
9	Israel	21	4	1	12	9	5	2
10	Ireland	3	2	2	1			
11	Spain	25	4	2	21	3		
12	Italy	191	60	52	103	66	28	13
13	Canada	15	5		5	3	5	2
14	Libya	2			2			
15	Germany	38	17	5	18	5	3	
16	Norway	15	10		5			
17	Poland	126	44	18	69	31	13	6
18	Portugal	61	25	8	33	13	3	2
19	Slovakia	3	2	1	1			
20	USA	3	1	1	2			
21	Turkey	44	21	14	20	11	3	2
22	Hungary	8	3	1	1		4	2
23	Finland	1			1			
24	France	15	12	2	3			
25	Czech Republic	25	6	1	14	7	5	1
In all, except for CIS countries		679	246	118	350	164	83	32
Total by countries of exit		2,568	888	298	1,350	381	330	111

- ensure systematic counseling and explanation among potential illegal migrants of the risk groups in order to provide targeted assistance to them.

SUMY OBLAST. M.Kramar, oblast state administration deputy chairman, forwarded to the Commissioner for Human Rights a sound overview of the local problems of migration for employment.

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Every year 1,500 to 2,000 residents are leaving the region, from 500 to 800 for destinations other than the CIS countries. *The main reason for their departure is the impossibility to find work in Ukraine.*

During the past eight years the oblast population size shrunk by almost 10%. What aroused particular concern is the fact that almost 73% of the migrants are of employable age and over 41% of them are specialists with a higher, incomplete higher and vocational education. Also, some 53% of the migrant workers are young people from 16 to 28 years of age.

As an inevitable consequence of the outflow of young people, the share of old-age groups is increasing in the population structure. A higher share of the elderly causes a rise in state expenditures for their social security.

According to some expert assessments, 3-5% of the region's residents of employable age are constantly working abroad, while the majority of them (about three-fourth) are employed illegally. The latter are compelled to take up any jobs without any social protection whatsoever. For instance, the police in Russia persistently violate the migrants' rights (bribes, unlawful apprehension, beatings) and in case of refusal to pay fines (for lack of money) passports are unlawfully taken away. Medical assistance is yet another problem of Ukrainian migrant workers.

In the opinion of the oblast state administration, the situation can be changed if the government would sign treaties between Ukraine and those European countries that have the largest number of our migrants, organize legal counseling of the latter (e.g., when they apply for a foreign passport), and also insist on their binding registration with Ukrainian consular posts in the host countries.

TRANSCARPATHIAN OBLAST. *I. Rohach, deputy chairman of the oblast state administration*, is in full agreement with the Commissioner for Human Rights about the need to introduce at the national level effectual mechanisms for the protection of human rights of our citizens traveling abroad for employment and for monitoring compliance with these rights.

In the region this problem is quite acute, because the potential and dimensions of migration have grown substantially over the past ten years, while the destinations of migrants are more and more farther away from home. The economic crisis that caused high unemployment is one of the principal reasons behind the migration.

According to the information of the oblast employment center, 509 people were granted permits for employment in 2001 under *intergovernmental treaties between Ukraine, the Czech Republic and Slovakia on reciprocal employment of citizens* (222 in the Czech Republic and 287 in Slovakia). In 2000 the figures were 1,105 and 350 for the Czech Republic and Slovakia respectively.

However, the existing system of statistical reporting cannot adequately reflect the status and dimensions of migration for employment abroad. The ex-

tremely high migration rate in the region can be deduced by the employment rate – only 49.7% in 2001. *Almost a half of the region's residents from 15 to 70 years of age are not employed at their places of domicile.* Certainly, this circumstance cannot but tell on the overall migration activity, which official statistics does not take into account. To give a more accurate figure is not possible, because the majority of those who work abroad are doing so illegally. A sampling survey conducted in 33 inhabited localities revealed that over 18% of residents of employable age are involved in migration for employment outside the country.

Migration for employment produces a dual effect on the sociopolitical situation in the region. On the one hand, it averts social conflicts by providing the main, if not the only, source of income as an important element of survival for a lot of families, and alleviates the situation on the domestic labor market. But on the other hand, it causes the loss of qualified personnel, puts more pressure on the physical and moral health of people, and produces growing apathy and distrust of the government.

As a distinctive shock absorber of the complex socioeconomic situation, migration for employment is beginning to lose its remedial effect (as the neighboring countries join the EU and NATO and Slovakia and the Czech Republic introduce a visa regime), which can have an extremely negative outcome, what with the mass unemployment in the region. Although several bilateral intergovernmental treaties on reciprocal employment have been concluded, only two treaties – with the Czech Republic and Slovakia – are actually effective. With the introduction of the visa regime, the number of Ukrainian citizens officially employed in these countries is constantly declining. *It is proposed to open in Uzhgorod a Czech consulate where the residents of Transcarpathian oblast could quickly be issued documents for legal employment.*

By the information of the Ministry of Internal Affairs Directorate in Transcarpathia oblast, *10 of its residents were reported missing abroad at November 1, 2002:* six in Russia, two in Hungary, and two in the Czech Republic. The oblast Directorate for Statistics informed that *173 residents died abroad* in the period from 2000 to 2002.

In order to receive reliable information about the motives of migration, protection of and compliance with the rights of migrants, and the causes of their death and tragic accidents, the **Commissioner for Human Rights helped the Transcarpathian oblast rada a lot in the conduct of the monitoring.**

M.Andrus, chairman of the oblast rada, dispatched a written instruction to all chairmen of district and township radas to collect and prepare information requested by the Commissioner.

According to the national census, the population size of Transcarpathian oblast was 1,257,700 at December 5, 2001.

Although no accurate information about migrant workers from Transcarpathian oblast is available, it can be deduced that **annually about 300,000 of the**

Table 4.5. Data of Transcarpathian oblast local bodies of self-government about the perished and deceased abroad in 1999–2002

1	Tiachiv District	107
2	Mukacheve District	46
3	Khust District	43
4	Rakhiv District	40
5	Mizhhiria District	34
6	Vynohradiv District	18
7	Irshava District	15
8	Volovets District	12
9	Svaliava District	10
10	Berehiv District	6
11	Perechyn District	4
12	Velyky Berezny District	3
13	Uzhgorod District	1
14	city of Mukacheve	21
15	city of Uzhgorod	70
	In all	430

region's residents leave abroad to seek employment. Transcarpathia's unemployment rate is among the highest in the country, involving almost a half of the region's residents – 47%. On the national scale this rate comes to 27.2%.

No statistics are compiled as to the migrant workers who deceased abroad. For this purpose inquiries were sent out to all village, township and city radas. The figures furnished by the latter are presented in Table 4.5.

KHERSON OBLAST. *O.Stasiuk, deputy chairman of the oblast state administration*, forwarded diverse information with opinions and proposals. Operating in the region in 2002 were 44 recruitment agencies holding licenses for employment abroad. Permits were issued to 573 people, 567 of them men and six women. Among the men 102 were aged from 18 to 28 years, 261 from 29 to 40 years, and 204 over 40 years. Among the women three were from 29 to 40 years of age, and three over 40 years old.

Of those temporarily employed abroad 58 were in Greece, 13 in Georgia, 14 in Denmark, 25 in Israel, 15 in Cambodia, eight in Cyprus, 47 in Malta, 11 in Nigeria, seven in Germany, 4 in the UAE, 21 in Russia, 77 in Saint Vincent and the Grenadines, seven in the US, 56 in Turkey, 104 in Croatia, and four in the Czech Republic.

In transport 460 persons were engaged, i.e. 80.3% of the employed.

According to official statistics, the labor force employed in all sectors of the region's economy during the past five years dropped by an average of 20,000

annually; the anticipated decline in 2002 is 19,500. Most of those going abroad do not hold a job back home. The number of the latter was 93.5% at July 1, 2002.

Cases of death of 50 of the region's residents were registered in the period from 1999 to 2002. Information about those who died or perished abroad is presented according to the reports of corresponding Ukrainian embassies.

Twelve persons were reported missing. The oblast state administration provided some of figures of how many of the region's residents perished and died in 2001:

Ukrainian Embassy in Portugal

- Yuri S., born 1955, cause of death – stroke.
- Olexiy F., born 1971, cause of death – murder.
- Igor V, born 1962, cause of death – not indicated.
- Serhiy B., born 1961, cause of death – road accident.
- Oleg N., born January 16, 1967, cause of death – head injuries.

Ukrainian Embassy in the US, New York City

- Sviatoslav K., born 1962, cause of death – stroke.

Ukrainian Embassy in the Czech Republic

- Dmytro M., born 1970, cause of death – firearm wounds.
- Maria T., 1968, cause of death – road accident.

Ukrainian Embassy in Russia

- Mykola K., born 1958, (died in a hospital) cause of death – not indicated.
- Olexandr R., 1954, cause of death – not indicated.
- Serhiy L., 1969, cause of death – not indicated.

Ukrainian Embassy in Poland

- Arkadiy K., born 1961, cause of death – not indicated.
- Volodymyr D., born 1967, cause of death – narcotic poisoning.
- Valentyn K., born 1960, cause of death – suicide.

Ukrainian Embassy in the UAE

- Volodymyr Ch., 55, cause of death – accident on board of tug *Admiral Makarov*.
- Volodymyr Sh., 43, cause of death – accident on board of tug *Admiral Makarov*.
- Olexandr B., 51, cause of death – accident on board of tug *Admiral Makarov*.

Ukrainian Embassy in Spain

- Alina H., born 1967, cause of death – not indicated.
- Andriy D., born 1973, Volodymyr Ch, 55, cause of death – accident on board of *MS Rebecca*.
- Iryna S., born 1965, cause of death – not indicated.
- Mykhailo S. (other information unavailable).

Ukrainian Embassy in the Netherlands, The Hague

- Anatoliy P., born 1954, cause of death – injuries sustained when attempting suicide.

Ukrainian Embassy in Turkey

- Angela A., born 1975, cause of death – stroke.
- Valeriy K., born 1945, cause of death – myocardial infarction on board *MS Olexandr Karastoianov*.

Ukrainian Embassy in Italy

- Tetiana P., 1964, cause of death – not indicated.

Ukrainian Embassy in Greece

- Valeriy Ch., born 1967, cause of death – suicide (asphyxia).

In view of the topicality, dimensions and negative consequences of illegal migration, the *oblast state administration put forward the following proposals*:

- introduce amendments to the *Code of Administrative Offenses* and the *Criminal Code* of Ukraine on criminal and administrative liability for violating the conditions and rules of recruitment for employment abroad and control over their compliance;
- establish government control over travel of Ukrainian citizens through tourist companies;
- prohibit from awarding individuals permits (licenses) for recruitment and vest these functions with legal entities;
- introduce the procedure for awarding licenses for recruitment in two stages, as stipulated by Ministry of Labor and Social Policy Regulation No.35 of July 14, 1992.

CITY OF KYIV. O.Yakovenko, chairman of the Kyiv city state administration, informed that in the period from March 1995 to October 2002, 473,226 foreign passports were issued to Kyiv's residents, 116,413 for persons from 18 to 28 years of age (24.6%), 270,685 for persons from 29 to 45 years of age (57.2%), and 86,128 for persons over 46 years of age (18.2%).

In pursuance of Presidential Edict of March 15, 2002 *On Urgent Additional Measures to Strengthen Morality in Society and Assert Healthy Lifestyles* as well as Ministry of Internal Affairs Instruction No.49/2-1284 of April 5, 2002, officials of passport departments have been carrying on public awareness work on the possible negative consequences of travel abroad for employment through dubious agencies.

According to the registration files of the Interpol Department of the Ministry of Internal Affairs Main Directorate, **17 Kyiv residents were reported missing in the period from 1997 to 2002**: four in the US, three in Russia, two each in Israel and Bulgaria, and one each in Croatia, the Czech Republic, Portugal, Greece, Turkey and Germany.

Besides, as Ukrainian consular posts informed, **95 persons perished or died abroad** (see Table 4.6).

The oblast state administration informed that under the *Instruction on the Procedure of Burial, Maintenance of Cemeteries and Organization of Ritual Services in the Inhabited Localities of Ukraine* (KSA-204/12 Ukraine 182-91) a place

**Table 4.6. Data about perished and deceased
Kyiv residents abroad in 1999–2002**

No.	Country	1999	2000	2001	10 months 2002
1	Austria	0	0	1	0
2	Australia	1	0	0	0
3	Netherlands	1	2	1	1
4	Italy	0	4	1	2
5	Spain	0	1	0	0
6	France	1	2	1	2
7	Russia	7	7	3	5
8	Belarus	3	1	2	2
9	Moldova	2	1	2	0
10	Poland	6	11	9	8
11	Yugoslavia	1	0	1	1
12	Czech Republic	0	0	1	1
In all		22	29	22	22

for burial at cemeteries is allotted only upon availability of a death certificate of the deceased. As a rule, no other documents have to be submitted and therefore no records are kept on how many people died abroad.

On the basis of applications sent in by Slovak enterprises, as stipulated by the *Treaty between the Governments of the Slovak Republic and Ukraine*, the Kyiv City Employment Center prepared within nine months of 2002 and forwarded documents for employment in that country for 17 Kyiv residents (system administrator, power engineer, ballet performer). The Kyiv City Employment Center did not receive any other applications from enterprises of other countries with whom similar treaties have been concluded.

The city state administration deems it advisable to bring Article 9 of the Law On Licensing Specific Types of Economic Activity into conformity with Article 18 of the Law On Employment of the Population insofar as it concerns licensing tradable services for mediation of employment of Ukrainian citizens. Under the Law *On Employment of the Population* mediation has to be carried out on the basis of licenses awarded by the Ministry of Labor, while under the other Law *On Licensing Specific Types of Economic Activity* this business is not licensed. The Kyiv city state administration forwarded its proposal to the Ministry of Labor (Letter No132-114 of March 7, 2001) to grant the city's bodies of the executive the right to issue licenses for recruiting migrant workers, since the executive is in a better position to ensure effective control over the operation of private recruitment agencies.

Taking into account the experience of other countries in this area, *it would be advisable for Ukraine to accede to the European Convention on the Legal Status of Migrant Workers, 1977 and the ILO No.97 Convention, 1949.* Such a step would be in accord in European practices and provide all-round safeguards for Ukrainian migrant workers abroad.

KYIV OBLAST. *M. Urupa, deputy chairman of the oblast state administration*, informed that at November 1, 2002 Kyiv oblast numbered *four business entities* holding licenses of the State Employment Center for recruiting Ukrainian citizens for employment abroad.

Through their services, *139 citizens were placed with jobs abroad (Libya)* in nine months of 2002 (see Table 4.7).

Table 4.7. Number of Kyiv oblast residents employed abroad in 2002

Age (years)	In all	Women	Men
18–28	–	–	–
29–45	80	51	29
45 and older	59	47	12
In all	139	98	41

The work of these business entities is checked by the oblast employment center jointly with the Department for Control of Trafficking in Persons under the Main Directorate of the Ministry of Internal Affairs in Kyiv oblast and the public prosecutor's office. The inspections have not revealed any violations of the citizens' rights.

At October 1, 2002 the oblast state administration did not receive *official information* about any problems or facts of violations of the oblast residents' rights abroad, nor *any reports about missing, deceased or perished oblast residents* outside the country. Neither is there any information about bank transfers from the host countries where migrant workers are employed.

In order to check illegal migration and trafficking in persons in Kyiv oblast Measures of Counteraction Against Trafficking in Persons for 2002–2005 in the Oblast were drafted and endorsed by the chairman of the oblast state administration on August 2, 2002.

For the observance and protection of citizens' rights abroad the *oblast state administration proposed to effect the following measures:*

- legislatively stipulate that the territorial departments of citizenship, passport control and immigration under the Main Directorate of the Ministry of Internal Affairs discharge the duty of organizing and collecting relevant information about the problems related to travel and stay of Ukrainian citizens abroad;
- Ukrainian consular posts (embassies) abroad should provide information about Ukrainian citizens reported missing, died and perished (with stated causes of death) to bodies of the executive and self-government at the citizen's place of domicile;
- settle the issue of Ukraine acceding to the *European Convention on the Legal Status of Migrant Workers*, 1977 and the *ILO No.97 Convention*, 1949.

VOLYN OBLAST. In response to the Commissioner's request, the *oblast state administration deputy chairman, S.Rodych*, sent an analysis of the situation and proposals on how to deal with it. Every day *1,500 Volyn residents depart for Belarus*. Engaged in low-paid work, they return home that same day. *The number of migrant workers going to Poland is about three times as much, but they work there illegally.*

The oblast has two agencies – the private Interconsulting Co. and the Volyn Employment Center – that hold licenses for recruiting people for work abroad. In nine months of 2002, they recruited only one person.

According to the information of the Volyn border control unit, 1,524,331 persons departed and 1,429,504 persons entered the country. It is unknown how many of them were residents of the region. In ten months of 2002, 244 Ukrainian citizens were deported from Poland for different reasons. Five persons in Poland and one in Italy died in *road accidents*. No funds from the local budget were allocated for transporting and burying the deceased.

In the opinion of the oblast state administration, the collection of information about migrants passing through the border checkpoints has to be improved in order to control the migration flows.

After the introduction of a visa regime with Poland and Hungary, the local authorities expect an additional tension on the Ukrainian labor market, decline in the flow of different categories of migrants across the Ukrainian-Polish and Ukrainian-Hungarian borders, a much larger concentration of illegal migrants from other countries in Ukraine, as well as a worse criminogenic situation at the borders and in the country proper. Amendments to legislation should be introduced to govern these legal relations.

DNIPROPETROVSK OBLAST. As the *oblast state administration deputy chairman, Y.Dubinin, informed*, at November 1, 2002, there were *38 registered agencies holding licenses for placing people with jobs abroad*. In the first six months of 2002, they recruited 82 persons: 32 aged from 18 to 28 years, including four men and 28 women; 31 aged from 29 to 40 years, including 23 men and eight women; and 18 aged over 41 years, including 16 men and two women.

The overwhelming majority departed for Russia to work at enterprises engaged in construction, as well as for Japan as special “ballet performers.” The recruitment agencies are under constant control of corresponding departments of the oblast state administration, as provided for under operative legislation.

As to the information about citizens who were reported missing abroad, it is available at the Ministry of Foreign Affairs that takes stock of such a category of citizens.

According to the information of the Ministry of Internal Affairs, one citizen died in Austria in 2001 and one each in Poland and Turkey in 2002.

Notably, the *organized criminal groups in Dnipropetrovsk oblast are dominated by organizations that control trafficking in persons and illegal migration*. Taking women abroad for using them in the sex business is becoming widespread.

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Representatives of the State Committee for Guarding the State Border, the Ministry of Internal Affairs and the Security Service in the region are acting in close cooperation to curb the activity of organized crime groups and individuals involved in trafficking in persons and organizing illegal migration. The bodies of the Ministry of Internal Affairs and the Security Service in the oblast held 11 Ukrainian citizens to answer criminal charges for these offenses.

The oblast state administration is in complete agreement with the Commissioner on taking comprehensive special measures at the national level and proposes the following:

- initiate the conclusion of intergovernmental treaties on employment as well as legal and social protection of citizens with those countries with which Ukraine does not have such treaties;
- develop a state system of data backup on the labor market abroad – from definite locations of jobs to familiarization with operative legislation on employment in the host countries;
- study the issue of setting up a structure (e.g., as a department of the Ministry of Labor and Social Policy) for the social and legal protection of migrant workers.

The Dnipropetrovsk oblast state administration helped the Commissioner a lot in gaining a general picture about the earnings of migrant workers from the region between 2000 and 2002 (see Chapter I, Table 1.6).

CHERKASSY OBLAST. *A. Chaban, deputy chairman of the oblast state administration*, informed that the problems of the region's migrant workers seeking jobs and their stay abroad have since long been the object of study by relevant departments of the oblast state administration, specifically by the *Main Directorate for Labor and Social Protection of the Population*.

An analysis of the situation revealed that the diverse channels through which travel documents and all sorts of visas are applied for and issued as well as the lack of feedback from consular posts make it impossible to establish the exact number of citizens who are outside the country.

At November 18, 2002 the oblast had *nine registered business entities* holding special permits (licenses) to provide services for recruiting people for employment abroad. Apart from them, there are *a number of affiliated branches of similar business entities whose central offices are located in Kyiv, Dnipropetrovsk and Donetsk*. It is not within their functions to provide information about the number of people employed abroad.

One of the problems that attend migration for employment abroad is the *lack of a single system of registration of citizens who are outside Ukraine* and the binding statistical reports of business entities that recruit people for this purpose.

According to the information of Interpol, *five resident of the region* have been reported missing in the countries of the Schengen Treaty.

The oblast state administration holds that for control over the migration processes at the national level a number of measures have to be taken to improve operative legislation and the existing system of the citizens' departure from the country, specifically by raising the issue of establishing a single state migration service with corresponding departments in the regions.

The oblast state administration supported the Commissioner for Human Rights in that the problems of migrant workers as well as the protection of the Ukrainian citizens' rights and freedoms are issues of Ukraine's national security and was prepared for close cooperation in this respect.

KHARKIV OBLAST. Relying on the information of the oblast employment center, the *deputy chairman of the oblast state administration, V. Dulub*, informed that *commercial agencies recruited 266 Ukrainian citizens for employment abroad, while the oblast employment center recruited three men: two from 18 to 28 years of age, 257 from 29 to 45 years of age, and four over 45 years of age; and women: six from 18 to 28 years of age.*

All the women (six) were employed in *Cyprus* and the men (263) in the *Russian Federation*.

However, the rate of employment by recruitment agencies declined almost half as much again (1,403 persons in 1997-1999, 963 persons in 2000-2002), mainly because the agencies had no contracts with foreign employers and permits for entry into the host countries.

In this connection, it would be desirable to provide for the following:

- specific powers for regional state structures when drafting and concluding agreements (contracts) with foreign business entities for employing Ukrainian citizens;
- legal status of business partner for the oblast employment center when concluding agreements with mediators abroad;
- rules of work with citizens who apply for employment abroad, specifically range of services (including preferential loans for covering expenses related to issue of visa documents and travel to the place of work), advisability of concluding agreements and providing services, and the like.

The oblast employment center did not receive any complaints from Ukrainian citizens about violations of their rights abroad.

In 2002 the Directorate of the Ministry of Internal Affairs in Kharkiv oblast issued 190,081 foreign passports to applicants of the following age categories: 7,000 to people aged from 18 to 28 years, of which 3,756 were women and 3,244 men; 7,466 aged from 29 to 45 years, of which 3,600 were women and 3,866 men; and 4,542 aged 45 years and more, of which 2,475 were women and 2,067 men.

Foreign passports for temporary departure abroad are issued in accordance with the Law *On the Procedure of Departure from and Entry into Ukraine of Ukrainian Citizens* and the *Instruction on the Procedure for Issuing Foreign Pass-*

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ports to Ukrainian Citizens and Travel Documents for Children for Departure Abroad without Identifying the Purpose of Temporary Departure.

The Directorate of the Ministry of Internal Affairs in the region does not have any information about local residents reported missing during their stay abroad.

In order to coordinate the process of migration for employment, alleviate tension on the domestic labor market, prevent illegal employment, and ensure social protection of citizens working abroad, there is a need to elevate the status of government agencies at the regional level, namely the directorates for labor and social protection of the population and the departments of nationalities and migration under the oblast state administration, and the departments of citizenship, passport control and immigration under the directorates of the Ministry of Internal Affairs in the regions.

LUHANSK OBLAST. *The chairman of the oblast state administration, O. Yefremov*, informed that in compliance with the Law *On Approving the State Program of Employment of the Population for 2004* and in pursuance of the Ministry of Labor and Social Policy Order No.514 of October 3, 2002 *On Drafting the Action Plan for 2003 for the Execution of the State Program of Employment of the Population for 2001-2004 and Territorial Employment Programs for 2003*, the local state administration *adopted an employment program for 2003*. It provides for measures of continued development of cooperation with the border oblasts of Russia in regulating migration for employment, social protection of Ukrainian and Russian citizens, measures against their discrimination, and prevention of illegal employment in the contiguous frontier oblasts.

Under the Law *On the Procedure of Departure from and Entry into Ukraine of Ukrainian Citizens* of January 24, 1994 the Ministry of Internal Affairs Directorate in the oblast does not exercise control over the departure from and entry into Ukraine of their residents. They only issue foreign passports. Neither does the oblast Directorate for Statistics and other oblast agencies have such information, because such reporting is not stipulated by operative legislation. Therefore it is impossible to provide information on the number of such oblast residents, the more so about their age groups.

An analysis of the problems of migration for employment abroad revealed that they are related to the *high unemployment rate of employable people caused primarily by the closure of coal mines and other industrial facilities as a well as by decline in output*. The acute social problems underlying these processes have not been dealt with to this day.

In 2002 alone, 17,850 new jobs were created in the region and 30,700 persons found jobs. The actual number of jobless who applied with city and rayon employment services amounted to 112,900 persons, 69,100 of them women and 33,500 young people.

The cities and rayons of the oblast have *16 business entities holding licenses awarded by the Ministry of Labor for recruiting people for employment abroad*.

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The Ministry of Internal Affairs directorates in the oblast records only people who were reported missing on the territory of Ukraine. Therefore no complete information is available about the region's residents who are missing abroad, let alone about the countries where they are missing.

The departments of registration of civil status acts under the city and rayon justice directorates do not have any information about the number of oblast residents who died or perished abroad as well as the causes of their death. Keeping such records is not within the competence of departments of registration of civil status acts and other organizations in the oblast. *The following funds were allocated for burial of the deceased and perished abroad (Russian Federation):*

Years	persons	UAH
1990	17	2,850
2000	11	1,950
2001	16	3,300
2002	6	2,525

In order to resolve the problems related to migration for employment and safeguard the Ukrainian citizens' rights abroad, the *oblast state administration deems it advisable to:*

- draft, approve and promptly put into effect a model Labor Agreement (contract) between the migrant worker and the foreign employer for consequent allowance for compliance with migrant workers' rights when concluding bilateral inter-state treaties on reciprocal employment;
- draft and adopt a law on state social insurance of Ukrainian citizens for temporary departure abroad for employment, for seasonal and temporary work included;
- establish better cooperation with the migration services of the border oblasts of Russia and Moscow (with the largest concentration of Ukrainian migrant workers) and the employment centers of Ukrainian oblasts to inform demand in labor and comply with the requirements of agreements and other documents on employment and protection of alien workers.

MYKOLAIV OBLAST. The response forwarded to the Commissioner for Human Rights by the *oblast state administration deputy chairman, H.Nikolaenko*, contains information within the competence of Ministry of Internal Affairs Directorate in the oblast, the employment center, and the Department for Nationalities and Migration under the Mykolaiv state administration, as well as definite proposals.

Residents of the region were issued 86,459 foreign passports for travel abroad (see Table 4.8).

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Table 4.8. Number of foreign passports issued to Mykolaiv oblast residents

Gender	18–28 years	29–45 years	Over 45 years
Men	8,144	23,730	12,348
Women	10,301	19,872	12,064

According to the report on migration for employment abroad for the first six months of 2002, *four firms* – *Vadmar*, *Nautilus Maritime Agency*, *Marine Star*, and private enterprise *Vlad Alex* – had contracts with foreign business entities for employing Ukrainian citizens. *Vadmar* reported about having employed 24 persons in the **Czech Republic** (seamstresses, construction workers, and manual workers); *Nautilus Maritime Agency* arranged jobs in **Switzerland, the UK and Norway** for 109 persons (master, mates, ratings); *Marine Star* placed seven persons with employers in **Germany, Turkey and Malta** (master, mechanics, cook); and *Vlad Alex* placed 14 persons with jobs in **Lybia** (doctors, doctor's assistant, nurses).

In 1999–2002 the Ministry of Internal Affairs Directorate in the oblast received reports about 50 people who died or perished abroad.

The oblast state administration believes that the problems of illegal migration can be dealt with by:

- developing cooperation in the area of regulating migration for employment;
- ensuring social protection of Ukrainian migrant workers and excluding discrimination against them;
- preventing illegal employment abroad;
- establishing between Ukraine and other countries reciprocal exchange of information about Ukrainian citizens working illegally abroad;
- expediting the adoption of legislation, specifically Ukrainian laws on migration and illegal migration control.

IVANO-FRANKIVSK OBLAST. In response to the request of the Commissioner for Human Rights, *B.Tomenchuk, deputy chairman of the oblast state administration*, informed that the study of the referred to problems was a joint effort of the Main Directorate of Labor and Social Protection of the Population, the Ministry of Internal Affairs Directorate in the oblast, the oblast Employment Center, the National Bank of Ukraine Board of Directors, the oblast Directorate for Statistics and other competent agencies. The oblast Employment Center was performing its functions of implementing the *Agreement between the Governments of the Czech Republic and Ukraine on Reciprocal Employment of Citizens* signed in 1996. In the period from 1997 to 2001, the Employment Center accepted *applications from 2,632 citizens* who were issued permits for employment in the Czech Republic.

Table 4.9. Number of Ivano-Frankivsk residents reported missing abroad, as of November 1, 2002

No.	Country	Persons
1	Italy	2
2	Russia	3
3	Poland	3
4	German	1
5	Czech Republic	1
6	Belarus	2
7	Portugal	1
8	UK	1
9	USA	1
10	Slovakia	1
	In all	16

In 2002, 12 citizens applied to the Employment Center and were issued documents in compliance with the above-mentioned treaty.

At November 7, 2002, 16 of the region's citizens were reported missing abroad (see Table 4.9).

Ukraine's consular posts abroad informed that 73 residents of Ivano-Frankivsk oblast died abroad in the period from 1999 to 2002.

In order to improve operative legislation on migration for employment and make more effective the current mechanisms of protecting the Ukrainian citizens' rights and freedoms abroad, *the oblast state administration proposed* to:

- conclude bilateral inter-state treaties on migration for employment with countries attracting the largest number of Ukrainians and develop mechanisms for the implementation of these treaties;
- speed up ratification by Parliament of the *Treaty on Social Security between Ukrainian and the Czech Republic* signed on July 4, 2001;
- introduce compulsory insurance of Ukrainian citizens before their departure for employment abroad.

AUTONOMOUS REPUBLIC OF CRIMEA (AROC). The response, signed by *S.Kunitsyn, Council of Ministers Chairman of the Autonomous Republic of Crimea*, informed how the issues under review were studied and what proposals were forwarded.

In 2002, 667 AROC residents went abroad for employment, including 14 to *Russia*, four to *the UK*, 50 to *Greece*, 247 to *Spain*, 75 to *Italy*, 62 to *Cyprus*, 74 to the *UAE*, seven to *France*, 11 to *Switzerland*, six to *Iran*, 23 to *Japan*, nine to *Libya*, 67 to *Mauritania*, and 18 to *Morocco*.

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Migrant workers from AROC by age and gender

Gender	Age	Persons
Men	18–28	97
	28–40	238
	40 and older	300
Women	18–28	24
	28–40	2
	40 and older	6

Diplomatic missions of the Ministry of Foreign Affairs of Ukraine informed that 78 AROC residents died (perished) in the period from 1999 to 2002 (see Table 4.10)

No information was provided about the causes of death and number of deceased transferred to Ukraine for burial.

Ukrainian citizens/AROC residents travel abroad for employment only through business entities holding licenses awarded by the Ministry of Labor and Social Policy for this type of activity. Since these agencies frequently break license conditions for employment abroad, people seek jobs illegally and have to face disagreeable consequences.

To raise the standards for safeguarding the Ukrainian citizens' rights abroad, the *AROC Council of Ministers deems it necessary to continue setting up a system*

Table 4.10. Number of AROC residents who perished abroad in 1999–2002

No.	Country	1999	2000	2001	At October 1, 2002
1	Russia	3	11	14	16
2	Poland	2	1	–	3
3	Estonia	1	–	–	–
4	Bulgaria	–	–	1	–
5	Belarus	–	–	1	–
6	Latvia	–	–	–	–
7	Italy	–	1	2	–
8	Portugal	–	–	1	1
9	Spain	–	1	1	–
10	USA	–	–	2	–
11	Turkey	–	1	1	5
12	Japan	–	1	–	1
13	UK	–	–	–	2
14	Egypt	–	–	–	1
15	Israel	–	1	–	–
16	Czech Republic	–	2	–	–
17	Greece	–	–	–	1
In all		6	19	23	30

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of state regulation of migration processes, create a state database of foreign employers, and deepen international cooperation in this area.

DONETSK OBLAST. As the *deputy chairman of the oblast state administration, O.Tretiak*, informed, at October 14, 2002 the region had 65 business entities holding licenses of the Ministry of Labor and Social Policy for recruiting people for employment abroad.

According to the statistical reports submitted by these agencies, **3,367 residents left the region for employment abroad in 2001**: 755 aged under 28 years, 1,263 under 40 years, and 1,349 over 40 years of age.

In the period from January to July 1, 2002, the number of such migrant workers was 2,031: 398 aged under 28 years, 715 under 40 years, and 918 over 40 years of age.

Residents of Donetsk oblast went to 16 countries for employment (see Table 4.11).

Table 4.11. Number of Donetsk oblast residents who went abroad for employment in 2001–2002

1	Russia	54	299
2	UK	302	556
3	Greece	1,189	1,679
4	Italy	4	24
5	Cyprus	14	194
6	Latvia	34	25
7	Lithuania	3	–
8	Germany	4	13
9	United Arab Emirates	186	169
10	USA	84	1
11	Sweden	1	3
12	Japan	112	256
13	Portugal	1	–
14	Panama	43	–
15	Egypt	–	10
16	Malta	–	138

Regrettably, no opinions were offered as to the situation in migration of labor from the region. Neither was anything proposed on resolving the painful problems our migrant workers have to tackle outside the country.

KHMELNYTSKY OBLAST. In response to the inquiry of the Commissioner for Human Rights, *A.Rodobudko, deputy chairman of the oblast state administration*, informed about the number of the region's residents currently abroad (by age categories): in all, 34,705 persons – 16,540 men and 18,165 women (see Table 4.12).

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Table 4.12. Number of Khmelnytsky oblast residents abroad, as of October 1, 2002

No.	Destination	18-28 years		29-45 years		45 years and older	
		men	women	men	women	men	women
1	Portugal	467	96	1428	439	871	416
2	Spain	145	237	791	698	292	783
3	Italy	167	699	1,473	6,029	448	2,038
4	Poland	734	434	2,125	1,404	1,356	368
5	Russia	806	316	1,465	1,162	1,887	945
6	Czech Republic	187	38	284	189	435	253
7	Israel	4	5	10	41	7	32
8	Germany	37	66	523	636	321	412
9	Greece	14	37	13	23	–	5
10	Denmark	–	1	–	1	–	–
11	Belgium	2	2	6	3	2	1
12	France		1	1	2	–	–
13	UK	2	2	9	7	53	48
14	Austria	1	4	2	4	–	–
15	USA	1	–	2	2	2	2
16	Norway	–	–	1	–	–	–
17	Netherlands	1	2	3	4	4	6
18	Canada	–	–	5	4	5	3
19	Turkey	8	120	2	41	–	–
20	Iran	12	8	39	1	2	–
21	Belarus	25	25	60	40	60	30
In all		2,613	2,093	8,242	10,730	5,745	5,342

Sixty-four persons died or perished abroad: 14 in road accidents; one committed suicide; one was hit by a train; and five died under unknown circumstances. The police are investigating some of these cases. Relatives covered the costs for transporting 44 of the deceased for burial in Ukraine. Two of the deceased were buried in Italy, because their relatives had no available funds (see Table 4.13).

In the period from 1999 to 2002, UAH 4,650 were allocated from local budgets for the burial of deceased oblast residents who went abroad for employment.

Five persons are reported missing (three in Russia, one in Poland, and one in Italy).

Regrettably, the oblast state administration did not present its vision on the problem of migration for employment or ways of regulating it.

Table 4.13. Number of Khmelnytsky oblast residents who died or perished abroad

No.	Country	1999	2000	2001	2002	In all
1	Italy	5	3	5	1	14
2	Czech Republic	3	–	1	1	5
3	Poland	2	3	2	–	7
4	Greece	1	–	–	–	1
5	Russia	1	2	2	14	19
6	Hungary	1	–	–	–	1
7	USA	1	–	1	–	2
8	Portugal	1	–	3	1	5
9	Lithuania	–	–	1	–	1
10	France	–	–	1	–	1
11	Turkey	–	1	–	–	1
12	Greece	4	–	–	–	4
13	Belarus	–	–	1	–	1
14	Germany	1	–	1	–	2
In all		20	9	18	17	64

KIROVOGRAD OBLAST. *A. Pereviznyk, deputy chairman of the oblast state administration*, provided scanty information and a list of people who died or perished abroad. *In nine months of 2002, 969 people departed from the oblast, 644 of them to the CIS countries, two to Baltic countries, and 323 to countries other than in the CIS.* In the period from 1999 to 2002, 22 persons perished or died outside Ukraine. No conclusions were sent or proposals offered.

ZHYTOMYR OBLAST. *I. Rafalsky, deputy chairman of the oblast state administration*, informed that collecting the requested information was very difficult, because no one officially stated his intention to stay abroad for employment.

According to state statistical reports, only four Ukrainian citizens from the region were working abroad, three of them (aged 18 to 28 years) as domestics in Germany, and one (aged over 40 years) as a construction worker in Russia.

Those who have gone through such an experience said that they did not enjoy any protection from the government. *Only in emergency cases did they get assistance from Ukraine's diplomatic missions.* Most of our citizens could not apply for assistance because of their illegal status, let alone in cases when they were young women employed in the entertainment business.

In the opinion of the oblast state administration, these problems could be tackled by concluding inter-state treaties that would stipulate optimum and not oppressive taxation and thereby promote the legalization of migrant workers.

IV. PROBLEMS OF MIGRATION FOR EMPLOYMENT AS VIEWED FROM THE REGIONS

It would also be advisable to improve relations with the Ukrainian Diaspora who could provide the required information about the labor market and act as an intermediary between our workers and the Ukrainian embassy in a specific country.

Therefore, government or representative delegations when planning to go abroad should foresee meeting representatives of the Diaspora to establish fruitful cooperation.

The problems of migration for employment abroad certainly deserve to be addressed by the Ukrainian Parliament and be governed by specially enacted legislation.

ZAPORIZHIA OBLAST. *P. Mykhailiuk, deputy chairman of the state administration*, informed that according to the data of the Directorate for Statistics in the oblast, two persons, aged from 18 to 28 years, went abroad to the Czech Republic for employment.

The requested information is impossible to be obtained for the following reasons:

- no monthly or quarterly records are kept on citizens going abroad for employment;
- obtaining information through bank transfers is impossible;
- migrant workers and everything related to them are not included in official records at the state level.

In this connection, the *oblast state administration deems it advisable* to conduct a monitoring aimed at modifying operative legislation on the protection of our citizens' rights abroad.

VINNYTSIA OBLAST. *V. Havrlyliuk, deputy chairman of the oblast state administration, completely agreed that the Commissioner's monitoring was a timely effort.*

Although migration for employment as well as for domicile abroad speaks of the democratic practices of our country, some alarming trends are being observed in this area.

Illegal employment abroad requires effective measures at the state and inter-state levels. Since the region does not have an agency for issuing visas and legislation does not provide for any accounting or reporting on foreign travel for any purposes, the oblast administration could not provide any information.

According to the data of the Main Financial Directorate in the region, *UAH 9,348 were allocated for the return and burial of deceased citizens abroad* – UAH 150 in 2000, UAH 5,673 in 2001, and UAH 3,525 in 2002.

The Ministry of Internal Affairs Main Directorate in Vinnytsia oblast informed that according to the data it received from Ukrainian embassies and consular posts, five Ukrainian citizens died in 2001 – one each in Italy, the Czech Republic, Poland, and two in Russia; and in 2002 the death of four citizens was registered – one each in Italy, Russia, France, and Portugal.

POLTAVA OBLAST. The response from the oblast state administration was received under the signature of *V.Soshyn, manager of the department of nationalities and migration*. As confirmed by the departments of the oblast state administration and territorial departments of ministries and agencies, above all the Ministry of Internal Affairs Directorate in the oblast, oblast Directorate for Statistics, the Employment Center, and the National Bank of Ukraine Directorate in the oblast, neither legislation nor regulatory enactments provide for accounting and reporting on the referred to issues.

The collection and compilation of information can be carried out:

- at border checkpoints, provided they have the required computer equipment and are linked up with a computer network within the system of the Border Troops;
- by the National Bank of Ukraine and its territorial outlets;
- by the Ministry of Foreign Affairs through its consular posts abroad.

The current procedures of issuing foreign passports and visas to Ukrainian citizens by embassies of foreign countries accredited in Ukraine (or visa-free travel under treaties with specific CIS countries) are sufficiently democratic, and therefore the issues of collection of and statistical reporting on such information should be dealt with first at the national and only then at the regional levels.

On its part, the *oblast state administration deems it advisable to request the Government that it design a State Program of Counteraction Against Illegal Migration for Employment, which would stipulate a strictly defined system of control over the departure of Ukrainian citizens abroad and corresponding statistical reporting by the sectoral principle, and also control over the issue of licenses and the activity of tourist companies and business entities engaged in recruiting citizens for employment abroad.*

No responses were received from the Rivne oblast administration (chairman *M.Soroka*) and the Sevastopol city state administration (chairman *L.Zhunko*).

After analyzing the information received from the regions, the *Commissioner for Human Rights deems it necessary to point out the growing awareness of the issues, causes and consequences under review. Since no comprehensive state policy is in place, the regions are left to their own devices. Migration processes are not governed by legislation, while intermediary agencies practically recruit citizens for illegal work abroad, without being liable for either medical insurance or social insurance of their clients.*

The Commissioner for Human Rights would like to thank those oblast state administrations that responded to the painful issues of migration and expressed their desire to cooperate within the framework of the monitoring On the Status of Observance and Protection of the Rights of Ukrainian Citizens Abroad. In the concluding section of the Special Report, Opinions and Recommendations, the Commissioner for Human Rights took into account the proposals offered by the oblast state administrations.

OPINIONS AND RECOMMENDATIONS

On the basis of a comprehensive study and its results set forth in the Special Report, the Commissioner deems it necessary to express a number of opinions and proposals.

As an integral part of observance of human rights and freedoms in Ukraine, the problem of observance and protection of the rights and freedoms of Ukrainian citizens abroad is increasingly attracting attention of the Ukrainian society and calls for the pursuance of a purpose-minded state policy in this area.

Among the growing number of Ukrainian citizens who annually have the opportunity to travel abroad for various reasons, the vast majority are people, who seek employment, illegal employment included.

The increasing dimensions of such migration during the past few years has become exceptionally topical and acute, thereby vitally affecting the socio-economic situation in the state in general and in the regions in particular.

The analysis by the Commissioner for Human Rights of the reasons influencing migration processes worldwide and in Ukraine gives grounds to assert that migration of Ukrainian workers abroad will for a long time yet remain one of the determining factors of the country's public and economic life directly affecting the status of observance of the civic, economic, social and cultural rights of Ukrainian citizens.

Consequently, the processes of migration for employment abroad require profound study and understanding, above all by bodies of state authority and local self-government, as well the design of a corresponding government policy regulating the migration processes and providing more effectual protection to Ukrainian citizens traveling abroad as migrant workers.

The Commissioner's analysis of operative national legislation, of a large body of statistical and other information, the opinions of experts as well as the practices of bodies of state authority and local self-government proved that there are serious problems in this area. The absence of a concept on national migration policy and a single government agency responsible for the design and

implementation of such a policy denies the state control over this area. In consequence, migration for employment abroad is mostly sporadic or surrendered to the complete control of private agencies that bear no responsibility for their clients. Also inadequate are the mechanisms of government protection of Ukrainian migrant workers abroad. An effective system is lacking for collecting, processing and analyzing statistical and other information on migration issues.

In the opinion of the Commissioner for Human Rights, one of the important elements of such a concept is to align the government's immigration policy concerned with control over the entry and stay of aliens in the country with its emigration policy, specifically the processes of migration of Ukrainian citizens for employment abroad.

Taking into consideration the aforesaid, the Commission for Human Rights proposes that:

The Parliament of Ukraine

- ratify the *European Convention on the Legal Status of Migrant Workers*, 1977;
- ratify the *ILO Recruitment and Placement of Seafarers Convention* No.179, 1996;
- ratify the *UN Convention Against Transnational Organized Crime* 2000 and its protocols to prevent, suppress and punish trafficking in persons and against the smuggling of migrants;
- expedite the consideration of the draft law *On Enterprises Acting as Intermediaries for the Employment of Citizens Abroad* registered with the Parliament on December 10, 2002;
- consider and adopt the Law *On the Concept of Ukraine's Migration Policy*.

The Cabinet of Ministers of Ukraine

- ensure implementation of the *Comprehensive Program of the Strategy of Poverty Reduction*, as approved by Presidential Edict of August 15, 2002, No.637/2001, in order to set up an effective system for the social protection of the population, reduction of the dimensions of poverty and elimination of its gravest manifestations;
- develop a concept of Ukraine's migration policy that would comprehensively combine its immigration and emigration components and submit to Parliament the draft law *On the Concept of Ukraine's Migration Policy*;
- identify a single agency responsible for the development and implementation of the government's migration policy, clearly delimiting the competence of the Ministry of Labor and Social Policy, the Ministry of Foreign Affairs, Ministry of Internal Affairs, the State Committee for Nationalities and Migration, and the State Committee for Guarding the State Border;

OPINIONS AND RECOMMENDATIONS

- develop an effective system for collecting, processing and analyzing statistical or other data relating to the migration for employment abroad to be subsequently used during the implementation of the state migration policy;
- continue improving the national legal framework governing transnational migration for employment and social protection of migrant workers;
- expedite the ratification of the *European Convention on the Legal Status of Migrant Workers*, 1977 and submit it to Parliament for consideration;
- submit to Parliament for ratification the *ILO Recruitment and Placement of Seafarers Convention* No. 179, 1996;
- consider the issue of Ukraine's accession to the *ILO Convention concerning Migration for Employment* No.97 (1949) and the *ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers* No.143 (1975) and forward a motion to have them ratified by the Ukrainian Parliament;
- prepare proposals to the Ukrainian Parliament for the ratification of the *UN Convention Against Transnational Organized Crime*, 2000 and its additional protocols to prevent, suppress and punish trafficking in persons and against the smuggling of migrants;
- finalize ratification of the treaty on medical insurance of migrant workers between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland and initiate the conclusion of such treaties with other countries;
- provide in the State Budget targeted funds to ensure legal protection of Ukrainian citizens deprived of liberty on the territory of foreign states;
- design a set of measures for extensively explaining to Ukrainian citizens their rights and freedoms during their stay and employment abroad as well as the specifics of legislation of the receiving countries, including the provisions of respective intergovernmental and multilateral treaties.

The Ministry of Foreign Affairs of Ukraine

- enhance the personnel of Ukrainian diplomatic missions and consular posts in the countries with the largest number of Ukrainian migrant workers, and also extend the practice of staffing the consular posts with officers who have a proper legal education;
- among the personnel of diplomatic missions in the countries receiving Ukrainian migrant workers identify employees who would be responsible for monitoring the labor market of the host countries and explain and promote the exercise by Ukrainian migrant workers of their rights in full;
- extend the practice of consular officers participating in court hearings, especially in cases where there is evidence of prejudiced attitudes to and discrimination against Ukrainian citizens;
- ensure prompt and systematic notification of relatives of Ukrainian citizens abroad about facts of their detention (arrest) as well as the progress of

investigation of criminal charges against them and their judicial review, and set out clearly defined procedures for the provision of such information;

- strengthen control over and responses to cases of irregular investigation of cases of death of Ukrainian citizens abroad;

- ensure timely execution of documents related to the death of Ukrainian citizens abroad in order to protect the rights and interests of their relatives in Ukraine;

- continue the practice of providing government assistance for transporting the bodies of Ukrainians who died abroad when their families and relatives cannot cover such costs. To this end, provide corresponding expenditures in the State Budget and set out the procedure for providing such assistance;

- generalize international practice in government policy of migration for employment from the sending countries to the receiving countries;

- facilitate self-organization of migrant workers in the host countries and use the opportunities of the Ukrainian Diaspora for enhancing the effectiveness of protection of the migrant workers' rights and freedoms;

- respond without delay to facts of abuse by foreign lawyers in the discharge of their duties of providing legal assistance in civil and criminal cases, and set up a network of legal firms specializing in the protection of the rights of aliens for defending the interests of Ukrainian citizens;

- formulate principles of interaction and all-round support of Ukrainian and foreign lawyers and law firms that can ensure real and effective protection of the rights and interests of Ukrainian citizens abroad;

- speed up the process of concluding treaties on employment and social protection jointly with the Ministry of Labor and Social Policy of Ukraine, above all with those countries that have the largest number of Ukrainian migrant workers, in particular with Spain, Italy and Greece. Concurrently, draft treaties on reciprocal recognition of professional education to retain and upgrade the qualification of national specialists during their temporary stay abroad.

The Ministry of Labor and Social Policy of Ukraine

- strengthen control over compliance with operative Ukrainian legislation and conditions of licensing of business entities involved in recruiting Ukrainian citizens for employment abroad;

- constantly monitor the execution of operative bilateral and multilateral treaties on employment in order to raise their effectiveness;

- develop mechanisms for recording cash transfers of Ukrainian migrant workers within the structure of incomes of families in order to plan and ensure their subsistence minimum;

- expedite the conclusion of bilateral treaties on social security, specifically pension provision, of Ukrainian citizens who travel abroad, above all to Canada, Germany, the US, and Israel;

OPINIONS AND RECOMMENDATIONS

- expand the powers of regional government agencies during the drafting and conclusion of foreign economic agreements (contracts) with foreign business entities for employment of Ukrainian citizens;
- jointly with the State Committee for Tourism strengthen control over tourist firms that under the guise of tourist services illegally recruit Ukrainian citizens for work abroad.

The Ministry of Education and Science of Ukraine, National Academy of Sciences of Ukraine

- submit justified proposals to the Cabinet of Ministers for increasing funds to develop science and ensure necessary conditions of work for the country's scientists and scientific institutions in order to prevent the outflow of highly qualified scientific personnel abroad;
- constantly monitor emigration of Ukrainian scientists and, proceeding from the results, submit corresponding recommendations to the Cabinet of Ministers;
- draft and submit to the Cabinet of Ministers for consideration long-term comprehensive measures of international cooperation in science as well as the participation of Ukrainian scientists in international programs in order to employ more effectively Ukraine's scientific potential;
- study the issue of host countries compensating the Ukrainian state for the training of scientists who emigrated for permanent residence.

The National Bank of Ukraine

Proceeding from a regulatory framework, devise a simplified system for Ukrainian migrant workers abroad remitting money to our citizens, providing for favorable terms of payment for the banks' remittance services.

The Office of the Attorney General of Ukraine

Speed up the process of concluding bilateral treaties — first of all with Russia, Belarus and Moldova — on the transfer of convicts to serve out their sentences in Ukraine.

The Ministry of Internal Affairs of Ukraine

Broaden international cooperation of Ukrainian law enforcement bodies with similar foreign agencies to strengthen the effectiveness of combating organized and transnational crime directed against Ukrainian migrant workers. To this end, increase the number of Ministry of Internal Affairs personnel within Ukrainian diplomatic missions abroad.

Regional State Administrations and Oblast Radas

At the local level systematically collect and analyze information pertaining to migration processes and at the regional level take appropriate measures to deal with the problems related to migration for employment.

ANNEXES

Table 1. GDP per capita of countries with high and middle human development index

Rank by UN rating	Country	GDP per capita (PPP\$)	Ratio to Ukraine
1	Luxembourg	50,061	13.12
2	USA	34,142	8.95
3	Norway	29,918	7.84
4	Ireland	29,866	7.83
5	Iceland	29,581	7.75
6	Switzerland	28,769	7.54
7	Canada	27,840	7.30
8	Denmark	27,627	7.24
9	Belgium	27,178	7.12
10	Austria	26,765	7.01
11	Japan	26,755	7.01
12	Australia	25,693	6.73
13	Netherlands	25,657	6.72
14	Hong Kong (China)	25,153	6.59
15	Germany	25,103	6.58
16	Finland	24,996	6.55
17	Sweden	24,277	6.36
18	France	24,223	6.35
19	Italy	23,626	6.19
20	UK	23,509	6.16
21	Singapore	23,356	6.12
22	Cyprus	20,824	5.46
23	Israel	20,131	5.28
24	New Zealand	20,070	5.26
25	Spain	19,472	5.10
26	Qatar	18,789	4.92
27	United Arab Emirates	17,935	4.70
28	Korea	17,380	4.55
29	Slovenia	17,367	4.55
30	Portugal	17,290	4.53
31	Malta	17,273	4.53
32	Bahamas	17,012	4.46
33	Brunei	16,779	4.40
34	Greece	16,501	4.32

Table 1 (cont.)

Rank by UN rating	Country	GDP per capita (PPP\$)	Ratio to Ukraine
35	Kuwait	15,799	4.14
36	Barbados	15,494	4.06
37	Bahrain	15,084	3.95
38	Equatorial Guinea	15,073	3.95
39	Czech Republic	13,991	3.67
40	Oman	13,356	3.50
41	Saint Kitts and Nevis	12,510	3.28
42	Seychelles	12,508	3.28
43	Hungary	12,416	3.25
44	Argentina	12,377	3.24
45	Saudi Arabia	11,367	2.98
46	Slovakia	11,243	2.95
47	Antigua and Barbuda	10,541	2.76
48	Estonia	10,066	2.64
49	Mauritius	10,017	2.63
50	Chile	9,417	2.47
51	South Africa	9,401	2.46
52	Malaysia	9,068	2.38
53	Poland	9,051	2.37
54	Uruguay	9,035	2.37
55	Mexico	9,023	2.36
56	Trinidad and Tobago	8,964	2.35
57	Costa Rica	8,650	2.27
58	Russia	8,377	2.20
59	Croatia	8,091	2.12
60	Brazil	7,625	2.00
61	Grenada	7,580	1.99
62	Libya	7,570	1.98
63	Belarus	7,544	1.98
64	Botswana	7,184	1.88
65	Lithuania	7,106	1.86
66	Latvia	7,045	1.85
67	Turkey	6,974	1.83
68	Namibia	6,431	1.69
69	Romania	6,423	1.68
70	Thailand	6,402	1.68
71	Tunis	6,363	1.67

Table 1 (cont.)

Rank by UN rating	Country	GDP per capita (PPP\$)	Ratio to Ukraine
72	Columbia	6,248	1.64
73	Gabon	6,237	1.63
74	Dominican Republic	6,033	1.58
75	Panama	6,000	1.57
76	Iran	5,884	1.54
77	Dominica	5,880	1.54
78	Kazakhstan	5,871	1.54
79	Venezuela	5,794	1.52
80	Bulgaria	5,710	1.50
81	Saint Lucia	5,703	1.49
82	Belize	5,606	1.47
83	Saint Vincent and the Grenadines	5,555	1.46
84	Algeria	5,308	1.39
85	Macedonia	5,086	1.33
86	Samoa	5,041	1.32
87	Cape Verde	4,863	1.27
88	Peru	4,799	1.26
89	Fiji	4,668	1.22
90	Cuba	4,519	1.18
91	Salvador	4,497	1.18
92	Swaziland	4,492	1.18
93	Maldives	4,485	1.18
94	Paraguay	4,426	1.16
95	Lebanon	4,308	1.13
96	China	3,976	1.04
97	Philippines	3,971	1.04
98	Jordan	3,966	1.04
99	Guyana	3,963	1.04
100	Turkmenistan	3,956	1.04
101	Guatemala	3,821	1.00
102	Ukraine	3,816	1.00
103	Suriname	3,799	1.00
104	Jamaica	3,639	0.95
105	Egypt	3,635	0.95
106	Syria	3,556	0.93

Table 1 (cont.)

Rank by UN rating	Country	GDP per capita (PPP\$)	Ratio to Ukraine
107	Morocco	3,546	0.93
108	Sri Lanka	3,530	0.93
109	Albania	3,506	0.92
110	Ecuador	3,203	0.84
111	Indonesia	3,043	0.80
112	Azerbaijan	2,936	0.77
113	Vanuatu	2,802	0.73
114	Kyrgyzstan	2,711	0.71
115	Georgia	2,664	0.70
116	Zimbabwe	2,635	0.69
117	Armenia	2,559	0.67
118	Honduras	2,453	0.64
119	Uzbekistan	2,441	0.64
120	Bolivia	2,424	0.64
121	Nicaragua	2,366	0.62
122	India	2,358	0.62
123	Papua New Guinea	2,280	0.60
124	Moldova	2,109	0.55
125	Lesotho	2,031	0.53
126	Vietnam	1,996	0.52
127	Ghana	1,964	0.51
128	São Tomé and Príncipe	1,792	0.47
129	Mongolia	1,783	0.47
130	Cameroon	1,703	0.45
131	Solomon Islands	1,648	0.43
132	Comoros	1,588	0.42
133	Cambodia	1,446	0.38
134	Tajikistan	1,152	0.30
135	Myanmar	1,027	0.27
136	Kenya	1,022	0.27
137	Congo	825	0.22

Annex 2

Table 2. Breakdown of Ukrainian citizens temporarily working abroad by countries and forms of employment (as of the first six months of 2002)

Line No.	Country	Number of citizens working for hire (sum of columns 4-6)	Including:			Persons engaged under contracts	In all (sum of columns 3 and 7)
			migrant workers	seasonal workers	interns working for hire		
1	2	3	4	5	6	7	8
1	Number of Ukrainian citizens temporarily working abroad, in all (sum of rows 2 and 14),	20,578	20,199	227	152	39	2,0617
2	of them: in CIS countries (sum of rows 3-13),	574	550	24	0	0	574
	including in:						
3	Azerbaijan	0	0	0	0	0	0
4	Belarus	0	0	0	0	0	0
5	Armenia	0	0	0	0	0	0
6	Georgia	24	11	13	0	0	24
7	Kazakhstan	0	0	0	0	0	0
8	Kyrgyzstan	0	0	0	0	0	0
9	Moldova	0	0	0	0	0	0
10	Russia	543	532	11	0	0	543
11	Tajikistan	0	0	0	0	0	0
12	Turkmenistan	7	7	0	0	0	7
13	Uzbekistan	0	0	0	0	0	0
14	In other countries (sum of rows 15-98)	20,004	19,649	203	152	39	20,043
	including in:						
15	Australia	2	2	0	0	0	2
16	Austria	8	8	0	0	0	8
17	Belgium	5	5	0	0	0	5
18	Bulgaria	5	5	0	0	0	5
19	UK	1,287	1,287	0	0	0	12,87
20	Greece	7,249	7,249	0	0	0	7,249
21	Estonia	18	18	0	0	0	18
22	Egypt	0	0	0	0	0	0
23	Israel	97	97	0	0	0	97

Table 2 (cont.)

1	2	3	4	5	6	7	8
24	Spain	465	454	11	0	0	465
25	Italy	166	166	0	0	0	166
26	Canada	0	0	0	0	0	0
27	Cyprus	2,914	2,906	0	8	0	2,914
28	China	236	236	0	0	0	236
29	Latvia	121	121	0	0	0	121
30	Lithuania	70	70	0	0	0	70
31	Mongolia	0	0	0	0	0	0
32	Germany	549	546	0	3	2	551
33	United Arab Emirates	703	703	0	0	0	703
34	Poland	16	16	0	0	0	16
35	Romania	0	0	0	0	0	0
36	Slovakia	128	125	2	1	32	160
37	USA	467	458	9	0	0	467
38	Turkey	182	182	0	0	0	182
39	Hungary	0	0	0	0	0	0
40	Finland	0	0	0	0	0	0
41	France	37	37	0	0	0	37
42	Czech Republic	211	185	26	0	5	216
43	Switzerland	101	101	0	0	0	101
44	Sweden	4	4	0	0	0	4
45	Algeria	0	0	0	0	0	0
46	Netherlands	134	134	0	0	0	134
47	India	66	66	0	0	0	66
48	Iran	60	60	0	0	0	60
49	Liberia	2,266	2,266	0	0	0	2,266
50	Malta	506	375	47	84	0	506
51	Japan	212	212	0	0	0	212
52	Bahamas	56	56	0	0	0	56
53	Vietnam	0 »	0	0	0	0	0
54	Yemen	0	0	0	0	0	0
55	Monaco	8	8	0	0	0	8
56	Lebanon	18	18	0	0	0	18
57	Chile	0	0	0	0	0	0
58	Saudi Arabia	53	53	0	0	0	53
59	Qatar	0	0	0	0	0	0

ANNEXES

Table 2 (cont.)

1	2	3	4	5	6	7	8
60	Ireland	80	37	43	0	0	80
61	Norway	18	18	0	0	0	18
62	Panama	297	274	23	0	0	297
63	Saint Vincent and the Grenadines	82	82	0	0	0	82
64	Singapore	41	41	0	0	0	41
65	Syria	5	5	0	0	0	5
66	Korea	2	2	0	0	0	2
67	New Zealand	92	92	0	0	0	92
68	Tanzania	7	7	0	0	0	7
69	Portugal	28	1	27	0	0	28
70	Denmark	28	28	0	0	0	28
71	Cayman Islands	0	0	0	0	0	0
72	Mauritius	0	0	0	0	0	0
73	Nigeria	25	25	0	0	0	25
74	Senegal	0	0	0	0	0	0
75	Jamaica	0	0	0	0	0	0
76	Namibia	178	178	0	0	0	178
77	Uruguay	0	0	0	0	0	0
78	Peru	0	0	0	0	0	0
79	Luxembourg	2	2	0	0	0	2
80	South Africa	0	0	0	0	0	0
81	Vanuatu	85	85	0	0	0	85
82	Hong Kong	0	0	0	0	0	0
83	Libya	210	210	0	0	0	210
84	Cambodia	77	6	15	56	0	77
85	Angola	95	95	0	0	0	95
86	Kenya	4	4	0	0	0	4
87	Indonesia	0	0	0	0	0	0
88	Mozambique	0	0	0	0	0	0
89	Equatorial Guinea	3	3	0	0	0	3
90	Bahrain	1	1	0	0	0	1
91	Tunis	0	0	0	0	0	0
92	Belize	0	0	0	0	0	0
93	Croatia	104	104	0	0	0	104
94	Mauritania	67	67	0	0	0	67
95	Morocco	18	18	0	0	0	18
96	Sudan	17	17	0	0	0	17
97	Marshall Islands	1	1	0	0	0	1
98	Antigua and Barbuda	17	17	0	0	0	17

Annex 3

LIST ON COUNTRIES

with which Agreements on Employment were concluded
(as of August 1, 2002)

Multilateral Inter-State Agreements

Agreement on Cooperation in Migration for Employment and Social Protection of Migrant Workers (within the framework of CIS). Signed at Moscow April 15, 1994. Signed by all CIS member/countries. Effective August 11, 1995, effective for Ukraine August 22, 1995. Not ratified by Georgia, Turkmenistan.

Intergovernmental Agreements**Belarus**

Agreement between the Government of Ukraine and the Government of the Republic of Belarus on Labor Activity and Social Protection of Citizens of Ukraine and the Republic of Belarus who Work beyond the Borders of their States. Signed at Minsk July 17, 1995, ratified April 26, 1996, effective July 16, 1996.

Armenia

Agreement between the Government of Ukraine and the Government of the Republic of Armenia on Labor Activity and Social Protection of Citizens of Ukraine and the Republic of Armenia who Work beyond the Borders of their States. Signed at Kyiv June 17, 1995, ratified April 16, 1996, effective June 10, 1996.

Vietnam

Agreement between the Government of Ukraine and the Government of the Socialist Republic of Vietnam on Reciprocal Employment of Citizens and their Social Protection. Signed at Hanoi April 8, 1996 for five years, automatically renewed every year, ratified February 4, 1998, effective March 6, 1998.

Latvia

Agreement between the Government of Ukraine and the Government of the Latvian Republic on Labor Activity and Social Protection of Persons who Domicile in Ukraine and Latvia and Work on the Territories of Both States. Signed at Kyiv November 21, 1995 for five years, automatically renewed every year, effective from the date of signing.

Lithuania

Agreement between the Government of Ukraine and the Government of the Lithuania republic on Reciprocal Employment of Citizens. Signed at Kyiv March 28, 1995 for three years, automatically renewed every year, effective August 11, 1995.

Moldova

Agreement between the Government of Ukraine and the Government of the Republic of Moldova on Labor Activity and Social Protection of Citizens of Ukraine and the Republic of Moldova who Work beyond the Borders of their States. Signed at Kyiv December 13, 1993 for five years, automatically renewed every year, effective February 25, 1994.

Poland

Agreement between the Government of Ukraine and the Government of the Republic of Poland on Reciprocal Employment of Workers. Signed at Warsaw February 16, 1994 for three years, automatically renewed every year, effective December 19, 1994 (not denounced)

Russia

Agreement between the Government of Ukraine and the Government of the Russian Federation on Labor Activity and Social Protection of Citizens of Russia and Ukraine who Work beyond the Borders of their States. Signed at Moscow January 14, 1993 for five years, automatically renewed every year, effective from the date of signing.

Agreement between the Government of Ukraine and the Government of the Russian Federation on Cooperation of the Border Oblasts of Ukraine and the Russian Federation. Signed at Kharkiv January 27, 1995 for five years, automatically renewed every year.

Slovakia

Agreement between the Cabinet of Ministers of Ukraine and the Government of the Slovak Republic on Reciprocal Employment of Citizens. Signed at Uzhgorod March 7, 1997 for three years, automatically renewed every year, ratified February 4, 1998, effective May 5, 1998.

Annex 4

LIST OF COUNTRIES

with which Agreements on Social Protection were concluded
(as of August 1, 2002)

Multilateral Inter-State Agreements

Agreement on Safeguarding Human Rights of Citizens of the CIS Member/Countries in the Field of Pension Provision. Signed at Moscow March 13, 1992. Effective from the date of signing. Signed by Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova (with reservations), Russia, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine. Not signed by Azerbaijan, Georgia.

Agreement on Reciprocal Recognition of Rights to Preferential Travel Rates for Invalids and Participants in the Great Patriotic War as well as Persons Equated with Them (within the framework of CIS). Signed at Moscow March 12, 1993. Effective from the date of signing. Not signed by Azerbaijan and Georgia.

Agreement on Reciprocal Recognition of Benefits and Guarantees for Participants in and Invalids of the Great Patriotic War, Participants of Combat Operations on the Territory of other States, Families of Servicemen Killed in Action (within the framework of CIS). Signed at Moscow April 15, 1994. Effective November 7, 1994, effective for Ukraine July 27, 1996. Not signed by Azerbaijan and Georgia.

Agreement on Social Protection and Health Care of Citizens who were Affected by Radiation in Consequence of the Chornobyl and other Radiation Catastrophes and Accidents as well as Nuclear Tests (within the framework of CIS). Signed at Moscow September 9, 1999. Signed by Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Ukraine. Effective August 11, 1995, effective for Ukraine May 29, 1996. Confirmed effectiveness by Armenia, Belarus, Kyrgyzstan.

Agreement on Human Rights Safeguards of Citizens of Disbursement of Social Assistance, Compensations to Families with Children and Alimonies (within the framework of CIS) Signed at Moscow September 9, 1994. Signed by all CIS member/countries. Effective April 12, 1994, effective for Ukraine January 30, 1996. Not ratified by Georgia, Turkmenistan.

Agreement on Reciprocal Recognition of Rights to Compensation for Damage Caused to Workers by Injuries, Professional diseases and other Harm to Health Related to the Performance of the Labor Duties (within the framework of CIS). Signed at Moscow September 9, 1994 by all CIS member/countries. Effective October 6, 1995, effective for Ukraine October 6, 1995. Not ratified by Georgia, Turkmenistan.

Agreement on Cooperation in Health Care (within the framework of CIS) Signed at Moscow December 9, 1994. Signed by all CIS member/countries. Effective March 10, 1995, effective for Ukraine October 25, 1995.

Agreement on the Procedure for Investigating Industrial Accidents that Occurred to Workers in the Period when they were Beyond the Borders of the States of Resident (within the framework of CIS). Signed at Moscow December 9, 1994. Signed by all CIS member/countries. Effective February 24, 1995, effective for Ukraine January 10, 1996. Not ratified by Georgia, Turkmenistan.

Agreement between CIS Member/Countries on Social and Legal Guarantees of Servicemen, Persons Discharged from Military Service, and Members of their Families. Signed at Minsk February 14, 1992.

Protocol to the Agreement between the CIS Member/Countries on Social and Legal Guarantees of Servicemen, Persons Discharged from Military Service, and Members of their Families of February 14, 1992. Signed at Moscow January 25, 2000. Ratified by Ukraine with reservations June 7, 2001.

Bilateral Inter-State Agreements and Treaties

Bulgaria

Agreement between the Union of Soviet Socialist Republics and the People's Republic of Bulgaria on Social Security. Signed at Sophia December 11, 1959, ratified February 27, 1960, effective April 12, 1960.

Treaty between Ukraine and the Republic of Bulgaria on Social Security. Signed at Sophia December 4, 2001. Ratified November 22, 2002.

Spain

Agreement between Ukraine and the Kingdom of Spain on Social Security of Citizens. Signed at Madrid October 7, 1996 for an indefinite period. Ratified December 17, 1997, effective March 27, 1998.

Latvia

Treaty between Ukraine and the Latvian Republic on Cooperation in Social Security. Signed at Kyiv February 26, 1998 for an indefinite period. Ratified March 19, 1999, effective June 11, 1999.

Lithuania

Treaty between Ukraine and the Lithuanian Republic on Social Security. Signed at Vilnius April 23, 2001 for an indefinite period. Ratified January 10, 2002. Effective February 8, 2002.

Mongolia

Agreement between the Union of Soviet Socialist Republic and the Romanian People's Republic on Cooperation in Social Security. Signed at Ulan-Bator April 6, 1981. Ratified December 2, 1981, effective January 28, 1982.

Romania

Agreement between the Union of Soviet Socialist Republic and the Mongolian People's Republic on Social Security. Signed at Bucharest December 24, 1969. Ratified May 10, 1961, effective June 27, 1961.

Slovakia

Treaty between Ukraine and the Slovak Republic on Social Security. Signed at Bratislava December 5, 2000. Ratified September 20, 2001, effective January 1, 2002.

Hungary

Agreement between the Union of Soviet Socialist Republic and the Hungarian People's Republic on Social Security. Signed at Budapest December 20, 1962. Ratified May 31, 1963, effective April 12, 1963.

Czech Republic

Treaty between Ukraine and the Czech Republic on Social Security. Signed at Kyiv July 4, 2001 for an indefinite period. Pending ratification.

Intergovernmental Agreements and Treaties

Azerbaijan

Agreement between the Government of Ukraine and the Government of the Azerbaijani Republic on Cooperation in Pension Provision. Signed at Baku July 28, 1995 for an indefinite period, ratified May 7, 1996, effective November 2, 1996.

Belarus

Agreement between the Government of Ukraine and the Government of the Republic of Belarus on Guarantees of Citizens Rights to Pension Provision. Signed at Kyiv December 14, 1995 for an indefinite period, effective February 11, 1997.

Georgia

Agreement between the Government of Ukraine and the Government of the Republic of Georgia on Cooperation in Pension Provision. Signed at Tbilisi January 9, 1995 for an indefinite period, ratified November 22, 1995, effective December 22, 1995.

Estonia

Treaty between the Cabinets of Ministers of Ukraine and the Government of the Estonia Republic on Cooperation in Social Security. Signed at Kyiv February 20, 1997 for an indefinite period, ratified November 4, 1997, effective January 28, 1998.

Lithuania

Agreement between the Government of Ukraine and the Government of the Lithuania Republic on Cooperation in Pension Provision (with Final Protocol). Signed at Vilnius September 27, 1994, ratified May 16, 1995, effective January 28, 1998.

Moldova

Agreement between the Government of Ukraine and the Government of the Republic of Moldova on Guarantees of Citizens Rights to Pension Provision. Signed at Chisinau August 29, 1995 for an indefinite period, ratified October 29, 1996, effective December 19, 1996.

Nina Karpachova

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of the Rights of Ukrainian Citizens Abroad
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Commissioner for Human Rights**

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Designed by Mykola Borsch and Anatole Bryk

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