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What role for migration policy in the Ukraine crisis?

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While the geopolitics of the Ukraine crisis have dominated headlines, little attention has been paid to the potential challenges arising from the movement of people from the region to the EU. Yet recent history should tell us this could be a grave oversight. As we witnessed during the Arab Spring in 2011, political upheaval can result in people fleeing their state in fear of persecution or seeking to leave their state in search of new horizons and economic opportunities. The EU would do well to learn from the Arab Spring experience and the policy failures that resulted from the Union's response of closing its borders and returning people to Africa ([Carrera, den Hertog and Parkin, 2012](#)). It is critical that – independently of the still uncertain outcome of the Ukraine crisis – the EU formulates and implements a credible policy strategy addressing **the potential impact and benefits of mobility between Ukraine and the EU**.

We hope that the situation in Ukraine will not develop into one giving rise to a need for international protection of people. In such a case, the EU and its member states would be evidently required to respect their commitments to provide safe harbour to refugees. Nevertheless upheaval always comes with an economic cost and Ukraine could face a long economic downturn. Available statistics indicate that Ukraine is already an important migration source country for the Union. According to Eurostat data, about 635,000 Ukrainian nationals resided in the EU in 2012.¹ Ukrainian citizens applied for more Schengen visas

¹ http://ec.europa.eu/dgs/home-affairs/e-library/docs/infographics/immigration/migration-in-eu-infographic_en.pdf About 40,000 residence permits were issued during 2012 to Ukrainian nationals, only preceded by nationals of the US, India, China and Morocco (see http://ec.europa.eu/dgs/home-affairs/e-library/docs/infographics/ha-in-numbers/home_affairs_in_numbers_en.pdf). See also the statistical data on residence permits collected by Eurostat (http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Residence_permits_statistics) which state that “Among the citizens from non-member countries living in the EU-27 in 2012, some 44.2% were citizens of a high HDI country (with Turkey, Albania and Russia accounting for almost half of these), while a slightly higher share (48.3%) came from medium HDI countries (one-fifth of whom were from Morocco, with citizens of China and Ukraine the next largest groups). The remaining 7.6% were from low HDI countries (30% of whom had Nigerian or Iraqi citizenship)”.

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during 2012 (a total of about 1.3 million) than any other country except Russia.² While scenario-building remains more of a crystal-ball exercise rather than a scientifically rigorous method, one could well expect that *if* the economic and political situation continues to worsen, migration from Ukraine to the EU may not only continue but may perhaps increase (Düvell, 2014). Fortunately, many of the EU member states closest to Ukraine have fairly good economic outlooks and allowing some access for Ukrainians to enter the EU for economic purposes may be a wise choice in such a context.

One of the preferred policy tools used by the EU for these purposes has been the so-called Mobility Partnerships, which form part of the EU's [Global Approach to Migration and Mobility](#) (GAMM). These partnerships are non-legally binding political declarations that aim to facilitate temporary labour immigration to the Union. So far, however, they have largely remained centred on EU and member states' security interests, such as the 'fight against irregular immigration' through readmission agreements and strengthening border controls and surveillance. The EU has concluded a total of [seven Mobility Partnerships](#) with the following partners: Cape Verde, Georgia, Moldova, Armenia, Azerbaijan, Morocco and Tunisia. The effectiveness of these partnerships has been called into question, due to the limited extent to which they have opened up legal channels of mobility to the Union., thereby undermining the credibility of the EU (Carrera, 2011; Carrera, den Hertog and Parkin, 2012). The content of each Partnership differs widely depending on the partner country. They generally aim to offer incentives to third countries to cooperate with the EU on irregular immigration and border controls in exchange for visa facilitation/liberalisation and legal channels of economic mobility.

A Mobility Partnership with Ukraine was in fact discussed during the Hungarian Presidency (first half of 2011), but no formal agreement was reached. In addition to a low degree of interest shown by some EU member state governments, it appears that the Ukrainian side was at that time reluctant to establish legal channels that would allow domestic workers to be employed in the EU due to the country's declining population and labour market shortages.³ As the European Commission has recently [acknowledged](#), the critical situation currently existing in the country has brought the possibility for a new 'EU offer' of a Mobility Partnership back on the menu. The difference now is that Ukraine has already signed readmission and visa facilitation agreements with the EU, with visa liberalisation and economic migration remaining open options. The challenge for the EU here will remain one of offering credible and attractive channels for labour mobility between the Union and Ukraine while avoiding triggering a 'brain drain', which could further weaken the Ukrainian economy.

Three kinds of access for economic purposes could be important to relieve what may be temporary but intolerable economic conditions in Ukraine while meeting this concern.

The first is local trading, which is an important economic activity in the border areas between Ukraine and the EU mainly in the form of small trading of goods back and forth

² Some 6 million Russian nationals, or 40% of total applied for a Schengen visa in 2012 (http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/docs/overview_of_schengen_visa_statistics_en.pdf). The number of C Visas applied for by Ukrainian nationals follows: 2009: 854,209 / 2010: 972,580 / 2011: 1,142,732 / 2012: 1,313,727 (applied for) and 1,283,014 (issued), which included 494,749 multiple entry C visas. The Polish embassy in Lvov (Ukraine) received 224,615 applications and issued 219,825 visas and the German embassy in Kiev (Ukraine) received 106,294 applications and issued 100,390 visas.

³ <http://www.easternpartnership.org/publication/mobility-and-migration/2011-08-23/assessing-mobility-partnerships-between-eu-and-moldova>

across the border. A local border traffic regime between Ukraine and Poland already allows for simplified visa-free border crossing between the two states for social, cultural and economic purposes. Poland recommended in [2010](#) that the local border traffic zone be enlarged to cover more of both countries. Now may be a particularly good moment to take this step in order to take some of the pressure off persons and small-service provision activities at the border on a regulated and flexible basis.

This is particularly critical as it seems that while the European Council remains committed to facilitate people-to-people contacts in the context of the [EU Action Plan on Visa Liberalisation](#) (VLAP) with Ukraine, there are still a number of outstanding conditions in the country identified by the Commission's [Third Report on the Implementation of the VLAP](#), such as anti-corruption, non-discrimination and asylum protection. The current crises may be only worsening these conditions and could potentially block EU member states' green light for liberalisation ([Hernández i Sagrera](#)). The EU could also encourage member states to more effectively implement the [EU-Ukraine Visa Facilitation Agreement](#) of 2013, which allows, inter alia, the waiving of visa fees for certain categories of visa applicants and more flexibility in issuing multiple-entry visas. This should go hand-in-hand with a more uniform application of visa requirements by member states' consular missions abroad to Ukrainian applicants, who should not be subject to stricter application rules in comparison to other nationalities ([Europe without Frontiers, 2012](#)).⁴

The second form of economic activity between Ukraine and the EU that needs to be accommodated quickly to ameliorate the situation is provision of services. The [EU-Ukraine Partnership and Cooperation Agreement](#) (PCA), signed in 1999, provides for exactly this kind of activity. Article 37 of the Agreement requires the progressive liberalisation of services provision between the parties and mandates the Association Council to make the necessary rules. The EU is free to propose a measure to the Association Council to rapidly move forward on this objective of the agreement, perhaps even acting unilaterally in the first instance. Under such an arrangement, artisans and tradespersons who want to provide services in the EU could do so for a short period of time. The income from providing such service could offset some of the more extreme economic consequences of the current turbulence. For those tradespersons who make a success of their activities in the EU, the possibility of establishment should always be open as well.

The third economic activity that needs to be accommodated is employment. Again, there are provisions⁵ for Ukrainian companies under the PCA to send their key personnel to the EU to set up subsidiaries under conditions as favourable as those applicable to EU companies. For Ukrainian businesses, which may be suffering from a downturn in demand in Ukraine at the moment, the possibility to establish a subsidiary in an EU member state and to focus on extending their markets may be a wise option and a strategy to continue growth notwithstanding the unfavourable climate in Ukraine. The EU could promote a full and inclusive application of the relevant provisions of the PCA by the member states and encourage their authorities to issue the necessary visas and work permits for employees of Ukrainian companies to exercise their right to establishment in the EU.

Good neighbours are those willing to lend a helping hand when times are tough, not those who pull up the drawbridge and turn their backs on those less fortunate. In the case of Ukraine, the EU needs to keep its borders open for the free movement of people and

⁴ The study by Europe without Frontiers has identified the existence of different Schengen visa standards and practices in EU member states' consulates but also more stringent requirements in countries such as Italy, the UK and the Czech Republic.

⁵ Article 30 of the Agreement.

facilitate mobility back and forth between Ukraine and the EU for economic purposes to alleviate the hardship that is likely to come. The EU cannot be seen – as was the case three years ago during the Arab Spring – to support peoples struggling for change only on the condition that they stay where they are. One of the key features that must be taken into account in determining any future policy approach by the EU is the strength of solidarity that EU member states feel towards their neighbours.