

HOMOCENTRIC APPROACH AND MIGRATION: CHALLENGES IN TRANSNATIONAL CONSTITUTIONALISM

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Abstract. For more than a hundred years (1914-2022), citizenship, passporting, migration and freedom of movement of persons acquired new shades in the context of transnational constitutionalism. The spread of COVID-19 around the world requires a geopolitical, legal and strategic rethinking of the passport as a standardized written (machine) visual personalized anthropometric proof of citizenship. The purpose of the article is to try to outline the objectification of people-centrism and migration in the context of modern transnational constitutionalism. Comprehensive disclosure of modern challenges of migration, taking into account the argumentation of its human-dimensional and universal character is the primary task of this article. Relevant analytical and statistical expert reports and forecasts give a clear attitude towards the further modernization of the concept of citizenship and human-centeredness of migration. The spectrum of applied methods in the research — from analysis to comparative and statistical. The COVID-19 pandemic gave impetus to the transformation of the concept of freedom of movement of a person and free choice of residence in the European Union. The introduction of mandatory use of vaccination certificates increased the freedom of movement of persons, but did not guarantee the security of personal data, non-interference in privacy, prohibition of contact and individual tracking. The presence of a passport as proof of the bearer's citizenship and a visa (if necessary) is no longer sufficient to exercise freedom of movement. Migration risks and the declaration of martial law in Ukraine in 2022 caused a complete rethinking of the fundamental principles of constitutionalism in the context of ensuring the rule of law and democracy.

Keywords: citizenship, migration, passport, freedom of movement, transnational constitutionalism, European Union

INTRODUCTION

Since Russia's invasion of Ukraine on February 24, 2022, it is no longer possible to remain neutral or quiet or to 'benefit from different worlds'. Today, we use jointly Eugen Ehrlich's 'living law' of 'global Bukowina' (1913) interpreted by Gunther Teubner (Global Law, 1997) while thinking on transnational constitutionalism, which is full of constitutional values globally

but distancing itself from the national (domestic) political power complex, as well as cosmopolites and global citizen's matrix (Abrahamian, 2015). Citizenship today is a gate-keeping instrument, since '97 percent of the global population gains access to citizenship solely by virtue of where or to whom they are born' (Shachar, 2022: 625-637). Globally we observe plenty discussions on how 'citizenship and citizens are made and unmade in citizenisation' (Clarke, 2022: 411-417), and what is contemporary purpose of it (Sharp, 2023).

In our opinion, transnational constitutionalism is a complex phenomenon based on universal principles and common constitutional values. Among them, a significant influence on the trajectory of its development have the following: respect for human dignity, personal freedom, the guarantee of human rights, the rule of law), democracy, separation of powers, non-interference in private and family life, respect for it, etc. Those constitutional principles coexist in the triad of fundamental relations «person – society – state», thoroughly filled with philosophical, social, political, and legal components (Sofinska, 2018). In this article, we propose to use such a matrix of fundamental principles of transnational constitutionalism:

- *universal*, i.e., those reflected in universal and international legal acts (primarily at the UN level) and declared by most modern democracies (freedom and justice, guarantee of fundamental human rights, the rule of law, democracy, separation of powers, checks and balances, etc.),
- *regional*, those highlighted in the European model of constitutionalism (respect for human dignity, equality, and non-discrimination; human rights protection; proportionality and subsidiarity, sovereignty, etc.).

Scholars globally identify three main features of increasing transnational constitutionalism (Grimm, 2016). The first point (Rütte, 2022) is regarding the transnational constitutions and/or quasi-constitutional treaties on international and supranational levels (UN Charter 1945, Rome Statute 1998, Universal Declaration of Human Rights 1948, TFEU 1957 (after Lisbon Treaty 2009), European Convention on Human Rights (ECHR; formally the Convention for the Protection of Human Rights and Fundamental Freedoms) 1950, etc.).

The second point relates to transnational judicature (judicial dialogue and references to foreign or international law). Fundamentals regarding citizenship, migration and the freedom of movement might be foreseen in judgments and opinions of the permanent international courts like the International Court of Justice (Nottebohm, 1955), Court of Justice of European Union (Micheletti, 1992), European Court of Human Rights (Biao v. Denmark, 2016), etc.

The third feature is based on the similarity and proximity of national constitutions (of different states worldwide), the majority of which contains traditional provisions on human rights, the rule of law, and the separation of powers. Alternatively, they prescribe an algorithm for what genuine legal institutions are responsible and mechanisms and instruments are to be used to protect constitutions and their values, such as national constitutional courts (Germany, Ukraine), constitutional councils (France), etc.

However, we can add the fourth point of transnational constitutionalism. We rethink the correlation between autonomy of global, international, and supranational bodies founded and membered by states (like League of Nations, United Nations Organization, European Union, Council of Europe, NATO, EFTA, etc.) and persons or groups of people by interest (think tanks, sport clubs, music

bands, transnational corporations, banks, travel agencies, outlets, etc.), where citizenship and passport do not really matter. Where freedom of movement is an essential part of (supranational) policy and lawmaking and migration provides to search their pathway to welfare and choose where to reside freely.

The migration crisis in the EU during 2015-2019, the mass purchase of passports, and the COVID-19 in 2020-2022 provoked a revision of the essential elements of freedom of movement and accelerated the development of outsourcing of migration, diversification of (circular) migration flows and renaissance of passport. Since 1920-s (so-called 'passport conferences'), a passport has been defined as a standardized written (actually machine-readable) visualized personalized anthropometric proof of citizenship (of every person), which endows its bearer with rights, responsibilities and privileges, freedom of movement, and immunity from extradition (Reale, 1931: 506–509). Finally, when thinking in Winter 2022 about freedom of movement, national security, guaranteeing human rights, reviving the borders of the EU (after BREXIT) (Barnard, 2021; Sredanovic, 2021). It is worth remembering the March 2020 speech of French President E. Macron, to his compatriots, clearly said that 'this virus has no border, no passport (ce virus n'a pas de frontières, pas de passeport)'.

MATERIALS AND METHODS

Apart from general scientific research methods (like analysis, synthesis, analogy, generalization, prognosis), we use other specific methods (data-analyze, statistical, comparative) to emphasize the fundamental influence of citizenship, migration, and freedom of movement on the development of transnational constitutionalism (its core principles) in the EU globally. All these methods help to depict the trajectory of citizenship development (and passport as its actual proof) for centuries. The historical and legal approach allowed us to study specific features of passport application to promote diplomacy and trade, to provide freedom of movement (from East to West, from North to South). The sociological method is used to express the clear vision and mission of the state (push and pull strategy of every government) and law in their interrelations to administer (use) citizenship as a 'genuine legal and effective link' between a person and the state. There are plenty of declarations, conventions, and treaties adopted internationally and related to this issue (UN Declaration of Human Rights 1948, European Convention on Nationality 1997, etc.). Among all the philosophical, political and legal approaches (Clarke, 2022: 411-417) we used in this article, the axiological method is considered the exact one to show researched trichotomy (citizenship, migration, and freedom of movement) as a value (especially now, in 2022).

The system analysis method allowed us to determine the interrelationships between citizenship, migration, and freedom of movement in globalization and COVID-19. The final point is hidden in attempts to restore the freedom of movement of persons in time of the pandemic, seeking proportionality between national security and public health (vaccine nationalism) from one side and human rights protection (i.e., freedom of establishment, assembly, and expression) on the other.

This article accentuates a data-driven approach to show that remuneration is a primary reason for Ukrainians migrating to the EU and living

there to receive their first residence permit in the EU legally. The number of such claimants prevails hugely comparing the data related to family reunification, educational purposes, and other reasons. The same method emphasizes the importance of restoring (erection) border walls and fences inside (along migration routes) and outside of the EU to help first-step EU member states on the periphery to prevent illegal migration and finally outsource it.

The second specific method used in this article is comparative. By using it, we try to compare data on Ukraine, alternative citizenship acquisition by their citizens after birth in the EU in 2019, first-time asylum applications filed by them and first residence permit in the EU by reason claimed by them in 2020. Selected and systematized data show that rules are rules, and the COVID-19 (since it faces no borders and has no passport) changed them severely. Now, in 2023, it is not enough to have valuable nationality (and passport as proof), an entry visa (if necessary), but also a vaccine certificate to prove you are eligible to enjoy the freedom of movement (inside and outside the EU).

Finally, we used all the necessary research methods to demonstrate that passports, citizenship, migration, and freedom of movement are located at the crossroads of (transnational) constitutionalism, globalization, consumerism, and democracy.

RESULTS AND DISCUSSION

3.1. Citizenship and Migration: Past, Present, and Future regarding COVID-19

Digital technologies and their development caused severe changes in the modern citizenship concept. The fundamental aim of citizenship — is to bring together the relationships between a person, society, and the state, to preserve the unity of this unique complex in its permanent development, civic transformations, and modernizations as the most comfortable and desirable for everyone. Citizenship is a fundamental human right that is often considered to cause human rights violations, discrimination, or interference in private and family life by public officers.

Since the beginning of the XX century (passport conferences), it is well-known that in a civilized and democratic world, 'no citizen can escape the influences by which all mankind is affected, and three main ones operate: heredity, environment, and occupation' (Robertson, 2010). We might observe heredity in the citizenship concept in *ius sanguinis* application, where everybody is 'equipped' with certain qualities derived from their parents and ancestors and with values, customs, and traditions transmitted from generation to generation.

The environment in citizenship can be illustrated merely by *ius soli* application, which includes different political, cultural, and religious influences. Sometimes the environment is dependent on heredity. People can modify the environment; therefore, it becomes full of inspirations for them: it might 'force' them to change it from time to time to be satisfied with it and find it more comfortable, desirable, and safe.

Scholars and politicians are convinced that 'a citizen's point of view and field of thought is usually determined by their occupation and generated on every day basis'. We need to analyze all the opportunities, skip obstacles, and map the political and legal uncertainties related to citizenship, modes of its

acquisition, and grounds for loss created by geopolitical challenges. Citizenship is considered a homocentric concept and aims to measure a person's abilities in a particular country (Harpaz, 2019). Therefore, we need to understand how to improve the existing citizenship concept, imagine its development in the digital age, carefully 'calibrate' it, and picture it in a time of globalization and permanent migration.

In the modern view, sovereignty is a fundamental feature of every state, while citizenship is a real and effective political and legal link between person and state. It is up to every state to determine specific rules and mechanisms of citizenship acquisition as the final destination point of migration (Joppke, 2021). For sure, the correct, up-to-date application of a person's legal status and identity issues is a fundamental tension in frames of such triangle: person – society – sovereign state. At this moment, we'd like to emphasize that such importance depends not only upon the level of legal self-consciousness of a person, geopolitical, social and economic, demographic development of society and state's place on the international arena but also on active state (governmental) policy in the field of citizenship. Citizenship is a primary legal aspect of self-identity from a theoretical, legal, and philosophical point of view (Joppke, 2021). We should note that there are a lot of discussions (Lemanski, 2022: 663-671) on this issue to determine possible ideological solid baggage, the package of rights and duties and full membership in a state (features of citizenship) from every day and personal complexity of social interaction (features of self-identity).

Until recently, a passport was considered the final, conclusive proof of a person's citizenship (Torpey, 2018), regardless of the quantity, time, and kind of acquisition (Lloyd, 2008; Benedictus, 2006). In our understanding, citizenship is permanent in time and space, the effective and legal link (mutual relationship) between the person and the state, regardless of the ethnic origin of the person, which is manifested in mutual rights, responsibilities, and privileges (Sofinska, 2020: 230-245). This situation regarding citizenship and legal identity issues is primarily rooted in the impact of significant geopolitical changes, permanent civilization, migration and globalization challenges, socio-economic asymmetry and financial disparity, the transformation of the paradigm of existing values (Benoit, 2014: 3307–3340). Even though the right to freedom of movement does not belong to the fundamental (absolute) human rights, it is still considered to be one of the essential factors of human freedom (Bruzelius, 2019: 70-83). The universalism of freedom of movement of a person on the international level is provided for in Art. 13 of the Universal Declaration of Human Rights (1948) and duplicated in Art. 12 of the International Covenant on Civil and Political Rights (1966), proved to be fragile, unstable, and even significantly 'shaken' during 2020-2022 because of widespread COVID-19.

In the context of the European Union as a supranational entity, the legal regulation of freedom of movement of persons is enshrined in the founding treaties Maastricht Treaty (1992), Lisbon Treaty (2009), the Charter of Fundamental Rights (2000), and the Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the territory of the Member States (2004, Articles 2, 4, 5). The Treaty on the Functioning of the EU in consolidated version after Lisbon Treaty (Blackstone's, 2009) declares that

- citizenship of the EU is established;
- it means that 'every person holding the nationality of an EU Member State shall be a citizen of the EU', and

- it shall be 'additional and not replace national citizenship' (Article 20-1).

Furthermore, the right to freedom of movement and free choice of residence is prescribed in Article 20-2a, 21-1 (every citizen of the Union shall have the right to move and reside freely within the territory of the EU Member States). More than thirteen million EU citizens live in another EU country due to freedom of movement (including 3.7 million living in the United Kingdom even after BREXIT referendum 2016).

Thus, among the current 27 EU Member States, the fewest own citizens live in Luxembourg (52.4%), where is the concentration of important EU institutions, and 39.3% of citizens of other EU Member States enjoy the freedom of movement and free choice of permanent residence in the duchy. Romania and Poland are the most homogeneous EU member states, with more than 99% of their citizens living there. However, this situation does not contradict the freedom of movement of persons and the free choice of place of residence, and subsequent acquisition by them of alternative citizenship of another state, including their citizens of Poland or Romania. Both states do not require mandatory denationalization due to the acquisition of alternative citizenship after birth by naturalization. In pre-pandemic 2020, among all EU citizens enjoying the freedom of movement and living in another EU member state, we can enlist citizens of Romania (more than 3.1 million), Poland (more than 1.5 million), and Italy (more than 1.4 million). These top-3 EU member states demonstrated an increase of own citizens living in another EU member state: in 2016, there were 2.7, 1.7, and 1.3 million correspondingly. Relative balance due to the number of residents (citizens of others EU member states and non-EU nationals, TCNs) we observe in Austria, the Netherlands, and Hungary.

On January 1, 2020, 36.5 million foreign citizens were living in the EU; 13.5 million citizens from the EU Member States other than the one where they were resident (3%) and 23.0 million citizens from third (non-EU member states) countries (4.9%). Luxembourg is the EU member state, where because of the freedom of movement, 38.7% of the total population are citizens from the EU Member States, followed by Cyprus (13.4%), Malta (10.3%), Austria (8.5%).

Apart from Romanians, citizens of Lithuania (15%), Croatia (14%), Portugal (13.9%), Latvia (12.9%), and Bulgaria (12.5%) enjoy the greatest freedom of movement among EU citizens. Apart from Germans, working-age citizens in France and Sweden enjoy the least freedom of movement in the EU (living in a country other than their own) (1.3%). The freedom of movement, contrary to migration, is enjoyed primarily by people with higher education (originally from Greece, Italy, Germany, Slovakia, Hungary, and Czechia). Citizens of the EU Member States who live in another country due to freedom of movement EU are employed contrary to their fellow citizens suffering from unemployment (Belgians, Greeks, Spaniards, Italians, Poles, Slovaks, French or Croats) (Lafleur, 2018: 480-496).

The continued spread of COVID-19 globally, despite the likely end of the pandemic and its transformation into an endemic, requires a geopolitical, legal, and strategic review of the passport as a standardized written, visualized personal anthropometric proof of bearer citizenship. On all levels (the EU and globally), during 2020–2021, everyone was discussing the familiar issues from the XX century related to the adoption and introduction of an immunity passport (or certificate of vaccination, *carte jaune*). On the one hand, they wanted to ensure freedom of movement, protect travelers from mandatory

quarantine measures and increase national security because of public health challenges (Martinsen, 2019: 84-99). Still, on the other, it was aimed to provide the revival of social communications among people and access to welfare systems, to promote tourism and international trade (Kramer, 2021: 380-394).

Pandemic COVID-19 hampered but did not stop migration, but underpinned challenges for refugees. All refugees are migrants, but not all migrants are refugees since the latter usually are forced to flee to save their lives, to secure their freedom. In the global context, an asylum seeker is defined as a person who seeks international protection from persecution or serious harm in a country other than their own (under the Refugee Convention on the Status of Refugees 1951) and awaits a decision on the application for refugee status under relevant international and national instruments. A refugee usually is an asylum seeker whose claim is already approved. Every refugee is an asylum seeker, but only a few asylum seekers obtain the final status of refugee. In exclusive EU context, an asylum seeker is defined as a third-country national (TCN) or a stateless person (apatride) who has made an application for protection under the Geneva Refugee Convention 1951 and Protocol 1967 in respect of which a final decision has not yet been taken (Sofinska, 2020: 342-348).

COVID-19 was predicted to make a significant decline in migration hamper it; however, we saw only a slight drop globally (specifically regarding donor countries and countries of destination). The USA, Germany, Saudi Arabia, UK and France were the top destination countries of migrants in 2020. In 2020, two hundred eighty-one million people live in a country other than their countries of birth (World Migration Report, 2022). We count 84 million persons of concern (forcibly displaced people regarding 26.6 million refugees, 4.4 million asylum seekers, 48 million IDPs, 143 thousand returnees, 4.3 million stateless persons, and others) globally in 2021.

COVID-19 movement and travel restriction measures – both internal and international (screening, quarantine from high-risk regions, ban on non-essential travel and high-risk regions, total border closure) – adopted and put in place by most countries globally disrupt migration. We can enlist a few measures chosen by countries worldwide to guarantee national security and public health:

- prohibition of non-essential travel for all;
- stop of all entry of foreign citizens;
- ban citizens of specific countries;
- complete closing of borders to stop the departure and entry of all people, including their own citizens;
- introduction of quarantine measures, requiring all passengers entering a country to be quarantined in isolation for a minimum period (typically 10 to 14 days) immediately upon arrival;
- imposing of mandatory vaccination on particular groups of people.

The migration crisis of 2015 violated the fundamental principle of the EU's 'unity in diversity' (Dines, 2018: 439-447). It provoked a strong split among EU member-states. The EU Commission decided to help Italy and Greece (first step countries on Eastern and Central Mediterranean, Western Balkan migrant route) by redistributing migrants (following the Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece). Poland, Romania, Slovakia, and Hungary (first step countries on Eastern Borders

migrant route) were against such a decision and voted negative, and Finland abstained. Subsequently, Slovakia and Hungary filed a lawsuit against the EU Commission in the Court of Justice of the EU (they claimed for annulment of the decision). However, in October 2017, the Court dismissed the actions due to the judgment (Slovak Republic (C-643/15) and Hungary (C-647/15) v Council of the European Union).

We know that 68% of refugees (16.8 million) are originated from just five countries (Syria, Venezuela, Afghanistan, South Sudan, and Myanmar). 39% of refugees (9.5 million) are hosted in five countries (Turkey, Colombia, Uganda, Pakistan, and Germany); by the way, only Germany is a country of destination for migrants, while the others are neighbor countries (73% of refugees are hosted in neighboring countries). Thirty-five million refugees (42%) are children, and one million of them were already born as refugees. 85% of refugees are hosted (settled) in developing countries, notwithstanding those countries are of destination or just neighbors.

The pandemic has triggered the transformation of the concept of freedom of movement and free choice of residence in the European Union (keeping in mind the consequences of the 2016 BREXIT referendum 2016) (Benson, 2020: 501-517; Davies, 2020: 97-113). Mandatory vaccination (3-g) and the availability of a certificate do not guarantee the revitalization of a person's freedom of movement within the European Union. The migration crisis provoked at the Belarus / Poland border in autumn 2021, as well as recent competition decisions of the ECtHR, the Court of Justice of the EU, and the German Federal Constitutional Court, call for a revision of the fundamental principles of constitutionalism (the rule of law, democracy, etc.).

Continuing the analysis of (non) freedom of movement and vaccine nationalism provoked by the spread of COVID-19 in the world, we are convinced that the adoption and circulation of the COVID-19 certificate in the European Union (since summer 2021) and other countries worldwide (as well as closing/restoring borders) significantly inhibited (circular) migration (Rainsy, 2020). On the other hand, the pandemic has triggered an unexpected global and large-scale restriction (segmentation) of human rights and freedoms, increased discrimination and unauthorized (but legitimate) state surveillance, interference in private and family life, segregation, and isolation of citizens without this certificate.

Representatives of the United Nations repeatedly stressed in 2021 that overcoming the COVID-19 pandemic should result, above all, in solidarity, cooperation, a well-thought-out joint strategy of governments around the world (for example, crowdfunding of COVAX). Spread of vaccine nationalism of prosperous states globally (pre-order and reservation of vaccines (EU, USA, Canada, Australia, etc.), imperative usage of booster doses (third for three-dose and second for two-dose vaccines), differentiation of non-resident citizens from non-citizen residents) is a visible obstacle to success, a precondition for discrimination against people based on their 'valuable' citizenship, imbalance in respect for the rule of law and guarantee of human rights, etc.

The EU Commission has used a range of soft-law instruments to guarantee freedom of movement during the dissemination of COVID-19 (2020-2021) and tried to create common guidelines for the effective and practical application of EU law in modern conditions and to promote a coherent approach of all EU member states on this issue. In fact, such coordination of EU Member

States is not necessary. In 2012, the Court of Justice of the EU recognized that every EU Member State has discretionary powers in situations similar to the current one, creating grounds for derogation due to public health; however, the preconditions might be different (paragraphs 22, 23 of the decision, *P. I. v Oberbürgermeisterin der Stadt Remscheid*, 2012).

The actions of the competent authorities of the EU Member States during 2020-2021 have significantly affected not only the freedom of movement of EU and third-country nationals residing in the EU but also unexpectedly (arbitrarily, unjustifiably) restricted human rights (in the form of closing/restoring borders, bans on non-essential travel, quarantine, and self-isolation, requirements to pass a PCR test, etc.). However, this did not apply to dual nationals, citizens of the EU and members of their families, foreigners who have a residence permit in the EU, and migrant workers who have a work permit in the EU.

In the current circumstances, with no idea of the end of the COVID-19 pandemic, the purpose of such a certificate introduction is to revitalize freedom of movement of persons, goods, and services, revive tourism (non-essential travel), restore international transport and trade, improve the world economy or at least prevent a significant recession. However, the (non)presence of such a certificate can lead to discrimination and segregation, creating a potential class of 'super-citizens' as vaccination with an EU-authorized vaccine can give them particular benefits: from the right to enter the EU, use public transport, visit a local supermarket, an opera or restaurant, apply for a job, travel abroad and be elected/appointed to top positions in public authorities. In such a situation, citizenship is not about equality being 'trumpeted in many constitutions' globally (Shaw, 2021, 1635-1660).

The EU's institutions ensure that all EU Member States agree and coordinate on the unification of entry/exit/transit preconditions within during the COVID-19 pandemic. On November 25, 2021, the EU Commission proposed to amend the recommendation on the introduction of non-essential travel restrictions in the EU, which would not apply to vaccinated persons by authorized in the EU vaccine (BioNTech/Pfizer, Moderna, British Oxford/AstraZeneca, Johnson & Johnson, and Novavax). At the end of 2021, given the mutations and the spread of COVID-19 globally, there is a new 'precondition' to cross the border with the European Union and enter, despite vaccination (even booster dose) authorized by the EMA vaccine — compelling/essential reasons.

On December 21, 2021, was announced the mandatory application of a booster dose (third for three-dose and second for two-dose vaccines). Therefore, the validity of the updated EU certificate COVID-19 changed for 270 days, starting from February 1, 2022. In the light of the long-awaited progress on vaccination of EU citizens, the EU Commission recently proposed a simplified approach to revitalizing freedom of movement starting from 1 March 2022. Since this date, it would depend entirely on the traveler's status rather than the country of departure: EU member states should allow free entrance to all those vaccinated, recovered, or have essential reasons to travel. The vaccination certificate becomes an integral attribute of a person's freedom of movement (along with a passport and visa, if applicable).

The EU member states reconsidered the degree of openness/closeness of external borders, and attitudes towards legal and circular migrants, preconditions to enter/depart their territory, even though the spread of

COVID-19 is unlikely to slow down international migration (especially in the context of the exercise of freedom of movement for workers and students). Freedom of movement within the EU's external borders is now available to citizens of the EU Member States and their families, dual nationals, foreigners with an EU residence permit, and migrant workers with an EU work permit. In 2022, possessing (acquiring) the citizenship of one EU Member State (or EFTA country) is a significant privilege, guaranteeing such a person freedom of movement in Europe. However, every EU citizen or third-country national legally staying (residing) in the EU or entering the EU, who holds a certificate of vaccination (five vaccines approved by the EMA), should be exempted from all free movement restrictions (i.e., shutdowns, quarantine restrictions, curfews or travel bans).

3.2 Migration and Ukraine retrospectively and perspective

More than 1.3 thousand-kilometer-long land border between Ukraine and eastern EU member-states (Romania, Hungary, Slovakia, Poland) presents substantial challenges for border control since considerable eastern EU enlargement in 2004 (finalized in 2007 with Bulgaria and Romania accession).

Chart 1.

EU member-states on the Eastern borders with Ukraine

| Third country | Neighboring EU member-state | First time asylum-applications (2020) ¹ | Acquisition of citizenship (2020) | First residence permit in the EU total (2020) | EU member-state helper (2022) |
|---------------|------------------------------------|----------------------------------------------------|-----------------------------------------|----------------------------------------------------------------------|------------------------------------|
| Ukraine | Romania, Hungary, Slovakia, Poland | France, Spain, Sweden, Germany, Italy | Poland, Germany, Italy, Spain, Portugal | 1 334 583 (601 227) Poland, Czechia, Hungary, Slovakia, Lithuania | Poland, Hungary, Slovakia, Romania |

It is not surprising that Ukrainians used every possibility for a welfare life; therefore, the number of people residing in the EU member-state and acquiring a residence permit for remuneration before Spring 2022 is much higher than other reasons. Ukrainian citizens merely come to work in the EU. These data are essential because, on March 12, 2020, the all-national lockdown was introduced in Ukraine because of the COVID-19 pandemic, and the majority of people began to work and study remotely. Migrants usually do not plan to stay in these 'first-step' countries (on periphery of the EU), but instead, using their freedom of movement and free choice of residence, migrate to more affluent, more prosperous, and "happy" EU member-states (like Germany, France or Belgium). But not Ukrainians; they stay on the EU periphery (neighboring countries) or move deeper into the EU (in the case of Spain).

In the time of COVID-19 misfortune (adoption and usage of severe restrictions to move), we observed in 2020 a high increase in the number of Ukrainians who pledged a residence permit in the EU member-states (half of the total amount).

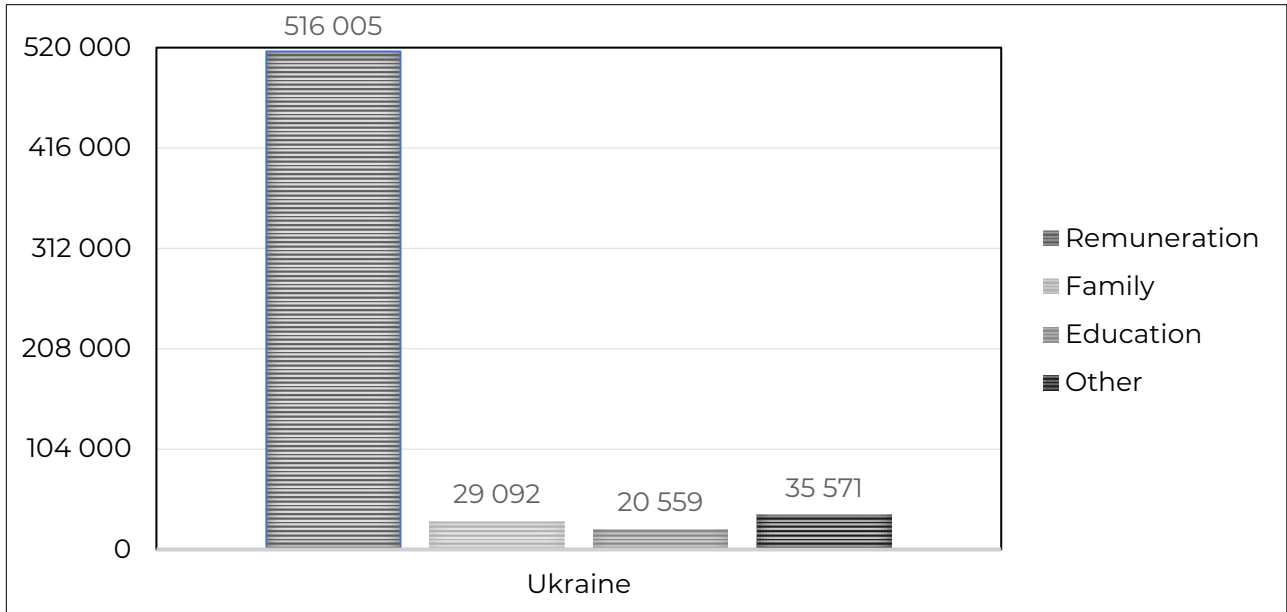


Fig. 1. First residence permit of Ukrainians in the EU by reason (2020)

After seven years of increase (2012-2019), the flow of first residence permits issued in the EU dropped by 24% as a result of the COVID-19 pandemic: from almost 3 million in 2019 to 2.2 million in 2020². During six consecutive years after the migrant crisis in the EU (2015-2020), Ukrainians received 3 728 854 first residence permits in the EU.

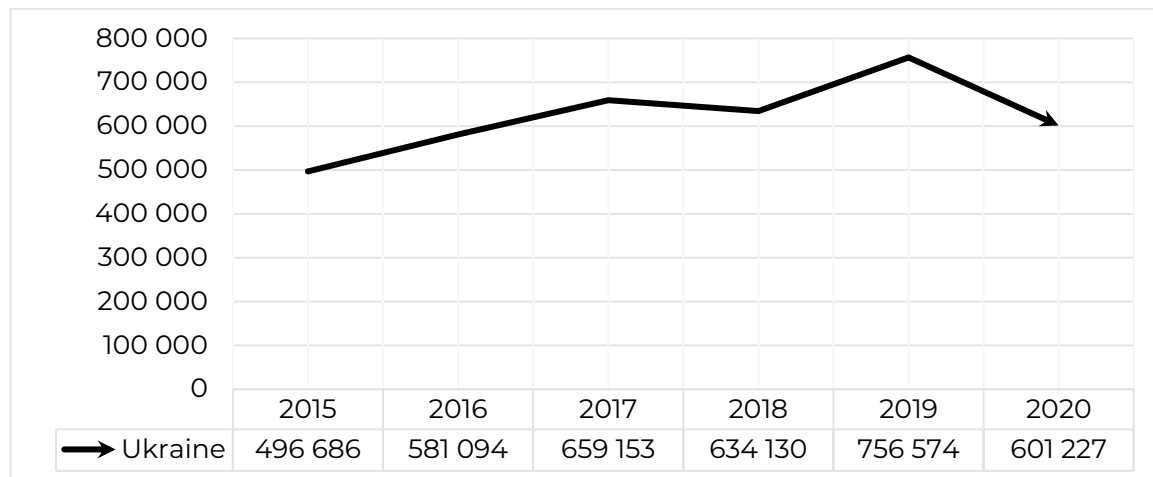


Fig. 2. First residence permit of Ukrainians in the EU (2015-2020)

Out of 601 227 citizens of Ukraine who in 2020 claimed their first residence permit in the EU, 438 000 (87% of the total) pledged it in Poland, neighbor country on periphery of the EU, for remuneration purposes. Nothing to add, but citizens of Ukraine usually move to the EU neighboring countries to find a job, higher salary, social care, and comfortable life (lesser for educational purposes or family reunification, or other reasons like asylum). I should add, that in 2020, Poland issued 598 000 of the 2.2 million first residence permits granted in the EU to non-EU citizens (26%), every fourth residence permit granted to the TCN in the EU was done by Poland.

2 More information is available here: <https://ec.europa.eu/eurostat/statistics-explained/>

In the following figure, we demonstrate that in 2020 among 516 005 claims of Ukrainians for a first residence permit in the EU member-state by remuneration, 85% claimed it in Poland; however, this particular EU member-state is on the top providing residence permits to Ukrainians (also lesser for educational purposes or family reunification, or other reasons like asylum; however, such situation precisely changed since 24 February 2022). Among other EU member-states, in 2020, Ukrainians pledged their first residence permit by remuneration in Czechia and Hungary for educational purposes and family reasons in Czechia and Slovakia.

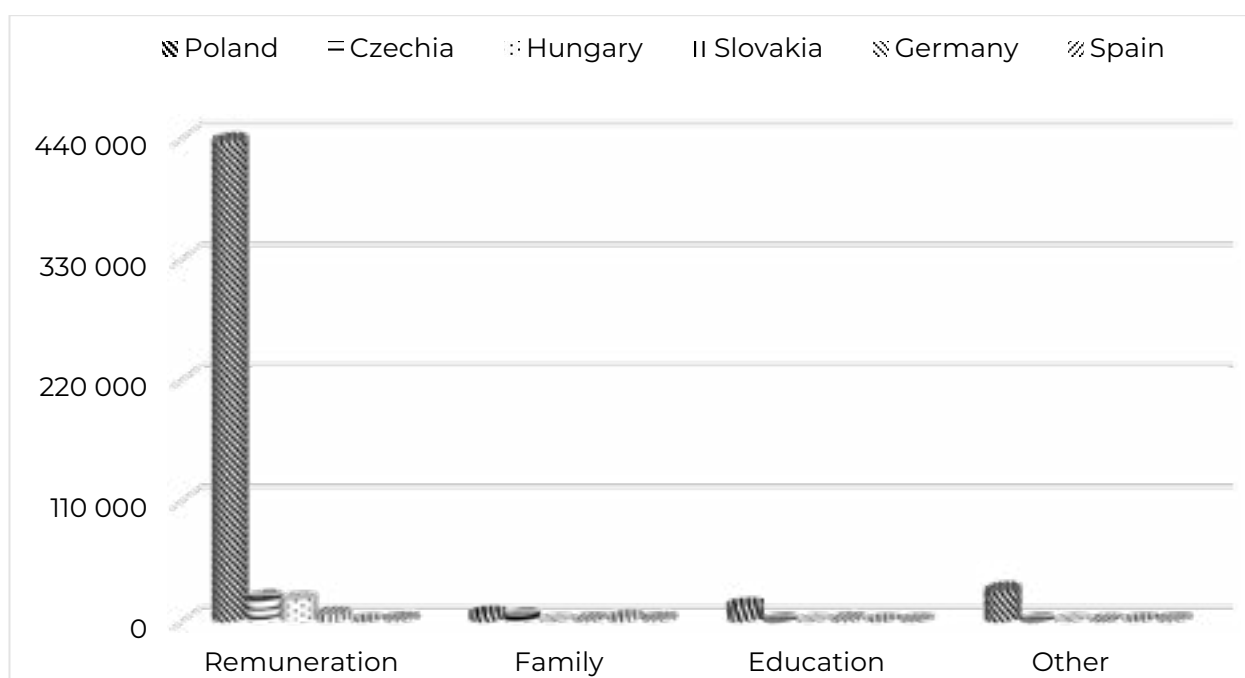


Fig. 3. First residence permit of Ukrainians in the EU by country/by reason (2020)

The aim of every migration is to acquire citizenship of the country of residence and become full member of the hosting society (Sofinska, 2022: 44-56). During last twenty years, we observe next situation with Ukrainians acquired alternative citizenship after birth in the country of permanent residence in the EU. We should reconsider the possibility of those Ukrainians not to lose their ties with Ukraine, still be Ukrainian citizens (they should not be deprived from it), therefore, possess dual nationality.

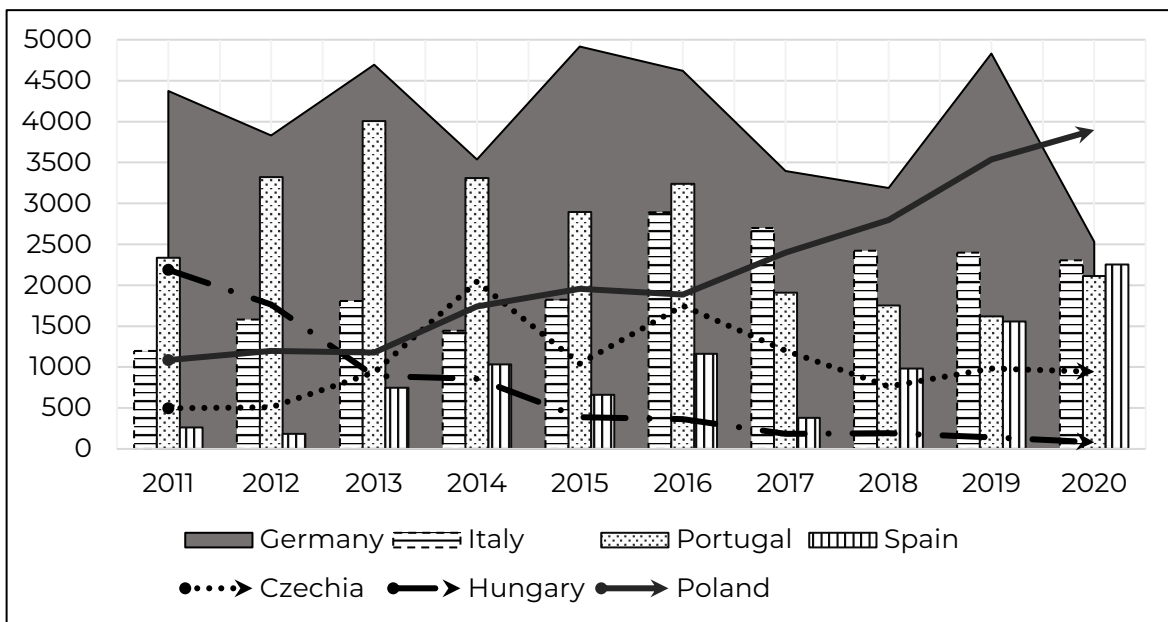


Fig. 4. Acquisition of EU member-state citizenship by Ukrainians (2011-2020)

Since February 24, 2022, we have talked about 2 968 716 persons fleeing Ukraine (as of April 28, 2022) because of the Russian invasion (during two weeks of bombing and airstrikes, thousands of residential houses, hundreds of hospitals, schools, few universities buildings were destroyed) and finding temporary shelter in Poland. People are leaving their homes (if buildings still exist) to find safety and security elsewhere within the country (forcible migration resulting in such category of people as internally displaced persons) and abroad. Mainly they move from Eastern regions of Ukraine via the Eastern Borders migrant route to the EU crossing borders with the EU neighboring countries (Poland, Slovakia, Hungary, and Romania). The EU allows thousands of people to enter neighboring member-states on the periphery of the EU without major formalities. High Representative of the EU Josep Borrell said that 'as many as five million Ukrainians are expected to flee the country if Russia's bombing of Ukraine continues'; however, shelling continues (we are close to this amount as of today).

Regardless of when this Russian aggression (not conflict or special operation) against Ukraine ends, we should not only think beyond its immediate effects but be grateful to our national defense forces and our partners, who provided necessary defensive military gear and will be ready to launch the revitalization of Ukraine in a post-war world. For internally displaced persons who want to return home, we should launch programs to rebuild houses; however, for the others who want to stay abroad (in the EU), the path from a middle-term perspective is related to the European and Euro-Atlantic integration of Ukraine, its transition from a third country on the eastern migration route to an EU candidate country, and later to the status of full membership.

CONCLUSIONS

Since March 2020, not only trust in government (and in parliament) decreased globally, we observed mass disorientation among citizens and filled despair in the future. Since then, we have been looking for ways, tools, and mechanisms to improve lives for the better. People (third-country nationals) usually move to the EU (neighboring) countries to find a suitable (better-paid) job and comfortable life, for educational purposes, family reunification, or other reasons (like asylum) without intention to destroy all ties with their home country completely. Citizens of Ukraine are doing the same: 1 334 583 pledged first-time residence permits in the EU member states (out of them 601 227 in 2020); where the main reason correspondent year was remuneration (516 005) in Poland (437 567).

In 2020 some EU member states launched research and production on the vaccine on COVID-19, and elaboration of a real and vital document to travel and move freely (immunity passport or certificate of vaccination) and a mechanism of its introduction and implementation in the EU (and domestic) legislation. Simultaneously, some countries reserved sufficient supplies of the produced vaccine in advance. Circular migration in the EU was hampered on all routes but did not stop. The year 2021 was a game-changer for everyone since EU Certificate COVID-19 was introduced and revitalized the freedom of movement. We hoped new 2022 year not to become a trouble-maker but show an essential pathway to restore for a better life. However, deadly sad reality of February, 24, 2022, changed our hopes forever.

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