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## ACTIVITIES OF THE STATE MIGRATION SERVICE OF UKRAINE RELATING TO IMMIGRATION

**Abstract. Purpose.** The purpose of the article is to elucidate administrative procedures of the State Migration Service of Ukraine relating to immigration. **Results.** The article characterises administrative procedures of the State Migration Service relating to immigration. It is noted that the Law of Ukraine “On Immigration” defines the categories of immigrants for which a quota is established. The main indicators of the quota are, firstly, an analysis of the immigration process in the previous calendar year; secondly, the need to limit as far as possible the immigration quota to Ukraine for foreigners and stateless persons from the countries of origin of a large number of illegal migrants. The list of the latter is envisaged by the Ministry of Foreign Affairs of Ukraine. It is determined that the administrative procedures of the State Migration Service relating to immigration constitute the procedure defined by law for considering administrative cases by the State Migration Service of Ukraine, for taking the appropriate decision on granting, refusing to grant, as well as for revoking the immigration permit in order to ensure rights, freedoms and legitimate interests of foreigners and stateless persons. It is marked that administrative procedures relating to immigration performed by the State Migration Service, its territorial bodies and units include the case formation, verification of the grounds and legality of the stay of immigrants in Ukraine, verification that the documents provided are original and their conformity with the requirements of the legislation, depending on the category of immigrants, organisation of the decision-making on the granting of an immigration permit, refusal to grant an immigration permit, revocation of an immigration permit and issuance of copies of these decisions to the persons to whom they relate; organisation of issuance and withdrawal of a residence permit in cases provided for by law; maintenance of records of persons, applicants and persons who have been granted an immigration permit. **Conclusions.** It is concluded that administrative procedures relating to immigration should be improved by shifting priorities in the activities of the State Migration Service in respect of forecasting migration risks, ensuring timely response to potential threats, regulating effective cooperation between the State Migration Service and other State bodies to prevent illegal migration, further simplifying the provision of administrative immigration services on migration amnesty as an effective tool of migration policy.

**Key words:** State Migration Service, administrative procedure, immigration, immigration quota, immigration permit, administrative and judicial appeal.

### 1. Introduction

Migration is a wide-ranging concept, which means different types of mass migration to a temporary or permanent place of residence. In the context of globalisation, such processes have reached irresistible proportions. For example, in 2001, 101.7 thousand immigrants lived in the territory of Ukraine. In 2002, figures were 106.4 thousand, in 2003 - 108.5 thousand, in 2004 - 119.2 thousand, in 2005 - 128.1 thousand, in 2006 - 149.4 thousand, in 2007 - 165 thousand, in 2012 - 233 thousand, in 2013 - 250 thousand people, in 2014 - 253 thousand people, in 2015 - 250 thousand people, at the end

of 2016 - 252.5 thousand people, in 2017 - 264.7 thousand people, in 2018 - 276.4 thousand people from more than 250 countries of the world, which is 0.62% of the total population of Ukraine (State Migration Service of Ukraine: Migration Profile of Ukraine, 2018: 63).

For a particular country, two types are distinguished: immigration, that is, the entry of foreigners into the State, and emigration, that is, the departure from the country. Studies by many administrative law experts are devoted to the peculiarities of administrative and legal regulatory mechanism of migration policy

and migration processes in general. At the same time, no scientific development of legal regulatory framework for the activities of the SMS relating to immigration and emigration exist.

It should be noted that administrative procedures have been and remain the subject of scientific interest by domestic and foreign administrative scientists such as: V. Averianov, D. Bakhrakh, Yu. Bytiak, O. Bandurka, V. Harashchuk, I. Holosnichenko, M. Dzhararova, Ye. Demskyi, T. Kolomoiets, A. Komziuk, O. Lahoda, Ye. Leheza, H. Pysarenko, V. Tymoshchuk, V. Shkarupa, etc. In the field of state migration policy, this concept has been studied in the works by such scientists as: O. Vlasenko, S. Mosondz, V. Olefir, Ya. Poiedynok, N. Tyndyk, and others.

The purpose of the article is to cover administrative procedures of the State Migration Service of Ukraine relating to immigration.

## 2. Legal and regulatory framework for migration

Immigration, according to the literature, is defined, *inter alia*, as the entry of foreigners into a country for permanent residence (Bilodid, 1973:20); the process by which foreigners come to the country for further settlement and residence (Holubovska, Leuta, 2015: 11); the act by which a person establishes his or her residence in the territory of an EU Member State for a period of at least twelve months, or with intent for the duration thereof, having previous residence in another EU Member State or a third country (Sadova, 2018: 80).

According to Law 2491-III of Ukraine "On Immigration" as of June 07, 2001, immigration is the entry of foreign nationals and stateless persons to Ukraine for permanent residence or continuation of their stay in Ukraine, according to legislatively established procedures (Law of Ukraine on Immigration, 2001). Therefore, the main characteristics of immigration should include: 1) the entry into the country; 2) the regulatory mechanism; 3) the change of the legal status of the newcomer; 4) the temporary or permanent residence.

Issues of immigration at the legislative level are regulated by Law 2491-III of Ukraine "On Immigration" of June 07, 2001, which determines the conditions and procedure for immigration of foreigners and stateless persons to Ukraine, in particular the powers of the SMS of Ukraine relating to immigration. For example, the Law provides for that the actors, in charge of enforcing immigration legislation, are the Cabinet of Ministers of Ukraine, the central executive body, which makes public policy on migration (immigration and emigration), including countering illegal immigration (illegal) migration, citizenship, registration of indi-

viduals, refugees and other categories defined by law, diplomatic missions and consular offices of Ukraine.

The SMS of Ukraine has the following powers: 1) to receive applications on issuance of immigration permits, accompanied by documents, specified in Law, from individuals, staying in Ukraine legally; 2) to check, whether the documents, submitted for issuance of immigration permits are duly made, check compliance with the due requirements, necessary for issuance of these permits and absence of reasons to reject issuance of these permits; 3) to make decisions to issue immigration permits, to reject to issue immigration permits, to withdraw immigration permits and issue copies of these decisions to the persons involved; 4) to issue and withdraw permanent residence permits in cases, stipulated by Law; 5) to register persons, who submitted applications on issuance of immigration permits and persons, who have been granted these permits (Law of Ukraine on Immigration, 2001).

According to this Law, the immigration permit is granted within the limits of the immigration quota, which is defined by the legislator as the highest possible number of foreign nationals or stateless persons, who may be granted permission for immigration within a calendar year; the immigration permit is a decision, permitting immigration of a foreigner or a stateless person (Law of Ukraine on Immigration, 2001). The immigration quota is determined annually by the CMU and issued by order. The immigration quota is formed in accordance with the proposals of the central and local executive authorities on a regional basis.

Proposals to the State Migration Service regarding the establishment of the immigration quota for the next calendar year are submitted by the Ministry of Culture and Information Policy, the Ministry of Social Policy, the Ministry of Economic Affairs, the Ministry of Education and Science, the Ministry of Defence, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city State Administrations, the SMS directly (Resolution of the Cabinet of Ministers of Ukraine On Approval of the Procedure for Forming an Immigration Quota, the Procedure for Proceedings on Applications for Immigration Permits and Submissions for its Abolition and Execution of Decisions, 2002).

The Law of Ukraine "On Immigration" defines the categories of immigrants for which a quota is established. The main indicators of the quota are, firstly, an analysis of the immigration process in the previous calendar year; secondly, the need to limit as far as possible the immigration quota to Ukraine for foreigners

and stateless persons from the countries of origin of a large number of illegal migrants. The list of the latter is determined by the Ministry of Foreign Affairs of Ukraine.

The analysis of the quota indicators established by the CMU in 2020, 2021 and 2022 shows the absence of the preliminary analysis, namely, taking into account the regional principle, particularly the demographic situation, and the formal approach of many regions to the establishment of an immigration quota. This conclusion is based on the fact that there is practically no difference between the indicators for certain categories in these years (Order of the Cabinet of Ministers of Ukraine on the establishment of the immigration quota, 2020; On the establishment of the immigration quota for 2021: Order of the Cabinet of Ministers, 2021; Order of the Cabinet of Ministers of Ukraine on the establishment of the immigration quota, 2022). It should be noted that the category of highly skilled professionals and workers, required by the economy of Ukraine until 2020, were not determined by such indicators. They were reflected in the CMU Order 431-r of March 11, 2020 (Order of the Cabinet of Ministers of Ukraine on the establishment of the immigration quota, 2020), in which the Government set a limit of 5,000 specialists for highly qualified foreign IT.

It should be noted that the issue of quotas is generally debatable. World practice demonstrates different systems for issuing permits for immigration. For example, not all countries set immigration quotas, such as Poland, Slovakia. However, all countries impose requirements on persons who intend to immigrate to the country. Therefore, we believe that it is advisable to establish quotas only for labour immigration, and that an appropriate formula should be developed for calculating the need for labour immigrants in accordance with the region, moreover detailed statistics on immigrant workers should be introduced. In all other cases, the submission of immigration quota proposals by the SMS is formal and does not regulate immigration processes.

With regard to the administrative procedures of the SMS relating to immigration, it should be noted that they are the administrative procedures of the SMS relating to immigration constitute the procedure defined by law for considering administrative cases by the SMS of Ukraine, for taking the appropriate decision on granting, refusing to grant, as well as for revoking the immigration permit in order to ensure rights, freedoms and legitimate interests of foreigners and stateless persons.

Administrative procedures of the SMS relating to immigration are determined by

Law 2491-III of Ukraine "On Immigration" of June 07, 2001, the Procedure for Proceedings on Applications for Immigration Permits and Submissions for its Abolition and Execution of Decisions, approved by the CMU Resolution 1983 of December 26, 2002. (Resolution of the Cabinet of Ministers of Ukraine On Approval of the Procedure for Forming an Immigration Quota, the Procedure for Proceedings on Applications for Immigration Permits and Submissions for its Abolition and Execution of Decisions, 2002) and provide for the consideration of the case, judgement and annulment of the case, as well as the enforcement of the decisions.

Depending on the category of immigrants, the decision makers are the SMS, its territorial bodies and units. To the administrative procedures performed by the SMS, its territorial bodies and units to which the application for an immigration permit is submitted, include the case formation, verification of the grounds and legality of the stay of immigrants in Ukraine, verification that the documents provided are original and their conformity with the requirements of the legislation, depending on the category of immigrants, the decision-making on applications on granting or refusal to grant an immigration permit, information of the decision taken. The term of consideration of the application shall not exceed one year from the date of its submission. Moreover, the process of legalisation of documents issued by the competent authorities of foreign States is important. Difficulties may arise in the legalisation of documents issued by the authorities of countries with which Ukraine does not have a treaty on legal assistance in civil, family and criminal cases. Such documents shall be apostilled, that is, they shall have a seal certifying the authenticity of the signature, the position of the signatory, and the authenticity of the seal or stamp by which the document is sealed. In particular, documents of citizens of the Republic of Belarus shall have an apostille, because several years ago Ukraine and Belarus broke the agreement on mutual recognition of documents. In addition, the Embassy of Belarus in Ukraine refuses to provide certificates of criminal record.

The legislation also regulates the grounds for refusal to grant an immigration permit, which include: a sentence of imprisonment for more than one year for an act which, under the laws of Ukraine, is a crime, if the conviction has not been expunged or withdrawn in accordance with the procedure established by law; the commission of a crime against peace, a war crime or a crime against humanity, as defined in international law, or the search for a person in connection with the commission of an act,

in accordance with the laws of Ukraine is recognized as a grave crime, or notifying a person of suspicion of committing a criminal offence, the pre-trial investigation of which has not been concluded; diseases of chronic alcoholism, substance abuse, drug addiction or infectious diseases, the list of which is established by the central executive body, which provides for the formation of State health policy; indication of knowingly false information or submission of false documents; prohibition of entry into the territory of Ukraine; other cases provided for by the laws of Ukraine.

### **3. Powers of the State Migration Service relating to migration**

In order to reveal the reasons for the refusal of an immigration permit, the SMS and its territorial bodies and units shall cooperate with the relevant ministries, in particular, the Ministry of Culture and Information Policy, the Ministry of Education and Science, Ministry of Internal Affairs, the National Police, the SSU, the State Border Service.

In the event of a decision to grant or refuse an immigration permit, the bodies in charge, within three working days from the date of acceptance, send its copy directly to the applicant or through the Ministry of Foreign Affairs to the relevant foreign diplomatic institution of Ukraine. The decision to grant or refuse an immigration permit is valid for one year from the date of its adoption (Resolution of the Cabinet of Ministers of Ukraine On Approval of the Procedure for Forming an Immigration Quota, the Procedure for Proceedings on Applications for Immigration Permits and Submissions for its Abolition and Execution of Decisions, 2002).

However, when the decision to grant an immigration permit was taken by the relevant authority and it is later revealed that 1) It was granted on the basis of patently false information, forged documents or invalid documents; 2) The immigrant has been sentenced in Ukraine to imprisonment for more than one year and the sentence of the court has entered into force; 3) The actions of the immigrant constitute a threat to the national security of Ukraine, public order in Ukraine; 4) It is necessary for the health care, protection of the rights and legitimate interests of Ukrainian citizens; 5) The immigrant has violated the legislation on the legal status of foreigners and stateless persons; 6) There are other cases stipulated by the laws of Ukraine (Law of Ukraine on Immigration, 2001), the body that made the decision has the right to cancel it.

To this end, the authority that initiates the annulment of the decision on the granting of an immigration permit shall make a reasoned

submission indicating the reasons for the revocation of the permit and submit it to the SMS body that issued the decision. The SMS, its territorial bodies or units shall, within one month, undertake the actions necessary to examine the application on the cancellation of the immigration permit, in particular, shall receive additional information from the filing initiator, other executive bodies, legal and natural persons, persons who have applied for an immigration permit and on the basis of an analysis of the materials shall take the appropriate decision.

In the event of a decision to cancel an immigration permit, a copy of the decision shall be given within one week of its adoption to the person in accordance with which the decision has been taken, under receipt or sent by registered letter. The body that issued the decision shall notify the State Border Service within a week by sending a copy of the relevant decision. In addition, the decision to cancel the immigration permit is sent by the body that issued it to the territorial unit at the place of residence within a week in order to revoke the permanent residence permit of the immigrant and to take measures in accordance with article 13 of the Law "On Immigration" (Law of Ukraine on Immigration, 2001).

Consequently, the administrative immigration procedures of the SMS result in a decision to grant an immigration permit, to deny an immigration decision and to revoke an immigration permit.

The legislation governing the issuance of an immigration permit also provides for an administrative appeal procedure against decisions to reject issuance and revocation of an immigration permit, as well as actions or omissions of officials and officers of the SMS, its territorial bodies and subdivisions, involved within the competence in a proceeding.

Appeals against decisions to reject issuance and cancellation of an immigration permit are considered by the courts in simplified proceedings, according to article 12 of the Code of Administrative Court Procedure of Ukraine, as cases of minor complexity and those for which the priority is a quick solution of the case. The SMS in this category of cases is the respondent with the duty to prove the lawfulness of the decision, action or omission. Next, the powers of the SMS in the procedure of appeal against these decisions should be under focus. The SMS shall prove its case on the basis of a submission in which the grounds for the decision are substantiated and supported by evidence. The analysis of cases shows that the SMS makes significant errors, which are: 1) the absence of a legislative ground for rejecting or revoking an immigration permit. As mentioned above, the grounds for

rejection are provided for in Art. 10 of the Law of Ukraine “On Immigration”, the grounds for cancellation – in Art. 12 of this Law. Both articles contain an exhaustive list of grounds. Frequently, in the submission, the SMS refers to grounds not provided for by law. For example, the SMS refers to the findings of the SSU, the MIA, the National Police as legal regulations and as a ground for revocation, although this is not provided for by law; 2) the SMS’s submission does not contain sufficiently substantiated appropriate and admissible evidence; 3) misinterpretation or incorrect reference to a provision of law. For example, failure to submit a list of documents defined by law is a ground for non-acceptance of the application for consideration, not a ground for revocation of the decision to grant an immigration permit; 4) failure to consider the principle of proportionality, in other words, the failure to strike the necessary balance between the adverse effects on the rights and interests of the foreigner or stateless person and the aims of the decision. In particular, when deciding whether there are grounds for rejecting or revoking an immigration permit, circumstances such as the existence of a family, under-aged children, etc., must be assessed; because the withdrawal of such authorisation would have adverse effects (Eighth Administrative Court of Appeal: generalisation of the case law of the Eighth Administrative Court of Appeal in administrative lawsuits concerning the forcible detention of foreigners in order to identify and ensure deportation or extension of detention to ensure the transfer of a foreigner in accordance with international readmission agreements, 2019).

The above may indicate, first, a lack of training of SMS personnel. A solution is the obligatory advanced training of employees of the SMS and its territorial bodies and units, constant advisory and training activities for the staff of the SMS and its territorial bodies and units on migration legislation. Second, the requirements as to the amount and content of information provided to the SMS by other bodies involved in the decision-making, such as the SSU, the MIA, the National Police, are absent. The solution requires the development of a SMS’s request form that contains requirements for the content, information, references to regulations, evidence, etc.

If a decision is taken to cancel an immigration permit, the person concerned will suffer negative effects, namely: 1) The person shall voluntarily leave Ukraine within one month of receiving a copy of the decision; 2) If a person has not voluntarily complied with the decision, he or she shall be expelled in the manner prescribed by the legislation of Ukraine.

An administrative court takes a decision on the forced expulsion of an foreigner or stateless person, if two conditions are met: first, the decision by the State Committee on the forced return of an foreigner or stateless person; second, the existence of grounds for an action for the forced expulsion of foreigners. The grounds for the forced return of an foreigner or a stateless person, as well as for bringing an action for the forced expulsion of foreigners, are provided for in the legislation of Ukraine relating to immigration, in particular, the laws of Ukraine “On Immigration,” “On the legal status of foreigners and stateless persons”, the Instruction “On the forced return and forced expulsion from Ukraine of foreigners and stateless persons”, approved by Order 353/271/150 of the MIA of Ukraine, the Administration of the SBS of Ukraine, the Security Service of Ukraine of April 23, 2012.

The powers of the SMS bodies in the procedure of forced expulsion are: to prepare and submit to the local general court, as an administrative court, a grounded statement of claim; to participate in court proceedings; to ensure the participation of detained foreigners in court proceedings; to familiarise the foreigner with the court decision on his or her forced expulsion and the procedure for appealing against this decision (if the decision was not served to the foreigner immediately after its announcement); to ensure the actual execution of a court decision on the forced expulsion of an foreigner or other court decision taken to enforce the forced expulsion (Order of the Ministry of Internal Affairs of Ukraine, the State Tax Administration of Ukraine, the Security Service of Ukraine on the forced return and forced expulsion of foreigners and stateless persons from Ukraine, 2012).

The activities of the SMS relating to combating illegal immigration are linked to immigration processes. According to the Regulations on the State Migration Service of Ukraine, the SMS, its territorial bodies and units are entrusted with the exercise of the control function, which consists, inter alia, in preventing and combating illegal (unlawful) migration. The Strategy for State Migration Policy until 2025 defines the objectives of countering illegal migration, in particular Objective 8 calls for strengthening the monitoring of compliance with migration legislation within the State, and Objective 10 establishes an appropriate regulatory mechanism and programme for illegal migrants (Order of the Cabinet of Ministers of Ukraine On approval of the Strategy of state migration policy of Ukraine for the period up to 2025, 2017). The implementation of the measures for the defined objectives is foreseen in the annual work plan of the SMS. In particular, the SMS of Ukraine has developed an electronic service “Report on

the probable violation of migration legislation" (<https://dmsu.gov.ua/services/migrant.html>) through which citizens can report to the SMS any violation of migration legislation by foreigners and stateless persons. Messages sent by citizens are automatically recorded in the SMS document management system. In order to prevent and counteract illegal migration and other violations of the legislation of Ukraine on migration, the SMS, in cooperation with other bodies in accordance with their powers, participates in targeted preventive measures "Migrant", "Carpathians-2021", "Student". In addition, digitalisation of processes of countering illegal migration is carried out, in particular, the following subsystems and functionalities of Unified information and analytical system for the management of migration processes were put into experimental operation and applied: "Administrative offenses", "Register of foreigners and refugees", "Register of requests for readmission and transit

transportation", the function "Illegal migrants" of the modernized version of the subsystem "Register of foreigners and refugees" of UIAS MMP were launched (Report of the State Migration Service of Ukraine on the results of the work plan, 2021).

#### 4. Conclusions

The above indicates an improvement in the work of the SMS relating to immigration. However, to date, there are still problems in shifting the priorities of SMS activities to counter irregular migration from the provision of administrative services in this field to forecasting migration risks and ensuring timely response to potential threats, regulating effective cooperation between the State Migration Service and other State bodies to prevent illegal migration, further simplifying the provision of administrative immigration services, initiating migration amnesty as an effective tool of migration policy. These issues require further scientific research.

#### References:

- Bilodid, I.K.** (1973). *Slovnnyk ukrainskoi movy [Dictionary of the Ukrainian language]*. Kyiv: Nauk. Dumka (in Ukrainian).
- Derzhavna mihratsiina sluzhba Ukrainy:** Mihratsiinyi profil Ukrainy za 2018 rik [State Migration Service of Ukraine: Migration Profile of Ukraine for 2018]. (2019). *dmsu.gov.ua*. Retrieved from [https://dmsu.gov.ua/assets/files/mig\\_profil/migprofil\\_2019.pdf](https://dmsu.gov.ua/assets/files/mig_profil/migprofil_2019.pdf) (in Ukrainian).
- Holubovska, I., Leuta, O.,** (2015). *Mizhnarodna Terminolohiia u sferi mihratsii : ukrainsko-anhliiskyi tлумachnyi slovnnyk [International Terminology in the field of migration: Ukrainian-English explanatory dictionary]*. Kyiv : «Blank-Pres» (in Ukrainian).
- Nakaz MVS Ukrainy, Administratsii DPS Ukrainy, Sluzhby bezpeky Ukrainy Pro prymusove povernennia i prymusove vydovrennia z Ukrainy inozemtsiv ta osib bez hromadianstva : vid 23 kvit. 2012 roku №353/271/150** [Order of the Ministry of Internal Affairs of Ukraine, the State Tax Administration of Ukraine, the Security Service of Ukraine on the forced return and forced expulsion of foreigners and stateless persons from Ukraine from April 23, 2012 №353/271/150]. (2012). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/z0806-12#Text> (in Ukrainian).
- Postanova Kabinetu Ministriv Ukrainy Pro zatverdzhennia Poriadku formuvannia kvoty immihratsii, Poriadku provadzhennia za zaiavamy pro nadannia dozvolu na immihratsiiu i podanniamy pro yoho skasuvannia ta vykonannia pryiniatykh rishen : vid 26 hrud. 2002 roku № 1983** [Resolution of the Cabinet of Ministers of Ukraine On Approval of the Procedure for Forming an Immigration Quota, the Procedure for Proceedings on Applications for Immigration Permits and Submissions for its Abolition and Execution of Decisions from December 26, 2002 № 1983]. (2002). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/1983-2002-%D0%BF#n34> (in Ukrainian).
- Rozporiadzhennia Kabinetu Ministriv Ukrainy Pro skhvalennia Stratehii derzhavnoi mihratsiinoi polityky Ukrainy na period do 2025 roku : vid 12 lyp. 2017 roku № 482-r** [Order of the Cabinet of Ministers of Ukraine On approval of the Strategy of state migration policy of Ukraine for the period up to 2025 from July 12, 2017 № 482-r]. (2017). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/482-2017-%D1%80?find=1&text=%D0%BD%D0%B5%D0%BB%D0%B5%D0%B3%D0%B0%D0%BB#Text> (in Ukrainian).
- Rozporiadzhennia Kabinetu Ministriv Ukrainy Pro vstanovlennia kvoty immihratsii na 2020 rik : vid 11 berez/ 2020 roku № 431-r** [Order of the Cabinet of Ministers of Ukraine on the establishment of the immigration quota for 2020 from March 11, 2020 № 431-r]. (2020). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/431-2020-%D1%80#Text> (in Ukrainian).
- Rozporiadzhennia Kabinetu Ministriv Ukrainy Pro vstanovlennia kvoty immihratsii na 2021 rik : vid 24 liut. 2021 roku № 148-r** [On the establishment of the immigration quota for 2021: Order of the Cabinet of Ministers of February 24, 2021 № 148-r]. (2021). *rada.gov.ua*. Retrieved from. URL: <https://zakon.rada.gov.ua/laws/show/148-2021-%D1%80#Text> (in Ukrainian).
- Rozporiadzhennia Kabinetu Ministriv Ukrainy Pro vstanovlennia kvoty immihratsii na 2022 rik vid 19 sich. 2022 roku № 63-r** [Order of the Cabinet of Ministers of Ukraine on the establishment of the immigration quota for 2022 of January 19, 2022 № 63-r]. (2022). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/63-2022-%D1%80#Text> (in Ukrainian).

**Sadova, U.Ia.** (2018). *Mihratsiini yavvshcha ta protsesy: poniattia, metody, fakty* [Migration phenomena and processes: concepts, methods, facts]. Lviv (in Ukrainian).

**Vosmyi apeliatsiynyi administratyvnyi sud** : uzahalennia sudovoi praktyky Vosmoho apeliatsiinoho administratyvnoho sudu u spravakh za administratyvnymi pozovamy z pryvodu prymusovoho zatrymanna inozemtsiv z metoiu identyfikatsii ta zabezpechennia vydvorennia za mezhi terytorii Ukrainy abo prodovzhennia stroku zatrymanna z metoiu zabezpechennia peredachi inozemtsia vidpovidno do mizhnarodnykh dohovoriv Ukrainy pro readmisiuu [Eighth Administrative Court of Appeal: generalisation of the case law of the Eighth Administrative Court of Appeal in administrative lawsuits concerning the forcible detention of foreigners in order to identify and ensure deportation or extension of detention to ensure the transfer of a foreigner in accordance with international readmission agreements]. Lviv, 2019 (in Ukrainian).

**Zakon Ukrainy** Pro immihratsiiu : vid 07 chervnia 2001 roku № 2491-III [Law of Ukraine on Immigration from June 7, 2001 № 2491-III]. (2001). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/2491-14?find=1&text=%D0%B3%D0%B0%D1%80%D0%B0%BD%D1%82#Text> (in Ukrainian).

**Zvit Derzhavnoi mihratsiinoi sluzhby Ukrainy** pro rezultaty vykonannya planu roboty za 2021 rik [Report of the State Migration Service of Ukraine on the results of the work plan for 2021]. (2021). *dmsu.gov.ua*. Retrieved from [https://dmsu.gov.ua/assets/files/doc/plan\\_dms\\_2021\\_zvit.pdf](https://dmsu.gov.ua/assets/files/doc/plan_dms_2021_zvit.pdf) (in Ukrainian).

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## ДІЯЛЬНІСТЬ ДЕРЖАВНОЇ МІГРАЦІЙНОЇ СЛУЖБИ УКРАЇНИ У СФЕРІ ІММІГРАЦІЇ

**Анотація. Мета.** Метою статті є розкриття адміністративних процедур Державної міграційної служби України у сфері імміграції. **Результати.** Стаття присвячена характеристиці адміністративних процедур Державної міграційної служби України у сфері імміграції. З'ясовано, що Закон України «Про імміграцію» визначає категорії іммігрантів, для яких встановлюється квота. Основними показниками для формування квоти є, по-перше, аналіз імміграційного процесу у попередньому календарному році; по-друге, необхідність максимального обмеження квоти імміграції в Україну іноземців та осіб без громадянства з країн походження значної кількості нелегальних мігрантів. Перелік останніх визначається Міністерством закордонних справ України. Визначено, що адміністративні процедури Державної міграційної служби у сфері імміграції являють собою визначений у законодавстві порядок розгляду Державної міграційної служби України адміністративних справ, прийняття відповідного рішення щодо надання, відмови у наданні, а також скасування дозволу на імміграцію з метою забезпечення прав, свобод і законних інтересів іноземців та осіб без громадянства. Визначено, що до адміністративних процедур, які здійснює Державна міграційна служба, її територіальні органи та підрозділи у сфері імміграції, належить формування справи, перевірка підстав та законності перебування іммігрантів в Україні, перевірка наданих документів на справжність та відповідність їх оформлення вимогам законодавства залежно від категорії іммігрантів, організація роботи з прийняття рішень про надання дозволу на імміграцію, про відмову у наданні дозволу на імміграцію, про скасування дозволу на імміграцію та видання копій цих рішень особам, яких вони стосуються; організація роботи з видання та вилучення у випадках, передбачених Законом, посвідок на постійне проживання; забезпечення ведення обліку осіб, які подали заяви про надання дозволу на імміграцію, та осіб, яким надано такий дозвіл. **Висновки.** Зроблено висновок про необхідність удосконалення адміністративних процедур у сфері імміграції шляхом зміщення пріоритетів у діяльності Державної міграційної служби щодо прогнозування міграційних ризиків та забезпечення своєчасного реагування на потенційні загрози, нормативного врегулювання ефективної взаємодії Державної міграційної служби з іншими органами державної влади для запобігання нелегальній міграції, подальшого спрощення надання адміністративних послуг у сфері імміграції щодо міграційної амністії як дієвого інструмента міграційної політики.

**Ключові слова:** державна міграційна служба, адміністративна процедура, імміграція, імміграційна квота, дозвіл на імміграцію, адміністративне та судове оскарження.

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