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MIGRATION TRAFFIC AND PROTECTION OF EXTERNAL BORDERS IN THE EUROPEAN UNION

ABSTRACT

The study analyzes the management of the borders of the European Union as a factor having a significant impact on improving the security of Member States.

Legal regulations regulating the external borders of the Schengen Group, treated as land and sea borders, as well as airports and seaports of the parties to the Schengen Convention are indicated, provided that these borders are not external borders that formally form borders. The role of entities supporting border traffic management in the European Union is described. In addition, an analysis of documented attempts to illegally cross the external borders of the EU and the borders of countries associated with the Schengen area between border control visits was made, indicating potential threats in this area.

Słowa kluczowe:

Security, border, migration, zone, threats

INTRODUCTION

Terms: border, border controls, border security, EU external borders, the Schengen border in the recent period associated with border perturbations caused by unprecedented migratory pressure, appeared extremely often, as never before in the history of the EU. Public debates that have erupted in the Member States have been largely dominated by issues of border protection and rules for crossing them. The EU has experienced fear associated with the security of territorial space as a result of uncontrolled influx of migrants from outside of Europe. Although the subject of borders was raised in the process of European

integration, but it appeared more in the context of their opening, this idea, as it turned out, would survive until the outbreak of the migration crisis. At present, the issues of strengthening and building borders have come to the forefront. It is well illustrated by the situation in Hungary, where in July 2015 the parliament passed a bill the content of which provided the basis for the construction of a fence on the southern border with Serbia. The purpose of the construction was to stop the mass influx of migrants. The European Commission statement on its construction states that the installation of fences for the purposes of border control is not as such contrary to the EU law, nevertheless the Commission has not decided whether this is an obstacle to effective access to the asylum procedure at border crossing points¹⁵¹. In the face of increasingly frequent questions about the integration process, the importance of questions about the EU's external borders, their nature, specificity, location, and function has increased significantly.

Exploring the selected topic, the authors of the study attempted to solve the research problem contained in the question: What assumptions, forces, and measures characterize contemporary European Union policy in the field of migration, and specifically – What does the protection of the external borders of the European Union look like? The EU border management itself has also been analyzed as a factor having a significant impact on improving the security of the Member States.

1. BORDER TRAFFIC IN THE EUROPEAN UNION

The EU currently has 28 Member States. According to the definition proposed by the European Commission, the EU external border consists of land borders of Member States which are not land borders with other Member States, sea borders, airports and seaports, if they are not treated as internal borders of the Union. Since the Schengen area includes 22 of 28 Member States, as well as 4 non-member countries, such as Norway, Iceland, Liechtenstein, and Switzerland, the definition of external borders adopted by the Schengen Group describes them as land and sea borders, as well as airports and seaports of Parties to the Schengen Convention, as long as these borders are not external borders that formally form borders. Some of the EU's external borders are not recognized as external borders of the Schengen area. This applies to the EU

¹⁵¹ Statement from the Commission to the European Parliament and the Council. Eight biannual report on the functioning of the Schengen area May 1 - December 10, 2015, COM (2015) 675, Brussels February 24, 2016.

Member States borders with Norway, Iceland, Switzerland and Liechtenstein, i.e. countries remaining outside the Union.

The presence of non-EU countries in the Schengen area may pose a certain challenge to European unity in particularly problematic situations, such as in the case of fears of an influx of mass irregular immigration. This applies to the situation when for the effective control of the external borders of the Schengen area it becomes necessary to link these activities with other security and home affairs policies, such as asylum policy and the fight against terrorism. It may prove difficult to implement this type of action in non-EU Schengen countries. Until the migration crisis, the EU's external borders were more important for citizens of the candidate countries than for the citizens of the Union themselves. They were strongly identified as a barrier to overcome for those who wanted to be within them, than as a defense line for those who were inside. The never-before-seen and strong migratory pressure to Europe that was observed in 2011-2015 has completely redefined the concept of external borders. Those began to be refer to as an element whose main purpose is to provide protection against the influx of unwanted persons¹⁵².

The origins of management of the EU borders should be sought in the concept of creating a passport union in the Community. The project of facilitating the movement of people appeared in the concept of creating a Europe of citizens during the meeting of the European Council in Paris 1974. It was then stated that the achievement of this goal would be possible primarily through the creation of a passport union and the introduction of a uniform passport for citizens of the Member States. The concept of facilitating the movement of persons within the Union required a simultaneous tightening of controls at external borders. As a result of the acceleration of integration processes, nine years later, in 1985, five of the nine member states of the European Economic Community: Belgium, France, the Netherlands, Luxembourg, Germany, signed the Schengen Agreement (Schengen I), which created a policy of open borders between these countries.

The signing of the agreement is now considered to be the most important step towards creating common external Union borders. It was the first

¹⁵² P. Żurawski, External borders of the European Union, legal status, actual status, imagined status. The nature and status of EU external borders in the metapolitical dimension and their evolution, [in:] *The European Union in search of its borders*, edited by M. Trojanowska-Strzęboszewska, Wydawnictwo Naukowe UKSW, Warsaw 2017, p. 44.

multilateral initiative that normalized the free movement of persons on such a large scale with the elimination of border control¹⁵³. After five years, it was supplemented by the Executive Convention, so-called The Schengen II Agreement, which set out the conditions for the elimination of internal border controls, and a package of measures to compensate for possible threats to internal security, including actions to establish common rules for the control of external borders. Since the states signing the Executive Convention decided to completely lift controls on their common borders, they reserved the right to restore them in the event of a possible threat to the interests of the state, or its citizens.

Ultimately, controls at the common borders were lifted only 10 years later, when the Executive Convention entered into force on March 26, 1995¹⁵⁴. With the publication of the Amsterdam Treaty in May 1999, the Schengen acquis (consisting of the Schengen Agreement, the Executive Convention, agreements on the accession of subsequent countries, as well as instruments adopted by the Executive Committee and the Central Group) became part of the EU law. An important event for the concept of integrated management of external borders was the meeting of the European Council in Leaken in 2001, at which the issues of controlling the EU's external border were linked to the fight against illegal migration and terrorism. The European Council asked the Council and the Commission to agree on arrangements for cooperation between the services responsible for protecting the external borders. Already then the idea of establishing joint security services for these borders appeared. The European Council appealed to the Council and the Member States to take steps to establish a common visa identification system and to explore the possibility of establishing joint consular posts.

In the European Commission statement published on 7 May 2002 on joint management of the external borders of member states¹⁵⁵ the need to implement

¹⁵³ T. Siedlecki, Schengen Agreement - realization of the idea of Europe without borders, [in:] *Integration of Poland with the EU. Tasks of the Border Guard*, edited by J. Białocerkiewicz, Kętrzyn 2000, pp. 21-22.

¹⁵⁴ M. Trojanowska-Strzębowska, Restoring control at internal borders of the Schengen zones, [in:] *The Schengen system and immigration from the perspective of Poland and Germany*, Publishing House ASPRA-JR, Warsaw 2014, pp. 48-49.

¹⁵⁵ Communication from the Commission to the Council and the European Parliament towards integrated management of the external borders of the member states of the European Union COM(2002) 233 final Brussels 7.05.2002, <https://eur->

complementary activities in the area of control and supervision of crossing the external borders of the EU was underlined. The consequence of this was the adoption by the Council of the European Union on June 13, 2002 of the External Border Management Plan for EU Member States, which confirmed the creation of a joint expert unit as an indispensable mechanism for cooperation in the management of external borders¹⁵⁶. The document highlights the new role of external borders as a protective barrier, which should guarantee the highest level of security for citizens of EU Member States.

2. BORDER TRAFIC MANAGEMENT – FORMAL AND LEGAL CONDITIONS

Regulation of the European Parliament and of the EU Council No. 562/2006 published on 15 March 2006 and establishing a Community Code on the rules governing the flow through the borders¹⁵⁷ was the basic legal act regulating integrated management of external borders. The Schengen Borders Code contains provisions relating to the temporary reintroduction of border controls at internal borders in very specific cases: serious threat to public policy, or internal security for a limited period – not longer than 30 days. Article 26 of the Code in specific cases gave the possibility to extend this period for another 30 days. In general, it was possible to correctly distinguish two procedures for restoring control at internal borders. The first concerned anticipated cases. In such a situation, when a given country intended to restore control at its borders, it was obliged to inform the other Member States and the European Commission in advance, both about the reasons for the reintroduction of the control, as well as its scope and time frame, and possibly about measures that should be taken also by other member countries. In the second case, the country had the possibility to exceptionally restore control immediately. However, it was obliged to inform both the Commission, and other member states about this fact. The scope of information provided was the same as the scope described in the first case. In the years 2000-2003 and 2006-2010 a total of 56 cases of reintroduction of controls at the internal borders of the zone were recorded¹⁵⁸. The most

lex.europa.eu/legal-content/EN/TXT/PDF/?uri=cELX:52002DC0233&from=LV (access: 15.05.2019).

¹⁵⁶ Council Doc 10019/02 Limite FRONT 58 COMIX 398, 14.06.2002, <http://www.state-watch.org/news/2002/jun/10009.pdf>, (access: 15.05.2019).

¹⁵⁷ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ Office. EU 2006 L 105/1.

¹⁵⁸ M. Trojanowska-Strzębowska, *Restoring border controls ...*, quotation, p. 53.

common reasons include: meetings of the European Council and the EU Council, G8 summits in Genoa in 2001 and 2009, European football championships in 2000, or Pope's visit to Malta in 2010. By analyzing the cases of control reintroductions reported during these periods, it could be seen that this instrument was actually implemented on an ad hoc basis, and the Member States did not make use of the option of extending it, which would soon change due to the impending migration crisis.

The Schengen Borders Code, in the form of a regulation, which means mandatory direct and uniform application in the territories of all Member States, sets out rules for crossing external and internal borders, and the entry conditions for third-country nationals, sets out rules for the control of external borders and cooperation between Member States. The Code has become the main pillar of external border management.

The external borders of the Union determine the division of member states into so-called first line – i.e. neighboring countries of the Union's external area, and countries of the second line whose border is not the EU's external border. The consequence of this division are the specific obligations incumbent on frontline countries regarding border protection and thus ensuring an adequate level of security throughout the EU. It follows that the nature of border traffic varies from one Member State to another and it has been necessary to offset the costs associated with the protection of external borders. To this end, by Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007, the External Borders Fund for 2007-2013 was created as part of the General Solidarity, and management of migration flows program. It is worth recalling that in accordance with art. 80 TfUE, cooperation in the protection of the Union's external borders is based on solidarity between Member States, which is why all countries should be equally responsible.

The Fund's main objective was to effectively manage the migration flows at the external borders by the Member States¹⁵⁹. The fund was realized in 2007-2013. The operational objectives identified in the Multiannual Program of the External Borders Fund 2007-2013 include: maintaining a high standard of control and effective protection of the EU external border and ensuring the security of the Schengen Area, supporting the creation of ICT systems necessary

¹⁵⁹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ:L:2007:144:TOC>, (access: 15.05.2019).

for the full implementation of the Community legal instruments in the field of external border security, raising qualifications of services performing tasks related to the protection of the border and the Schengen Area.

The next fund was the Internal Security Fund: borders and visas established for 2014-2020. One of the basic objectives set out in the Fund was to support integrated border management by promoting further harmonization of border management measures in accordance with common EU standards and by providing information between the Member States and also between Member States and FRONTEX. This was to ensure, on the one hand, a uniform and high level of control and protection of external borders by preventing illegal immigration, and on the other, an efficient crossing of external borders in accordance with the Schengen acquis, while guaranteeing persons in need of international protection access to it in accordance with commitments taken by the States in the field of human rights, including the principle of *non-refoulement*.

An important moment for the EU's cooperation in the field of external border management, following the Treaty of Amsterdam, was the communalization of migration and asylum, understood as subjecting them to the Community method of border management. The main objectives of border management policy should be primarily: measures to prevent illegal migration, enhanced cooperation with transit countries and migrants' countries of origin, and strengthening joint border control missions and FRONTEX¹⁶⁰.

The introduction of compensatory measures in place of the abolished internal border controls was a very important factor from the point of view of managing the external borders. They were associated with the creation of centralized databases for migration and border management: the Schengen Information System (SIS), the Visa Information System (VIS), and the European Automated Fingerprint Identification System (EURODAC) enabling the identification of asylum seekers and ensuring proper implementation of the Dublin regulation. The Schengen Information System, being a tool controlling the proper functioning of this zone, is the largest common database that was created to ensure the maintenance of public security, support police, and judicial cooperation, as well as to carry out activities related to the management of controls at external borders.

¹⁶⁰ Klepp S., *A Contested Asylum System: The European Union Between Refugee Protection and Border Control in the Mediterranean System*, „European Journal of Migration and Law” 2010, vol.12, No 1, s. 3-4.

The second generation of this system has been operating since 2013, called the new generation SIS II system, equipped with new technical means (such as the use of biometric data and interrelated entries)¹⁶¹. In turn, the purpose of the VIS visa information system is to ensure better implementation of the common visa policy, and to improve consular cooperation and the consultation process between central visa authorities. Access to the database is granted to the authorities responsible for carrying out checks at border crossing points at the external borders, as well as to the authorities responsible for asylum and legality control. The purpose of the database is to identify persons who may not, or may no longer meet the conditions for entry, stay, or residence in the territory of the Member States. In turn, the purpose of the EURODAC system, which is a Europe-wide database of fingerprint applicants for asylum and also foreigners detained in connection with the illegal crossing of the external borders of the EU, is to enable the indication of the country competent to examine asylum applications filed in an EU Member State, in accordance with the provisions of the Dublin Convention, and to facilitate the application of this convention.

3. ENTITIES SUPPORTING BORDER TRAFFIC MANAGEMENT IN THE EUROPEAN UNION

The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), takes care of the abovementioned systems. On July 20, 2015, i.e. during intensified migration pressure on the EU territory, the system foreseen in the recast version of the EURODAC regulation came into force. Thus, its potential increased. The system was then able to store up to 5 million entries containing data on fingerprints. The capacity also increased from around 15,000 transactions per day to 1,000 transactions per hour.

The Agency, based on the conclusions drawn from constant monitoring of changes in the processes related to illegal migration in the EU, already in the second half of 2015 decided to increase the potential of EURODAC, which would allow the system to adapt to the drastically increasing number of registered asylum seekers and illegal migrants. In addition, the Agency together with FRONTEX and EASO carried out a pilot project in Greece, which aimed to adopt

¹⁶¹ E. Tuora-Schwierskott, Migration and migration policies. European Union law against the background of selected national experiences, Wydawnictwo de-iure-pl, Regensburg 2015, pp. 99-100.

technical measures that would help achieve greater efficiency in the registration process itself. The Agency also prepares reports on the area of biometrics in a large-scale IT systems based on the knowledge acquired in the framework of biometrics research. Agency representatives, to stay up to date with knowledge about biometrics, take part in various courses and conferences in this field.

During the migration crisis escalation period in 2015, two additional events were organized in the form of industry roundtables devoted to issues related to border control technologies and the latest technological changes, including in the area of IT security. The large number of experts participating in these events can certainly testify to the scale of interest in the topics discussed, as well as to the importance of the knowledge exchanged. This is a clear example that the Agency is becoming a kind of knowledge center.

The border management process can be compared to crisis management. In both cases, two stages of management actions can be distinguished: the stabilization stage (consisting of the prevention and preparation phase), and the implementation stage, including actions taken for response and reconstruction¹⁶². An important element of external border management is the assessment of challenges and threats preceded by the stage of continuous monitoring of the external environment, analyzing phenomena occurring at the borders of EU countries and the Schengen area. This task was entrusted to the FRONTEX Agency, established in 2004, (originally called the European Agency for the Management of Operational Cooperation at the External Borders of EU Member States, currently the European Border and Coast Guard Agency)¹⁶³. Its main goal was to develop integrated management of external borders.

The Agency also coordinates operational cooperation between Member States in the field of management of external borders, which is an essential element of the area of freedom, security, and justice. In the face of the migration crisis, the most important task is coordinating operational cooperation between Member States in the field of control and protection of external borders, as well as support for Member States in situations requiring increased technical and

¹⁶² J. Trubalska, Multidimensional management of the European Union's external borders, "Przegląd Geopolityczny", Volume 19, Kraków 2017, p. 108.

¹⁶³ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ Office. EU, L 349, 25/11/2004.

operational assistance at external borders and in organizing measures for the return of third-country nationals..

One should not miss such an important task as the risk analysis of illegal migration into the EU and developing an operational action plan to detect illegal trafficking routes. The Agency supports Member States when increased technical and operational assistance is required at the external borders. This assistance is implemented primarily through European Border Guard Teams (EBGT).

At the request of a Member State, FRONTEX, using a database that includes technical, human and specialized resources from across the EU, may ask another Member State to rent equipment, or personnel. In the event of a mass influx of third-country nationals who attempt to enter the EU illegally, at the request of a Member State the Agency may deploy Rapid Border Intervention Teams (RABIT). Such activities were included in the tasks of the Agency in July 2007, when Parliament and the Council amended the FRONTEX regulation to facilitate the creation of Rapid Border Intervention Teams (Regulation 1168/2011).

A year later, the first RABIT training took place at the Slovenian-Croatian border, with participation of border guards from 20 Member States. During the exercises, they carried out inspections under the supervision of border areas according to the "Balkan route" scenario assuming high levels of illegal migration¹⁶⁴.

An important entitlement granted to the Agency under the RABIT regulation was the possibility of creating rapid border intervention teams with extensive law enforcement powers, whose purpose is to assist Member States in the event of increased flows, of irregular migrants. In such cases, the Agency may, at the request of a Member State, delegate at least one Rapid Intervention Team to its territory for a limited period. The principle of absolute solidarity applies to this type of operation, which means that Member States are required to participate in the intervention.

According to art. 7 of Regulation 863/2007, team members remain officers of the national border guard of their home countries. Pursuant to the regulation, they perform actions in the presence of border guards of the host country. FRONTEX also coordinates operational cooperation between EU

¹⁶⁴ A. Neal, *Securitization and Risk at the EU Border: The Origins of FRONTEX*, „Journal of Common Market Studies” 2009, vol.47, No. 2, p. 351.

countries regarding the return of third-country nationals. If a Member State decides on the return of aliens staying illegally on its territory, the agency shall coordinate such operation. The goal is to maximize the efficiency and cost-effectiveness of this operation, while ensuring full respect for fundamental human rights and dignity. Strengthening FRONTEX's operations was implemented already in 2011 – the changes were introduced by Regulation No. 1168/2011 of the European Parliament and of the EU Council.

In 2011, as a result of events in the MENA region, the number of detected cases of illegal crossing of the external borders of the EU increased significantly, reaching the result of 141,000 people throughout the year¹⁶⁵. The consequence of the above events was the emergence of a political dispute within the Schengen area. Its axis was the topic of restoring internal border control.

After two years of lively discussions at the Council and Parliament in October 2013, new legal regulations in this field were finally adopted. The basic change referred to the extension of the catalog of situations in which the reintroduction of internal border control was possible, with an additional circumstance regarding serious deficiencies related to the control of external borders. As the mutual trust of Member States has drastically decreased, mandatory semi-annual reports on the functioning of the Schengen area for the Commission of the European Parliament and of the Council were introduced in 2012. The reports presented the situation at the external borders with particular emphasis on compliance with the principles of temporary reintroduction of border controls at internal borders.

At the peak of the migration crisis, dated to 2015, migration pressure has reached an unprecedented number of undocumented attempts to cross the EU borders of 1 553 614 cases. Table 1 presents a comparison with previous years in relation to the main migration routes.

¹⁶⁵ Frontex, *Annual Risk Analysis 2012*, Warsaw, April 2012, p. 10.

Table 1. Documented attempts to illegally cross the external borders of the EU and the borders of countries associated with the Schengen area between border crossings

Main routes	Number of disclosed illegal land and sea border crossings											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	I-III 2017
West African route	31 600	12 500	9200	2244	194	340	174	283	276	874	671	74
Western Mediterranean route	no data	no data	6500	6642	5003	8255	6397	6838	7243	7004	10 231	4096
Central Mediterranean route	no data	no data	39 800	11 043	4450	64 261	15 151	45 298	170 664	153 946	181 459	24 296
route to Puglia and Calabria*	no data	no data	no data	807	2788	5259	4772					
Greek-Albanian border**	no data	no data	42 000	40 250	35 297	5269	5502	8728	8841	8932	5121	1539
Balkan route	no data	no data	no data	3089	2371	4658	6391	19 951	43 357	764 038	130 261	3507
Eastern Mediterranean route	no data	no data	52 300	39 975	55 688	57 025	37 224	24 799	50 834	885 386	182 277	6058
East European route	no data	no data	no data	1335	1052	1049	1597	1316	1275	1927	1349	143
Total	no data	no data	no data	105 385	106 843	146 116	77 208	107 213	282 490	1822 107	511 369	39 713

* The route to Puglia and Calabria has been included in the Central Mediterranean route

** The Greek-Albanian border is crossed in both directions, refugees from the Eastern Mediterranean route continue their journey through Greece and further along the Balkan route or immigrants from the Balkans want to get to Greece

The table contains information on the main routes of illegal migration, it does not include other less frequented routes, e.g. through the Black Sea, or the Arctic route. The

table contains only the number of cases of illegal border crossing revealed, the total number of illegal crossings is unknown. One person may have been included in the table several times if being caught several times when crossing borders.

Source: Frontex Agency data, <https://frontex.europa.eu/along-eu-borders/migratory-map/> (access:15/03/2019).

Such a large scale has seriously hindered the effective control of the European Union's external borders. The development of the crisis has highlighted the need to improve the system of protecting the EU's external borders, as well as mechanisms to combat human smuggling and trafficking. Unlike the reforms of the asylum system, these arguments were welcomed by the Member States.

Based on the Greek example, the experience of the migration crisis clearly shows that one country is not able to efficiently cope with the management of external borders under increased migratory pressure. In this action the good will of all member states and the Schengen states is needed, because as it turned out, the security of the Union and the Schengen area depends on the proper protection of external borders. Personal and technical help from FRONTEX proved to be necessary.

In the light of the events at the Union's external borders in 2011-2015, the implementation of the European Commission's idea of establishing a European Border and Coast Guard has become crucial. The main impulse for this was the fear that restored border controls in the Schengen area could cause the zone to break up. It should be remembered here that since September 2015, as many as 8 Schengen countries have restored border controls at their internal borders. They were: Austria, Belgium, Denmark, Germany, Sweden, Norway, Hungary, and Slovenia. The last two countries subsequently lifted checks at their internal borders, while the remaining countries extended their duration several times. In its statement to the European Parliament, the European Council and the Council the European Commission clearly states that the introduction of controls at the internal borders of the EU for a longer period does not solve the problems

related to the migration crisis¹⁶⁶. Instead, it causes economic, political and social costs that are borne by the entire EU.

The Commission has assessed the costs related to the full restoration of border control to monitor the movement of persons within the zone, and estimated it at 5-18 billion Euro per year. In addition, the provisions developed in Schengen II, i.e. the Executive Convention, which took into account the wide scope of police and judicial cooperation of Member States, could become pointless. The restoration of the Schengen area without control at its internal borders has thus gained importance for the entire EU, and at the same time meant paying special attention to the protection of external borders, since they were the main determinants of the return of free movement of persons in the zone itself.

In September 2016, i.e. a year after the European Commission presented to the Parliament and the Council of the European Union a proposal for a regulation on the creation of a European Border and Coast Guard, the regulation was adopted. According to art. 83 of the Regulation, the Border and Coast Guard was established, and its main purpose was to ensure integrated management of the EU's external borders, which was to serve effective migration management¹⁶⁷. The regulation was important because it did not introduce only cosmetic changes. The European Border Guard Agency, i.e. the former FRONTEX (formerly known as the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) is a body with legal, administrative, and financial autonomy.

Unlike FRONTEX, the Agency has gained the right to acquire and dispose of movable and immovable property. Ultimately, by 2020, 1,000 people are to be employed, i.e. more than twice as many as in FRONTEX. The Agency's main task was to establish an operational and technical strategy for the implementation of integrated border management at Union level, to supervise the functioning of border control at the external borders of the Member States, and to conduct exposure assessments.

¹⁶⁶ *Communication from the Commission to the European Parliament, the European Council and the Council, Back to Schengen - A Roadmap*, European Commission, Brussels, 4.3.2016.

¹⁶⁷ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC

In the context of the migration crisis, an important task of the Agency has been to address deficiencies in the management of external borders by national authorities. This was to ensure that border controls in the Schengen area were less likely to be resumed. The regulation significantly expanded and strengthened the mandate of the previous FRONTEX. A common methodology for assessing vulnerability was also adopted to enable the annual assessment of Member States' ability to resolve difficult situations at the external borders.

In January 2017, the European Border and Coast Guard Agency began collecting data on the capacity of Member States in this field. The agency has also gained so-called intervention reserve in the number of at least 1500 border guards and additional technical equipment resources. This meant, that it would not have to deal with the problem of shortage of employees, or equipment for the needs of operations, which in turn was to have a positive impact on their initiation time, which was not to exceed 5 working days from the date of the adoption of the operational plan.

In the previously existing border structures, the increased migration pressure, which caused the migration crisis and its escalation in 2015, highlighted two major problems. Firstly, the deployment of the Agency's equipment and officers depended on their being sent by the Member States to the external border – which in itself took time, as well as on the submission of a formal application by the state. The situation in Greece was a clear example of this. When FRONTEX authorities asked Member States to second 743 officers to work at the external border of Greece, they received support of only 447. In addition, some Member States did not activate the available mechanisms of intervention at the borders, which made FRONTEX unable to intervene¹⁶⁸.

CONCLUSIONS

It is now the responsibility of each Member State to provide the Agency with a specific number of guard officers and other staff members. For example, the share of Polish border guards made available to the Agency is 100 officers, while the largest share is made available by Germany – 225 officers. At the Agency's request, Member States shall transfer border guards to establish a rapid response reserve. It should be noted that in the case of a Member State

¹⁶⁸ Communication from the Commission to the European Parliament and the Council, A European Border and Coast Guard and effective management of Europe's external borders, European Commission, Strasbourg 15.12.2015 COM (2015) 673 final.

fulfilling its national border protection, the share of that Member State for the purposes of launching a rapid border intervention is only half of the share attributable to that Member State. FRONTEX also provides the necessary assistance in the functioning and further development of the European Border Surveillance System (EUROSUR). Its main tasks include: preventing unauthorized border crossing, monitoring cross-border migration flows and creating an environment for the exchange of information between competent national authorities.

An important feature influencing the effectiveness of the EUROSUR system itself is enabling the sharing of information in real time. The data may concern, among others accidents at the external sea and land borders, analytical, or intelligence reports on migration routes, or new methods used by traffickers. EUROSUR has made it possible to link and improve cooperation between individual supervisory systems of Member States. FRONTEX is responsible for the proper maintenance of the information network.

Using the NCC data, i.e. the national situational picture, as well as its own data, the agency monitors the state at the external borders of the Union and on this basis creates a situational picture of border areas. In the summary of 2017, the European Border and Coast Guard Agency emphasized that the number of detected attempts to illegally cross the borders of EU countries fell for the second year in a row. A significant decrease in this type of activity applies to countries that were previously at the epicenter of the 2015 migration crisis, namely Italy and Greece. In contrast, increased migratory pressure was recorded in Spain, where in 2017 twice as many illegal migrants tried to enter from the North Africa than in the record-breaking 2016. They were mainly citizens of Morocco and Algeria, who constituted more than 40 percent of all detainees, the rest came mostly from various West African countries.

According to the Agency's summary, organized crime groups do not intend to limit their profits from the smuggling of people into the EU, which, along with drugs, are one of the main sources of income for criminals. Furthermore, in the case of international agreements (such as the agreement with Turkey), one cannot expect an immediate cessation of migratory pressure, which requires further intense activity on the part of border protection services. When analyzing any statements regarding attempts to cross borders illegally, the very likely possibility of undetected transfers of illegal immigrants should be taken into account.

It follows that the EU still needs to think about developing its capacity to control external borders, to cooperate at internal borders and to conduct long-term crisis response operations. Certainly the role of the FRONTEX Agency is crucial in this respect. FRONTEX proposed solutions aimed at a more effective exchange of experience in the area of border security between Member States. It also allowed to build a better bond between them. Despite the increased competence to support border management at the supranational level, it is still the competence of the Member States for which border surveillance is a priority issue in the area of security.

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