

POLISH CONTRIBUTION
TO THE EUROPEAN UNION
BORDERS PROTECTION

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ABSTRACT

In the Republic of Poland, the most important formation responsible for the EU external borders protection is the Border Guard. It cooperates with many institutions in order to ensure the highest possible level of security at the borders. It's not uncommon that the Border Guard's officers cooperate with the Police, as well as the Customs Service in order to combat crimes. Sources of illegal smuggling are often located in the Asian countries (such as Vietnam, Pakistan or Iraq), as well as the African states, making it necessary for Polish forces to cooperate with the other countries of the European Union. For combating these crimes, the highly specialised agency, FRONTEX, was established. It collaborates with other EU institutions and international organisations, whose activities involve external borders security or migration issues.

KEYWORDS: border, European Union, protection

INTRODUCTION

In past centuries, Europe was divided into various competing factions and religious movements, competing with each other. It was a rather war-like territory than a region of cooperation between countries or nations¹.

¹ F. Drago, B. Gaziński, *Unia Europejska. Co każdy o niej wiedzieć powinien*, Published by Littera, Olsztyn 1996, p. 19.

The person most often credited for starting the process of democratization in Europe, Charles the Great, began by strengthening the state of Franks², leading to the restitution of the Roman Empire. After his death, however, Otto the First's Holy Roman Empire took control over Europe, resulting in political disintegration across the continent. Consecutive years yielded numerous projects of European integration, but none of them succeeded. Only after two terrible wars in the 20th century was it obvious how politically weak Europe was. The Nazi and Stalinist regimes led to economic, social and political disaster. Many European countries have been destroyed and needed external aid³. Benelux countries⁴ are regarded as the precursors of the economic integration in Europe. In 1948, they abolished restrictions on trade and also established unified rules of trade exchange with the other countries. After World War 2, other European countries also pursued democratization, at the same time rejecting nationalistic reigning of the huge powers in Europe. The biggest desires in Europe at that time were security, peace and the spread of human rights. Europeans aimed at freedom of information, flow of goods and capital⁵. As a consequence, on 7 February 1992, the Treaty on European Union was signed in Maastricht. It came into force on 1 November 1993. It started a new stage of European unity by enabling political integration of the member states. It established European citizenship, increased the entitlements of the European Parliament and initiated economic and currency union, and the European Economic Community became the European Community. Nowadays, European Union consists of 28 member states⁶. Its purpose is the creation of a common and unified community, in which member states, acting as mutual partners, present joint and agreed positions on important issues, endeavouring to meet common targets and challenges.

² In the peak period the state contained areas of present France, Belgium, Netherlands, Austria, Switzerland, west Germany, north Italy, Corsica, north-east part of Spain and Balearic Islands.

³ In the end of war and after it had ended, external aid was offered to Europe by the United states of America.

⁴ Belgium, Netherlands and Luxembourg.

⁵ W. Weidenfeld, W. Wessels, *Europa od A do Z. Podręcznik integracji europejskiej*, Published by Wokół nas, Gliwice 1999, p. 11.

⁶ This figure includes also Great Britain, although there was organised a referendum about leaving the EU on 23 June 2016 and its society voted for the exit.

THE INTEGRATION OF POLAND AND THE EUROPEAN UNION

The states, which decided to join the European Union, had to transmit some part of their powers to nongovernmental international bodies. The European Commission, given the treaty, has exclusive rights for any legislative initiatives in the areas covered by the Treaty of Lisbon, which amended the Maastricht Treaty. It doesn't possess, however, such "monopoly" when it comes to the Common Foreign and Security Policy and the justice system and internal affairs, although the Maastricht Treaty didn't exclude these areas from Commission's initiative privileges.

The core legislative, executive, judiciary and subsidiary institutions, necessary for the proper union functioning, are: the European Parliament, the European Council, the Council of the European Union, the European Commission, the Court of Justice, the Court of Auditors, the European Investment Bank, the European Committee of the Regions, among others. The highest ranking, in terms of the decisive power, is the Council of the European Union, which consists of ministerial representatives of the member states. Its main competences involve lawmaking, deciding about the budgeting, establishment of the international agreements, as well as realization of the foreign policy and ensuring security⁷.

The states of the European Community reacted quickly and affirmatively for the political changes of Poland in 1989. First reactions were mainly focused on economic aid, in the frames of the PHARE program⁸, as well as including Poland, since 1 January 1990, to the system of the common duty preferences⁹. The Polish government filed the formal application for European Union membership on 8 April 1994. On 16 July 1997, in the European Parliament in Brussels, the European Commission presented opinions about Poland and Cyprus, as well as about other Central and Eastern Europe countries, which applied for European Union membership. During the European Union summit in Luxembourg, on 12-13 December 1997, the European Council decided about the process of the extension of the European Union for all the countries that

⁷ F. Drago, B. Gaziński, *Unia Europejska...*, op. cit., p.30.

⁸ Assistance for Restructuring their Economies – European Commission program established in 1989 in order to provide material aid to the countries applying to European communities.

⁹ E. Kawecka-Wyrzykowska, *Polska w drodze do Unii Europejskiej*, Published by Polskie Wydawnictwo Ekonomiczne, Warszawa 1999, p. 113-115.

applied – Poland, Cyprus and other Central and Eastern Europe states, starting on 30 March 1997.

On 16 April 2003, the Treaty of Accession was signed in Athens by the representatives of 25 countries – 15 existing member states as well as ten applicants for membership. Polish representatives, who signed the treaty, were the Prime Minister of Poland, the Minister of Foreign Affairs, and the Secretary of State for the European Union. On 17 April 2003, Polish government passed a resolution and ordered a referendum to ratify Polish accession into the European Union. The referendum took place on 7–8 June 2003. Poland officially joined European Union on 1 May 2004. Since then, it became a fully fledged member state of the European Union¹⁰.

POLISH AND EUROPEAN UNION COMMON BORDERS

After 1 May 2004, the eastern border of Poland also became the external border of the European Union. The accession of Poland into the European Union required applying new and different approach to the politics of borders functioning, as well as international cooperation.

The external border of the European Union in Poland measures 1163 km, which corresponds to 33% of the total length of the Polish borders. The longest part of it is the border between Poland and Ukraine, which measures 535 km (46%), the second in terms of length is the border with Belarus, which is 418 km long (36%) and third – with Russia, 210 km long (18%). The frontier zone on the Polish side comprises of 270 communes¹¹, which cover 43000 km² in total. Such an area corresponds to 13.9% of the total area of Poland. The frontier zone by the Russian border covers 41.2% of the zone of an external border of the European Union, by the Belarussian border – 33.8%, and Ukrainian – 30.8%¹². Joint Polish and European Union borders contain not only land borders, but also borders lying on the sea, rivers, lakes, and the airports.

The geographical location of Poland, on the track from Asia to Western Europe, as well as the length and natural conditions of the borderline, cre-

¹⁰ <http://www.polskawue.gov.pl/Glowne,wydarzenia,procesu,integracyjnego>, accessed on 04.01.2014

¹¹ Small administrative area in Poland.

¹² *Charakterystyka obszarów przygranicznych przy zewnętrznej granicy Unii Europejskiej na terenie Polski. Turystyka w 2011 r.*, Published by Główny Urząd Statystyczny, Warszawa-Rzeszów 2012.

ate specific challenges for those services responsible for combating illegal immigration as well as international organized crime and smuggling. In order to enable the free and unconstrained, but at the same time safe, flow of people, improvements of coordination and cooperation between police forces and judicial authorities were necessary. They helped to increase internal security and, most importantly, combating organised crime. For that reason, the Schengen Information System (SIS) was established. It's technologically advanced database, used by the bodies of the member states for information exchange about specific people categories or articles. Among all the European Union member states, Bulgaria, Cyprus and Romania aren't fully fledged members of the Schengen zone yet¹³.

THE MAIN ENTITIES ENGAGED IN THE PROTECTION OF POLISH – EU BORDERS

Political changes in Central and Eastern Europe of the 80's and 90's of the XX century transformed Poland into sovereign, democratic country and economic zone. Because of that, based on the Act of 12 October 1990¹⁴, the Polish Border Guard¹⁵ was established. On 16 May 1991 it took over the protection of Polish borders and control of the border traffic¹⁶. The Polish Border Guard, which shares a similar organizational structure as the police, is designed to meet the general legal regulations of the European Union members in terms of their structure and characteristics to ease the cooperation between these forces¹⁷.

After accession into the European Union, the Polish eastern border became an external frontier of the EU. Because of that, on the borders with Belarus, Ukraine and Russia, the competences of the Polish Border Guard were expanded. The changes were made on both the external and

¹³ Agreement that abolishes control of people crossing borders between countries of the zone (Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, Netherlands, Lithuania, Luxembourg, Latvia, Malta, Germany, Poland, Portugal, Slovakia, Slovenia, Sweden, Hungary, Italy, as well as Norway, Iceland, Liechtenstein and Switzerland, which do not belong to the EU), but strengthens cooperation in the issues about security and asylum policy.

¹⁴ *Ruling on the Border Guard*. 1990.78.462.

¹⁵ Pol. Straż Graniczna.

¹⁶ Before that, the formation responsible for those was Polish formation Wojska Ochrony Pogranicza.

¹⁷ A. Maksimczuk, L. Sidorowicz, *Ochrona granic i obsługa ruchu granicznego*, Published by Wydawnictwo Prawnicze Lexis Nexis, Warszawa 2007, p. 99.

the internal borders. On the internal border, the Border Guard stopped the physical protection and border control on the border crossings. The tasks on the external borders have also been changed and include patrolling the border line and its observation, detention of wanted persons, keeping out unwelcome ones and smuggling prevention.

The most important threat that the Border Guard faces is the illegal transit immigration through the territory of Poland, drugs trafficking, and the flow of other material dangerous for the natural environment. The number of organised crime groups committing these crimes is growing. For many of them it's the main source of income¹⁸.

For majority of illegal migrants, Poland is a transit country. There has been a visible intensification of the “multipersons” phenomenon – the foreigners, who change their personal data accordingly to the local law (especially Ukrainian citizens), so as to get the visa issued or to avoid arrest or refusal of entry.

Whilst preventing smuggling is not the main task of the Border Guard, the Customs Service¹⁹ and its officers are heavily engaged in anti-smuggling activity, based on the cooperation and integration of border protection. For each part of the Polish border, there are typical articles that are smuggled, for instance alcohol and cigarettes have been smuggled mainly through the eastern border for many years. The fact, that Poland has become interesting for the international organised crime groups specialising mostly in smuggling, isn't surprising. Control of border traffic and protecting those who cross the borders legally are other tasks for which the Border Guard is responsible. The dynamic development of cross border traffic has caused changes in the tools available for border control, especially after the widespread integration of IT systems in such areas in recent years²⁰.

The Border Guard cooperates also with organisational units, government administration units, local government units, and other state and foreign organisational units, including entities outside the eastern border. Such cooperation aims at ensuring the necessary conditions for effective protection

¹⁸ Gawryś R., Olejnik A., *Doświadczenia Straży Granicznej w przeciwdziałaniu międzynarodowej przestępczości zorganizowanej związanej m.in. z nielegalną migracją*, Problemy Ochrony Granic, Biuletyn nr 29, 2004, p. 4244.

¹⁹ Pol. Służba Celna.

²⁰ A. Maksimczuk, L. Sidorowicz, *Ochrona granic...*, *op. cit.*, p. 99.

of the country's border and border traffic control. Similarly, it participates in the airspace border protection, too. Its tasks include communication and transmitting information to the Polish Army about identification and recognition of other low flying aircrafts which pass over the border, recognition of unidentified sea vessels, aircrafts and other flying objects, as well as any evidence of aircrafts breakdowns or receiving help signals²¹.

Airports can too be considered as an external border of Poland and the European Union. On 11 June 2013, at the Civil Aviation Authority's headquarters, the settlement between the President of the Civil Aviation Authority²² and the Chief Commander of the Border Guard was signed. It covered specific regulations of the cooperation, supervision and realization of the works related to the safety control in the civil aviation. The main target of that settlement was to ensure high safety standards within civil aviation. It included specific rules of information exchange between the Border Guard and the Civil Aviation Authority in the field of controlling, as well as organisational solutions to be performed by the Border Guard²³.

For the protection of the external European Union sea border, the maritime division of the Polish Border Guard²⁴ was created. It is responsible for the protection of the sea border, which measures 471 km in total, and the part of the border with Russia, which measures 0,85 km. Its officers take part in carrying out tasks in the Gdańsk – Rębiechowo border crossing, too. All these tasks are performed by 13 Border Guard stations, which are in charge of 16 border crossings (15 sea crossings and 1 air crossing) and two Border Guard squadrons. These units are localised on the coast from Elbląg to Świnoujście.

In times of global complexity, no organization can succeed if it does not cooperate with other units. Because of that, the Border Guard collaborates with the Railroad Guards²⁵, the Mountain and Tatra Volunteer and Rescue²⁶, the City Guard, airport security services, and the police, among

²¹ J. Paśnik, *Straż Graniczna. Prawne podstawy działania i uprawnień*, Published by Kodeks, Warszawa 2003, p. 49.

²² Pol. Urząd Lotnictwa Cywilnego.

²³ <http://www.arslege.pl/kontrola-bezpieczenstwa-w-lotnictwie-cywilnym/k800/a61957/.html>, accessed on 22.05.2014.

²⁴ Pol. Morski Oddział Straży Granicznej.

²⁵ Pol. Służba Ochrony Kolei.

²⁶ Pol. Górskie Ochotnicze Pogotowie Ratunkowe (GOPR) and Tatrzańskie Ochotnicze Pogotowie Ratunkowe (TOPR)

others. Investigations, led by the Border Guard in cooperation with Police, end up in defeating organised criminal groups. It's also common to delegate specialist officers for the specific tasks between the units²⁷.

The Customs Service²⁸, is another important entity responsible for the external border safety of the European Union. It is a uniformed formation created for the protection and safety of the customs territory of the European Community. The process of European Union accession involved the abolition of the customs border between Poland and neighbouring EU member states, i.e. Germany, Czech Republic, Slovakia and Lithuania. This resulted in an influx of duty free articles into the EU member states and in a greater significance of the eastern border of Poland as the external frontier of the European Union. This required changes in the competences of the Customs Service, e.g. acquisition of the additional tasks related to excise tax, VAT on imported goods, or participation in the common agricultural policy.

Main tasks of the Customs Service involve realization of the tariff policy regarding export and import of articles and performing other works, such as:

- Activities related to setting customs destination of goods;
- Calculation and collection of customs charges regarding exported and imported articles, added tax on articles or services importation, excise tax, gambling tax, or fuel charge;
- Recognition, detection, prevention and combating fiscal crimes and offences and prosecution of their perpetrators²⁹.

The aforementioned changes resulted in a restructuring of the Customs Service, in terms of its location, competences and structure of the customs departments and offices. Analysis of the size and destinations of trade exchanges indicated a fall in customs charges for articles outside of the European Union, which resulted in a decrease of customs officers workload related to the customs declarations after 1 May 2004. At the same time, the workload related to the realization of the tasks involving excise tax and other new tasks, has significantly increased.

²⁷ http://www.strazgraniczna.pl/wps/portal/tresc?WCM_GLOBAL_CONTEXT=pl/serwi-ssg/polskie_formacje_graniczne/wspolpraca_miedzy_sluzbami/html, accessed on 22.05.2014.

²⁸ Pol. Służba Celna.

²⁹ <http://www.mf.gov.pl/sluzba-celna/dzialalnosc/zadania-i-funkcje;jsessionid=1D39C8021D33791E6C227FA71866EFB7.html>, accessed on 04.08.2016.

COOPERATION BETWEEN POLAND AND EUROPEAN UNION REGARDING SEALING THE BORDERS

Since the first days in the European Union, Poland had to team up with the other European countries in order to seal its eastern borders, which became the external frontiers of the EU. As such, Poland became a significant partner in the operation of FRONTEX, the European Agency for the Management of Operational Cooperation at the External Borders of the European Union. It is a EU agency, established by Council Regulation (EC) No 2007/2004. Its name comes from the French phrase *frontiers exterieures*, which literally means “external border”. FRONTEX began work on 1 May 2005 and gain its full operability on 3 October 2005. The seat of the FRONTEX is located in Warsaw. The agency combines the functions of the border and intelligence services and promotes and encourages innovation in the field of immigration control. The main reason for the agency establishment was integrated management of the external borders of the European Union. The agency is responsible for providing a framework for the coordination of member states actions and supports protection of the external frontiers of the EU. An additional responsibility includes providing the European Commission and the member states with technical support and expertise in the area of external borders management and solidarity between member states.

The total current length of the external European Union borders is 42672 km, of which 8826 km of the land borders. Schengen zone consists of 25 countries (including three affiliated states – Iceland, Switzerland, and Norway). Since its establishment in 1995 it has made it possible to travel freely in the whole territory of the zone. It is estimated that approximately half a billion people can travel freely within Schengen area. Thus, there is high motivation for proper and effective protection of external borders and to ensure safety of the European Union as a whole and all the member states in particular.

So as to increase its performance, FRONTEX cooperates with the other EU institutions and international organizations (Europol³⁰, Cepol³¹, Interpol³² among others). However, in addition to European Union

³⁰ European Police Office – police agency of the European Union based in Hague.

³¹ European Police College – one of the European Union agencies responsible for police and judicial cooperation in criminal cases.

³² International Criminal Police Organisation – international police organization that helps law enforcement authorities combat any forms of criminality.

member states, FRONTEX must collaborate with non EU-third party states. Such cooperation involves exchange of information about situation on the borders, trainings, arrangement of observers on the borders and other joint operations. Currently, FRONTEX has cooperation agreements with 16 countries – mainly from the Balkans and Eastern Europe, but also Africa, USA and Canada. According to the Regulation (EC) No 863/2007, in case of a sudden problem, FRONTEX can delegate for a limited time one or several rapid border intervention teams (RABITs) to participate in the support operation on the border.

European Border Surveillance System (EUROSUR) is the surveillance system of the European Union. It was started on 2 December 2013. It was designed for coordinating operations aimed at detection, prevention and combating illegal immigration into EU countries and cross border crimes using drones, reconnaissance aircrafts, and offshore and satellite sensors. EUROSUR cooperates closely with FRONTEX. The main responsibility of EUROSUR is to monitor activities outside external borders of the EU, and the state coordination centres collect data inside the specific countries and transmit it further to the headquarters of EUROSUR and FRONTEX.

EUROSUR was started in 18 EU member states: Bulgaria, Cyprus, Croatia, Estonia, Finland, France, Greece, Spain, Lithuania, Latvia, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Hungary, Italy, and Norway. Other EU countries were to join the system on 1 December 2014³³.

When it comes to closing the external borders of the EU, the second generation Schengen Information System (SIS II) should be noted. SIS II complements its predecessor for some additional functions and is a large scale IT system, which contains information about people and articles. The system is designed to be used by border guards, customs officers, visa entities and other law enforcement authorities of the Schengen zone. The data in SIS II is inserted, updated, deleted and searched through the specific domestic systems. The central system, responsible for the controlling and administration, is located in Strasbourg in France. Backup central system is located near Strasbourg in Austria. Each member state is responsible for the development, exploitation and maintenance of its own domestic system, as well as for addition of its system to the central one.

³³ <http://www.uniaeuropejska.org/system-eurosur-rozpoczyna-dzialanie.html>, accessed on 22.05.2016.

In order to use the SIS II system, each member state specifies its SIRENE (Supplementary Information Request at the National Entries) Bureau, which is responsible for the exchange of additional information, necessary for the data insertion and for taking appropriate actions. SIRENEs operate as contacts point which are constantly available throughout the year at every opportunity to those who request aid information. Member states are responsible for any damage done to persons by using the domestic SIS II system. They also ensure that any cases of abuse are effectively, proportionately and prohibitively sanctioned³⁴.

CONCLUSION

In the Republic of Poland, the most important formation responsible for the EU external borders protection is the Border Guard. It cooperates with many institutions in order to ensure the highest possible level of security at the borders. It's not uncommon that the Border Guard's officers cooperate with the Police, as well as the Customs Service in order to combat crimes. Sources of illegal smuggling are often located in the Asian countries (such as Vietnam, Pakistan or Iraq), as well as the African states, making it necessary for Polish forces to cooperate with the other countries of the European Union. For combating these crimes, the highly specialised agency, FRONTEX, was established. It collaborates with other EU institutions and international organisations, whose activities involve external borders security or migration issues.

Following the accession of Poland into the Schengen zone, as well as changes in the border traffic on the significant part of the Polish frontiers caused huge changes in the way that border control operates. So far homogenous security system was divided into two different and incomparable ways of operation. The first, traditional, is based on the traffic control in the border crossings and patrolling the border line, while the second, completely new, involves reconnaissance and preventive works, rather than physical protection of the borders³⁵. Since Poland joined European Union, the competences and responsibilities of the formations in charge of the borders security have significantly increased. The role of Poland has

³⁴ http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/l14544_pl.html, accessed on 27.05.2016.

³⁵ B. Radzikowska-Kryśczak, A. Sadownik (Eds), *Polska w strefie Schengen*, Published by Ministerstwo Spraw Wewnętrznych i Administracji, Warszawa 2008, p. 56.

been substantially more important after it had entered the Schengen zone in 2007. The scale of illegal trafficking is smaller because of the higher engagement of the Border Guard, Customs Service and Police. Certainly, the opportunity for Polish officials and officers to train and learn from experiences in fellow member states has increased the competency and qualification of said officers through joint patrols or development of IT networks and systems.

Poland, as one of the most populated and fast developing countries in the European Union, has cooperated with many European institutions after the accession. Collaboration with many foreign agencies, e.g. from Germany, Czech Republic, or Slovakia, ended up in the detection of many crimes. Mutual exchange of skills and experience also played a key role in Polish officials avoiding mistakes that the 15 countries of the “old EU”³⁶ have previously made. Such opportunities and frameworks for sharing the most suitable practices of border control have certainly contributed to strengthening not only the borders of Poland, but the European Union as a whole.

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³⁶ Common term for 15 European comprising European Union since 1995 to 2004: Belgium, Denmark, France, Greece, Spain, Netherlands, Ireland, Luxembourg, Germany, Portugal, Italy, Great Britain, Austria, Finland, and Sweden.

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