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## **FOREIGN EXPERIENCE IN STATE BORDER SECURITY REGULATION ON THE EXAMPLE OF THE REPUBLIC OF POLAND**

*The paper analyzes foreign experience of the state border security formation on the example of the Republic of Poland. The doctrinal approaches of administrative law, the provisions of national and foreign legislation, the specifics of its implementation are systematically considered to substantiate proposals and process conclusions regarding legal regulation in the field of combating illegal migration and protecting the state border.*

*The evolution of formation, organizational and legal foundations and trends in the development of the border service of the Republic of Poland and its use in the implementation of state migration policy have been studied. Using a retrospective review, a combination of performance by bodies intended for protection was established. A combination of performance by bodies intended for the protection of state borders of the duties inherent in military and law enforcement formations was established.*

*The interdependence of the influence of legal norms on legal relations that develop in the field of combating illegal migration and ensuring border security has been clarified. In accordance with this, migration legislation and legislation on the state border include regulatory (determine the model for the legal entry of a migrant and stay on the territory of the country), law enforcement (establish appropriate rules of conduct, responsibility and regulate the use of other enforcement measures in case of violation of*

*migration norms) and organizational (determine the competence of the authorities, which are involved in the process of combating illegal migration) regulatory legal acts.*

*Attention on the ideology of integrated border management is focused, on which the adaptation of a number of provisions of the European experience in protecting the state border of Ukraine is based.*

**Keywords:** *European experience of state border security, management mechanisms, state bodies.*

Problem statement. Modern political and economic instability in the world dictate increased attention to the problems of the state border. A wide range of potential threats, including to the national interests of the country, presupposes the competent application of targeted programs to ensure the stability of domestic borders, their strengthening in a constantly changing environment. An analysis of the norms of international legal acts that are the basis for the activities of border authorities for passing through the state border, international treaties regulating the implementation of border control showed that a number of their provisions are not taken into account in Ukrainian legislation regulating border crossing issues, which makes it difficult for border authorities to carry out this activity. In this regard, the need to take into account their provisions in regulatory legal acts has been identified in order to eliminate gaps, as part of improving the administrative and legal regulation of activities for the implementation of a pass by implementing these norms in Ukrainian legislative acts regulating issues in this area.

Recent research and publications analysis. The initial theoretical basis was the scientific works of such scientists as [1-6].

The purpose of the article is to analyze foreign experience of the state border security regulating on the example of the Republic of Poland.

Presentation of basic material of the research. Guaranteeing security and public order is the responsibility of every state. The Border Guard of the Republic of Poland (BG) is an important link in the Polish state security system. Its main task is to recognize, counteract and combat border crime. The effectiveness of the fulfillment of these tasks is

the only criterion for evaluating the connection, both by the Polish government and citizens, and by the European public. Illegal migration, the threat of the spread of international terrorism, the smuggling of goods in large quantities, the transfer of dirty money, attempts to use the territory of Poland in the global drug trade, which today have all the features of international organized crime, are the main problems that the border guard must combat. Economic migration is on the rise in Poland. At the same time, border crime among citizens of those countries with which a visa-free regime is maintained when entering Poland is at a high level and continues to grow [4].

At the turn of the 1980s and 1990s, fundamental social and political changes took place both in Poland and in other states of Central and Eastern Europe, which resulted in the abolition of the Warsaw Pact. Since the end of the Cold War, Poland has become a sovereign, independent and democratic state whose security policy is based on the principle of respect for the sovereignty of other countries. The same respect for Poland's independence is expected from neighboring states. Based on these prerequisites, it can be argued that the state border of the Republic of Poland is inviolable. In addition, Poland has no territorial claims to neighboring countries. The strategic goal of Poland is to protect its sovereignty, independence and territorial integrity. Unlike the times of the People's Republic of Poland (PPR), this context does not envisage a specific enemy with aggressive intentions. However, there is still a need to respond to possible security threats and other crises, including those related to terrorism and armed attack. Poland is a member of NATO and the European Union (EU). The goal of the Polish state is to maintain good relations with neighboring states. The line of the state border is clearly defined with all seven states with which Poland borders. This is important given the fact that after political changes, Poland had to build relations with states, most of which were newly formed. At the moment, the policy of the state is aimed, on the one hand, at the introduction of possible simplifications of the free movement of persons and trade exchange, and on the other hand, at the maximum protection of the border from the criminal elements of organized criminal groups. The measures taken by Poland aimed at increasing the effectiveness of the protection of the state border seem quite obvious. It

must be recognized that globalization and the organized nature of border crime require the unification and coordination of all possible actions that are part of the responsibilities of Border Guard. These tasks are entrusted to a single paramilitary formation of a police nature - the Border Guard, founded in accordance with the law of October 12, 1990. Applying modern methods and means of activity, it adopted the traditions of its predecessors: the pre-war Border Guard and the Border Guard Corps, as well as the post-war Border Guard Troops. The security of the state border is one of the main functions of the state. Each state has a certain system of border security management and border traffic control. This system appropriately determines the internal and external security of the state. In accordance with the provisions of the law on the security of the state border of October 12, 1990, border security belongs to the powers of the Minister of the Interior and Administration, who is responsible for protection on land and in the water, as well as the Minister of National Defense is carried out by the Air Force and Air Defense Forces of the country subordinate to him, together with other units of the Armed Forces [5].

In carrying out the tasks prescribed by law, the Border Guard cooperates with many state bodies and services, including the Police, the General Directorate of Customs, the Ministry of Foreign Affairs, the National Labor Office, the Navy, the Air Force and State Security, the Railway Protection Service, Repatriation and Foreigners, the Military Gendarmerie, the Securities Factory, the Treasury Administration, governors, prosecutors, courts, maritime departments, mountain rescue services, etc. Methods and forms of this cooperation are regulated by joint agreements. It is difficult to list all types of cooperation, given the wide range of joint activities under these agreements, so this publication provides only a summary of the most important forms of cooperation. The most extensive is cooperation with the police, the legal basis of which is the Agreement between the Chief Commandant of the Border Guard and the Chief Commandant of the Police dated June 15, 1998. It covers preventive measures, exchange of information, sharing of databases and conducting joint operational-search activities and investigative activities. The agreement introduced institutional forms of cooperation in combating the illegal stay of foreigners in Poland. These are constant joint inspections in the border

zone, primarily at the border bazaars and communication routes leading to the border, as well as operational actions carried out throughout the country. Since 1998, the BG, in particular, has been applying, together with the police, preventive measures of a special nature, the purpose of which is to detect, detain and deport from the territory of Poland persons who are on it illegally. Great importance is attached to cooperation with the customs service.

The joint performance of duties at border crossings attaches particular importance to such cooperation. In order to strengthen and coordinate it, on March 1, 2000, an Agreement was signed between the Chief Commandant of the Border Guard and the Chairman of the Main Customs Directorate on cooperation between the Border Guard and the Customs Service (The agreement remains in force, despite the formation of the Department of Customs Service under the Ministry of Finance, instead of the State Customs Administration, which was liquidated in May 2002.).

In the Agreement, both Guard and Service committed to provide each other with assistance in detecting persons trying to illegally cross the border, in maintaining public order at border crossings, as well as in combating border, customs, financial and tax crimes and offenses, smuggling of harmful chemicals, illegal transportation through border of waste, radioactive and nuclear materials. Moreover, both Guard and Service are conducting joint activities aimed at improving border traffic, organizing joint exercises and acquiring communications equipment to improve service at border crossings.

The BG is involved in the implementation of the visa policy aimed at limiting the influx of so-called burdensome foreigners into Poland. On the basis of an Agreement with the Ministry of Foreign Affairs, the Main Commandant's Office of BG received the powers of nuclear materials. Moreover, both services are conducting joint activities aimed at improving border traffic, organizing joint exercises and acquiring communications equipment to improve service at border crossings.

On the basis of an Agreement with the Ministry of Foreign Affairs, the Main Commandant's Office of the Border Guard received the authority to conduct inspections and develop recommendations for diplomatic missions and consular departments on

issues related to the issuance of visas. Such recommendations are essential for the control of foreigners before entering the territory of Poland. They limit to a minimum the cases of issuance of visas, which can be declared invalid by BG during the border control when entering Poland.

On August 31, 1998, BG entered into an agreement with the National Labor Office to combat the illegal employment of foreigners. Within the terms of this agreement, joint checks and exchange of information about foreigners staying or working in Poland without permission, as well as about Polish citizens illegally hiring foreigners or providing them with illegal stay, are carried out.

The powers of the Border Guard are determined by the law of October 12, 1990 on the Border Guard (D.Z. No. 78, item 462 as amended), Arts. 1 and 2 which contains a list of tasks of this formation. According to the law, the tasks of the Border Guard include: protection of the state border. This task, which in principle is typical for any border formation, is carried out by the territorial units of the Border Guard (currently these are outposts and border checkpoints), whose employees serve to prevent illegal crossing of the state border both outside border crossings and at crossings where border traffic takes place. The Border Guard is the only body created to organize and control border traffic (international movement of persons crossing the border of vehicles and transported goods in an amount that does not fall within the competence of the Customs Service)[ 1].

The issuance of permits for crossing the state border is connected with the border control carried out by the BG, during which, in particular, compliance by persons with the requirements for crossing the border is subject to verification. To carry out this task, the Border Guard is given the right to issue a permit to cross the border (when all conditions are met) or to refuse entry into the country (if the person does not fulfill any of the conditions necessary for crossing the border). The issuance of visas is a special power of the border guard authority: in clearly defined cases, visas can be issued by the commandant of the border control post, and at the same time, visas issued by Polish representations abroad can be canceled by the Border Guard. Since the accession of

Poland to the European Union, the powers of the Border Guard in the field of issuing visas have been abolished.

In cases of crimes or offenses, the procedural powers of the Border Guard are determined by the provisions of art. 312 cl.1 of the Criminal Code. The Criminal Code gives BG the procedural powers of the police, but this applies exclusively to BG scope. The Law on the Border Guard determines its powers in cases of crimes and offenses concerning violations of the rules for crossing the state border, as well as the unreliability of documents giving the right to cross the state border. In addition, the Border Guard has powers in cases related to crossing the state border or illegal movement across the state border of goods and items without excise stamps, weapons, ammunition and explosive materials, as well as in cases related to the protection of cultural values, the fight against drug addiction, census and identity cards [3].

As a governmental body, the Border Guard performs the functions arising from the provisions of bilateral agreements on the definition and designation of the state border line, in particular in the field of installation of border signs, their constant and periodic control (together with the border protection authorities of a neighboring state), renewal of signs and the strip of the border roads, as well as the protection of border signs (including the prosecution of those responsible for damaging or destroying these signs). All documentation related to the definition and designation of the border (maps, protocols, technical documentation, etc.) is maintained and updated by the Border Guard departments in accordance with the areas of their official responsibility.

In the field of protection of the Polish maritime space, the formation cooperates with the maritime administration, the State Inspectorate for Environmental Protection and marine fisheries inspectors (joint actions when using the Border Guard's floating equipment, thermal imaging cameras, etc.). Border security in the air consists primarily of monitoring aircraft and flying objects crossing the state border at low altitudes, as well as informing the units of the Air Force and the air defense forces about these flights.

The environmental protection of the country, or rather part of it, is also within the competence of the Border Guard. The control of persons, goods and vehicles while

crossing the state border is intended to exclude the importation into the territory of Poland of waste, harmful substances, as well as nuclear and radioactive materials. To implement this task, the Border Guard is equipped with appropriate technical equipment, including stationary and portable devices for detecting radiation (radiometric gates at road and rail border crossings, as well as hand-held analyzers) [2]. This task is of particular importance, in particular, after the collapse of the USSR and the growing threat of smuggling of radioactive substances from the post-Soviet countries, as well as in the context of the threat of international terrorism in the modern world.

In recent years, BG has greatly reduced the number of cases of illegal border crossing. The general migration situation in the country has also changed. This was achieved, first of all, thanks to the actions to strengthen the eastern section of the state border. In addition, the system for countering the influx of unwanted foreigners into the territory of Poland was strengthened. An essential element was the determination of the goals and directions of the state's migration policy, including in the field of effective monitoring of the entry of foreigners and control before entering the country, at the border, during their stay and departure. These goals and directions stem from the Aliens Act dated June 26, 1997, which was an important milestone in the history of the development of the powers of BG.

The structure of the law makes it possible to conduct a unified state policy in this area. It empowers state bodies to effectively prevent illegal migration and counteract the presence of so-called unwanted foreigners on the territory of the Republic of Poland. The law has led to tougher criteria for the entry of foreigners into Poland in cases of private or tourist trips with visa-free travel. This was achieved through the introduction of mandatory registration of invitations, as well as documents confirming the booking and payment for accommodation and meals on the territory of the Republic of Poland. These decisions influenced the regulation of this category of border traffic.

The adoption of the law helped the BG to carry out its tasks more effectively. Thanks to this, it became possible to restrict cross-border trade, which was mainly based on illegal trade, especially in excisable goods, and did not always correspond to the



interests of the Republic of Poland. Poland's integration into European structures has led to the need to change the discussed law. On July 1, 2001, new provisions of the Aliens Act came into force. It contains new provisions from the EU legislation, the adoption of which was a necessary element in the process of Poland's accession to the EU[6].

Conclusions. The listed tasks and powers are a great responsibility, given the role and participation of BG in the migration policy of the state. Their effective implementation places high demands on the employees of BG in the field of investigative, operational-search activities, as well as administrative procedures. Particular attention should be paid to the problem of administrative procedures. As you know, they are associated with the issuance of decisions and activities that must meet certain requirements of the administrative code. The right of foreigners to appeal against the decisions of BG in accordance with the rules of the administrative code shows how important such decisions are. Therefore, BG staff should be aware that decisions have administrative implications, and these decisions must be legally justified so that they can be defended in the event of an appeal.

As already mentioned, BG is closely following the discussion around the Eurocorps initiative. The BG's position is that the formation's experts should be able to participate in this discussion as observers with the right to take initiatives. BG experts should participate in the development of the concept and organizational activities related to the centers being created for the future Frontier Eurocorps. Polish BG is ready to share its own experience, which will serve to increase the level of security at the borders of the EU Member States and candidates.

BG is convinced of the need to create a permanent forum of heads of services responsible for the protection and control of the borders of EU Member States and candidates. BG advocates that such meetings be devoted to the discussion of specific topics and problems. The process should be as practical as possible and there should be flexibility in formulating the main theme of the meeting according to needs and themes. The meetings should be of benefit to all parties, in particular given the pace and

challenges of the EU enlargement process, as well as the need to create a clear mechanism for coordination and cooperation between border services.

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