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BORDER CRIME IMPLICATIONS ON SECURITY, SURVEILLANCE AND CONTROL POLICIES OF THE EUROPEAN UNION BORDER

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Abstract: *Romania should participate more actively to the opening of the European free circulation road, which involves finalizing and implementing the Integrated System for Border Security, which is an efficient tool for preventing and combating illegal cross-border actions. To achieve this goal requires the active involvement of all state institutions and other nongovernmental organizations with border responsibilities. Based on the principle of complementation, the EU accession on January 1, 2007, is an important step for Romania's future.*

Keywords: *space of freedom, security and justice; community policies of integrated management; integrated system for securing the state border.*

1. The adaptation of the state border control and surveillance national policy

With the acquisition of the EU membership, Romania has the obligation to implement the community policies on the state border integrated management domain in order to become an integrating part of the area of freedom, security and justice. The purpose is to achieve an appropriate border security level. In this regard, the *Romanian Inter-ministerial Group for Integrated State Border*, called GIRMIFS, set the overall design and ensured the unitary coordination, based on *The national strategy of integrated border management of the Romanian state* and on the actions and measures conducted by public authorities and institutions involved in these tasks in order to achieve state border management.

The main instrument for the exercise of the integrated management of the Romanian state border is the Integrated System for

Border Security (ISBS). By its nature, ISBS belongs to a category of complex systems - system of systems - and it consists of multiple complex autonomous subsystems that are found in a close interrelationship, different in terms of technology, context, operation, geography and conceptual framework. The realization of this system constitutes a priority to Romania, in order to secure its national borders and the external borders of the E.U, for the integration into the European area of freedom, security and justice. It is appropriate according to the integrated border security model developed by the Schengen Catalog *External border control, extradition and readmission*.

The best practices and recommendations[1], ISBS envisages in a unitary concept all 4 complementary filters that bring together activities carried out by all the national institutions with attributions in the field of integrated management of borders[2].

In applying the Schengen *acquis* provisions for the implementation of the European Commission recommendations and the measures included in the Schengen Action Plan (revised in 2006), ISBS involves upgrading the infrastructure and the equipment of all Romanian Border Police (RBP) structures at all levels, thus ensuring a high level of external borders security in the Eastern part of the country.

Border surveillance implies ensuring observation and specific border actions through the implementation of technologies based on sensors, cameras or a combination of these. Information from sensors is transmitted to control centers through the use of communications subsystems and processed by the IT subsystem. Border surveillance is based on mobile platforms and fixed platforms.

The integrated management of the border involves combining control mechanisms and the use of tools based on the flows of people traveling towards the EU and entering it. This requires actions to be taken at Member States' consulates located in third countries, measures taken in cooperation with neighbor countries, measures taken at the actual border and measures taken within the Schengen area.

Third country nationals who need a visa for short-term are checked in the *Visa Information System* (the VIS), which will be fully operational as early as 2012, inclusive at consulates and border crossing points.

The European Parliament and the E.U Council have reached a political agreement on the legal basis of the VIS. Its formal adoption was expected in the first half of 2008[3]. The main objectives of the VIS are to check at entrance the authenticity of the visa and the identity of its holder.

Given the progress in terms of reaching an agreement on visa information system and its release, the EU should establish a system of *input / output* for all third country nationals who were allowed short-term stay. This requires changes in the *Schengen Borders Code* to ensure the systematic recording of data input and output in all external crossing points and the inclusion of biometric recognition elements at borders for nationals of third countries who do not need a visa as a

compulsory entry condition. Furthermore, if the registered traveler program is implemented, the Schengen Borders Code should allow for a simplified control of travelers who have been granted this status.

The Emergency Ordinance no. 102 of 14 July 2005 on free circulation in Romania of citizens of EU Member States and The European Economic Area, sets the conditions under which EU citizens and Member States of The European Economic Area and their family members may exercise their right of free circulation, residence and permanent residence in Romania, as well as limits on the exercise of these rights for reasons of public order, national security or public health[4].

The measures for the prevention of illegal migration and cross-border crime must be continued within the EU Member Area through enhanced searches, control and surveillance based on information in accordance with the national law, where possible based on police cooperation agreements.

Given the fact that problems of migration and crime are not subject to geographical restrictions, international trafficking routes should become in the future the main areas of activity for national police force according to its own law. Wherever the adopted policy and the national security requires, E.U Member States can adopt for a limited time, an appropriate inspection of the internal borders. In this regard the border *control and border surveillance activities* are defined.

Border control means controls carried out in the established crossing points and border surveillance represents the monitoring activity between border crossing points done with systems and special policies.

The control of individuals shall include not only verification of travel documents and other documents relating to entry, residence, work and quit but also checks for detecting and preventing threats to national security and public policy of the Schengen States. Such controls will be applied to vehicles and objects in the possession of persons crossing the border.

Border crossing control implies ensuring the control at border crossing of persons and property that they possess, as well as over the



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means of transportation. This includes the mobile control of border crossing points such as harbors, railways and in the area of competence of the RBP. To achieve this objective, IT subsystems will be used, available as an online subsystem for all institutions responsible for border management, based on open systems standards to achieve the interconnection of the IT systems used by these institutions and with international IT systems.

The IT system of the R.B.P. supports the institutions in fulfilling their duties when it is relevant to combat cross-border crime, illegal migration and identifying the persons and goods wanted - for example, it provide access to information in the NIS system, compatible with SIS II, for checking in normal controls cases, border crossing controls and others, offering both levels of command and execution the information necessary for the management of events relating to the control and supervision of the state border of Romania[5].

The mobility of the actions involves the land-naval-air platform that will be used for the border security system and includes all transport modes that are destined for surveillance and intervention at the state border. This ensures surveillance and patrol, transportation of forces and equipment for intervention, operational transportation between different operational structures and logistical transportation for supplies and maintenance. The terrestrial mobility, naval mobility and the aerial mobility are components of the subsystem.

Sources of funding for the implementation of the National Strategy can be: State budget funds, community funds from the EU financial grants projects, funds from co-financing provided by the Romanian state along with EU states, loans guaranteed by the Romanian Government; funds allocated through the Schengen Facility; external loans which do not

involve governmental guarantees, donations and sponsorships offered / accepted in accordance with the law; other sources.

The general strategy center of the border is represented by the functional management of the border that consists of control and border surveillance based on risk analysis. Article 6 of the Schengen Convention clearly establishes the implementation of the Common Manual, the two documents being complementary. The essential elements of border management are: all persons crossing external borders are to be checked systematically; border monitoring is done between checkpoints. In this regard, measures are necessary to be taken in order to ensure international security and to prevent illegal migration.

The adoption of a clear legislation in the *border management domain* is needed, such as: border law and data protection law. Likewise, regarding infrastructure, insurance of appropriate structures is necessary in order to carry out border checks and surveillance. The official persons that have these tasks have to be professionals and to have a specialized training. Furthermore, adequate human resources are needed. Specific applications depend on a series of factors (geographical location, volume of border traffic, etc.). In addition, it is necessary to have a clear concept of training and specialized skills related to practice, knowledge of legislation, foreign languages, etc.. Also an equipment that must correspond to the border situation is necessary.

Functioning internal coordination is needed at all levels (authorities that are responsible for different tasks, elimination of "black holes" of competence). Exchange of information between competent authorities (border police, customs, police, judicial authorities, prosecutors) is essential, including a mechanism for solving potential disputes between authorities on jurisdiction. In addition, operational issues are to

be taken into account (for example: the use of compatible communications equipment).

2. The alignment of Romania's principles, objectives, pathways and border security measures to the community

The need for Romanian border security is determined by the growth in size and complexity of cross-border crime, the internationalization of organized crime phenomenon and the conditions favoring their existence by the persistence of the economic crisis, social conflict and by the proliferation of terrorist actions in some states neighboring Romania or in the world.

Securing the border of the state, requires the effective participation of all state bodies and organizations with responsibilities at the border in order to achieve an integrated border management, compatible with community practices and it represents a system of measures, actions and activities at central and local level that ensure border security, maintenance of the normal, developing a safe and smooth control at the crossing of borders and the protection of the interests of the Romanian state in its relations with neighboring states, etc[6].

The measures of border security of the Romanian state, coincide with the period of training of the preconditions for becoming a party to the *Schengen Agreement* aiming to strengthen operational capacities, the specific activity of the R.B.P and inter-operability with those of national institutions with attributions at the border, with similar structures in EU member states and neighboring countries to counteract illegal cross-border facts, in the streamlining of legal passage conditions of people and goods across the border.

Currently, border security has become one of the most urgent problems of Romania as globalization requires expansion of the boundaries between countries of the world with the involved risks and consequences. Taking this into account, global liberalization of free circulation creates the premises for the development of cross-border crime, from small smugglers to large networks of organized crime and terrorist networks more than feared. These facts found in full contrast, oblige to the implementation of an integrated border security

that ensures, on the one hand, free circulation for honest citizens and the *hermetic sealing of borders* for citizens outside the law.

Within the R.B.P., an institution directly responsible for border security (border control and surveillance), conceptual clarifications were initiated which led to concrete measures for ensuring the integration of legislative, organizational, operational, logistical support, human resource management, both inside and outside, with national institutions with attributions at the border with neighboring countries, European countries and other countries, placing in the forefront national specificity, but combining harmoniously achievements at national, European, regional and global levels.

The fundamental objectives, perceived through the implementation of *the integrated border security system* and in the perspective of effectively combating cross-border crime are: achieving and improving the legal and administrative planning and operational coordination, consistent and coherent, at a national and local level of the cross-border phenomena; regulation by law of the framework of cooperation between national institutions with responsibilities in the Romanian integrated border management domain; the tight integration and unitary coordination of the tasks carried out at the border and of those carried out by other authorities within the national territory, full harmonization of national legislation specific to the EU border protection acquis, migration and asylum; completion of the development of administrative capacity of institutions with responsibilities at the border through appropriate specific unitary training of human resources; achievement of proper infrastructure at the border, complete communications subsystems, information technology, surveillance and control adapted to the specific of borders (terrestrial, aerial, maritime) and the providing of interconnection and interfacing equipment required in an integrated system; progressive implementation of specific procedures for border protection, migration and asylum, the appropriate harmonization of internal normative acts with the community acquis; enhancing international cooperation on border management with member states, neighboring countries as



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well as other countries; implementation and effective use of an effective mechanism of monitoring and evaluation of the integrated border management at all levels.

In line with EU requirements to achieve the objectives set forth is urgent to achieve a *consistent and coherent policy regarding the integrated border management* based on: a common mechanism for coordination and operational cooperation; common integrated risk analysis; human resources unitarily prepared and inter-operational equipment; legislative harmonization; efforts of all institutions. Carrying out these actions aims to strengthen operational capacities for specific activity of the PFR and inter-operability with those of national institutions with attributions at the border, with similar structures in EU member states and neighboring countries, to counteract illegal cross-border facts, under legal conditions of streamlining the crossing of people and goods across the border.

The structures of the R.B.P act in a delimited social environment, providing public services in order to meet the needs of national and European taxpayers, therefore the structures are sensitive to their reactions. In the modern vision the R.B.P carries out its tasks in an integrated system. Integrated systems, *systems of systems* or *families of systems* are determined by the complexity and magnitude of the environmental factors, such as cross-border organized crime.

Integrated systems have evolved following the steps specific to independent and interoperable systems. From this perspective of approach it results that border police structures act in an integrated framework inside them first, second in the national cooperation framework with other institutions with attributions at the border, but also in the international framework with similar structures from neighboring countries, EU countries and other countries;. The

aim of this integrated cooperation is to combat organized crime, which has become increasingly complex and difficult to combat.

Integrated system for border security is part of a complex systems category and it represents an ordered set of processes and elements characterized by numerous interconnections and interactions capable to meet the primary objective - the Romanian state border security. It is a complex cybernetic system, characterized by multiple components interconnected through numerous channels of information able to meet the new challenges of the Romanian border security.

The guiding principles of the integrated system are: forecasting; organization; coordination; control; evaluation; accountability; increase in efficiency; decentralization; cooperation, harmonization and synchronization of joint activities of the R.B.P with national and international authorities with border attributions, to achieve and maintain a state of normalcy in the area of competence; continuity; legality, proportionality; objectivity; priority of preventive measures; approaching the community; professional competence and motivation of staff; respecting the rights and freedoms of human communication and transparency.

The main objective of the R.B.P is to provide surveillance and border control that meet the requirements of the community and starting early actions to meet as soon as possible preconditions for the application of the provisions of the Schengen acquis and getting into the Schengen space. In this respect it is necessary to perform an effective management that is necessary for the implementation of the objectives set through the National Strategy for the Integrated Border Management of State in 2010-2015. This includes the following *directions of action*:

- application of internal legislation, specific to the RBP, in accordance with the EU acquis in the Justice and Home Affairs domain;

- application of the *Schengen Action Plan* modified in accordance with the Schengen acquis and that meets the deadlines laid;
- implementation and modification, as appropriate, of the existing provisions on internal borders with provision of the Schengen Code, clarifying the concept of internal border, setting a schedule and procedures for the entry into force of measures related to the elimination of internal border controls in accordance with the timetable for Schengen accession, removing any references to bilateral agreements and clarifying the situation of terrestrial and / or fluvial temporary border crossing points;
- elaboration of the needed documents and the initiation necessary for the steps for the negotiation and conclusion of treaties, agreements, conventions, protocols and agreements concerning the the state border of Romania, its legal status, border police cooperation, the movement of persons in EU context;
- application of the Schengen Borders Code and of the Regulation no. 562/2006 of the European Parliament and of the Council of 15.03.2006, concerning the creation of a Community Code on the rules governing the free circulation of persons;
- ensuring an appropriate infrastructure appropriate for preventing and combating illegal migration, cross border crime or any violation of the legal regime of state borders;
- implementing the best practices for combating illegal migration and cross-border crime by using the latest equipment;
- intensification of activities regarding data exchange with foreign and domestic partners under the MATRA program, the working groups TRIDENT and REFLEX and the European Agency for the Management of Operational Cooperation at the External Borders of the EU;
- development and use of the network of bureaus, centers and contact points;
- increasing the role of international transporters in preventing the illegal entry / exit to / from Romania of the citizens of third countries;
- supporting institutions with competences in international transport;
- improvement of their staff training in order to discover counterfeit documents and visas, in accordance with the practices of Member States;

- conducting periodic risk assessments and adopting effective measures to eliminate the risk of transporting persons without valid documents.

In the context of ongoing efforts for the security of national borders and achievement of *measures on legal traffic flow of persons and goods at the border*[7], Romania aims to implement the best practices of the EU by applying specific methodologies in order to support completion of the task of external border controls, by reducing the information-decision-action cycle (elimination of procrastinations, delays, bureaucracy and indecision).

The Schengen catalog describes the general agreement of border management as a whole and uses the term risk analysis as a tool for optimization of border management and as a reliable way to provide information on the state border. In this respect the management of the integrated risk should be part of the strategy of each institution with responsibilities at the border, so that the taking of strategic decisions should lead to the achievement of the overall national objectives on the line of security.

Achieving the objectives laid down above should lead to: preparation of policies and strategies to combat illegal migration, initiation and optimization operative measures, tactical and strategic cross-border crime combating; substantiation of the points of view necessary for the Romanian delegation participating in international profile events. However R.B.P. will follow the measures provided for in the *Government Decision* no. 231 of 30 March 2005 approving the National Anticorruption Strategy and Action Plan for implementation of the National Anticorruption Strategy, aiming to achieve the following **objectives**:

- design and identification of working tools able to identify risks that generate or facilitate corruption of the RBP staff and efficient management of information obtained;
- reviewing internal control tools and investigations to improve the monitoring activities of risk factors that generate or facilitate corruption in the RBP staff;
- design tools to prevent corruption among own personnel and in the disciplinary management; reducing the risk of entry and retention in the system of prone to corruption



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or corrupt staff by providing recruitment and selection practices in accordance with legal rules, orders and instructions into force, implementation and monitoring at the level of RBP of the measures designed to prevent violations by border guards of the rules governing the conduct and corruption; boosting staff for outstanding achievements by providing rewards;

- attracting the civil society in managing anti-corruption measures adopted at the level of the RBP by designing and implementing tools to increase transparency of the activities that generate corruption among staff;

In conclusion, the purpose of these goals is to establish policies, principles and objectives towards common, consistent and efficient management of the state border of Romania, in line with the EU requirements, which ensures increasing the security of citizens, respecting their fundamental rights and freedoms, streamlining the flow of legal traffic of people and goods at the border and fulfilling, as soon

as possible, the conditions necessary for applying the Schengen acquis and for getting into the Schengen space.

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