

RANGE OF PROBLEMS OF THE SERVICE ORGANIZATION AND POSSIBLE SOLUTIONS FOR THE BORDER CONTROL UNITS

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Abstract. *The authors of this paper describe the current situation in the Border Control Units of the State Border Guard of the Republic of Latvia and, based on the study of regulatory enactments, summarize the service information on the development of the concept of border control in the international law, the essence of its implementation, the principles and mechanisms of the establishment of the infrastructure and engineering equipment that is necessary for the state border control, as well as the role of the border control in the framework of the cooperation.*

Keywords: *border control, technical support, state borderland, cooperation.*

Introduction

Under the conditions of the dynamic development of the modern society, the goals for the promotion of the state internal and external security are implemented together with the provision of the state border security and control. Border control is one of the key cornerstones of IBM, and the Republic of Latvia as a member of the European Union has a responsibility and a need to strengthen its national border and contribute to its internal security. In turn, the security of the state border is an integral part of national security which imposes certain obligations on the state security and, accordingly, on the EU security, so the special attention should be paid to the continuous improvement of the service organization of the Border Control Units. According to the Integrated Border Management Guidelines, the border control should be carried out in accordance with the requirements of the Schengen *acquis*, and the best border management practices should be implemented wherever possible. (*Integrated Management Concept of the State Border of the Republic of Latvia for 2013-2018*)

As a member state of the European Union, the Republic of Latvia has the obligation and the need to strengthen its state border and to contribute to the internal security. It implies also the significant contribution to the internal security of the European Union, in particular by combating serious and organized crime in such forms as drug smuggling and human

trafficking, economic crimes (including smuggling of goods) and arms smuggling, as well as other cross-border crimes.

The purpose of this article is to investigate the legal regulation and practical aspects of the service organization at the Border Control Department of the State Border Guard, as well as to identify its problems and measures for their improvement. Hypothesis – the current state of the state borderland and technical systems as well as the deficiencies of the interinstitutional cooperation affect the effective service organization in the Border Control Department.

The scientific literature in the field of international law and international treaties, the law of the Republic of Latvia, the internal regulations of the State Border Guard and the unpublished materials were used to develop the paper.

The Border Control Departments of the Territorial Administrations of the State Border Guard are responsible for the organization and implementation of the land border control. By controlling the external borders on a daily basis, Latvia takes care not only for its internal security but also for the internal security of all other Member States of the Schengen Area, as the border control at the internal borders is cancelled throughout the Schengen area, therefore, the special attention should be paid to the continuous improvement of the service organization of the Border Control Units.

Organization of the Border Control in the Structural Units

The Head of the State Border Guard, when determining the priority directions of the State Border Guard's activity for the few years, draws attention to the importance of the arrangement of the state borderland, as well as to the development of the technical systems and the promotion of the interinstitutional cooperation. Taking into account the above-mentioned considerations, the legal regulation that is governing the service organizations of the Border Control Department of the State Border Guard, its practical organization in the territory of the Republic of Latvia, when implementing the control measures of the EU external border, and based on the certain priorities of the activities of the State Border Guard, was studied.

The Schengen Borders Code, as one of the cornerstones of the Schengen *acquis* in the area of the border control, defines the border control as the border control between the border crossing points and the monitoring of the border crossing points after the end of the fixed working hours in order to prevent the persons from escaping the border control. (Schengen Borders Code, 2017)

Article 13 of the Schengen Borders Code also defines the main objective of the border control - to prevent unauthorized border crossings, to combat cross-border crime and to take measures against persons who have illegally crossed the border. The second part of this article laconically states that the border guards use stationary or mobile units for border control.

It should be noted that regarding the tactics and methods used in border control activities, the international legal framework ensures fairly unlimited freedom of action for the competent authorities of the Member States, since it determines only the fact that the control should be carried so that to prevent persons from escaping the border control at the border crossing points and from making such attempts.

The border control of the state border of the Republic of Latvia with various tactical methods is carried out by mobile patrols which are equipped with quadricycles, motorcycles, snow sledges, based on the risk analysis carried out. The service dogs are widely involved in border control, and their involvement is being constantly expanded. In order to obtain information on the situation at the state border, daytime and night observation cameras are used within the bounds of possibility on the observation towers, as well as the different types of sensor systems.

Presence detection system – a set of components (sensors, transmitters, detectors, relays) that determine the presence of objects and the direction of movement in all weather conditions. The system eliminates the need for the continuous physical presence of border guards in the border control area, ensures continuous monitoring of the border guard facility or the specified border control point.

It is important to note that the security of any country begins directly with the state border - it is an important statehood attribute, the first barrier of national interests. The state border is not only a geographical formation, but also a political phenomenon - certain territories that are subject to state power, its independence and restrictions. (Echin, 2016)

According to the information in the Schengen Catalogue regarding the Integrated Border Management, the cooperation between the agencies is required at all levels for all authorities that are competent to prevent and combat illegal immigration and cross-border crime. The cooperation policy between the agencies should be defined at the meetings of the heads of the agencies involved in border management and prevention of the cross-border crime. Planning of the cooperation of the agencies can take place at all levels, at national, regional and local level. Cooperation should be planned on the basis of a common understanding of the situation and on the basis of the common threat analysis. In addition, the cooperation should cover operational issues, such as the use of compatible communication

equipment, organization of the joint operations and participation in joint trainings (EU Schengen Catalogue, 2009)

It is important to note that the EU basic principles for guaranteeing the security of the state border are included and widely reflected in the national legislation – in the Border Guard Law, State Border Law and the Regulations of the Cabinet of Ministers. However, it is worth mentioning that different legal terminology is being used in different legal acts, by defining, in essence, the same process - external border control: border control (Schengen Borders Code, 2017), surveillance (EU Schengen Catalogue, 2009), Border Guard System (Regulations regarding the Border Guard Law, 2014), while the basic structural units of the State Border Guards which carry out border control activities, are called the Border Guard Departments (Regulations regarding the Border Guard Law, 2014)

In the authors' view, the introduction of uniform terminology in the national and State Border Guard internal legislation according to the principle of the Schengen *acquis* should be evaluated positively from a legal point of view, by translating the application of different legal provisions in the framework of the daily practical activities, as well as in the course of the training of newly engaged cadets. In addition, it should be noted that the use of the common terminology excludes the translation inaccuracies in cooperation with the foreign colleagues, for example, in the Schengen evaluation process and in the course of the joint international operations.

The situation in the context of the border security is constantly changing, especially in view of the seasonality factors. The authors suggest drawing more attention to the flexibility of the service organization – to the ability to adapt and react in a timely manner to all the changes in the situation. Such flexibility can be achieved by reviewing the frequency of the orders on the border control organization, and by determining tactics at least twice a year for a certain season - autumn/winter and spring/summer.

It is positively assessed that by defining the priority character of the development of the border control technical means and by continuing the commenced work for the acquisition of sensor chips, the State Border Guard announced on February 24, 2017 an open competition “Delivery of Sensor Kits”. The procurement was divided into two parts: delivery of motion sensor kits and seismic sensor kits. The state border control requires optical devices that ensure the unambiguous classification of the object for adoption of the quick decision, while the automatic classification increases the quality of the adopted decision and reduces the number of the required resources. For example, the responsible officials of the Border Control Units, when receiving a signal from a sensor, are trying to determine the reason for its activation. If the sensor system includes a surveillance camera that allows identification of the object (man or animal),

the duty officer does not need to send the instruction for the identification of the reason to the location of the event. Having highly evaluated the positive features of the technical means, the weakest link in the use of the sensors should be mentioned - the use of radio communications for the alarm transmission to the control centre. Disturbances in the mobile network, as well as the use of special devices for the radio signal suppression by the offenders drastically reduce the efficiency of their operation, and even make such operation impossible. In order to exclude the dependence of the radio communication instability on the use of sensors, it is necessary to consider the possibility of supplementing the existing and planned state borderland infrastructure by installing an optical cable along the entire state border. The multi-feature practical aspect of this proposal is positively evaluated as the optical cable connection can be used not only for the provision of the continuous operation of sensors, but also for the connection of the video surveillance cameras for the covert surveillance.

When planning the use of the presence detection system in a specific Border Control Unit, the border guard official should assess the following issues before adopting a decision on the location of the presence detection systems and the types of sensors to be used:

- 1) the results of the risk analysis and the features of the implementation of the state border control task;
- 2) the routes of the state border violators, illegal immigrants or persons and vehicles under supervision;
- 3) ongoing activities in the vicinity of the location of the presence detection systems;
- 4) local peculiarities;
- 5) seasonal, meteorological conditions;
- 6) possibilities of using other means of border and immigration control in the implementation of the state border control task;
- 7) opportunities for cooperation with nearby border guards;
- 8) possible animal migration (movement) paths (directions);
- 9) signal reception stability.

It should be concluded that the Head of the Border Control Unit, when performing the sensor system installation, needs to combine system components in different ways and on several lines in order to reduce the possible false alarms. It is positively evaluated that the technical parameters of these systems and their application methods correspond to the modern requirements of the EU “green” border control.

Due to the fact that the operation of the acquired sensor systems is based on the modern advanced technologies, the specific knowledge is required for the work with this technique. In order to ensure the effective

and sustainable operation of the sensors, the State Border Guard should evaluate the possibility of introduction of the position of the Technical System Specialist in the Border Guard Department with the direct subordination to the Head of the Border Control Unit. The employee in this position would be responsible for the support of the technical means, timely repairs, effective use of these means and operation in accordance with the manufacturer's recommendation.

According to the Regulations of the Cabinet of Ministers "The Procedures by Which the National Guard shall Provide Support to State and Local Government Institutions in Crime Prevention and Guaranteeing of Public Order and Security", the National Guard may provide support to the State Border Guard:

- 1) temporary restoration of the border control at the state internal borders in order to prevent the persons and vehicles from crossing the state border outside the places designated for this purpose or in another unlawful manner;
- 2) provision of the integrity of the state external border in case of national danger in accordance with the procedure specified in the National Defence Operational Plan;
- 3) search for a person suspected of illegal crossing of the state external border.

The Member States shall use the appropriate resources and staff to the appropriate extent in order to carry out the control at the external borders, by ensuring effective and integrated control. (Schengen Borders Code, 2017)

Based on the above-mentioned considerations, the cooperation between the State Border Guard and the National Guard in the implementation of the border control activities is defined as a potential problem in the organization of the border guard department service.

The conceptual report "On Control and Protection of the State Eastern Border" developed by the Ministry of the Interior states that by following the changes in the international security situation and taking into account the increasing risks related to national security and protection, the material and technical resources and personnel resources of the border guard are not sufficient to ensure the uninterrupted border control throughout the length of the Latvian external border.

The Border Guard does not have the necessary resources to protect the state external border in the event of a threat to the national security and to carry out the large-scale search for a person who has illegally crossed the state external border.

In view of this, there is a need to establish the procedure by which the National Guard may provide support to the border guard not only in the temporary restoration of border control at the state border, but also in the provision of the integrity of the state external border in the event of a threat to the national security and in the search of a person suspected of illegal crossing of the state external border. Involvement of the National Guard in the strengthening of the integrity of the state external border will only take place in the event of a threat to the national security, while the involvement in the search for a person who illegally crossed the border will only take place if there is a reasonable suspicion that a person has illegally crossed the state external border. (The Procedures by Which the National Guard shall Provide Support to State and Local Government Institutions in Crime Prevention and Guaranteeing of Public Order and Security 2010)

The legislative initiative approved by the Saeima on the broadening of powers of the National Guard by providing assistance to the State Border Guard is positively evaluated. When researching the practical aspects of this problem, the proposal to promote and develop the interinstitutional cooperation was made: the State Border Guard, in cooperation with the National Guard, should develop a cooperation plan for the involvement of the National Guard in the provision of the daily activity of the Border Control Units, by way of example of the implementation of good practice in cooperation between the officials of the Border Control Units and the officials of the territorial structural units of the State Police.

Conclusions and Suggestions

1. In general, it can be concluded that there are several possibilities for the improvement and development of the border control service organization:
2. In order to exclude translation inaccuracies in cooperation with the foreign colleagues and to reach a common understanding of the terminology used in the operation of the Border Control Units, it is necessary to prepare proposals for the introduction of changes in the national legislation that is regulating the activities of the State Border Guard, with the aim of replacing the term "border guarding" with the term "border control" on the basis of the terminology used by the Schengen *acquis*.
3. To amend the regulation of the State Border Guard by replacing the definition of "Border Guard Unit" with the "Border Control Unit".
4. To review the frequency of the orders on the border control organization and to determine the tactics at least twice a year for a certain season - autumn/winter and spring/summer.

5. In order to exclude the dependence of the radio-communication instability on the use of sensors, it is necessary to consider the possibility of supplementing the existing and planned state borderland infrastructure by installing an optical cable along the entire state border. The multi-feature practical aspect of this proposal is positively evaluated as the optical cable connection can be used not only for the provision of the continuous operation of sensors, but also for the connection of the video surveillance cameras for the covert surveillance.
6. In order to ensure the effective and sustainable operation of the sensors, it is necessary to evaluate the possibility of introduction of the position of the Technical System Specialist in the Border Guard Department.
7. In order to promote the interinstitutional cooperation and development, the State Border Guard, in cooperation with the National Guard, should develop a cooperation plan for the involvement of the National Guard in the provision of the daily activity of the Border Control Units, by way of example of the implementation of good practice in cooperation between the officials of the Border Control Units and the officials of the territorial structural units of the State Police.

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