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JOINT BORDER OF UKRAINE AND THE EUROPEAN UNION: POLITICAL AND LEGAL ASPECTS OF COOPERATION IN THE FIELD OF INTEGRATED BORDER MANAGEMENT

Abstract: The article discusses the political and legal aspects and the dynamics of Ukraine's interaction with the EU and its Member States in the field of integrated border management in order to improve interagency and international cooperation, introduce joint control at checkpoints, organise joint patrols, improve the level of security and openness of state borders and enhance their integration function. The issues of construction and modernisation of checkpoints, implementation of European border standards, customs and other types of control at the state border of Ukraine and the EU countries have been researched. The perspectives of Ukraine's entry into the integrated border management system at the present stage have been outlined. The mechanisms of in-depth cooperation in the field of integrated border management under conditions of implementing the Association Agreement between Ukraine and the EU have been elucidated.

Keywords: border, checkpoint, border security, integrated border management, international cooperation, Ukraine, European Union

WSPÓLNA GRANICA MIĘDZY UKRAINĄ A UNIĄ EUROPEJSKĄ: POLITYCZNE I PRAWNE ASPEKTY WSPÓŁPRACY W ZAKRESIE ZINTEGROWANEGO ZARZĄDZANIA GRANICAMI

Abstrakt: W artykule przeanalizowano polityczne i prawne aspekty oraz dynamikę stosunków Ukrainy z UE i jej państwami członkowskimi w zakresie zintegrowanego zarządzania granicami w celu usprawnienia współpracy międzyagencyjnej i międzynarodowej, ustanowienia wspólnej kontroli celnej i przejść granicznych, organizacji wspólnych patroli, zwiększenia bezpieczeństwa i otwartości granic państwowych oraz poprawy ich funkcji integracyjnej. Zbadano zagadnienia związane ze stworzeniem i modernizacją przejść granicznych, wprowadzaniem europejskich standardów ochrony granic, kontroli celnej i innych rodzajów kontroli na granicy państwowej Ukrainy i krajów UE. Zarysowano perspektywy przystąpienia Ukrainy do systemu zintegrowanego

zarządzania granicami. Przeanalizowano także mechanizmy pogłębionej współpracy w zakresie zintegrowanego zarządzania granicami zgodnie z warunkami realizacji Układu o stowarzyszeniu między Ukrainą a Unią Europejską.

Słowa kluczowe: granica, przejście graniczne, zintegrowane zarządzanie granicami, współpraca międzynarodowa, Ukraina, Unia Europejska

1. Introduction

The importance and functions of state borders are constantly changing, and political and legal cooperation is developing in the field of integrated border management at the current stage of international relations. Moreover, there is a lot of concern over their protection, security and openness. In the dynamic process of deepening integration within the European Union and a gradual expansion of its borders, more and more attention has been paid by the EU institutions to the issues of security, the operating regime of both the national borders of the Member States and the external borders of the EU. From signing the Schengen Agreement (1985) till the adoption of the European Integrated Border Management Strategy (2017), conceptual approaches to understanding the role and function of borders, requirements for their infrastructure provision, monitoring, control, etc., have changed. In response to the existing problems, at the European Union level and based on a comprehensive approach: the doctrinal provisions of the external border management policy have been revised; a number of legal, political, managerial, institutional, financial mechanisms for integrated border management have been developed and introduced; cooperation with neighbouring countries on readmission of persons for combating illegal migration, the joint border patrolling, the risk and threat analysis, coordinated rapid response, regular exchange of information on offenses based on the European standards has been established and expanded.

At the current stage, the pan-European goal of Integrated Border Management (IBM) involves effective management of border crossing and migration processes, response to potential threats, combating trans-border crime, ensuring a high level of security and openness of the borders, while respecting fundamental human rights and freedoms (European Integrated 2017).

Expanding the EU's external borders to the east, forming a common border with Ukraine necessitated such activities as the establishment of international, border and interagency cooperation, introduction of joint control over persons, vehicles and goods at border crossing points, organisation of joint border patrols, implementation of border, customs and other types of control at the state border in line with EU requirements. All this contributed to the gradual transposing of EU standards into Ukrainian legislation in the context of integrated border management.

2. Literature review

The works of many foreign scientists are devoted to investigating security issues of the EU's external borders and the main risks at these borders. Border security is one of the topics studied by a group of scientists of the analytical Centre for European Policy Studies (CEPS) in Brussels, namely: S. Carrera, R. Cortinovia, N. Ch. Luk, M. Stefan, L. Vosyliute. Their range of interests covers the areas of justice, home affairs, security and justice, with particular attention being paid to migration, asylum, border control, returning and readmission, migrant smuggling and Schengen policy with a focus on the EU's external actions in these areas. P. Hobbing outlined the problems faced by the EU in this sphere and suggested areas of joint border management (Hobbing 2005).

The social, political and cultural features of the EU border functioning are described in the works of H. van Houtum and R. Pijpers (2007), G. Popescu (2006) and others. In addition, L. O'Dowd (2002) and J. W. Scott (2006, 2011) consider the geopolitical aspects of EU enlargement and the significance of internal and external borders in the context of European integration. J. W. Scott researches the opportunities for region building across national borders within the context of EU enlargement (Scott 2006).

Security aspects of the EU borders are researched by A. W. Neal, who analyses the sphere of activity and practice of the FRONTEX European Border and Coast Guard Agency (Neal 2009). One of the experts who regularly analyse the problems of state borders is the French geopolitician M. Foucher (Foucher 1999). The issues of uncontrolled immigration to EU countries and its negative impact on border security were raised by M. Ceccorulli, F. Adamson, S. Carrera, R. Radescu, N. Reslow, S. Ferreira and others in their works (Ceccorulli 2019). A new system of integrated border management as an opportunity for effective protection of the European Union's external borders from the threats related to illegal immigration, human trafficking and illegal trade, terrorism, etc. in the context of the European Union expansion has been described and critically analysed by O. Marenin (Marenin 2010).

The issue of the role and operation of the European Union border has been repeatedly raised by Ukrainian scientists. The practical aspects of implementing the integrated border management policy are explored by P. Kravchuk, K. Kulchytska and I. Sushko (2018) and others. Current trends in the development of the European Union border security management system are analysed by the Ukrainian scientists V. Horodnov, V. Kyrylenko, D. Kupriienko, M. Strelbytskyi, S. Filippova, and others (Kupriienko 2016; Strelbytskyi, Filippov 2017). The migration crisis in the EU countries viewed as a threat to the security of external borders and implications for Ukraine is considered in the works of H. Lutsyshyn, O. Malynovska, and others. The mechanism for legal regulation of the EU activity in the field of combating cross-border crimes was researched in the work of O. Krasnov, A. Pavlenko. The problems of reforming the state border guard system of Ukraine in the context of European integration, the use of foreign countries' experience with regard to risk analysis in border agencies are

explored by S. Biliavets, A. Vikhtiuk, I. Kachurovskyi, M. Lytvyn, A. Makhniuk, M. Tsybrovskyi, and others.

Despite the considerable number of scientific papers on the security and operation of state borders, the EU integrated border management, the political and legal aspects, and especially the dynamics of Ukraine's interaction with the EU and its Member States in this field have not been sufficiently studied. In the context of studying this problem, the EU-Ukraine relations have had different progress and are characterised by different intensity, sequence and content in various periods. Therefore, this had a great impact on the functioning and development of the joint border. The article considers the political and legal aspects of Ukraine's accession to the European System of Integrated Border Management, and outlines the main issues of border infrastructure development, security and border crossing during several periods of bilateral cooperation in this field.

3. Methodology

During the research, a number of approaches and methods of scientific expertise have been applied, in effect providing a thorough and comprehensive study of Ukraine's integration into the European system of integrated border management over time.

The structural and functional approach has been applied, implemented under the conditions of the current trends in political and political-geographical border studies, including a comprehensive consideration of the dynamic development of its infrastructure and transformation of functions in the context of Ukraine's cooperation with the EU in integrated border management. For the purpose of a comprehensive study of the political and legal aspects of the operation and development of the joint border of Ukraine and the EU, a system approach has been applied, which involves considering it as a defined system with a complex structure and dynamic interconnections.

The historical method has been used in the periodisation of the development of bilateral cooperation between Ukraine and the EU on the joint border, taking into account certain peculiarities, which reflects specific progress in the construction of this border and change in its regime of operation. The peculiarities in the development of regulatory and institutional foundations of Ukraine's cooperation with the EU in the field of border management have been clarified by the institutional method, as well as by the method of analysing documents, in particular the legal acts regulating the operating regime of the joint border. The comparative method has been used to study the interaction of Ukraine with individual EU Member States with which our country borders, in different periods of time. The use of the forecasting method helped identify promising areas for bilateral cooperation between Ukraine and the EU in the field of integrated border management.

The paper presents the division into periods of cooperation between the EU and Ukraine in the field of integrated border management. Each period covers a separate time interval for the development of a joint border of Ukraine and

the EU, which differs in certain features and reflects specific progress in the development of this border. Furthermore, it shows the changes in its regime of operation in accordance with the adopted bilateral agreements and the introduction of institutional, financial and technical cooperation instruments, and takes into account challenges and threats to border security in the conditions of the occupation of Crimea, Russia's armed aggression in Eastern Ukraine, intensification of migration processes, etc.

4. Empirical results and discussion

In the relations between Ukraine and the European Union, the issue of the joint border has arisen in bilateral political discourse in connection with the biggest wave of enlargement to the east and the accession of Poland, Hungary and Slovakia to the EU, with which our country borders. This date was the starting point and, in our opinion, allows us to distinguish a number of development periods of Ukraine's cooperation with the EU in the field of construction and operation of the joint border.

Having summed up the accumulated material and taking into account the political and legal aspects of cooperation between the parties in this field, the following periods may be outlined:

1) 2000–April 2004 – a justification period of the new Eastern Neighbourhood Initiative and the establishment of the joint border, comprising the agreements between the states on changing the border crossing regime by citizens of Ukraine and Poland, Hungary, Slovakia in 2003, the EU response to the new challenges and threats to border security under the European Neighbourhood Policy (ENP) in line with the European Security Strategy (December 2003) (European Security 2009), the acquisition of full EU membership by Ukraine's neighbouring countries (Poland, Hungary, Slovakia).

In December 2000, the Treaty of Nice (signed in February 2001) was concluded to reform the EU institutional mechanism in view of its future enlargement. Following the accession of Poland, Hungary and Slovakia to the European Union on 1 May 2004, a direct border between Ukraine and the EU was established. However, the difficult process of EU negotiations with ten candidate countries and the alignment of the Member States' positions on the relations with the new eastern neighbours, the renewal of a security strategy on the eastern border to prevent crime, drug trafficking and illegal migration through the new eastern borders, had taken place by that time.

The conclusion of the negotiations and the final positive decision on the accession of new countries were announced on 13 December 2002 during the EU Council Summit in Copenhagen. The European Parliament approved this decision on 9 April 2003, and as early as on 16 April of the same year in Athens, 15 "old" and 10 "new" EU members signed the Treaty of Accession. In 2003, referenda were held in nine countries (except Cyprus), and then the Treaty was ratified by the parliaments of the EU Member States.

From the moment of the EU's enlargement to the east, the border between Ukraine and Poland, Hungary and Slovakia began to be considered not only as a state border between the two countries but also as the eastern border of the European Union. Its length totals 776.94 km. Some foreign researchers, including M. Foucher, also called it Europe's external political security frontier (Foucher 1999). On the one hand, Ukraine has gained advantages in its global and regional political and geographical situation as it has become closer to the European Union territorially and, consequently, the level of its communication relations with the countries of the Community has increased. On the other hand, the procedure for crossing the border in accordance with the principles of the common policy on the travel of persons and the harmonisation of the visa regime with non-member countries has become more complicated. This policy has been implemented in accordance with the founding treaties of the EU. Therefore, one of the requirements for the candidate countries to join the EU was to establish a visa regime for third-country nationals, including Ukraine, after signing the relevant agreements.

Apart from the enlargement of the EU to the east, which has exemplified the spread of democratic values and standards in post-socialist countries, the Orange Revolution has fostered further accelerated development of partnerships between Ukraine and the European Union, particularly in the field of border management and security. The events of November and December 2004 in Ukraine demonstrated pro-European aspirations of the Ukrainian nation, its intentions to move towards gradual economic European integration and political association.

Thus, during the first period, the joint border between Ukraine and the European Union operated under an asymmetric visa regime, which Ukraine's neighbouring states introduced at the request of the EU in order to protect its external borders from smuggling, illegal migration, drug trafficking and other threats. This affected the intensity of traffic across the border. For example, according to the data of the Chief Command of the Border Guard Service of the Republic of Poland, within the period from January to May 2004, as compared to the same period of 2003, the number of citizens traveling from Ukraine to Poland decreased by 16.2%, which is related to the introduction of the visa regime (Стоєцький 2006).

2) May 2004–2008 – a period which saw the establishment of interagency bilateral and multilateral cooperation of Ukraine with the EU and its Member States in the field of joint border development.

Under the ENP, the EU offered each neighbouring state a bilateral Action Plan, a tool regulating “privileged relations” on the basis of mutual recognition of common values, principles of market economy and sustainable development. The Bilateral Ukraine-European Union Action Plan for a period of three years until 2008 (extended until 2009) was signed on 21 February 2005 (План дій 2005). In the Ukraine-EU Action Plan, considerable attention is paid to joint border management, cooperation on migration issues and ensuring effective management of migration flows, enhanced cooperation between law enforcement and judicial authorities, etc. It should be noted that the Action Plan particularly focused on the Ukrainian-Moldovan border. Since the “frozen” conflict in Transnistria,

organised activities of transnational crime groups posed a challenge for the security of the joint borders. New threats have emerged, including smuggling of goods, weapons and drugs, cross-border human trafficking, illegal migration and corruption. The long-standing efforts of Ukraine and Moldova to combat various forms of cross-border crime on their own (bilateral agreements were concluded, joint customs posts were established, etc.) proved to be ineffective, primarily due to the corruption and technical unpreparedness of the relevant services and inaction of the authorities of the self-proclaimed Transnistria (officially the Pridnestrovian Moldavian Republic).

These problems and the formal request by Ukraine and Moldova to support them in establishing an effective monitoring mechanism in the Transnistrian segment of the Moldova-Ukraine border (453 km long) as well as the administrative boundary line (411 km long) within the Republic of Moldova prompted the EU to deploy the EU Border Assistance Mission to Moldova and Ukraine (EUBAM), testifying to the active participation of the EU in the process of crisis management in the periphery. Since 1 December 2005 EUBAM has coordinated the process of ensuring full implementation of IBM practices at the Ukrainian-Moldovan border (EU Border 2017). The EUBAM's territorial mission offices are shown in Fig. 1.

This period encompassed an ENP update. Since the revision of its 2006 principles, a number of initiatives have been implemented to make it more effective and attractive to the neighbouring countries. Certain initiatives have addressed the operation and security of the borders. Of great importance for their financial and technical assistance was the creation of the European Neighbourhood and Partnership Instrument (ENPI), a new European Union financial instrument for the countries covered by the ENP, which came into force on 1 January 2007. It replaced the Tacis Programme (TACIS – Technical Assistance to the Commonwealth of Independent States), which had until then funded a number of border cooperation activities, the arrangement of checkpoints at the joint border, including construction works and the provision of EU technical assistance at Yahodyn (2004–2005), Uzhhorod (2006) checkpoints and others. Within the framework of technical assistance programmes, cooperation between the State Border Guard Service of Ukraine (SBGSU) and EU structures is developing. The border units of Ukraine have received a considerable amount of equipment for the avoidance and prevention of offences, including all-terrain patrol cars, quadricycles, trucks (190 units by 2016); mobile thermal imaging devices (340 units); radio stations (346 units); passport control devices (648 sets) (Shchod nadannya 2016).

After Bulgaria and Ukraine's immediate neighbour, Romania, had joined the EU on 1 January 2007, the length of the joint border of Ukraine with the European Union increased to 1357.74 km. This has led to the expansion of the EU-Ukraine cooperation in the field of IBM and posed new challenges to the joint border security.

This period witnessed the development of interagency cooperation, in particular of the SBGSU with FRONTEX, the European Border and Coast Guard Agency, to which the EU assigns the leading role of the coordinator in establishing

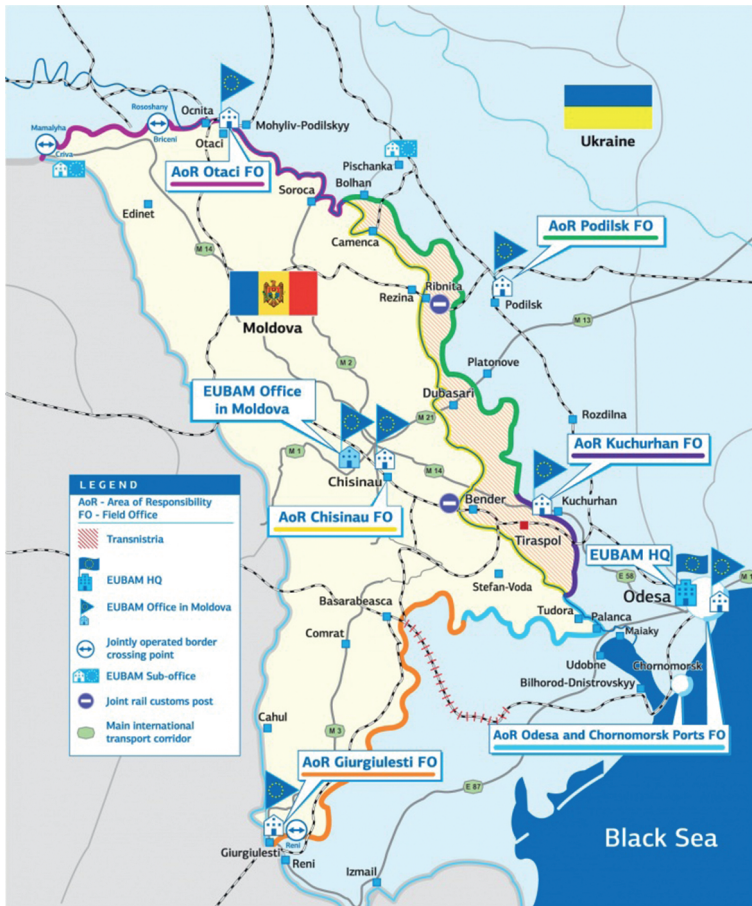


Fig. 1. EUBAM's Offices in Ukraine and the Republic of Moldova

Note: Conflict Resolution, 2017, EUBAM contributes towards the peaceful settlement of the Transnistrian conflict, <http://eubam.org/what-we-do/conflict-resolution/>.

effective border management at the external borders, the implementation of IBM. Following the adoption of the Working Arrangement on Establishing Operational Cooperation between the SBGSU Administration and FRONTEX in Luxembourg on 11 June 2007, the parties organised joint operations and training for the personnel, conducted a common risk analysis and exchanged information (Robocha domovlenist' 2007).

After Poland, Hungary and Slovakia had joined the Schengen area in December 2007, the conditions for crossing the EU border became more stringent. The new Schengen members were obliged to harmonise their requirements in accordance with the established requirements. Different types of paid visas were introduced for Ukrainian citizens, depending on the reasons and the terms of going abroad. Visas were divided into single and multiple entry visas (MULTI). According to the Official Website of the State Statistics Service of Ukraine, in 2007 4,380,264

citizens of Ukraine crossed the Ukrainian-Polish border and entered Poland. In 2008, the number of Ukrainians who crossed the border and entered Poland decreased almost two times, and totalled 2,245,876 people. The decrease in the number of Ukrainians who entered Poland in 2008 is related to the country's entry into the Schengen area. In general, this has made the rules for crossing the state border for Ukrainian citizens more complicated, which is reflected in the statistics. Instead, there was a positive dynamic of crossing the Ukrainian-Polish border by Polish citizens: 4,430,140 people entered Ukraine in 2007 and 5,242,980 people in 2008 (Derzhavna sluzhba statystyky 2006, 2007, 2008). The crossing of the Ukrainian-Polish border in the period 2006–2008 by citizens of Ukraine and Poland is illustrated in Fig. 2.

Visa regime liberalisation, and subsequently the introduction of a visa-free regime at the EU-Ukraine border at that time, became one of the most important areas for EU-Ukraine interaction through the mediation of the International Organization for Migration (IOM). IOM assisted the Ukrainian authorities in their dialogue with the EU on visa regime liberalisation and has so far supported the implementation and application of best practices in various areas: migration management, readmission, document security, etc. In order to develop contacts between citizens of Ukraine and EU Member States lay the foundation for the future introduction of a full visa-free regime for Ukrainian citizens between Ukraine and the European Union, the Visa Facilitation Agreement (VFA) was signed on 18 June 2007, which entered into force on 1 January 2008. The provisions of the Agreement set preferences for all categories of Ukrainian citizens in terms of visa fees (EUR 35) as well as the duration and simplification of visa procedures for certain categories of Ukrainian citizens (Uhoda pro sproshchennya oformlennya viz 2008). It should be recalled that visa waiver for EU citizens was made on a voluntary basis back in 2005.



Fig. 2. The Ukrainian-Polish border crossing in 2006–2008

Data source: DPSU.

One of the steps towards building a facilitated visa regime and, in the long term, a visa-free regime for Ukrainian citizens (within the framework of the implementation of the Visa Facilitation Agreement between Ukraine and the European Community) was the signing of separate agreements on local border traffic rules by Ukraine and Poland, Hungary and Slovakia in 2008. They were considered as a real condition for accelerating regional development and a new, untapped reserve for cross-border cooperation. The Agreement on local border traffic was signed between Ukraine and Romania in 2014. According to the rules of local border traffic, the residents of the border area were able to cross the joint state border under the local border traffic regime with their valid permit and appropriate travel documents. This exempted the permit holder from fulfilling visa requirements.

The EU's compulsory requirement for visa facilitation for Ukrainian citizens was the signing of a readmission agreement to counteract illegal migration. The conciliation process was complex and continuous due to a number of obstacles, including the absence of asylum facilities for the retention of returned illegals, as well as the readmission agreements of Ukraine with states supplying illegal migrants (Central and Southeast Asian countries), as well as the transit countries – the Republic of Belarus and Russia, through which more than 80% of illegal immigrants entered Ukraine. After achieving consensus on 18 June 2007, the EU-Ukraine Readmission Agreement was signed and entered into force on 1 January 2010. The agreement regulates the procedures related to the identification and return of third-country nationals and stateless persons who illegally entered the territory of Ukraine or an EU Member State, to their countries of origin or permanent residence. The document provides for ordinary and expedited readmission procedures, identifies the documents confirming the origin of the illegal migrant, and sets the timeframes for completing readmission requests.

Of great importance for resolving visa issues was the Paris EU-Ukraine Summit held on 9 September 2008. The leaders of Ukraine and the EU discussed the implementation of visa facilitation and readmission agreements, called on Ukraine and the EU Member States bordering with Ukraine to research the possibility of jointly operated border crossing points to serve as an effective tool facilitating cross-border traffic and trade, complying with security requirements and relevant legislation. The Summit launched a dialogue on the introduction of a visa-free regime for short-term trips between the EU and Ukraine in the long-term perspective. The main topics of political discourse have remained the following: security of documents, illegal migration, including readmission, public order and security (Summit 2008).

In general, the period of 2005–2008 was an important stage in establishing cross-border cooperation between Ukraine and the EU, during which a set of interstate documents on the operational regime of the joint border was prepared and signed. The EU financial assistance was provided under technical assistance programmes (TACIS until 2006, ENPI from 2007) to avoid and prevent offences at the border. However, the main problems remained, in particular the lack of

a strategic approach to border management and the lack of coordination between the border agencies of Ukraine and the EU.

3) 2009–2013 – a period of strengthening the cooperation between the border and customs agencies of Ukraine and the neighbouring countries within the framework of the Eastern Partnership, organising joint border patrolling, establishing a national IBM policy, continuing the demarcation process of the borders of Ukraine and the neighbouring countries in accordance with international standards using the EU technical assistance.

During this period, partnership and cooperation between Ukraine and the EU in the area of border management developed within the EU-Ukraine Association Agenda in order to prepare and facilitate the implementation of the Association Agreement (2009), which replaced the EU-Ukraine Action Plan. The Parties agreed to intensify and enhance cooperation under the existing working arrangements between the SBGS Administration of Ukraine and FRONTEX, including risk analysis and management; they aimed to reduce the effect of the border as a physical barrier by establishing close links between regional and local authorities and improve the efficiency of border procedures, including through further improvement of the necessary border infrastructure (Poryadok dennyi 2009).

In practice, the implementation of the ENPI has helped to implement specific tasks for the avoidance and prevention of border offences and development of border infrastructure. Projects for reconstruction and arrangement of checkpoints (CP) provided for by additional agreements were funded, in particular the Agreement on funding the joint cross-border cooperation programme “Ukraine-Poland-Belarus 2007–2013” (25.12.09) (“Ustyluh” CP was reconstructed, “Krakivets”, “Shehyni”, “Yahodyn” checkpoints were supplied with equipment), the Agreement on Funding the Joint Operational Programme of Cross-Border Cooperation “Ukraine-Romania-Republic of Moldova 2007–2013” (25.12.09) (“Krasnoilsk” and “Diakivtsi” checkpoints), the Agreement on Funding the Joint Operational Programme of Cross-Border Cooperation “Ukraine-Hungary-Slovakia-Romania 2007–2013” (25.12.09) (Uzhhorod, Luzhanka CP), Agreement on Funding “The Support of Sector Border Management Policy in Ukraine” Programme (31.10.11) and others (ДФС 2019).

After discovering the ENP’s weaknesses with respect to its eastern neighbours in the context of broadening the range of threats to international security, the European Union gradually became more interested in deepening cooperation with these countries, which were defending their own foreign policy interests. Following the settlement of political ambitions in May 2009, the EU Foreign Policy Initiative “Eastern Partnership” (EaP) was launched under the European Neighbourhood Policy to develop cooperation and deepen integration with six former Soviet republics, three of which, including Ukraine, Belarus and Moldova, have joint borders with the EU. According to the expert on political science and international relations, H. Perepelytsia, this European integration tool was “stabilising” for the EU and “modernising” for the Member States (Perepelytsia 2011).

As noted above, one of the most difficult areas for political interaction between Ukraine and the EU had for a long time been a visa-free dialogue, which was launched at the Paris EU-Ukraine Summit in September 2008. Afterwards, Ukraine undertook to implement the necessary reforms needed to introduce a visa-free regime. On 22 November 2010, Ukraine was provided with an “EU Visa Liberalisation Action Plan for Ukrainian Citizens”, drawn up according to the scheme of “road maps” provided by the European Union to the Balkans and other countries prior to the visa waiver. The Action Plan determines 144 EU criteria in four blocks: document security, including biometrics; counteracting illegal migration, including readmission; ensuring public order and security; guaranteeing fundamental human rights and freedoms. The action plan was implemented in two phases. During the first legislative phase, Ukraine persistently worked on bringing Ukraine’s legislation in line with the EU standards, adopting state programmes in the fields covered by visa-free dialogue. During the second implementation phase, it practically implemented the updated legislation, ensuring the national practice operation in accordance with the EU standards (Pro rozvytok 2017).

In general, the Visa Liberalisation Action Plan facilitated an active introduction of new approaches and the change of conceptual views on border management policy in Ukraine. As part of its implementation, our state committed itself to implementing a national IBM policy. To this end, in October 2010, the first Concept of Integrated Border Management was approved (expired on 1 January 2016 due to the introduction of a new one) in order to ensure an adequate level of border security, to improve the state border guard system and bring the integrated border management system into compliance with European standards (Pro skhvalennya Kontseptsiï 2010).

During this period, the EU established the Eastern Borders Risk Analysis Network (EB-RAN) to cooperate with the border services of Ukraine, as well as other eastern neighbours (Belarus, Russia and Moldova). This cooperation is based on a constructive mechanism of information exchange and joint risk analysis, agreed at the level of the leaders of the SBGS of Ukraine and FRONTEX. EB-RAN contributes to ensuring the objectiveness of border security management through continuous monitoring of the joint border and response to its results by regulating the activities of the border security system’s components.

A new European Border Surveillance System (Eurosur) was launched in FRONTEX at the end of 2013. The decision on its creation was adopted by the European Parliament on 10 October 2013, and came into force on 2 December 2013 at the external borders of 11 Schengen countries, and from 2014 in other EU countries as well. Satellite, aviation and unmanned aerial vehicles day and night monitor the EU’s external and internal borders, including those with Ukraine, for the collection, processing and exchange of information, strengthening the control over illegal migration, counteracting cross-border crime.

In general, as far as technical assistance programmes are concerned, during the 2010–2013 period, seven modern points for temporary detention of people detained by administrative procedure in the areas of responsibility of border units

at the EU border (five) and RF (two) were created with the assistance and financial support of the European Commission (EUR 8.5 million); Since 2012, a joint initiative has been developed to improve the infrastructure of the border units at the Ukrainian-Polish border (the project budget amounts to EUR 8.8 million with Ukrainian co-financing). The selection of contractors, execution of works, audit and monitoring were carried out in compliance with European procedures and with the involvement of European experts (Shchodo nadannya 2016).

Thus, during this period of deepening interagency cooperation under the EaP with financial and technical assistance of the EU, a number of infrastructure projects were implemented, continuous monitoring of the joint border was established to ensure an adequate level of its security, which contributed to bringing the system of integrated border management closer to European standards in Ukraine.

4) 2014–June 2017 – a period of increasing the focus on the security of the joint border in connection with Russia's aggression against Ukraine and aggravation of the migration crisis in the EU, modernisation and construction of border crossing points at the common border, intensification and successful completion of the visa-free dialogue after signing the EU-Ukraine Association Agreement.

Following the victory of the Revolution of Dignity and as a result of the armed aggression of the Russian Federation against Ukraine, the Autonomous Republic of Crimea was annexed, a part of the Donetsk and Luhansk regions was occupied, and, in general, an extremely difficult security environment in Ukraine and in certain sections of the state border emerged. According to the SBGSU, 22 border crossing points have not been in operation at the Ukrainian-Russian border since 2014, of which 12 are international and 10 are local. In total, 409.3 km of the border area with the Russian Federation are not controlled by the border guards, and the length of the maritime border section over which Ukraine lost control due to the occupation of Crimea is approximately 430 km (DPSU 2018). The situation was aggravated by the failure to completely implement the measures on the contractual and legal execution of the state border, its demarcation, as well as the large amount of commitments made by Ukraine within the framework of the implementation of the Visa Liberalisation Action Plan for Ukraine and the implementation of the Association Agenda between Ukraine and the European Union. By its armed aggression against Ukraine, Russia violated fundamental principles and rules of international law, including territorial integrity and inviolability of borders, and, accordingly, new threats to international security arose.

In support of Ukraine's territorial integrity, the EU imposed political and economic sanctions against Russia and offered financial assistance for the engineering and technical arrangement of the Ukrainian-Russian state border. To secure the border of Ukraine with the Russian Federation, the EU planned to allocate UAH 4,016 billion in 2015–2020 (Dopomoga YeS Ukraïni 2017). In 2014, several investment projects for the modernisation and construction of border crossing points (checkpoints) at the border of Ukraine with Poland, Hungary, Slovakia and Romania were initiated in order to shorten the time needed for border crossing and improve customs procedures. In the process

of their implementation, there were some problems associated with delayed execution of works. Within the framework of the ENPI, Ukraine was provided with an additional support component (EUR 6 million) to ensure border security in accordance with Supplementary Agreement No. 1 between the Government of Ukraine and the European Union, represented by the European Commission, to the Agreement on financing “The Support of the Sector Border Management Policy in Ukraine” programme dated 13 October 2014.

During this period, work on the implementation of the EU Visa Liberalisation Action Plan for Ukrainian Citizens (22 November 2010) continued. In 2013–2015, there were approximately 20 EU expert missions operating in Ukraine, which assessed Ukraine’s fulfilment of the criteria of the first and second phases of the Action Plan. 150 laws and by-laws were adopted during the first legislative phase. Fulfilling the criteria in the second, implementation phase of the first round of evaluation included 54 recommendations and about 400 tasks to be fulfilled (Visa Liberalisation 2018).

“The Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand” (AA) marked the transition of the parties to a higher level of interaction in the field of integrated border management. This Agreement was signed in two stages. At the first stage, the political part of the Agreement was signed on 21 March 2014, during an extraordinary Ukraine-EU summit. At the second stage, during the meeting of the EU Council of the EU on 27 June 2014, the President of Ukraine, the EU leadership and the Heads of States and Governments of the 28 EU Member States signed the economic part of the Agreement, in particular Section III “Justice, Freedom and Security”, whose Article 16 refers to areas of cooperation in the field of border management (Association Agreement 2014). The AA ratification process took three years. However, after the ratification of the Association Agreements by Ukraine and the EU on 16 September 2014, the relationships of the parties changed to a new format of political association and economic integration.

In view of the new challenges (aggressive actions on the part of the Russian Federation, migration crisis in the EU, etc.), in order to improve the effectiveness of state policy implementation in the field of state border security and to introduce European integrated border management standards, on 28 October 2015 the Cabinet of Ministers of Ukraine approved the new Concept of Integrated Border Management until 2020 (which entered into force on 1 January 2016). Unlike the first concept of 2010, it changed the approaches to border security issues, and for the first time outlined the issues of forceful border protection, occupied territories and the concept of “civilian democratic control” over the activities of IBM entities (Pro skhvalennya Kontseptsiï 2015; Kravchuk, Kul’chyts’ka, Sushko 2018).

To effectively implement the requirements of the Concept, a Virtual Contact Analytical Centre was created in 2015, and, on 5 September 2016, the Action Plan for the Implementation of the Concept of Integrated Border Management came into force. The EU Advisory Mission Ukraine participated in its development. In the process of the implementation of the IBM Concept, the Virtual Contact Analytical

Centre was involved in the development of new approaches to integrated border management, proposals for improving the cooperation mechanisms between subjects of integrated border management, sharing open statistical and analytical information in the field of national border security, etc.

In general, this increased the security level at the borders and made possible the successful fulfilment of international visa liberalisation commitments. As a result, after signing the agreement on the visa-free regime of Ukraine with the EU on 17 May 2017 in Strasbourg, on 11 June of the same year the visa-free travel regime for the citizens of Ukraine who were holders of biometric passports, came into force. They were granted visa-free travel to the Schengen Area for up to 90 days during any 180-day period (“YeS ofitsiino...” 2017). Visa liberalisation has become an effective EU tool for developing interpersonal contacts and strengthening the ties between citizens of Ukraine and the European Union.

With aggression on the part of Russia, aggravation of the migration crisis in the EU, an increased focus on joint border security issues, improvement of inter-institutional communication and coordination between the EU and Ukraine within the framework of the implementation of the new Integrated Border Management Concept for the period from 2015 to 2020 was observed.

5) June 2017 until now – a period of a visa-free regime of Ukraine with the EU, the consistent entry of Ukraine into the European system of integrated border management in the framework of the AA implementation, the development and approval of the Integrated Border Management Strategy and the action plan for its implementation.

The introduction of a visa-free regime for Ukraine, as well as for Moldova and Georgia, is accompanied by a new task – the need to maintain a visa-free regime and consistently implement the reforms initiated within the visa liberalisation process. The European Commission monitors the continuous implementation of the requirements by Ukraine, compliance with the “suspension mechanism” criteria relating to control in the sphere of migration and border management. The European Union has introduced this new mechanism to prevent migration and security challenges. Each year, the European Commission publishes the monitoring results of compliance with the visa liberalisation requirements by the EaP partner countries. In its second report of 19 December 2018, Ukraine was recommended that additional efforts should be made to combat organised crime and corruption (Yevrokomisiya zvituye 2018).

For two years (11.06.2017–11.06.2019) after the visa-free regime initiation, according to the SBGSU, Ukrainian citizens made 42.6 million trips to EU countries. 9.2 million Ukrainian citizens crossed the border with biometric passports, of whom 2.91 million used the visa-free regime. In particular, over 1 million people crossed the border with Poland, nearly 350 thousand – with Hungary, 245 thousand – with Romania, 226 thousand – with Slovakia. During the second year of the visa-free regime (11.06.2018–11.06.2019), 2.35 million trips of Ukrainians with biometric passports were recorded, which is 4.2 times more than during the first year (11.06.2017–11.06.2018); then, the number amounted to 560 thousand people. In 2019, 9.9 million Ukrainians (similarly to

2018) travelled in the direction of Poland, and 3.4 million of our compatriots (5% more) moved in the direction of Hungary (according to the State Border Guard Service of Ukraine, 2019). The dynamics of crossing the border with the EU in 2010–2019 by Ukrainian citizens is illustrated in Fig. 3.

The dynamic growth of the number of Ukrainian border crossings with EU countries is associated with a rapid increase in the number of Ukrainian citizens who received biometric passports (from the moment of their introduction in January 2015 till the end of 2019, over 15 million Ukrainians received foreign passports in the new format), an increase in the number of labour migrants and tourists from Ukraine enjoying the benefits of visa-free travel, etc. At the same time, a tendency is observed, as in other countries that have been granted a visa-free regime such as Moldova and Georgia, of an increase in the number of refusals to Ukrainians wishing to enter EU countries. For example, according to the “Europe Without Barriers” think tank, the number of refusals for Ukrainian citizens to enter Poland in 2019 increased by 25% compared to 2018 (DPSU 2019, 2020; Europe Without Barriers 2020). The main reasons for the refusals include an unspecified purpose of the trip, lack of funds for the trip, as well as violation of the visa waiver rules. Since the beginning of the visa-free regime, queues at car checkpoints across the state border of Ukraine with EU countries have increased. For example, the waiting time for the crossing of the Ukrainian-Polish border has increased significantly, etc. On the upside, the network of aviation and railway passenger services, in particular between Ukraine and Poland, has been developing dynamically since 2017.

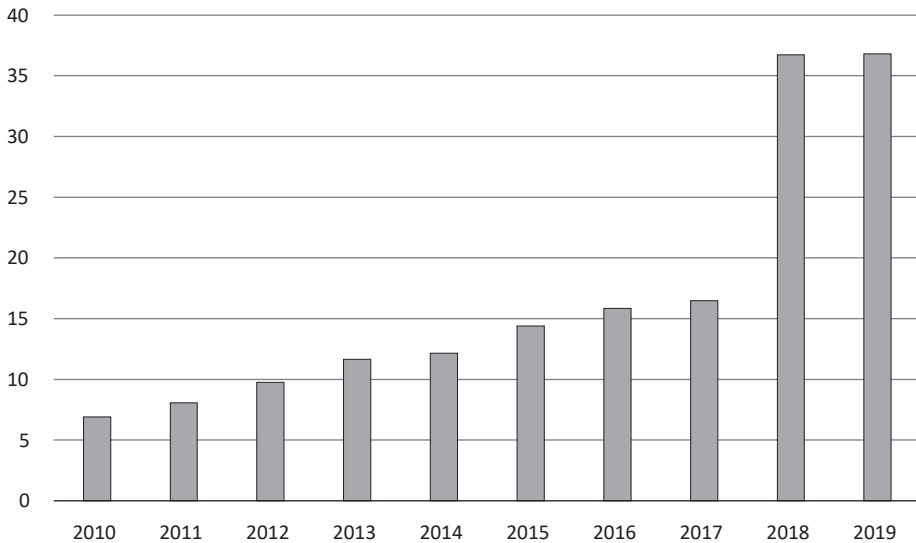


Fig. 3. The number of Ukrainian citizens crossing the border with the EU (2010–2019), in million

Source of data: DPSU.

Increasing the mobility and volumes of international trade between the EaP countries and the EU will be facilitated by the creation of a modernised network of joint border crossing points. This objective is included in the list of 20 strategic goals until 2020 approved during the EaP Summit in November 2017. This was followed by the merging of the Migration and Asylum Panel and the flagship initiative “Integrated Border Management” into the EaP Panel on Migration, Mobility and Integrated Border Management. The Ukrainian side is an active participant in the meetings of the Panel. For example, at the meeting in Odessa in September 2019, the performance results of the Panel on the implementation of 20 goals until 2020, cooperation between the EU and the eastern neighbouring countries within Eurosur, achievements in the field of customs, particularly taking into account the Customs Eastern and South-Eastern Land Border Expert Team (CELBET) initiative, a form of support of Ukraine by the EU and Eastern Partner Countries in the IBM sphere (IBM) were considered.

At the present stage, an intensification of the international cooperation of the SBGSU can be observed. During 2018, representatives of this service participated in 10 joint operations of FRONTEX: (“Coordination Points”, “Key Points. Land areas”, “Flexible operational measures” at the land borders of Ukraine and EU Member States; “Alexis”, “Vega. Children”, “Key Points. Aviation”, “Coordination Points. Aviation” at air checkpoints; “Poseidon”, “Minerva” and “Temis” maritime operations) (Європейська Агенція 2019).

Since the Association Agreement between Ukraine and the EU entered into force in full on 1 September 2017, the integrated border management principles in accordance with Art. 16 (Part 2) have been implemented. Working in this direction is one of Ukraine’s commitments within the framework of Ukraine’s deep sectoral integration into the European Union, namely in the Justice, Freedom and Security sectors. The Interagency Working Group on the Coordination of Integrated Border Management established by the Cabinet of Ministers of Ukraine on 30 January 2019 works on the formation of a well-established border management system. Its main tasks are: to facilitate coordination of actions by central and local executive authorities on matters within the competence of the interagency working group; to prepare, taking into account international standards, proposals on the formulation and implementation of state policy in the field of integrated border management, etc. According to the Roadmap for Improving the Functioning of the Infrastructure on the EU-Ukraine Border adopted on 20 March 2019, a number of activities are planned for the next years to increase the capacity of the state border of Ukraine with the EU countries (by an average of 1.5–2 times), to simplify procedures and reduce the duration of crossing, etc. (Pryinyato Dorozhnyu 2019).

The new Integrated Border Management Strategy of Ukraine (IBMSU) of 25 July 2019 will help effectively coordinate all the national and international mechanisms involved by 2025. It aims to effectively implement the principles of integrated border management proclaimed by the Association Agreement between Ukraine and the European Union. The European Best Practices for the implementation of IBM have been taken into account in the development of the

Strategy. The experiences of the Republic of Finland, the Federal Republic of Germany, the Republic of Poland and the Republic of Lithuania were studied, and modern approaches in the field of integrated border management at EU level were taken into account (Uryad skhvalyv Strategiyu 2019). The Action Plan on the implementation of IBMSU was approved on 20 November 2019 for 2020–2022. To implement the measures stipulated in the Plan, coordinated work of the competent services and institutions, effective involvement of financial mechanisms and technical assistance, etc., are required. This will enhance the joint border security in all areas, simplify procedures for crossing it with respect for human rights and ensure the development of foreign economic relations and international trade between Ukraine and the EU.

Thus, lately, there has been significant progress in the development of cooperation between Ukraine and the EU on changing the joint border operation regime, building a network of checkpoints on a mutually beneficial basis, developoffing the border infrastructure, reducing the level of corruption, strengthening control over border security and gradual introduction of integrated approach to its management.

Conclusions

A stable neighbourhood has been a priority of the European Union's foreign policy since its enlargement to the east. Security aspects, including integrated border control, are an important component of this agenda. Analysing the dynamics of cooperation development in this field since the establishment of the joint border between Ukraine and the EU in May 2004 until the present, five periods of bilateral cooperation development have been identified, during which political, legal and institutional interaction mechanisms in the field of integrated border management have been elaborated. The network of checkpoints with international status has been expanded.

Today, there are 14 such points on Ukraine's border with Poland, seven with Hungary, five with Slovakia and seven with Romania, at which the flow of persons and vehicles is growing rapidly, especially after the introduction of a visa-free regime with the EU. This results in an increasing load, causing queues and, consequently, inconveniences at certain sections of the state border. Therefore, the issue of building new, jointly operated checkpoints, applying innovative technologies to simplify border and customs control through the introduction of e-services and merging databases on both sides will contribute to reducing queues and corruption, providing quality services, and will also ensure conditions for a further growth of trade between Ukraine and EU countries within the framework of creating a Deep and Comprehensive Free Trade Area in compliance with the Association Agreement. All this is extremely relevant at the present stage of Ukraine's integration into the European border management system. Within the framework of implementing the provisions of the EU-Ukraine Association Agreement, the practical experience of individual Member States in interagency cooperation on border security should be explored and used.

Considering the achievements and problems of bilateral cooperation between Ukraine and the EU in the field of integrated border management at the present stage, the main future cooperation areas are the following:

- reconstruction of the existing and construction of new checkpoints, modernisation of their infrastructure, construction of access roads that will contribute to the socio-economic development of the border areas, tourism development, etc.
- introduction of innovative technologies, simplification of border and customs control. The process of building Smart Customs has started, involving all innovative methods that transform customs administration into a fast and high-tech process; this will contribute to further development of trade and economic cooperation between Ukraine and EU countries;
- sharing the practice of joint border and customs control at all border crossing points located along the EU-Ukraine border (so far, Poland remains the only EU country with a joint border control regime at four checkpoints – “Smilnytsia-Krościenko”, “Hrushiv-Budomierz” and “Uhryniv-Dołhobyczów” of Lviv customs, as well as “Ustyluh-Zosin” of Volhynia customs) (Pol’shcha ta Ukraïna 2019), increasing the number of pedestrian border crossings; this will help reduce queues and duration of border crossing;
- further expanding of cooperation with FRONTEX, the EU Network and Information Security Agency (ENISA) and the European Centre for Cyber Security Research and Competence to ensure the security of the EU and Ukraine’s external borders and counter cyber threats, etc.;
- introducing effective management and financial mechanisms for timely performance of the action plan on the implementation of the Integrated Border Management Strategy by 2025, which will help simplify the border crossing for citizens, goods and services, increase the level of security at the border crossing points, provide engineering and technical equipment of the state border, improve the coordination mechanism of integrated border management entities;
- achieving compliance with the Schengen criteria will ensure prospective association and integration of Ukraine into the Schengen area after fulfilling the Minsk agreements, the Normandy Format agreements and, subsequently, the restoration of the territorial integrity of Ukraine.

The effective work in these areas will generally contribute to ensuring the integration of Ukraine into the European border management system, which will guarantee a high level of security and at the same time the openness of the borders while respecting fundamental rights and freedoms of citizens, implementation of the provisions of the Association Agreement between Ukraine and the European Union in the field of justice, freedom and security, and will lead to the development of border management of the united Europe. This is of mutual interest to both parties: the European Union in the field of improving the system of integrated border management, and Ukraine, implementing the European standards towards a strategic goal – obtaining full membership of the EU.

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