

THE EUROPEAN MODEL OF THE INTEGRATED BORDER MANAGEMENT

ABSTRACT: The enlargement of the European Union has called for a reevaluation of the way the external borders to be protected as a necessary consequence of the free movement of people in the European Union. It also appears to be a result of a fundamental component of the area of freedom, security and justice. The abolition of the internal border checks and a different approach to external borders followed by emerging forms of cross-border crime with a cross-border dimension, illegal migration, trafficking in human beings and terrorist threats constantly being on the rise, have requested a different approach. The lack of economic perspective, poverty, environmental disasters and wars have forced people to look for a better life elsewhere, which has led to the most important global phenomenon of the 21st century- migration. Migration issues have made us think about the important matters faced by developed countries independantly, and as such they are currently at the top of the European Union's political agenda. To respond effectively to emerging challenges and threats, the European Union has expedited the development of the integrated border management as a generally acceptable border management model, as well as a key factor in improving migration management. The paper is based on the information gathered from the open sources of the European Union institutions, as well as from personal experiences gained throughout the course of border management reform in Republic of Serbia.

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1. Introduction

The issue of integrated border management has become especially important in the conditions of the multi-year migrant crisis. This international phenomenon includes a wide range of countries of origin, transit and destination or destination countries, but also different groups of migrants, and is closely related to socially harmful and dangerous phenomena of a destructive nature. People smuggling, prostitution, human trafficking, drug trafficking and other criminal activities have always been a side effect of migration movements. Today, the uncontrolled and massive influx of migrants, from conflict and/or war zones, has led to an unusual refugee/migrant crisis, which has become a source of threat to regional and global security (Bjelajac & Dragojlović, 2017), especially through various forms of expansion of Islamic religious fanaticism and terrorism (Zirojević & Bjelajac, 2013). Ever since the Schengen acquis has been integrated into the European Union through the Treaty of Amsterdam in 1997 and in response to the conclusions of the Tampere European Council of 15 and 16 October 1999, the European Union has taken various important steps towards the establishment of integrated border management (in English Integrated border management – IBM). Only in December 2001 was a discussion on “integrated border management” launched, which had taken into account the interests of the members with external borders as well as of those countries finding themselves away from them. The European Council approved of the so-called “European Concept of Border Control Management” on 7 December 2001, which provided solid grounds for further development of operational cooperation between the Member States (Council of the European Union, 2002).

Treaty on the Functioning of the European Union, Article 77 paragraph (2) item (d) lays down the objective of the gradual establishment of an integrated management system for external borders. Ever since the Schengen was integrated into the European Union in 1999, the European IBM has been gradually developing after the Amsterdam Treaty had entered into force (Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, 2007).

The European Council set out in Conclusion No. 42 that “Better management of the European Union’s external borders will help in the fight against terrorism, illegal migration networks and human trafficking, therefore

the European Council asks the Council of Ministers and the European Commission to develop arrangements for cooperation between the services responsible for external border checks and examine the conditions under which a mechanism or joint services for external border checks could be set up “at the meeting held in Laeken (Brussels) on 14 and 15 December 2001” (Communication from the Commission to the Council and the European Parliament, 2002).

Therefore, the European Commission approved of a communication for both the Council of Europe and European Parliament on “Integrated Management of External Borders of the Member States of the European Union” on 7 May 2002 in keeping with the aforementioned Conclusion, which encompassed a situation analysis in the area both at an operational and normative level, and thus put forward a set of measures and actions that should be implemented at the level of the European Union (Communication from the Commission to the Council and the European Parliament, 2002).

Following this communication, the Council approved of the “EU External Borders Management Plan” on 13 June 2002, which consisted of five key components of a common integrated border management system: joint mechanism for operational coordination and cooperation, joint integrated risk analysis, personal and intraoperative equipment, a common set of laws and a division of competences between EU Member States and the European Union (Plan for the Management of the External Borders of the Member States of the European Union 2002).

Furthermore, the Council approved of the first “Catalogue of Recommendations for the Correct Implementation of the Schengen Acquis and Best Practices, External Borders, Returns and Readmission” on 28 February 2002. This was the first time the key elements of a national Strategy for Integrated Border Management and a four-tier access control model had been explained in the European Union’s document. This document was also one of the key references for the implementation of the Schengen evaluation procedure, i.e., mechanism for verifying a country’s implementation of the European Union’s policy in the area of justice, freedom and security, which encompassed all areas of the Schengen acquis (EU Schengen Catalogue External borders control, Removal and readmission: Recommendations and best practices, 2002).

The Schengen Catalogue for External Borders and Returns was updated in 2009 based on the latest developments in the area of the EU border management. The amended catalogue represents the most comprehensive description of the implementation of integrated border management concept at

the national level and was thereby used as a key document in the development of national strategies. It is also considered an important part of the EU's common border management standards, for which reason it also represents a very important document in the context of the Schengen Evaluation.

The Commission decided to develop a "List of Common Risk Indicators" in October 2014 in form of operational guidelines for EU Member States to consult relevant databases (eg. SIS II) when carrying out checks on persons at external borders entitled to free movement in compliance with the European Union legislation. The Commission approved of a Recommendation based on the "List of Common Risk Indicators" on 15 June 2015 for the purpose of amending the Practical Handbook for Border Guards (the Schengen Handbook), whose latest amended version was approved in 2019 by endorsing the Commission's recommendations for setting up a common Practical Handbook for Border Guards" used by the competent authorities of EU Member States carrying out border checks on persons and by replacing the Commission's Recommendation C (2006) 5186 of 6 November 2006. The aim of the Practical Handbook is to set up guidelines, best practices and recommendations for border guards with regards to discharge of their duties in the Schengen area. The Handbook should also serve as a guide for border guards when taking measures and making decisions along borders where external border provisions apply. The content of the said Handbook primarily focuses on carrying out checks on persons at the border, and is based on the European Union's instruments governing border crossing points (especially the Schengen Borders Code), visas, the right to free movement under European Union law and asylum claim.

2. Management of European Union's External Borders

The Justice and Home Affairs Council outlined the scope of integrated border management for the first time at its 2,768 meeting convened on 4 December 2006 in Brussels. Ever since then, the IBM concept has been a cornerstone for border management of EU Member States. According to the conclusions set out by the Justice and Home Affairs Council, the integrated border management represents a concept that consists of the following dimensions below:

- Border control (checks and surveillance) as set forth in the Schengen Borders Code, (Regulation (EU) No. 399/2016) including relevant risk analysis and crime intelligence.
- Detection and investigation of cross-border crime in coordination with all competent law enforcement agencies.

- Four-tier access control model (measures in third countries, cooperation with neighboring countries, border check, control measures in the area of free movement, including return).
- Inter-agency cooperation regarding border management (border police, customs, police, national security service and other relevant bodies) and international cooperation.
- Coordination and conformation of EU Member States' activities with those of the institutions and other bodies of the Community and the European Union.

Moreover, a continuous and successful work on integrated management at external borders, as well as on its specific components has been acknowledged and as such it consists of:

- Common set of laws, especially the Schengen Borders Code, as well as the Regulation on Local Border Traffic.
- Operational cooperation between the Member States, including cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) (Fronteks, European Border and Coast Guard Agency).
- Solidarity between the Member States and the European Community by establishing the External Borders Fund.

The passage of the European Regulation on Border and Coast Guard in October 2016 was the most important step towards the creation of the European integrated border management. Regulation 2016/1624 on the European Border and Coast Guard has paved a way for a clear legal basis and framework for the EU IBM for the first time by both describing and consolidating strategic components. To ensure the effective implementation of the European integrated border management, regulations have led to the establishment of a European Border and Coast Guard. The European Border and Coast Guard constitute the European Border and Coast Guard Agency, as well as national authorities in charge of border management, including the Coast Guard carrying out border checks.

The Council and the European Parliament approved of the Regulation on the European Border and Coast Guard on 14 September 2016 in line with EU external border policy objectives, as part of the implementation of the European Agenda on Migration and the European Security Agenda for the purpose of strengthening external governance and security at external borders of the European Union.

The speed and efficiency with which the Council and the Parliament acted upon the approval of the Regulation was exceptional, and the reason for such an approach can be largely attributed to migrant crisis to which the European Union sought answers. After being first announced by Commission President Jean Claude Juncker in his speech on 9 September 2015 (State of the Union 2015: Time for Honesty, Unity and Solidarity), the European Commission presented a legislative proposal to set up a European Border and Coast Guard on 15 December 2015, while the Regulation itself entered into force as early as 16 October 2016.

The latest European model of integrated border management is laid down in Regulation (EU) 2019/1896 of the European Parliament and Council of 13 November 2019 on the European Border and Coast Guard by repealing Regulation (EU) No. 1052/2013 and (EU) 2016/1624, wherein Article 3 sets out all 15 elements of the European integrated border management.

The primary objective of the Border and Coast Guard Regulation is to create a concept of integrated border management that would ensure, as a shared responsibility, a uniform implementation of the European integrated border management in a bid to effectively manage migration and ensure a high level of security in the EU by fully adhering to fundamental rights.

Measures related to the European IBM should be implemented using the four-tier access control model that consists of the following below:

- Measures taken in third countries;
- Measures taken with neighboring third countries;
- External border control measures and
- Measures in the Schengen area.

Measures in, between and across all levels should be well-coordinated and integrated at both a European and national level.

The European Integrated Border Management consists of the following 11 strategic components set forth in Article 3 of the European Border and Coast Guard Regulation, which constitute the basis for the European IBM Strategic Framework:

- a) Surveillance of the state border, including measures to facilitate legal border crossings and, where appropriate, measures to prevent and detect cross-border crime at external borders, in particular migrant smuggling, trafficking and terrorism, and mechanisms and procedures to identify vulnerable persons and unaccompanied minors, and identify persons in need of international protection or seeking such protection, providing information to such persons and referring such persons where necessary.

- b) Search and rescue operations for persons in distress at sea initiated and conducted in compliance with Regulation 656/2014 and in compliance with international law, which take place in situations that may arise during border surveillance operations at sea.
- c) Internal security risk analyses and threat analyses that may affect the functioning or security of external borders.
- d) Exchange of information and cooperation between the Member States in the areas covered by the Regulation, as well as exchange of information and cooperation between the Member States and European Border and Coast Guard Agency, including support coordinated by the European Border and Coast Guard Agency.
- e) Inter-agency cooperation between national authorities in each Member State responsible for border checks or other tasks performed at the border, as well as between return authorities in each Member State, including regular exchange of information through existing information exchange tools, including, where appropriate, cooperation with national authorities responsible for the protection of fundamental rights (Regulation (Eu) No 1052/2013)
- f) Cooperation between relevant European Union institutions, bodies, offices and agencies in the area covered by the Regulation, including the regular exchange of information.
- g) Cooperation with third countries in the areas covered by the Regulation, in particular targeting neighboring third countries and those third countries identified in the risk analysis as countries of either origin or transit for illegal migration.
- h) Technical and operational measures in the Schengen area with regards to state border control designed to better address the issue of illegal migration and combat cross-border crime.
- i) Return of third-country nationals to whom return decisions issued by a Member State apply.
- j) Use of state-of-the-art technology, including large information systems.
- k) Quality control mechanisms, in particular the Schengen acquis evaluation mechanism, vulnerability assessment and possible national mechanisms to ensure the implementation of European Union law in the area of border management.
- l) Solidarity mechanisms, in particular European Union funding instruments.

Fundamental rights, education and training, as well as research and innovation represent comprehensive elements in the implementation of the European integrated border management. Coherence and interaction between all these components and topics are key to the efficient and uniform implementation of the European IBM across various layers of the four-tier access control model at both a European and national level. The operationalization of the European integrated border management model is performed through an interoperable strategic framework at three levels:

- Political Strategy of European Union institutions,
- Technical and Operational Strategy of the Border and Coast Guard Agency and
- Member States' national strategies.

The aim of the European Union's external border management policy is to both develop and implement the European integrated border management at both a national and European Union level (Regulation (EU) 2019/1896), which is a necessary consequence of the free movement of persons across the European Union and a fundamental component of freedom, security and justice. European integrated border management is central to improving migration management. The aim is to effectively manage the crossing of external borders, address migration challenges and potential future threats at such borders, thus contributing to tackling cross-border serious crime and ensuring a high level of internal security in the European Union. At the same time, it is necessary to act in full compliance with fundamental rights in a way that ensures a free movement of persons across the European Union. The European Union aims to ensure that its citizens live in an area of freedom, security and justice, without internal borders. The people of the European Union must be sure, wherever they move in Europe, that their freedom and security are protected in full compliance with the values of the European Union, including the rule of law and fundamental rights.

3. Challenges in Managing European Borders

Both new and complex threats have emerged in recent years that point to the need for further synergies and closer cooperation across all government levels. Many of today's security issues stem from the instability in the European Union's immediate neighborhood, as well as from the changes in forms of radicalisation, violence and terrorism, and organized crime. Threats are becoming more diverse and international, as well as cross-border and

cross-sectoral in nature. The key challenges in managing European borders are in close connection with detailed and rapid control of evergrowing flow of passengers and vehicles at border crossing points, especially in sense of air transport, possible mass influx of illegal migrants, secondary movements, cross-border organized crime and terrorism. Illegal migration routes and “modus operandi” are changing rapidly hand in hand with new challenges.

Every aspect of the European Integrated Border Management in 2020 was dominated by the COVID 19. The key indicator underpinning this fact is the significant decline in the number of passengers crossing the external borders of the European Union, which was seen in the two-thirds lower flow compared to 2019. The number of detected illegal border crossings has been reduced by a much smaller percentage. Therefore, the need for continuous efforts to protect the European Union’s external borders had been expressed. In addition, the year 2020 will be remembered as the year of reintroduced internal border checks across Europe, which is a sharp reminder to EU citizens of the historical achievement represented by the Schengen area based on the free movement of people and capital. Border and Coast Guard services were faced with a sudden shortage of human resources brought about by large numbers of staff being either on a sick leave or in quarantine, when observed from a standpoint of a more complex operational environment. Although the number of passengers had decreased, the complexity of border procedures increased together with reintroduced measures against the spread of the virus (Fronteks, Risk Analysis for 2021).

In the course of discharge of their duties, border services face a variety of border-related offenses, including trafficking and smuggling of people, goods, narcotics, weapons, forged travel documents, stolen property, vehicles, etc.

To increase the internal security of the Member States and improve the ability to detect illegal activities, border management authorities should be engaged in investigating the above-mentioned types of crimes. Partaking in such investigations increases the know-how of competent authorities’ members with regards to “modus operandi” and illegal migration routes, forms of counterfeiting and smuggling, all of which greatly facilitates the development of risk profile indicators.

4. Establishing National Integrated Border Management Strategies

The European model of integrated border management should be implemented in form of a joint responsibility of both the Border and Coast Guard Agency and national authorities responsible for border management,

including coastguards carrying out maritime border surveillance operations, as well as any other border control tasks. While the Member States' primary responsibility is to manage their external borders in their own best interest and in the best interest of all Member States, the Border and Coast Guard Agency should support the implementation of EU measures regarding the management of external borders through strengthening, evaluating and coordinating actions of the Member States with regards to implementation of those measures.

The national authorities responsible for border management, including coastguards carrying out border checks, will therefore establish their own national strategies for integrated border management in compliance with Article 3 of the Border and Coast Guard Regulation. The Member States ensure the management of their external borders in their own best interests and in the common interest of all Member States in full compliance with EU law and Technical and Operational Strategy referred to in Article 3 (2) and in close cooperation with the Agency.¹

Since the Member States have primary responsibility in managing their external borders in their own best interest and in the best interest of all Member States, the effective implementation of integrated border management should be translated into national efforts.

National integrated border management strategies should guarantee the unified development, planning and implementation of integrated border management at the national level by improving cooperation and coordination of all relevant bodies in charge of border management and return. National integrated border management strategies should also define operational arrangements for national authorities that contribute to and benefit from the support provided by the Regulation on the European Border and Coast Guard

¹ 1. The European Border and Coast Guard consists of the European Border and Coast Guard Agency ("the Agency") and of the national authorities of the Member States responsible for border management, including coast guard officers, to the extent of their carrying out national border surveillance tasks.

2. The Agency will, by decision of the Management Board and based on the proposal put forward by the Executive Director, establish a technical and operational strategy for the European integrated border management. The Agency will, where justified, take into account the specific situation of the Member States, and in particular their geographical location. The strategy must be in compliance with Article 4. It both promotes and supports the implementation of the European integrated border management in all Member States.

3. National border management authorities, including coastguards, will establish their national strategies for integrated border management if charged with state border surveillance tasks. These national strategies must be in compliance with Article 4 and the Strategy referred to in paragraph 2 of this Article.

Agency at EU level. Requirements for national integrated border management strategies are as follows:

- One IBM Strategy for each Member State.
- Gathering all relevant authorities engaged in border management and introducing them to a clear national coordination structure.
- The Strategy was developed in compliance with the political Strategy of the European Union institutions, technical and operational Strategy of the Border and Coast Guard Agency and Schengen requirements.
- Predicated on 11 components of Article 3 of the EBCG Regulation, but also covering the areas that exclusively fall under the national competence (e.g., reintroduction of internal border checks).
- Defining arrangements with regards to managing national borders, as well as partaking in relevant EU mechanisms coordinated by the EBCG Agency and other relevant EU actors.
- Clear definition of current and planned allocation of human and financial resources.
- Defining review and monitoring mechanism.
- Multi-year coverage in line with the MFF programming cycle.
- Accompanied by an Action Plan setting out key measures, time frame, activities, resources required followed by monitoring arrangements.

All relevant stakeholders must be involved in the Strategy development process to ensure broad commitment, quick approval and effective implementation. Although the key responsibility for drawing up the document lies with border management agencies, other stakeholders should be consulted if necessary.

It is important to keep in mind the fact that only certain chapters of the Strategy (and Action Plan) can be compiled through information obtained from individual agencies, whereas significant parts must be developed jointly to ensure that the document reflects jointly agreed position of the agencies involved. Strategies that meet only the needs of a border management agency can be considered useful sector-specific strategies and do not meet EU requirements.

The Strategy paper should cover both the current and projected border situation at a national level, including major risks, threats and vulnerabilities, which should be based on a comprehensive risk analysis and vulnerability assessment, which could be presented in a form of an independent document.

5. The Republic of Serbia and Implementation of the European Integrated Border Management Model

Since the strategic goal of the Republic of Serbia is to join the European Union, the goal as such implies legislative, administrative and institutional compliance with European standards. For that reason, the Republic of Serbia has opened accession negotiations with the European Union, and thus drew up an Action Plan for Chapter 24 in accordance with the criteria for opening Chapter 24, which envisaged “Approval of the Multi-Annual Integrated Border Management Strategy in line with the 2006 EU Concept, including measures to improve inter-agency cooperation and exchange of information through joint operational work at the border”.

The Action Plan for Chapter 24 represents the key strategic and operational framework for action of the Government of the Republic of Serbia, in particular the action of the Ministry of Interior, as well as of other competent ministries. Border security issues are one of the most important areas covered by this Plan, and the Government of the Republic of Serbia is firmly committed to fulfilling its obligations through the accession process to the European Union.

The Republic of Serbia has paid special attention to border control so far and had thus approved of its first Integrated Border Management Strategy complete with the accompanying Action Plan back in 2006, the second one in 2012, and the third one in 2017, which were fully brought in line with the EU guidelines for the Western Balkans. By implementing these documents, the Republic of Serbia has made significant progress in complying national legislation with European Union law. Both administrative and institutional capacities of all competent services have been significantly enhanced, whilst the level of technical equipment of all competent agencies engaged in border control has been raised. All aforementioned represents a clear indication to foreign partners that the Republic of Serbia is ready to contribute to security in the region and become a reliable partner of the EU in controlling its borders. Effective border management and real border security are extremely important to the region, but also to Europe as a whole and at the same time represent an important factor in the accession process to the European Union, which the countries in the region are conducting for full membership (Strategy of integrated border management in the Republic of Serbia, 2017).

Moreover, by following the obligations of the Ministry of Interior from the revised Action Plan for Chapter 24, as well as the need to reform the system in the area of border management, a new public policy document was

planned for approval in 2021 in the area of integrated border management in the Republic of Serbia in compliance with European Union legislation.

Proposed integrated border management Strategy in the Republic of Serbia for the period 2022-2027 complete with an Action Plan for the implementation of the Strategy for the period 2022-2024 was fully prepared in line with the form, content, procedure and time frame set out in the methodological recommendations of the European Commission. Furthermore, during the course of its preparation, the Report on the Implementation of the Action Plan for the Implementation of the Previous Integrated Border Management Strategy for the period 2017–2020² was taken into consideration, which in its final part contains an analysis of the extent of attained objectives.

Since the strategic goal of the Republic of Serbia is full accession to the European Union, the Republic of Serbia has introduced a new concept of integrated border management in the said Strategy to bring it in agreement with the *acquis communautaire* by paying close attention to the accession negotiation phase in which the Republic of Serbia is with the European union at a specific moment in time, as well as to legal heritage, normative and organizational culture, and to positions in relation to neighbouring countries. The said planning documents represent a development document of the Republic of Serbia primarily aimed at developing four services responsible for the implementation of integrated border management policy – Ministry of Interior, Ministry of Finance – Customs Administration, Ministry of Agriculture, Forestry and Water Management – Veterinary and Plant Protection Directorate.

6. Conclusion

Significant measures have been taken at both the operational and legislative level in the last decade in terms of progressive development of a common integrated border management system arising from the change in the institutional structure introduced by the Lisbon Treaty and further legislation development. Significant steps have been taken in the European Strategy for Integrated Border Management. Such steps have led to approved Schengen Borders Code, implementation of modern IT solutions (specifically the second generation of SIS and Visa Information System), creation of the External Borders Fund and its successor – the Internal Security Fund, and last but not least, establishment of the Border and Coast Guard Agency. European

² In the author's archive.

integrated border management is a concept that requires a high degree of specialisation and professionalism across all relevant institutions engaged in border checks, for which reason it is crucial that its implementation be methodologically implemented across all levels, especially in those countries that see their future in the European Union.

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EVROPSKI MODEL INTEGRISANOG UPRAVLJANJA GRANICAMA

REZIME: Proširenje Evropske unije uticalo je na preispitivanje načina na koji se štite spoljne granice kao neophodna posledica slobodnog kretanja ljudi u Evropskoj uniji i kao rezultat fundamentalne komponente područja slobode, bezbednosti i pravde. Ukidanje unutrašnjih graničnih kontrola i drugačiji pristup spoljnim granicama praćen pojavom oblika prekograničnog kriminala, ilegalnih migracija, trgovine ljudima i terorističkih pretnji, koje su u stalnom porastu, zapravo su i dali povoda za drugačijim pristupom. Nedostatak ekonomske perspektive, siromaštvo, ekološke katastrofe i ratovi primorali su ljude da traže bolji život negde drugde, što je dovelo do najvažnijeg globalnog fenomena 21. veka – migracija. Pitanja vezana za migracije navela su nas da razmišljamo o važnim stvarima sa kojima se nezavisno suočavaju razvijene zemlje i kao takve su trenutno na vrhu političke agende Evropske unije. Da bi efikasno odgovorila na nove izazove i pretnje, Evropska unija je ubrzala razvoj integrisanog upravljanja granicom kao opšte prihvatljivog modela upravljanja granicom, kao i ključnog faktora u poboljšanju upravljanja migracijama. Rad je zasnovan na informacijama prikupljenim iz otvorenih izvora institucija Evropske unije, kao i na ličnim iskustvima stečenim tokom reforme upravljanja granicom u Republici Srbiji.

Ključne reči: *Integrisano upravljanje granicom, Evropska unija, migracije, bezbednost.*

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