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## Combating Cross-Border Customs Crime at the External Border of the European Union on Selected Examples

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**Abstract:**

**Purpose:** The article aims to describe and explain the phenomenon of cross-border customs crime. It presents a typology of authorities and institutions dealing with combating cross-border customs crime at the external border of the European Union, based on the example of the movement of people and goods, such as cigarettes, alcohol and fuel.

**Design/methodology/approach:** The authors attempted to analyse customs smuggling in 2018-2021 on the basis of publicly available data from reports on illegal transport of cigarettes, alcohol and fuel, which relate to combating cross-border customs crime of excise goods, to show the scale of the phenomenon on selected examples. They analysed the movement of travellers at the EU's external border by indicating the total number of travellers crossing the EU's external border in 2020 and 2021. They presented the number and nationality of travellers detained for attempts to cross the border in violation of the law in the 2020–2021 period. The method of statistical analysis and legal comparisons in this area were used for the analysis.

**Findings:** There are various difficulties in cross-border areas, among others, related to the coordination of the management of social and economic activities in an increasingly interactive world. When dealing with cross-border issues such as security, organized crime, drug trafficking and people smuggling, both countries sharing a common border have a duty to stop them.

**Practical implications:** Crime as a social phenomenon does not stay within one state. It has direct impact on the interests of several countries and becomes cross-border. Experts say that cross-border crime characterizes only some of the transnational crime.

**Originality value:** From the point of view of scientific research, this issue is considered insufficiently described, which is confirmed by the lack of scientific publications on the specific issue under consideration.

**Keywords:** Cross-border customs crime, combating smuggling, external border, movement of people and goods.

**JEL codes:** B27, F13, K33,

**Paper Type:** Research article.

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## **1. Introduction**

The services established for that purpose control the movement of people and goods on the external border of the European Union, which is the eastern border of Poland. They include, among others, National Tax Administration, Border Guard, veterinary, sanitary and phytosanitary services. The external border of the EU is 1,185.47 km long and separates the EU from countries such as the Russian Federation, the Republic of Belarus and Ukraine (Tomaszycki, 2018).

Persons crossing the internal or external borders of the Member States are subject to border control in accordance with the rules set out in the provisions of Regulation (EU) no. 2016/399 of the European Parliament and of the Council of March 9, 2016 on the EU Code on the rules governing the movement of persons across borders (Official Journal of the EU L77/1 of 23.0.2016), hereinafter referred to as the “Schengen borders code”. Poland’s implementation of the provisions of the Schengen Agreement was associated with the abolition of border controls on the section with Lithuania and the strengthening of controls on the section with Belarus, Ukraine and Russia (Aleksonis and Aleksonytė, 2012).

On the other hand, the introduction of local border traffic on the border with Ukraine (from July 1, 2009) and on the border with Russia (from July 27, 2012) was an element of the EU’s policy towards the former USSR states and undoubtedly had an impact on the scale of cross-border crime (Perkowska, 2016).

SOCTA reveals the worrying development and evolution of serious and organized crime in the EU. The document warns of the potential long-term effects of the COVID-19 pandemic and informs about how they can create ideal conditions for the development of crime in the future. The report clearly highlights organized and serious crime as a key internal security challenge the EU together with its Member States are currently facing.

In the published report summarizing the main actions taken by the EU justice and home affairs agencies, among others, shows that coordination groups have been established to facilitate the exchange of information, meetings of the Agency’s governing bodies and training in the operation of IT systems have been organized, operational support has been provided to Member States along the EU’s external land and sea borders, 200 mobile offices have been made available for law enforcement operational staff and the promotion of 24/7 support helpdesk for field operations (Jhaan Report 2021).

The Cross-Border Poland-Belarus-Ukraine Cooperation Program supports cross-border development processes on the border of these countries, under which joint projects are co-financed. The program was approved by the European Commission on December 17, 2015. In connection with the military actions of Russia and Belarus in Ukraine, Poland suspended cooperation covering nine European Union programs

under the European Neighbourhood Instrument for 2014-2020 with the participation of Russia and Belarus, and the transnational cooperation program Interreg Region of the Baltic Sea, which is also implemented with the participation of Poland. The decision also means the closing of cooperation with both countries in programs under the new programming period 2021–2027 (Program Service, 2022).

Another example of cooperation is the implementation of the Interreg NEXT Poland-Ukraine 2021–2027 Cross-Border Cooperation Program. It is the fourth edition of the program supporting development processes on the border of Poland and Ukraine by co-financing various projects. Projects implemented under the Program must fit into one of the five priorities: environment, health, tourism, cooperation and borders – a safer and better protected Europe (PL-UA 2021-2027 Program Project).

## **2. An Attempt to Define Cross-Border Customs Crime**

It is justified to clarify that “cross-border customs crime consists, among others, of failure to declare the goods for customs clearance, hiding the goods, and therefore misleading the inspectors, committing criminal and fiscal crimes or offenses in border areas, as well as during trade in goods with foreign countries. The transport of goods is carried out in non-designated passages, on the basis of forged documents, in amounts exceeding the established standards for travellers or in amounts inconsistent with the documents held. Cross-border customs crime involves at least two people (i.e., sellers and buyers) acting for financial gain, it also applies to Internet crime” (Chackiewicz, 2021).

Successively, cross-border organized crime takes very different forms, its manifestations and dimensions vary between countries or regions. It develops very dynamically, and at the same time it is difficult to describe it on a high level of generality. It is extremely difficult to reliably and comprehensively assess the scale of its impact on the security of states and the international system (Wawrzusiszym, 2012). “The development of cross-border criminal activity is recorded in many regions of the world, it is a consequence of the increased mobility of people caused by the opening of state borders, which in turn accompanies deepening economic integration” (Gilmore, 1999).

The main factors determining the increase in cross-border activities of organized crime groups are changing technologies in electronics, information technology, modern banking systems and the “laundering” of profits from illegal practices, or the mobility of criminal groups. Each criminal group adheres to certain standards of functioning in a subculture and organization (Шайдулина, 2016). Dynamically occurring processes create new opportunities for criminal activity. Organized crime groups show a certain degree of specialization, often focusing not on the number of crimes committed, but on quality (Wódka, 2015). Together, they have the following features: seeking financial gain, loyalty of members, seeking corruption of

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government officials, organizational maturity, hierarchical structure, diversification, and multi-jurisdictional operations (Whitaker, 2002).

“Organized, international crime has also used and exploits the modern scientific and technological revolution for its own purposes. One of the most important spheres in which it manifests itself is illegal international trade in goods, i.e. customs crime, which by its nature is of a cross-border nature. This applies to many aspects of this crime – from bypassing customs duties, illegal introduction and removal of prohibited goods, i.e. smuggling (contraband), to extremely harmful not only economically or financially, but also socially, corruption and the development of unfair competition or even threatening the life and health of people, animals, plants or threatening the natural environment on the internal markets of individual countries or integration groups” (Czyżowicz, 2015).

According to the position of the Court of Justice of the European Union, goods brought into the customs territory of the European Community should be immediately transported to the designated customs office and then presented to the customs authorities (Case C-459/07).

For example, the Criminal Code of Ukraine in art. 201 defines smuggling as the movement of cultural goods, poisonous substances, highly active substances, explosives, radioactive substances, weapons or ammunition (except for hunting weapons and ammunition for it), parts of firearms, as well as special means of covert information gathering (Criminal Code of Ukraine, 2001).

However, according to art. 319 of the Customs Code of Ukraine, the concept of “violation of customs rules is an administrative violation of the law that is an unlawful, culpable (intentional or unintentional) act or omission that violates the rules set out in Ukrainian law for the movement of goods and means of transport across the customs border of Ukraine, for which this Code provides for administrative liability” (Customs Code of Ukraine, 2004).

### **3. Examples of Cigarette, Alcohol and Fuel Smuggling**

Most countries have made progress in increasing tobacco taxes and changing tax structures (Joossens and Raw, 1995). Illegal cigarette prices follow legal cigarette prices. At the same time, many new studies, independent of the tobacco industry, have been carried out to better understand illicit trade and provide input to its solution. The entry into force of the WHO FCTC Protocol to eliminate illicit trade in tobacco products provides both a global and national policy framework to further reduce illicit trade (Paraje, Stokłosa, and Blecher, 2022).

Another category is counterfeit tobacco products, especially of the biggest brands. Yet another category of illegal cigarettes that is gaining more and more prominence on the EU market are the so-called *cheap whites*. These are cigarettes of brands that

do not belong to the main producers and can be legally produced outside the EU, e.g. in Ukraine. A common feature of all these categories is that taxes and customs duties on them are not paid, so these cigarettes are much cheaper than legal ones (Tosza, 2021).

Tobacco companies very often profit from selling cigarettes through legal or illegal channels – it does not matter much to them. An example is the overproduction or oversupply of products that then leak into illegal channels (Gilmore, Fooks, Drope, and Bialous, 2015).

One example of the European Commission (EC) policy to combat the illicit trade in cigarettes is cooperation and agreements with four major international tobacco companies: Philip Morris International (PMI), Japan Tobacco International (JTI), British American Tobacco (BAT) and Imperial Tobacco Limited (ITL) (Ross, 2015). Once governments decide to control tobacco use, solutions to reduce demand are obvious. As part of its global action plan on non-communicable diseases, the WHO has called for a 30% reduction in the prevalence of tobacco smoking by 2025, which would avoid an estimated 200 million deaths by the end of this century (Jha, 2015).

In response to the fight against smuggling, trafficking and diversion fraud, which is believed to have increased in some EU Member States, some initiatives have been taken in the Union, including the adoption of Commission recommendations on warehouse owners and the computerization of the product handling and surveillance system subject to excise duty (Lachenmeier, 2012).

The proportion of tobacco smokers has decreased in most countries, but population growth means that total smoking remains stubbornly high. Today, of around 1 billion smokers worldwide, nearly 80% live in low and middle-income countries (LMICs). Tobacco is responsible for the deaths of 8 million people each year, including 1 million from passive smoking. The eight WHO report on the global tobacco epidemic summarizes national efforts to implement the most effective demand reduction measured under the WHO framework convention on tobacco control (WHO FCTC) that reduce tobacco use. These measures are known collectively as MPOWER (WHO Report, 2021).

Successive smuggling of alcohol on the external border of the EU (Moeller and Galea, 2012) and its impact on the life and health of the population living in the border area are illustrated by the research carried out, which covered Belarus, Lithuania, Poland and Russia. Data on alcohol-related mortality include, among others, in the cross-border area, among men aged 20-64, were obtained in 1179 districts and cities in 2006-2014. The presented socio-economic and demographic factors should be taken into account when developing an anti-alcohol policy (Grigoriev, Jasilionis, Klüsener, Timonin, Andreev, Meslé, and Vallin, 2020; Kozlov and Libman, 2019; Grigoriev, Doblhammer-Reiter, and Shkolnikov, 2013).

**Table 1. Retained goods in Poland in 2018–2021**

<b>2018</b>	<b>Alcohol (litre)</b>	<b>Fuel (litre)</b>	<b>Cigarettes (pcs.)</b>	<b>Number of penal and fiscal</b>	<b>Amounts of fines (PLN)</b>
I	6218	42 140	13 600 000	2643	2 717 818
II	882	36 614	14 900 000	3082	3 215 112
III	1152	91 850	12 697 444	2874	2 837 242
IV	944	38 884	21 471 040	2445	2 419 708
V	1051	38 231	10 803 643	2351	2 464 056
VI	989	40 010	13 785 112	2176	2 696 727
VII	1245	43 383	18 379 081	2200	2 557 801
VIII	1246	48 003	14 215 638	2048	2 757 083
IX	1085	57 944	11 543 826	1911	2 424 930
X	2247	52 774	22 471 803	1987	2 541 935
XI	4015	55 592	16 692 416	1752	2 187 585
XII	1374	56 875	13 283 191	1543	1 856 038
<b>Total</b>	<b>22 448</b>	<b>602 300</b>	<b>183.843.194</b>	<b>27 012</b>	<b>30 676 035</b>
<b>2019</b>	<b>Alcohol (litre)</b>	<b>Fuel (litre)</b>	<b>Cigarettes (pcs.)</b>	<b>Number of penal and fiscal</b>	<b>Amounts of fines (PLN)</b>
I	1401	47 920	6 759 684	1762	2 439 444
II	1230	45 111	7 808 223	1754	2 383 869
III	1062	49 446	10 907 440	1858	2 375 049
IV	916	51 647	8 596 073	1621	2 086 115
V	804	49 110	6 914 343	1689	2 082 283
VI	919	47 259	9 577 851	1474	1 845 455
VII	741	46 178	16 483 599	1527	2 179 274
VIII	1287	45 566	6 307 453	1436	2 275 048
IX	747	39 818	12 074 651	1307	1 772 135
X	987	41 255	23 120 438	1505	1 980 228
XI	948	40 615	10 676 472	1203	1 737 093
XII	749	29 655	13 117 308	1079	1 537 912
<b>Total</b>	<b>11 791</b>	<b>533 579</b>	<b>132 343 535</b>	<b>18 215</b>	<b>24 693 905</b>
<b>2020</b>	<b>Alcohol (litre)</b>	<b>Fuel (litre)</b>	<b>Cigarettes (pcs.)</b>	<b>Number of penal and fiscal</b>	<b>Amounts of fines (PLN)</b>
I	1109	9258	4 534 175	1168	1 877 436
II	944	34 126	13 471 651	1257	1 734 782
III	440	1963	2 113 598	1431	759 678
IV	51	6858	10 491 730	14	61 322
V	169	9886	10 474 158	28	80 030
VI	375	9660	1 755 094	44	224 266
VII	215	6657	7 968 177	220	281 129
VIII	233	7717	7 066 585	153	314 447
IX	426	7601	2 148 023	175	356 281
X	477	8895	5 736 780	259	385 950
XI	436	11 296	11 822 775	159	339 487
XII	634	8384	1 712 614	175	409 614
<b>Total</b>	<b>5 509</b>	<b>122 301</b>	<b>79 295 360</b>	<b>5 039</b>	<b>6 824 422</b>
<b>2021</b>	<b>Alcohol (litre)</b>	<b>Fuel (litre)</b>	<b>Cigarettes (pcs.)</b>	<b>Number of penal and fiscal</b>	<b>Amounts of fines (PLN)</b>
I	513	6531	1 270 299	76	441 400
II	456	7545	2 029 839	130	454 891
III	790	13 338	24 426 278	187	548392
IV	539	14 546	4 068 251	110	491 015

V	673	4256	11 112 922	85	554 145
VI	435	14 701	10 708 627	97	534 047
VII	920	16 173	33 844 263	119	666 788
VIII	799	15 048	10 780 619	127	805 687
IX	695	17 701	8 666 452	119	632 457
X	788	22 209	7 734 686	142	668 458
XI	377	14 282	25 697 343	110	523 638
XII	366	13 915	30 710 325	85	435 518
<b>Total</b>	<b>7 351</b>	<b>160 245</b>	<b>171 049 904</b>	<b>1 387</b>	<b>441 400</b>

*Source: Monitor of the Security of the Eastern Border of the Republic of Poland of the EU's External Border in 2018-2021.*

In Poland, 22,448 litres of alcohol were seized in 2018, a year later there was a decrease by 55% to 11,791. In 2020, there was another decrease by 50% compared to 2019, and in 2021 an increase by 33% compared to 2020. A similar situation can be observed for fuel: a decrease in the retained fuel in 2019 and 2020 by 11% and 77% respectively, followed by a slight increase in 2021 by 31% compared to 2020.

A similar situation occurs in the case of detained cigarettes: in 2018, 183,843,194 units were detained, i.e. 9,192,160 packs, a year later – 51,499,659 pcs., which was a decrease by 28%, while in 2020 there was another decrease by 60% compared to 2019, while in 2021 an increase of 109% compared to 2020 can be observed. In the case of instituted penal and fiscal proceedings, their number, starting from 2018, when it was 27,012, dropped in 2019 to 18,215, and in 2020 to 5,039, and in the following year it fell to 1,387 of initiated proceedings.

There is a continuous decline in the amount of tickets imposed from 2018 to 2021. In 2018, this amount was PLN 30,676,035, in 2019 it dropped to PLN 24,693,905 of collected tickets, then in 2020 to PLN 6,824,422 and in 2021 – PLN 441,400.

Analysing the above data, the question arises: does the lower number of criminal and fiscal proceedings instituted and the smaller number of cigarettes seized and the smaller number of litres of alcohol and fuel retained give rise to the assumption that the customs authorities are winning the fight against customs smuggling in Poland. Well, this cannot be clearly stated because the data presented relates to the disclosed attempts to smuggle the goods, and not the actual scale of the smuggling. It should be emphasized that the period 2019-2021 covers the COVID-19 pandemic. As a result, the traffic of travellers was periodically suspended, and the trade of goods took place at designated road crossings.

#### **4. Monitoring of People Crossing the State Border**

In the Schengen area, border traffic allows the free movement of people across borders. Geopolitical events, humanitarian disasters, epidemics and armed conflicts have a decisive impact on security in these areas. These elements, among others, affect the attractiveness of a specific region or border section for criminals (UE

Socta, 2021). The table below presents data on the movement of people across the external borders of the European Union.

**Table 2.** Travellers crossing the Polish external EU border in 2020 and 2021

<b>2020</b>	<b>Number of travellers – entry</b>	<b>Number of travellers – departure</b>	<b>Refusal of entry</b>	<b>UA citizens entered the visa-free regime</b>
I	14 446 301	1 207 045	9 728	426 989
II	12 424 731	1 208 782	8 619	207 078
III	583 951	7 208 362	4 026	86 259
IV	79 563	145 470	144	19 825
V	147 245	159 383	506	50 944
VI	230 289	213 830	1 198	100 600
VII	321 020	351 578	1 528	115 020
VIII	337 480	343 607	1 514	104 382
IX	377 821	320 676	2 062	132 746
X	367 555	383 611	2 004	130 848
XI	272 049	328 000	1 099	101 707
XII	259 384	504 398	1 139	105 042
<b>Total</b>	<b>29 847 389</b>	<b>12 374 742</b>	<b>33 567</b>	<b>1 581 440</b>
<b>2021</b>	<b>Number of travellers – entry</b>	<b>Number of travellers – departure</b>	<b>Refusal of entry</b>	<b>UA citizens entered the visa-free regime</b>
I	371 634	229 436	1 805	122 160
II	3 613 911	2 934 222	1 990	147 881
III	423 312	357 118	2 521	174 480
IV	363 874	426 850	2 134	144 690
V	471 013	384 205	0	169 874
VI	477 635	488 421	1 992	200 391
VII	496 469	595 815	2 198	186 251
VIII	570 716	597 171	2 262	163 012
IX	575 475	479 184	4 014	211 099
X	528 254	538 818	4 371	212 177
XI	458 558	483 165	2 971	189 773
XII	414 927	796 327	2 510	198 389
<b>Total</b>	<b>8 765 778</b>	<b>8 310 732</b>	<b>28 768</b>	<b>2 120 177</b>

**Source:** Monitor of the Security of the Eastern Border of the Republic of Poland of the EU's External Border in 2020-2021.

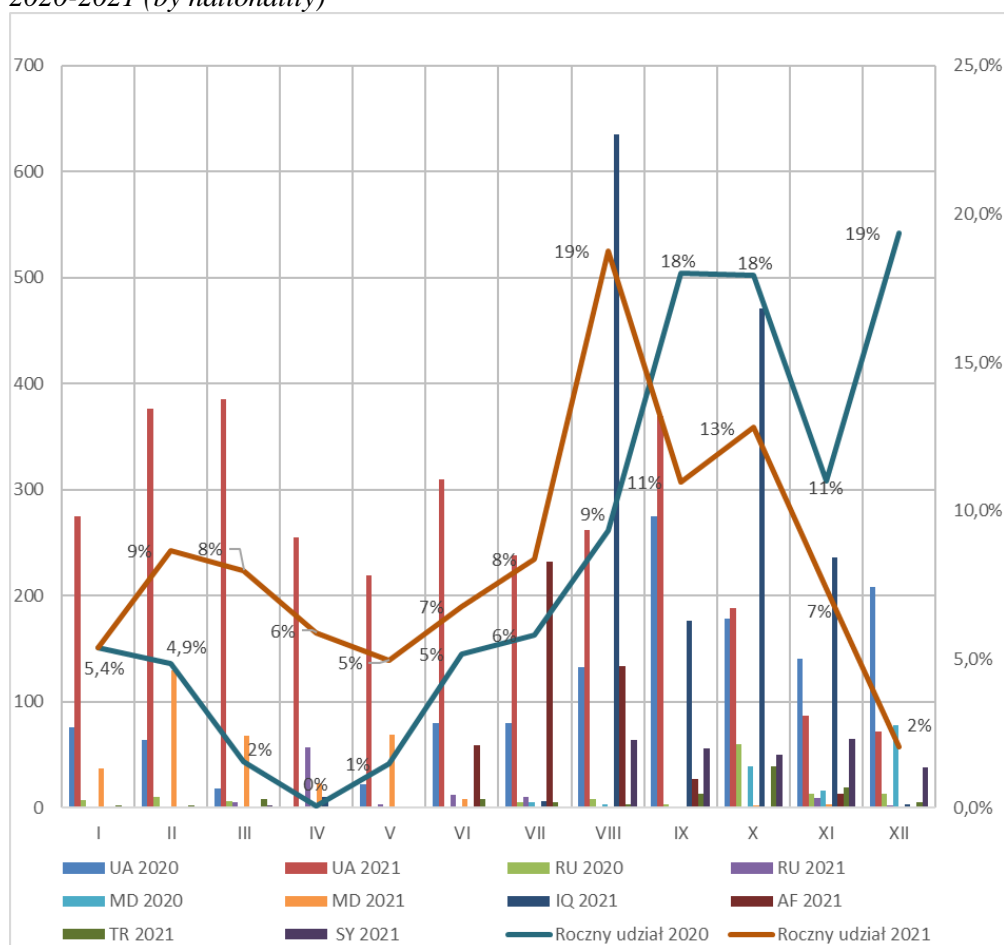
In 2020, nearly 30 million people crossed the borders of the European Union, of which the largest share in the population flow this year was recorded in January and February, which accounted for 90% of all entries recorded in the analysed period. A similar tendency can be noticed in the area of departures of travellers outside the Polish external border of the European Union. Over 12 million people left the European Union during the period under review. Almost 60% of trips in total this year were recorded in March.

The above Table 2 shows a sharp decrease in migration of people in the area of entries to Poland since March and a corresponding decrease in departures outside



Poland since April. The reason for such strong fluctuations in border traffic was the announcement on March 13 by the World Health Organization of Europe as the world centre of the SARS-CoV-2 virus.<sup>4</sup> In 2021, there was an over 70% decrease in entries to Poland from outside the European Union and an over 30% decrease in departures compared to the previous year. It is worth noting a very strong increase in border crossings in February compared to January – entries increased by nearly 900%, departures increased by nearly 1,200%. The above data concern legal border crossings. The chart below presents a summary of illegal crossings of the Polish border in 2020-2021.

**Figure 1.** Arrests for crossing the external Polish border against regulations in 2020-2021 (by nationality)



**Source:** Monitor of the Security of the Eastern Border of the Republic of Poland of the EU's External Border in 2020-2021.

<sup>4</sup><https://pulsmedycyny.pl/who-europa-stala-sie-epicentrum-pandemii-koronawirusa-sars-cov-2-985110>.

The main criterion adopted in the above list was the minimum number of illegal exceedances per year, not less than 100. In 2020, three countries were selected that met the given criterion. It was Ukraine, Russia and Moldova. The chart clearly shows that in 2020 the highest number of illegal exceedances was recorded in September, October and December. In total, the number of crossings in these months accounted for 55% of all illegal border crossings in the year under review, of which most illegal immigrants were of Ukrainian nationality. In the examined year 2020, taking into account the adopted research criterion, approximately 83% of the total illegal crossings were crossings of the Polish border by citizens of Ukrainian nationality.

In 2021, the countries that met the above-specified number of illegal annual exceedances were: Ukraine, Russia, Moldova, Iraq, Afghanistan, Turkey and Syria. The migration peak of illegal attempts to cross the Polish external border in 2021 was in August – 19% of all crossings this year, of which the most illegal migrants were of Iraqi nationality.

However, throughout 2021, as in the previous year, the highest share of illegal crossings was recorded among citizens of Ukrainian nationality (53%)<sup>5</sup>. In 2021, the dominant, albeit smaller share of illegal border crossings by citizens of Ukrainian nationality was caused by the emergence of a large migration of people of Iraqi nationality. It is also worth adding that, compared to the previous year, the number of illegal crossings of the external Polish border of the European Union increased by 279%<sup>6</sup>. The reason for such a large increase in illegal crossings on an annual basis was the emergence of migration of people from the Middle East. Mainly of Iraqi nationality, whose share in the annual amount of illegal attempts to cross the Polish external border in 2021 was as much as 26%<sup>7</sup> (this is the second highest indicator in the analysed period).

## **5. Cooperation of Services at the External Border of the EU**

In view of the above-mentioned threats, it is necessary to strengthen control activities at the border and inside the country by responsible services, as well as to expand international cooperation. On the eastern border of Poland, and at the same time the external border of the European Union, there is intensive cooperation between Polish services and Belarusian, Ukrainian and Russian institutions that ensure public safety. This cooperation takes place, among others in meetings at the level of heads of service. There are two consultation points on the Polish-Ukrainian border that allow for a quick exchange of information on the activities of organized

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<sup>5</sup>*Obliczenia własne na podstawie danych: Monitor of the Security of the Eastern Border of the Republic of Poland of the EU's External Border in 2020-2021.*

<sup>6</sup>*Ibidem.*

<sup>7</sup>*Ibidem.*

crime groups in the border area. Annual cooperation plans are adopted both in cooperation with Ukraine and Russia.

Customs authorities of neighbouring countries jointly carry out research projects in border areas, exchange information on new customs regulations, and conduct training courses for entrepreneurs. The National Revenue Administration also actively participates in activities undertaken as part of the Eastern Partnership, organizing meetings and conferences in the field of customs for third countries. In addition to the European Union, it cooperates with the World Customs Organization, the World Trade Organization and the Council of the Baltic Sea States.

When discussing the issues of cooperation between the European Union and the authorities of third countries in the field of combating cross-border crime, it should be noted that in terms of scope and quality, it is very diverse, and sometimes extremely difficult. As a result of joint efforts, cooperation with Ukraine and Moldova has improved over the past two years, as opposed to cooperation with Belarus. On the other hand, operational cooperation with countries such as Russia, China and Malaysia is considered correct.

However, significant problems resulting from the scale of the illegal trade in tobacco products from these countries still need to be resolved. The operational cooperation with Singapore and the United Arab Emirates related to free zones in these countries is insufficient. Corruption in law enforcement is also a serious problem in non-EU countries of origin and transit (Commission Communication, 2013).

The Poland-Belarus-Ukraine Cross-Border Cooperation Program supports cross-border development processes on the border of Poland, Belarus and Ukraine by co-financing joint non-commercial projects that contribute to improving the quality of life of the inhabitants of eastern Poland, western Ukraine and Belarus. The European Commission has allocated EUR 183 million for the further development of cross-border cooperation, of which EUR 13 million was allocated to project implementation costs, and the remaining EUR 170 million to finance projects (Poland-Belarus-Ukraine Cooperation Program 2014-2020).

“Cross-border cooperation is a special type of international cooperation, the characteristic features of which are neighbourly contacts and the local or regional level of cooperation. It is not a foreign policy of the state and does not threaten its territorial integrity” (Wawrzusiszyn, 2012).

An example of effective actions are programs implemented under joint European Union projects on combating economic crime and fighting corruption for selected countries, such as: Bulgaria, Western Balkans and Turkey, Albania, Morocco, Tunisia and Jordan, Kosovo, Kyrgyzstan, Russia, Moldova, which were described in the Report (2017).

## 6. Selected Intra-EU and International Institutions and Bodies Established to Fight Crime

Combating cross-border customs crime means specific actions performed by customs authorities in cooperation with other services, bodies and international organizations to ensure compliance with customs legislation and other regulations governing the entry, exit and transit of specific goods, i.e., weapons and ammunition, cigarettes, alcohol, fuel, drugs and psychotropic substances, monuments, waste, counterfeit goods, endangered species of flora and fauna transferred between the customs territory of the EU and third countries, including online crime (Chackiewicz, 2021).

Examples of institutions, organizations, European agencies, and systems designed to combat and prevent border crime are presented below.

*Frontex's* border control activities remain the sovereign responsibility of individual Member States, leading to overlapping and divergent regimes of control and accountability. For example, humanitarian responsibility and Police activities at the borders are interrelated and take place within conflicting and sometimes complementary operational activities. In the context of Police activities in the field of border control, emphasis is placed on extending them to include humanitarian issues (Pallister-Wilkins, 2015).

Cross-border crime is understood as any serious crime with a cross-border dimension committed a tor along the external borders. Frontex is expected to address not only migrant smuggling or human trafficking, but also serious crime that adversely affects the security of the EU's external borders. This may include, for example, the smuggling of stolen vehicles, drugs, firearms, tobacco products, mineral oils and alcohol (excise goods) or the trafficking of dangerous goods.

Border management in terms of financing support from the European Asylum Support Office (EASO), including monitoring crisis situations 24 hours a day, 7 days a week, information exchange, permanent corps deployed, 111 Frontex officers were deployed in Lithuania and Latvia in connection with the Belarusian crisis. EUR 200 million was given for border management in Latvia, Lithuania and Poland. EUR 6.4 billion has been made available for the period of 2021–2027 for the integrated border (Frontex Report, 2021).

*The European Anti-Fraud Office (OLAF - L'Office européen de lutte antifraude)* completed 212 investigations in 2021 and issued 297 recommendations to the relevant national and EU authorities. It recommended the recovery of EUR 527.4 million to the EU budget and launched 234 inquiries following 1100 preliminary analyses by OLAF experts. OLAF budget for 2021 was EUR 61 million. Member States pursuant to art. 12a of Regulation 883/2013, in order to effectively cooperate

and exchange information, are required to designate a service responsible for facilitating cooperation with OLAF.

These are the Anti-Fraud Coordination Services (AFCOS). Their tasks include supporting OLAF in carrying out on-the-spot checks in the AFCOS country, including fulfilling the obligations under Regulation 2185/1996 on the on-the-spot checks, assisting cooperation between national administrations, law enforcement agencies and OLAF, sharing information on irregularities and suspicions of fraud to national authorities and OLAF, disseminating information, steering, implementing national strategies for the protection of the EU's financial interests, identifying possible weaknesses in national systems for managing EU funds and initiating appropriate corrective actions (Inghelram, 2012).

OLAF prepares annual reports on its activities. In 2019, international information exchange and cooperation with OLAF contributed to the seizures of over 250 million cigarettes (Report, 2019).

In 2020, OLAF and its partners confiscated a total of 368,034,640 cigarettes destined for illegal sale in the European Union, of which 132.5 million cigarettes were confiscated in non-EU countries (mainly Albania, Kosovo, Malesia and Ukraine), and 235,534,640 cigarettes were confiscated in EU member states. The vast majority of these cigarettes came from outside the EU: around 163,072,740 from the Far East (China, Vietnam, Singapore, Malesia), while 99,250,000 – from the Balkans/Eastern Europe. Another 84,711,900 were from Turkey, while 21 million were from the UAE. The potential loss of revenue for the EU budget for smuggling cigarettes into the Union was estimated at around EUR 74 million (around EUR 2 million in customs, excise and VAT for every 10 million cigarettes) (Report, 2020).

And in 2021, OLAF co-organized or supported 13 joint customs operations and other operational activities with partners. He contributed, among others, to combat the illicit trade in tobacco products, helping to seize 437 million cigarettes. He was responsible for the implementation of the new EU anti-fraud program supporting the member states in building their national anti-fraud capacity. To implement the Program, EUR 181 million has been allocated for the years 2021–2027 (Report, 2021).

*EU-LISA* is the European agency responsible for the operational management of Eurodac, the Schengen Information System (SIS) and the Visa Information System (VIS). In line with the latest legislation, the Agency is now also entrusted with the development and operation of the European Entry / Exit System (EES), the European Travel Authorization System (ETIAS) and the European Criminal Records Information System for third-country nationals (ECRIS-TCN). eu-LISA was tasked with ensuring the interoperability of large-scale IT systems. Interoperability and its elements will provide faster and more reliable data for both border management and law enforcement authorities.

The agency ensures the operation of the systems 24 hours a day, 7 days a week. It also guarantees the highest level of information security and data protection. Almost 20 million searches per day by component authorities across Europe and more than 600 hits processed by SIRENE offices on average per day are only possible with a robust system that has once again proved to be at the heart of a secure Schengen area (SIS II, 2021).

*Eurojust* was established by the decision of the EU Council of February 28, 2002. Pursuant to the wording of articles 29 and 31, Eurojust coordinates cross-border cooperation between national law enforcement authorities to ensure a high level of security in the area of freedom, security and justice. Tasks of Eurojust include strengthening cooperation between the relevant authorities of the member states in the conduct of criminal proceedings and facilitating the implementation of mutual assistance in criminal matters.

It consists of representatives of the judiciary of the member states responsible for conducting preparatory proceedings in criminal cases, mainly prosecutors, judges and police officers. Eurojust's national members have the power, for example, to request an investigation or prosecution from member states or to set up a joint investigation team, their task is to ensure the best possible cooperation, both at the request of the member states in terms of command and prosecution.

The literature specifies that Eurojust has broad competences related to the coordination of cross-border proceedings, the execution of requests for legal aid, European arrest warrants, participation in joint investigation teams, access to national databases and the possibility of initiating criminal proceedings and other activities in a given case. It should be underlined that in 2021 Eurojust served 457 coordination meetings and 22 coordination centres, with videoconferencing and new hybrid solutions being added to the traditional forms of meetings. It provided, among others, financial or operational support to 254 investigation teams, 72 joint investigation teams were set up and work continued with 182 acquired in previous years (Report, 2021).

*The National Law Enforcement Network (nCEN)* is a system that was developed by the WCO to assist customs administrations to collect and store law enforcement information at the national level, with the additional ability to exchange this information at the regional and international levels. By adopting nCEN, administrations are able to manage information on all aspects of their law enforcement functions, including seizures, offenses and suspected persons or businesses, within a modern national system that can be standalone or used in a networked environment. The Information Communication Interface (Icomm) of nCEN enables administrations to exchange data with other nCEN users as long as there are legal grounds.

*nCEN* is a complex tool that builds the capacity of customs administrations to conduct effective, risk-based and intelligence-based customs operations. It allows the collection of information on non-conformities and non-conforming entities as a key basis for determining effective actions to be taken in key risk areas. It also improves the country's analytical capabilities for targeted shipment checks, e.g., by applying custom analytical rules to search for specific criteria in all data stored in the application.

The number of countries that decide to implement *nCEN* is constantly growing. The *nCEN* network is now used in customs administrations in all six WCO regions, and the *nCEN* Global Network is growing every year. WCO further facilitates the creation of regional structures to promote cooperation between *nCEN* countries, and the *nCEN* Regional Program Leader Meetings are now held annually in the four WCO regions.

In order to meet the challenges of the digital age, customs administrations must commit to continual improvement and modernization of their operational procedures and techniques. *nCEN* enables customs administrations to be well-managed, to facilitate trade, to stricter law enforcement and, ultimately, to sustainable development and economic growth (Czyżowicz, 2015).

*SECI* – an agreement on cooperation in preventing and combating cross-border crime was signed on May 26, 1999. Its purpose is to initiate mutual assistance of states-parties to the agreement through the competent authorities or services of these states in preventing, detecting, investigating, prosecuting and punishing cross-border crime (*SECI* Agreement, 1999; Papanicolaou, 2011).

The main statutory objectives of *SECI* are: 1) developing effective working contacts between the *SECI* Centre and *SECI* member states; 2) preventing, detecting and combating cross-border crime through the exchange of information and documents as well as other activities provided for in the *SECI* agreement, with the use of liaison officers of the member states; 3) supporting criminal and customs investigations in cases of cross-border crime; 4) determining, analysing and preparing proposals in matters of improving the quality of cooperation between law enforcement authorities in the region; 5) coordinating activities with Interpol and the World Customs Organization.

The Centre consists of eight specialized teams to combat: drug trafficking (coordinated by Bulgaria), human trafficking (coordinates by Romania), financial and computer crime (coordinated by Macedonia), trafficking stolen cars (coordinated by Hungary), smuggling (coordinated by Albania and Croatia), terrorism (coordinated by Turkey), container security (coordinated by Greece).

## **7. EMPACT Activities**

Another example of the fight against transnational organized crime is the European Multidisciplinary Platform against Criminal Threats (EMPACT). From January 2022, the new EMPACT 2022–2025 cycle began, the aim of which is, among others, the identification, prioritization and response to threats posed by organized international crime. The platform is run by EU member states and supported by Union institutions, bodies and agencies active in the field of justice and home affairs (e.g., Europol, Frontex, Eurojust, CEPOL, OLAF, eu-LISA and EFCA). Third countries, international organizations and other public and private partners are also associated with the Platform.

The priorities of the new EMPACT cycle for 2022-2025 include the fight against high-risk criminal networks, computer attacks, human trafficking, child sexual exploitation, migrant smuggling, drug trafficking, economic and financial fraud and crimes, organized crime against property, crimes against the environment or weapon trafficking.

## **8. Conclusions**

Cross-border customs crime is increasingly operating on a global scale and therefore there is a growing number of joint efforts by neighbouring countries to combat it. It is also important to facilitate the exchange of good practices in combating crime. It should be emphasized that there is a need to step up controls and criminal proceedings. It is also crucial to assess the possibility of using the available control devices and IT systems and to purchase new ones.

There are various difficulties in cross-border areas, among others, related to the coordination of the management of social and economic activities in an increasingly interactive world. When dealing with cross-border issues such as security, organized crime, drug trafficking and people smuggling, both countries sharing a common border have a duty to stop them. Accordingly, demand must be reduced and internal regulations must be enforced in order to address security issues at the border in the long term (Guo, 2015; Van der Woude, 2017).

Crime as a social phenomenon does not stay within one state. It has direct impact on the interests of several countries and becomes cross-border. In recent years, it has increased significantly both in terms of its prevalence and the threat to the interests of states and their citizens. Experts say that cross-border crime characterizes only some of the transnational crime.

However, there is no unanimous opinion of specialists on this issue, and these concepts did not receive doctrinal definitions, remaining undefined. Due to the fact that the phenomenon of cross-border (transnational) crime has been theoretically studied relatively recently, there is a problem of distinguishing between these



concepts. From the point of view of scientific research, this issue is considered insufficiently described, which is confirmed by the lack of scientific publications on the specific issue under consideration. The effectiveness of combating cross-border customs crime depends on the system, administration structure and control activities. Otherwise, a significant number of cross-border crimes will not be detected.

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