

Tamás Tari:¹

In-depth control system and experience gained from its functioning in Hungary

Border checks at the internal borders were abolished when Hungary joined the Schengen member states. Because of the security deficit caused by the abolishment of the border checks, our country was obliged to introduce compensatory measures and take counter measures against illegal migration and other connected illegal acts. In my thesis, I wish to briefly present the in-depth control system belonging to the compensatory measures and the experience gained from their carrying out.

The abolishment of the border checks at the internal borders required the establishment of a new system. Sources of former threats have not been eliminated, in an altered way they continue to persist, and even new ones have appeared:

- illegal migration is gaining strength;
- in case of asylum seekers, the danger of continuing travel illegally;
- arrival and leaving of perpetrators without any control;
- cross border crime is gaining strength;
- more free movement of drugs, guns, ammunition, explosive and radioactive materials;
- increasing of crimes connected to travels, commuter travels or prowling;
- illegal employment;
- marriage for convenience, making study contracts;
- increasing source of pollution to the environment.²

Successful counter-measures against these dangers are of essential interest and also an EU obligation. Schengen regulations do not determine in details the types and ways of checks concerned authorities should follow and carry out. Those few regulations relating to checks at the internal borders mainly determine what concerned authorities should not check and how they should not carry it out. Therefore, border traffic control and border surveillance should not be implemented at the internal borders, but a new and mobile in-depth control system functioning in groups shall be established. The point of the in-depth control is to operate such a control system where foreigners are checked not only upon crossing the border at an external border crossing point but also within the entire territory of the country, which control

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² Law Enforcement Qualifying Exam: Border policing management Chapter II subsection 3; László Vájlok: Operation of the Integrated Border Management System, 2008, page 90

shall also ensure the aliens policing controlling of persons arrived to the country through the internal borders without any control or in illegal way or of those that stay illegally in the territory of the country.³

The Service Regulation of the Police determines the definition of the in-depth control: „15.§ (1) The police officer shall carry out in-depth control – independently or in cooperation with other authorities – outside of the border zone, with the view to detect persons illegally residing in the country. (2) The controlling of border traffic shall not be the objective of the in-depth control.”⁴

In our country, the need for creating a complex in-depth mobile control raised earlier. To fulfil these tasks, the Border Guards created its mobile units, the intervention teams in 2001-2002 at central and local level. A so called CheckNet was also established and operated by the Border Guards. Since 01 January 2008, the date of the integration of the Police and the Border Guards, these tasks are basically implemented by the Police but it closely cooperates with the Office of Immigration and Nationality, the Customs and Finance Guard, the national security services and with foreign representations in fighting illegal migration. During the execution of the tasks related to the CheckNet in the framework of the complex in-depth control system, the Police works together with the National Labour Supervisory Authority also. For the harmonisation of the activities implemented by the authorities and to create and operate the nationwide complex CheckNet for aliens policing purposes, the heads of the concerned ministries issued the Joint Directive of 2/2002. (BK 10.) BM-PM-SzCsM. In 2004, the complex control system was transformed, and a new Joint Directive of 20/2004. (BK 15.) BM-FMM-PM), which further developed the provisions of the former one and also abated it, was issued.⁵ Nowadays the amendment of the Directive is underway to broaden the sphere of participants with the National Transport Authority.

The Directive accurately determines the tasks of the complex control system: „with the harmonisation of the tasks of the services and authorities in time, geographically and in methodology, with the rational use of forces and equipment, with the improvement of information flow, without using a total (border) control, on the basis of differentiating and selecting targeted subjects to be controlled, the system should ensure on the entire territory of the country the execution of aliens policing control determined by legal regulations, the

³ http://www.hatarorseg.gov.hu/index.php?akt_menu=253&PHPSESSID=f5780200f988da0451f6201ffafd9b4c, downloaded on 18 May 2009

⁴ 62/2007. (XII.23.) IRM Decree on the Service Regulation of the Police

⁵ Zsuzsanna Fejes - János Sallai - Edit Soós - Judit Tóth - László Vájlok: Tuned to Schengen. European Workshop Papers No. 113 2007 page 31

detection of illegal acts connected to illegal migration and the implementation of other required procedures.”⁶

The types of illegal acts connected to the illegal migration are as follows:

- illegal border crossings or its attempts;
- aliens policing minor offences;
- violation of ban on entry and stay;
- assisting illegal stay;
- human smuggling;
- forgery of travel documents or other type of documents authorising holders to enter, cross or leave the country;
- violation of personal freedom in connection with the above mentioned;
- human trafficking;
- abuse of documents.⁷

Authorities establishing the complex control system are obliged to execute tasks arising from the creation and running of the system and to cooperate on the basis of the Joint Decree 20/2004. (BK 15.) BM-FMM-PM. Integrated Management Centre was created for the non-stop operation of the complex control system; its central unit is the Management Board while its operative executive body is the Integrated Management Group. The head of the Management Board is the General Director for Law Enforcement of the National Police Headquarters (NPHQ), whereas the head of the Integrated Management Group is the Head of the Border Policing Department of the General Directorate for Law Enforcement of the NPHQ.

At local level, units of the Police carrying out in-depth checks are the Divisions of Border Policing and Public Security of the Police Stations. At county level, the Intervention Divisions, while at central level the In-depth Control Division of the Intervention Department of the Budapest Police Headquarters carry out such checks. Counties at the routes of the illegal migration harmonise their activities for the appropriate operation of the control system. Controls are executed by the Police independently, or in cooperation with their (national, external or international) partner services.

On the basis of the experiences of 2008, the main routes of the illegal migration are:

⁶ Joint Directive of 20/2004. (BK 15.) BM-FMM-PM on increasing the efficiency and coordinating counter measures to fight illegal migration and connected illegal acts, Article 2

⁷ Decision of the High Commissioner of the Hungarian National Police No. 21/2008. (OT 11) on the carrying out of police tasks connected to the management of acts related to illegal migration, Article 2

- From the Serbian border section along the highway M5 until Budapest and then, on the highway M1 and road No. 1 until Hegyeshalom.
- From the Ukrainian border section along the highway M3 until Budapest, and then by the highway M7 towards the Slovenian border section.
- From the Romanian border section along the highways M3 or M5 until Budapest, and then by the highway M7 towards the Slovenian border section or by the highway M1 or the road No. 1 until Hegyeshalom, or by the road No. 8 towards the Austrian border section.

With the view of the efficient carrying out of in-depth checks, all County Police Headquarters carry out and update figures on the following:

- on heavy traffic roads towards the state borders or coming from that directions, areas suitable for stopping and controlling vehicles;
- suitable places for controlling river bridges or traffic of ferries;
- rest areas near highways or main roads;
- places designated for controlling passengers', freight or RO-LA trains heading to and coming from the state borders;
- railways stations, bus stations, hotels, pensions, private apartments in larger towns being junctions for illegal migration;
- campings, tourist hostels and resort hotels;
- areas where foreign citizens are known to work without permissions;
- areas especially suitable for foreign citizens to sell goods without permission.⁸

In its decision on the adoption of measures to fight illegal migration, the Schengen Executive Committee deemed it necessary to increase – on the basis of the national regulations – the level of police control measures on major roads inside the country.⁹ On the basis of above, police units, in cooperation with their partner policing services, execute controls on roads affected by illegal migration based on risk assessment. To verify or rule out suspicions, they control the vehicles' passengers outside the major roads' lanes (e.g. in parking places). Concerned authorities are obliged to control whether these persons keep the requirements on holding and presenting travel or other documents.

Further necessary task is to execute, on the basis of risk assessment, aliens policing control measures to spot check persons upon arrival, mainly at public traffic stations,

⁸ Decision of the High Commissioner of the Hungarian National Police No. 21/2008. (OT 11.) on the carrying out of police tasks connected to the management of acts related to illegal migration, Article 25

⁹ Decision of the Schengen Executive Committee of 27 October 1998 on the adoption of measures to fight illegal immigration (SCH/Com-ex(98)37 def. 2) Article 9

terminals or boat harbours near the internal borders. The distance between the borders and the place of control cannot be determined; it depends on the available local infrastructure. As concerns the staff carrying out the checks, it is important to include such a police officer that has appropriate knowledge on travel documents. Basic requirements for effectively implementing these measures are to continuously ensure the technical background for background checks (searching in different databases) which enables quick, accurate and correct queries in national and international databases in connection with the persons under identity checks.

General experiences of in-depth controls:

- It is a problem that the staff of Border Policing and Public Security or Intervention Divisions public security patrols often carries out public area patrolling.
- As concerns identity checks, the number checks of citizens of so called “third countries” is extraordinarily low.
- The number of staff dealing with checks decreased significantly compared to the previous years.
- The criminal intelligence on the main roads of illegal migration crossing the country, on places for technical stops, or on people suspected of taking part in human smuggling activities is insufficient or of poor quality.
- Technical and IT equipment, which were introduced in the previous years, are not always at the disposal of the field staff.

Despite of the above mentioned problems (the elimination of which should be an objective to increase the efficiency of the in-depth control measures), the lifting of border checks at the internal borders has not created a security deficit. While the number of persons charged with a crime connected to illegal migration has increased, the number of persons taken over from our neighbouring countries because of committing illegal border crossing acts has decreased.

Bibliography:

1. Law Enforcement Qualifying Exam: Border policing management Chapter II subsection 3; László Vájlók: Operation of the Integrated Border Management System, 2008, page 90

2. http://www.hatarorseg.gov.hu/index.php?akt_menu=253&PHPSESSID=f5780200f988da0451f6201ffafd9b4c downloaded on 18 May 2009
3. 62/2007. (XII.23.) IRM Decree on the Service Regulation of the Police
4. Zsuzsanna Fejes - János Sallai - Edit Soós - Judit Tóth - László Vájlok: Tuned to Schengen. European Workshop Papers No. 113 2007 page 31
5. Joint Directive of 20/2004. (BK 15.) BM-FMM-PM on increasing the efficiency and coordinating counter measures to fight illegal migration and connected illegal acts, Article 2
6. Decision of the High Commissioner of the Hungarian National Police No. 21/2008. (OT 11) on the carrying out of police tasks connected to the management of acts related to illegal migration, Article 2
7. Decision of the High Commissioner of the Hungarian National Police No. 21/2008. (OT 11.) on the carrying out of police tasks connected to the management of acts related to illegal migration, Article 25
8. Decision of the Schengen Executive Committee of 27 October 1998 on the adoption of measures to fight illegal immigration (SCH/Com-ex(98)37 def. 2) Article 9