

# INTERNATIONAL COOPERATION OF LAW ENFORCEMENT AGENCIES OF UKRAINE WITH THE EUROPEAN BORDER AND COAST GUARD AGENCY (FRONTEX) IN COUNTERING THE CHALLENGES OF TRANSNATIONAL CRIME AND CONDUCTING INTERNATIONAL SEARCH FOR CRIMINALS.

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**Annotation.** *The article is devoted to the issues of international cooperation of law enforcement agencies of Ukraine with the European Border and Coast Guard Agency (Frontex) to intensify actions aimed strengthening security at own borders, counteracting the challenges of transnational crime and conducting international search for criminals with the help of existing international organizations.*

*It is emphasized that Ukraine's participation in international organizations is an integral part of the state's foreign policy, which makes it possible to cope with all the negative phenomena and problems that Ukraine is facing in this difficult time.*

*The author examines the historical aspects of the establishment and further development of the European Border and Coast Guard Agency (Frontex).*

*The author analyzes the role of the European Border and Coast Guard Agency (Frontex) in the process of international search for criminals, which is conducted jointly with law enforcement agencies of Ukraine, since the organization provides assistance in searching for criminals using its powerful technical and resource potential.*

*Attention is paid to the aims and objectives of the international organization, the European Border and Coast Guard Agency (Frontex) to intensify actions related to strengthening security at own borders and counteracting the challenges of transnational crime.*

*The author analyzes the EUROSUR communication channel used by Frontex as a system for exchanging information on the situation on European borders and in the border area.*

*The author also discusses the issues of cooperation between law enforcement agencies of Ukraine and the European Border and Coast Guard Agency (Frontex), which includes assistance in sharing experience and previously acquired skills to overcome negative trends occurring at the borders of Ukraine, to strengthen its own security, to counteract the challenges of cross-border crime and to support national authorities in identifying persons on the international wanted list, which is extremely necessary in such a difficult time.*

**Keywords:** *International cooperation, international organization, European Border and Coast Guard Agency (Frontex), European Maritime Safety Agency, the European Union, European Commission, Europol, external borders, border security, cross-border crime, search for criminals, international search for criminals, European Border Surveillance System, Integrated Border Management Strategy, State Border Guard Service of Ukraine.*

### **1. Formulation of the problem.**

The European Border and Coast Guard Agency plays an important role in the process of conducting international search for criminals, which is carried out jointly with law enforcement agencies of Ukraine, assists in the search for criminals and takes measures related to strengthening its own security at its borders and counteracting the challenges of transnational crime and counteracting the transit of illegal migration.

### **2. Analysis of recent research and publications.**

Comprehensive works of Ukrainian scientists in this area such as A.O. Hnitiy, O.B. Hanba, D.A. Kupriienko and others have made a significant contribution to the study of this issue. However, they are mostly devoted only to the study of certain aspects of Ukraine's cooperation with FRONTEX in border protection. Unfortunately, scholars have not studied enough the issues that would reveal the essence of cooperation between law enforcement agencies of Ukraine and the European Border and Coast Guard Agency (Frontex) in the process of conducting international search for criminals and providing assistance in this area.

### **3. Formulation of the article's objective of the (problem formulation).**

The purpose of this article is to conduct an in-depth analysis of the international organization of the European Border and Coast Guard Agency (Frontex) in the process of international search for criminals conducted jointly with law enforcement agencies of Ukraine and to study the cooperation of law enforcement agencies of Ukraine, which includes assistance in sharing experience and previously acquired skills to overcome the negative trends occurring at the borders of Ukraine and to provide support to national authorities in identifying persons who are on the international wanted list.

### **4. Presentation of the main material.**

In connection with Ukraine's aspiration to unite with the European community and fulfill its obligations for Ukraine's accession to the European Union, as well as to overcome the negative consequences of the military aggression committed by the Russian Federation, the latter is forced to intensify actions to strengthen its own security at its borders and counteract the challenges of transnational crime with the help of existing international organizations.

Ukraine's participation in international organizations and their cooperation with national law enforcement agencies is an integral part of the state's foreign policy and national security, which makes it possible to cope with all the negative phenomena and problems that Ukraine is facing in this difficult time.

One of the international organizations that provides assistance in combating crime and restoring order on Ukraine's borders is the European Border and Coast Guard Agency (Frontex).

Frontex (French) *Frontières extérieures* translates as external borders, the full name of the agency in English is *European Border and Coast Guard Agency*[1].

The main purpose of the organization is to promote, coordinate and develop the management of the European border in accordance with the EU Charter of Fundamental Rights and the concept of integrated border management.

Considering the above-mentioned international organization, it is impossible not to pay attention to the historical aspects of its foundation and further development.

For example, since 1999, the European Council on Justice and Home Affairs has taken several steps to further strengthen cooperation on migration, asylum, security and control of its borders.

In the area of border management, this led to the establishment of the Joint External Borders Unit, a group consisting of members of the Strategic Committee on Immigration, Borders and Asylum (SCIFA) and heads of national border control services.

The joint unit coordinated the national projects of the Special Border Control Centers. Their task was to oversee pilot projects across the EU and implement joint operations related to border management.

Two years after the establishment of the “ad-hoc” centers, the European Council decided to go even further. In order to improve the procedures and working methods of the Joint Unit, Council Regulation (EC) 2007/2004 of October 26, 2004 established the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).

This Regulation was repealed by Regulation (EU) 2016/1624 of September 14, 2016 establishing Frontex, the European Border and Coast Guard Agency (currently in force as Regulation 2019/1896) [2].

Therefore, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union was renamed to the European Border and Coast Guard Agency, commonly known as Frontex, and its tasks were expanded to ensure full continuity of all activities and procedures.

The European Border and Coast Guard Agency plays a key role in combating and preventing cross-border criminal activity, smuggling of stolen vehicles, drugs, tobacco products, alcohol (excisable goods), firearms, mineral oils or trafficking in hazardous materials. This also applies to such types of criminal offenses as environmental crimes: trade in waste or wild animals [1].

The agency also supports member states in verification, debriefing (consultation of a person or group of people who have experienced an emergency, often in the form of training in the first two days after the event), identification and fingerprinting of migrants and other cross-border crimes, including by facilitating the apprehension of internationally wanted criminals.

Additionally, it also shares any relevant intelligence gathered during its operations with relevant national law enforcement agencies and Europol.

The European Border and Coast Guard Agency also provides technical and logistical support to national authorities in identifying internationally wanted persons.

The Agency analyzes data related to the situation at the EU’s external borders and beyond, shares information with Member States and conducts detailed vulnerability assessments to evaluate the capacity and readiness of each Member State to face challenges at its own borders.

An important factor in the international search for criminals is Frontex’s task of coordinating and organizing joint operations and rapid interventions at the border to assist Member States at their external borders.

The agency deploys European border and coast guard teams, including at least 1,500 border guards and other relevant personnel for rapid interventions. Members of the rapid response teams must be made available by Member States upon request of the agency [1].

Frontex has the ability to use ships, aircraft, vehicles and other technical equipment provided by Member States to carry out its operations.

In addition to its main functions, the agency also assists EU member states in the forced repatriation of people who have exhausted all legal options to legitimize their stay in the EU, as well as some of those who are registered as missing persons in the countries of their citizenship. This assistance includes obtaining travel documents for repatriates through close cooperation with the consular services of the relevant non-EU countries. Frontex can also organize voluntary departures of non-EU nationals who have been ordered to return by Member State authorities. In addition, it organizes

repatriation operations on its own initiative and “collection and return operations”, during which returnees are accompanied by escort officers and transport provided by their country of origin. The Agency has established several teams of return experts who are deployed to member states as needed.

It should also be emphasized that the Agency’s staff cooperates with national border guard authorities and law enforcement agencies of EU member states in cases where internationally wanted persons cross the border. However, according to EU law, the detention of such a person is the responsibility of the national authorities of the state that has declared the person wanted.

This means that Frontex officers can assist in identifying internationally wanted persons and report them to national authorities. However, the actual detention of such a person and further legal actions should be carried out by national law enforcement agencies.

The European Border and Coast Guard Agency supports cooperation between law enforcement agencies, EU agencies and customs at sea and air borders, in particular, at the European level, national focal points exchange information with each other and with Frontex through the EUROSUR ad hoc communication network.

EUROSUR is a multi-component, multi-functional system for exchanging information on the situation at European borders and in the border area, which includes not only an ad hoc communication network for information exchange, but also ensures the necessary cooperation between Schengen members and associated countries and offers a joint response to emerging challenges. This assistance consists of rapidly obtaining information about possible danger and making lightning-fast decisions to respond appropriately to possible emergencies at the borders.

One of the key subsystems of the EUROSUR system is EUROSUR Fusion Services. This system collects information from satellites and other possible surveillance systems used by the European Maritime Safety Agency and the EU Satellite Center and shares it with Member States and Frontex. No Member State alone can afford the space surveillance services and other platforms offered by EUROSUR Fusion Services. Thanks to these services, each Member State has access to advanced technologies, avoiding duplication and at a lower financial cost [3].

EUROSUR also supports response capabilities. Member States divide their external borders into external border sections. Based on a risk analysis and vulnerability assessment, Frontex, in consultation with the Member State concerned, determines the levels of impact on each border section. Depending on the level of impact determined, from low to critical, Member States should adapt their response in close coordination with neighboring Member States as well as with Frontex, which can then deploy a standing corps if necessary to assist.

Therefore, it is safe to say that the European Border Surveillance System (EUROSUR) is the basis for information exchange and cooperation between Member States and Frontex to improve situational awareness and enhance response capabilities at the external borders.

When considering the organizational functions of the Agency, it should be noted that the Frontex Board consists of representatives of the heads of border authorities of the 26 EU Member States that have signed the Schengen acquis, as well as two members of the European Commission. Representatives of Ireland, Iceland, Liechtenstein, Norway and Switzerland (non-EU member states that are involved in the implementation, application and development of the Schengen acquis) are also invited to participate in the meetings of the Board. Each of them sends one representative to the Board, but retains limited voting rights. The Board meetings are convened by its Chair and are held five times a year.

For the first time in its history, the European Union has its own military service, the European Border and Coast Guard Standing Corps.

Trained by the best and equipped with the latest technology, the Frontex Border and Coast Guard ensures the proper functioning of Europe’s Schengen area. In particular, the Standing Corps provides support in migration management, cross-border crime and return activities, as well as support to national authorities in border management and security.

The Standing Corps assists with border checks and provides migration management support such as citizenship verification, registration and fingerprinting. Its officers help detect illegal drugs, weapons and other illegal activities at the border. Many members of the permanent corps support the repatriation of people who are illegally in Europe. Officers exercise executive powers, such as border control, and are authorized to carry firearms.

The permanent corps consists of four categories of officers. They include Frontex staff and officers who are deployed from member states to the agency on long-term or short-term missions, as well as a reserve that can be activated in times of crisis.

In total, by 2027 the European Border and Coast Guard standing corps will comprise 10 000 people, among them 3000 category 1 officers – Frontex staff. The other 7000 thousand officers will be seconded from EU Member States.

Category 1: Border guards directly employed by Frontex as staff members and regularly deployed to border guarding missions according to their profile

Category 2: Long-term staff seconded from Member States;

Category 3: Short-term staff seconded from Member States;

Category 4: Reserve of EU Member States border guards that are available to Frontex for rapid border management crisis.

Each of the permanent corps officers undergoes basic training to prepare them for deployment to operational areas, and officers have the necessary skills to work together in any specific operational area, in full compliance with applicable EU legislation and ethical standards.

The agency's officers specialize in detecting cross-border crimes, as described above, and work to collect information on the movement of persons across controlled borders who are internationally wanted or to gather data on criminal networks.

Frontex border guards work under the command of the national authorities of the country in which they are deployed. They can operate at the borders of EU member states and currently support operations in countries such as Italy, Greece, Spain and Bulgaria. They are also present at airport checkpoints as well as at the agency's headquarters in Warsaw. The latter operate in countries outside the EU that have signed a Status Agreement with the European Commission – Albania, Montenegro, and Serbia.

Given the complex nature of cross-border crime threats, a comprehensive operational response is required. Therefore, Frontex analyzes the risks and identified criminal threats; provides technical and operational assistance to Member States to strengthen their capacity to fulfill their external border control obligations and to face challenges at their external borders, including training, advice on appropriate technological tools or launching an operational response in the form of a joint operation or even a rapid border intervention.

At the EU level, Frontex has established three joint risk analysis networks:

1. The FRAN (Frontex Risk Analysis Network), which includes risk analysis units of border guard agencies of all EU member states on equal terms.
2. The WB-RAN (Western Borders Risk Analysis Network) was created to cooperate with the Western Balkan countries.
3. The Eastern Borders Risk Analysis Network (EB-RAN) was created to cooperate with the border services of Ukraine, Belarus, Russia and Moldova.

The relevant mechanism for information exchange and joint risk analysis was agreed upon at the level of the heads of the State Border Guard Service of Ukraine and Frontex. It is based on information provided by Frontex and all EB-RAN participants. The joint report consists of a description and analysis of cases of illegal migration, illegal border crossing on the eastern sections of the EU



external border, and also contains a regional analysis of the routes of illegal migration and ways of their use [3, P. 23].

In line with the concept of European integrated border management, the Agency coordinates its activities related to cross-border crime with Europol and other relevant actors. Frontex has developed a system for collecting personal data on suspected criminals collected during its joint operations and transmits the analyzed personal data to Europol. Frontex is also actively involved in the EU Policy Cycle/ European Multi Disciplinary Platform Against Criminal Threats (EMPACT) program, which was created to combat transnational and organized crime in Europe.

Thus, Frontex is a member of the Steering Group for the EU Support for Strengthening Integrated Border Management in Ukraine (EU4IBM) project. This project is funded by the European Commission and aims to bring Ukraine's border management system closer to EU integrated border management standards and best practices by taking measures to identify and address gaps that arise during the implementation of national reforms [4, P. 387].

In 2018, Frontex established Centre of Excellence in Combatting Document Fraud to help Member States detect and counter the various illegal uses of fake documents, which are often an integral part of other crimes such as smuggling, human trafficking, terrorism and the movement of wanted persons across borders. Frontex has more than a dozen document experts from Member States who can be deployed within two working days to assist in emergency situations involving document fraud. Additionally, there is a team of 85 document fraud and forensic experts from Member States who participate in all relevant projects and activities coordinated by Frontex.

Frontex - the European Border and Coast Guard Agency – has become an important actor in migration law enforcement at the European level, taking on new responsibilities and tools related to the return of people who have exhausted all legal ways to legalize their stay in the EU. Of particular importance is the ability of Frontex to assist national authorities in Member States in the process of identifying non-EU nationals who do not have proper travel documents and cannot be returned. In the process of identifying such persons, non-EU authorities must officially confirm their citizenship in order to be able to issue travel documents and return them to their home country.

In the context of Ukraine's cooperation with Frontex as an EU agency, it is important to note that the main regulatory document on cooperation with the EU – the Association Agreement of 2014 between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, (hereinafter referred to as the Association Agreement) [5] does not contain provisions on legal regulation of relations with the agency.

The regulatory framework for Frontex's cooperation with Ukraine, represented by the State Border Guard Service of Ukraine (hereinafter referred to as the SBGS), which is the main national body in the field of border management, is based on international agreements concluded under Art. 16 of the Association Agreement. The latter establishes the legal basis for cooperation in the field of joint management of migration flows, development of a comprehensive dialog on all migration issues and effective implementation of the principle of integrated border management [5].

Frontex provides support to Member States in cooperation with third countries, which is carried out on the basis of bilateral and multilateral agreements (Art. 72 of Regulation 2019/1896 [2]). "Thus, Ukraine and some EU member states (Austria, Bulgaria, Denmark, Lithuania, Poland, etc.) have concluded international agreements on operational cooperation on common border areas, information exchange, readmission of persons, etc." [4, P. 386].

In addition, on 11.06.2007 in Luxembourg, the Working Agreement on the Establishment of Operational Cooperation between the European Agency for the Management of Operational Cooperation at the External Borders of the EU Member States and the SBGS Administration (hereinafter – the Working Agreement) was signed [6]. This international document, which is an act of soft law, contains a list of objectives and main areas of cooperation that are typical for most agreements of this kind [4, P. 390].

In pursuance of the Working Agreement, on July 24, 2019, the Cabinet of Ministers of Ukraine approved the Integrated Border Management Strategy for the period up to 2025 [7].

Strengthening the Agency's mandate and expanding its powers, including cooperation with third countries, should be reflected in the basic international document governing bilateral relations between FRONTEX and the SBGS. In this regard, the updated Working Agreement should enshrine the widest possible range of areas of cooperation, which will include not only the provision of advice and training programs for the training of Ukrainian border guard officers, cooperation in research or information exchange, but also the active involvement of SBGS representatives in Frontex operational activities at the EU's external borders. Enshrining provisions on the observance of fundamental rights and ensuring data confidentiality should also become mandatory elements of the updated Working Agreement. In addition, the conclusion of the Status Agreement, which is one of the priorities of the Integrated Border Management Strategy for the period up to 2025, will mean an increased level of trust for Ukraine as an EU partner and will help ensure the protection of the state border [5].

Thus, the Ukrainian strategy aims to strengthen cooperation with Frontex in the following areas: exchange of information, risk analysis, professional training of SBGS officers, operational cooperation [9, P. 387].

To this end, a negotiation process has been initiated with the European Commission to conclude an Agreement on the Status of Frontex Representatives in Ukraine, which will provide legal grounds for closer cooperation with this EU institution.

## 5. Conclusions.

Summarizing the above, it should be noted that Ukraine's cooperation with a number of international organizations, including the European Border and Coast Guard Agency (Frontex), gives extremely positive results in overcoming the negative trends that are taking place on the borders of Ukraine, and the latter also helps the SBGS and other national authorities of Ukraine (MIA, SBU, SBI, NABU, Prosecutor General's Office of Ukraine) to strengthen their own security, counteract the challenges of cross-border crime and support national authorities in identifying persons on the international wanted list, which is extremely necessary in such a difficult time.

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