

Risk Analysis and Its Role in Securing Waters from the EU External Border

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Abstract: In this paper we propose to emphasize the importance of risk analysis to prevent and combat transnational crime, especially trafficking in human beings, illegal migration and smuggling, in all its forms, especially the external maritime borders and inland EU. No least, this tool may have an important role in preventing tragedies in the reduction of casualties.

Keywords: external borders; border waters; crime; integrated management; risk analysis

1. Introduction

After joining the EU, Romania has received additional monitoring and controlling responsibilities in order to ensure the external border security of the community.

A particular problem is the Black Sea littoral, which carries significant penetration into the European unit. The increased risk of spread of the conflict in eastern Ukraine, a country with which Romania has borders both sea and river, with all the consequences that may follow from here in terms of securing the border waters is likely to put into a new light the problem, which of particular importance both for our country and for the European Union and NATO.

Ensuring the EU's external border security against various threats, predicting future trends thereof and finding the best solutions to prevent and combat require a range of complex instruments among which we have the risk analysis, which occupies an important role.

Risk analysis means the application of specific procedures within the agencies of law enforcement agencies with responsibilities in securing the border, having a supporting role in specific preventing and combating crime, including on the border waters, discovering weaknesses of which it could take advantage the criminals concerned of illegal migration and cross-border organized crime.

From this perspective, a simple analysis highlights the major benefits to be given to the external borders on the water (so-called blue), and especially the maritime ones, both in terms of hazards on the scale that can take various forms of cross-border traffic and especially regarding the migration phenomenon of a large number of people due to armed

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conflict. This is currently the situation at the border of Atlantic¹ and also Southeast Mediterranean and what was estimated a few years ago that similarly it may evolve on the border of Romania and Bulgaria on the Black Sea (Bocaniala, 2011, p. 211), which is happening at the moment.²

In order to harmonize the different structures, the European Union has adopted common risk analysis model (CIRAM)³, a tool that supports integrated management of external borders and which was developed by the Center for Risk Analysis that functioned in Helsinki (RAC). Starting also from the fact that judicial cooperation between states in criminal matters were held with the inherent slowness of bureaucracy (Savenco, 2011) imposed by the rules of international law, from which only the offenders may profit, imposed necessarily finding more effective ways to correlate the efforts between the Member States of the European Union.

Currently the risk analysis on combating cross border crime is coordinated at European level by FRONTEX – the European Agency for the Management of Operational Cooperation at the External Borders.⁴

In our country, for the application of best practices of the European Union to achieve integrated model of border security by implementing common model of integrated risk analysis in accordance with the Schengen Catalogue, there were established within the General Inspectorate of Police Border specialized structures for risk analysis.⁵

The function of risk analysis within the Border Police is based on the collection, evaluation, collation, integration and analysis of relevant data and information for issuing assumptions, conclusions, forecasts and estimates, collaboration with other agencies of law enforcement within Joint data analysis projects with a view to criminal prosecution of phenomena developments in the area of competence.

All the results of these analyzes, collectively called analytical products, aim at improving the results of Border Police and other authorities concerning the supervision and control of state border, preventing and combating illegal migration and specific facts for border crime,

¹ Frontex newsletter no. 2 of 2006 states that only in the Canary Islands by the end of 2006 more than 26,000 migrants from Africa arrived, which required two operations coordination, code named HERA I and HERA II, with a cost of over 3.6 million, to stop the phenomenon.

² <http://www.mediafax.ro/social/constanta-70-de-migranti-aflati-in-pericol-pe-o-ambarcatiune-in-marea-neagra-salvati-de-politisti-13910294>

³ CIRAM is based on a model of access control at four levels, which involves collecting information, and disseminating risk analysis to a wide range of partners (authorities' border control, both within the Schengen area and the external borders of EU Member States, neighboring countries and the non-EU members).

⁴ Regulation no. 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

⁵ To substantiate the structure in the European context, the development of inter-institutional cooperation with regard to agencies with jurisdiction at the border and enhance the skills of workers, there were made necessary efforts and it provided the Phare sheet RO 2005/IB/JH- 01 "Operational training in selective control techniques at the border, based on risk analysis for the Border Police and the Customs". The aim of this project is the improvement of risk analysis and selection techniques for border control, based on risk analysis.

respecting the legal regime of the state border, passports and foreigners, providing the Romanian state interests along the border.

The risk analysis should underpin the processes of decision making at all levels of management the risk analysis structures with the purpose of ensuring the operational staff and decision-making, the evaluation of phenomena of violation of law in all fields, the description of border potential risks that may arise in the current activity, the support for the investigation of criminal acts and facts or contravention.

Risk analysis means the application of specific methodologies within border services in order to support the fulfillment of border control task at the external border. It aims at improving the management side (resources, training, facilities, equipment) and also the operational side (methods, indicators, profiles) and it must cover the entire contents of the area of border security and all relevant stakeholders (internal and external) affecting border security. The risk analysis has been imposed so practical needs specific to prevention and combating the crime phenomenon as well as the alignment of the Schengen acquis and in particular the provisions of the Schengen Handbook, as activity directive for the border police.

2. Types of Risk Analysis and their Role in Border Security

The term risk analysis has been transposed into the internal legal framework in Romania for the first time in Law no. 86/2006 on the Customs Code of Romania being, included in the concept of *risk management*.

Thus, in art. 4 point 28¹, through risk management, was defined as “systematic identification of risk and implementation of all measures necessary for limiting exposure to risks; this includes activities such as collecting data and information, analysis and risk assessment, recommendation and adoption of measures, and regular monitoring and review of the process and its outcomes, based on sources and national and international strategies”.

It is becoming increasingly clear that the difference between raw data and value-operative information *the analysis* makes it, which identifies patterns and meanings and it enables the development of new breakthroughs in the nature of the offense and of the offender.

Information flow is performed both vertically (hierarchical transmission of information to carry out risk strategic analyzes at national level) and horizontally (available to operational staff of data and information of operational interest and probable risk assessments).

Risk analysis has continually evolved as an instrument of border management, being the tools for managing information flow between the control and surveillance measures at the border and information work, thus developing on three operating levels: tactical (with local application); operational (with regional application) and strategic (with implementation at national level).

Tactical risk analysis means offering and / or use relevant information for obtaining real-time profile targets crossing border (border crossing or transport target individual travelers). This type of analysis is based on systematic processing of processed information, and the

¹ Law no.86 / 2006 on the Customs Code of Romania.

information must be provided by the operating personnel involved in border security. At the tactical level, there were defined risk indicators on the main cross-border criminal activity (illegal migration), achieving continuously case analysis and elaborating recommendations for action. This type of risk analysis is achieved on the border police sector and it consists of tactical measures in real-time, in the daily work, creating profiling and risk indicators for the use of the border guards in their daily work at border checks and also for the border supervision.

At the border crossing control, the guards rely on checking people and vehicles on the profile method of the potential offender, so - called *profiling* (tactical risk analysis on persons, vehicles, cargo, both entering and exiting in/from the country) method directed against visible, real targets which are under the direct control of border guards. Such persons are selected for detailed examination and means presenting risk indicators. The result is the discovery of offenders based on risk indicators, traffic flow and efficient use of human and material resources.¹

Operational risk analysis involves the use of analytical methods which are used to evaluate the efficiency of border management, in order to estimate the level of hidden irregularities and the shortcomings in the system. The operational analyzes are directed towards achieving short-term objectives, with an immediate impact in the organization of operational activities. The frequently used analyzes of operational risk are:

- a) the analysis of the case: an attempt to reconstruct the course of a criminal incident in order to identify the sequence of events and activity patterns in order to obtain guidance on further investigations and to identify anomalies in data from different sources;
- b) Comparative Analysis Case: consists of comparing information in cases of similar offenses to discover if some of them have been committed or organized by the same criminals;
- c) Analysis of villains: the organization of information available about a group of criminals known to gain an understanding of the group structure and the role of each person/company in the group;
- d) investigations analysis: it assesses the activities that have been and that are carried out during a certain investigation in order to direct it to achieve its aim.

¹ For example, given the importance of risk tactical analysis and its finality, according to the Joint Order of the Head of the National Customs Authority and the Inspector General of Border Police, starting with 07.06.2006 it was founded Joint Analysis Team Customs Risk - Border Police (ECAR), the Albita border crossing (as a pilot station). The activity was circumscribed Twinning Project - *Enhancing participation of customs system of integrated border management and alignment in the implementation of simplified customs procedures at European standards*, at the proposal of Spanish experts in preventing and combating crime, administrative and other customs fraud means and the need to optimize the collaboration between the two institutions. The best results obtained by the joint team have only to draw the final conclusions more than satisfactory for the Spanish experts, as it has been outlined clearly the need to adopt modern means for verification and stressing also that the assessment of this joint project was crucially dependent not only on possible discoveries but also providing thorough implementation of principles and ways to work in teams. In this context, project efficiency prompted the extension proposal of the border police at other points subordinated to Iasi Border Police Directorate, along with own application entering/exiting recording vans and trucks.

The Strategic Risk analysis represents assessments combination of strategic threat and operational risk analysis which enables the decision makers to develop countermeasures of some phenomena, changing policies and even laws related to the field. At the strategic level the risk analysis combines strategic intelligence products (risk and threat assessment) with the risk analysis at operational level, being analyzed the cross-border phenomenon according to the generating factors, and the pressure on the external borders of the European Union. Of the types of strategic analysis we include:

- a) crime pattern analysis: examination of the nature, scale and development of a specific crime or type of crime in a geographical area or a certain period of time;
- b) the general profile analysis: trying to discover the distinctive characteristics of persons who commit the same type of offense;
- c) The analysis of control methods of crime: control assessment methods that have been used in many cases in order to identify the best practices in order to be used in the future.

3. Trends and Needs of Risk Analysis in the Current Context

Multiplying the geostrategic risks in Europe, with reference to the conflict in Ukraine, and those in the Middle East, especially the Mediterranean space, we add to these currents the illegal migration from traditional Afro-Asian space towards the European Union.

Such an evolution of the situation at regional level but also worldwide, requires increasing the role of risk analysis activities both from the involved national structures in border security and the Frontex Agency, at the European Union level. The Agency has therefore the task of gathering data from Member States, EU bodies and the media and other sources inside and outside the European borders, in order to achieve a complete picture of the current situation, with an impact of external borders and its perspectives. It is necessary, too, the environmental monitoring of the global security, particularly those of political, economic, social, technological, legal and environmental factors, which may affect border security.¹

The risk analysis results at the level of FRONTEX Agency can and should be the basis for political decisions to be taken at the level of European Council and other institutions with a major role in the European Union. Based on this data, and using risk analysis, there must be permanently established the risk factors for each area of activity, the directions from serious to medium risk periods, the conducive period of illegal activities, and the measures to be taken in order to prevent and combat them, both by the specialized agencies of the member countries of the external border, individually on the border sector managed and coordinated by Frontex, by complex actions. In this context, accessing online databases of other agencies, developing joint analysis with the neighboring border authorities for complex cases, and increasing the flexibility in cooperation with Europol, Interpol, IOM², UNODC³ and other institutions of international cooperation represent also an objectives of risk analysis structures of all European Union countries, Romania being included.

¹ <http://frontex.europa.eu/intelligence/risk-analysis/>

² International Office for Migration.

³ United Nations Office on Drugs and Crime.

Following the evolution of society there may be new forms of cross-border crime, sensing these tendencies as an objective of long-term structures that must be taken into consideration by the risk analysis structures.

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