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POLISH EASTERN BORDER AS AN EASTERN BORDER OF THE ENLARGED EUROPEAN UNION

THE IMPLICATIONS OF THE IMPLEMENTATION OF THE SCHENGEN AND CUSTOMS UNION REGIMES FOR THE MOVEMENT OF PEOPLE AND TRADE DEVELOPMENT ACROSS THE POLISH EASTERN BORDER. HARDENING OR SOFTENING THE BORDER?

The relevance of the Polish eastern border will increase when Poland joins the European Union (EU) and the current Polish border with Russia, Ukraine and Belarus will become the external frontier of the EU.

In the East Poland borders four countries: Russia (Kaliningrad region), Lithuania, Belarus, and Ukraine.¹ The length of this border is approximately 1280 km and equals the distance between Florence and Brussels when driven by car. Although it was not easy for Polish citizens to leave the country during the East Bloc period the formal regulations according the border crossing were quite liberal² and were much more liberalised after 1990 when a set of new arrangements was agreed between Poland and the new post-Soviet states.³ It is essential to mention here that for the period from between the Second World War and today no visa requirements were set for Polish, Russian, Lithuanian, Belarusian, or Ukrainian citizens when crossing the discussed border. One of the ways in which people take an

¹ I leave Lithuania outside my considerations at the moment because it is deemed a separate category of a state, an applicant to the EU which - unlike Russia, Belarus, and Ukraine - has already been invited to begin accession negotiations and concluded the Europe Agreement. It is noteworthy that Lithuania is not on the 'black list' of Schengen (a list of countries which citizens must have a visa in order to enter the 'Schengenland') and it is very probable that in a close future a different regime of the border crossing and trade running will be implemented between Lithuania and Poland than between Poland and the rest of its eastern neighbours. It has been made clear by the EU officials that all the three 'unfortunate' neighbours of Poland will stay outside the process of the enlargement of the EU.

² For more details on that see for instance: Anderson, Malcolm "The Transformation of Border Controls: A European Precedent?" conference proceedings, Warsaw: Institute of Public Affairs, February 2001.

³ A profound analysis of the achievements of the liberalisation of movement of persons and the dangers that can come together with the Schengen *acquis* implementation is done by Boratyński, Jakub and Gromadzki, Grzegorz in "The Half-Open Door: The Eastern Border of the Enlarged European Union" Policy Papers of the Stefan Batory Foundation and the Institute of Public Affairs, Warsaw, March 2001.

advantage of the new regulations concerning this border is the development of cross-border small trade: using the difference in prices and quality, and well as the cost of labour on different sides of the border, the citizens of border regions managed to establish a certain system of exchange which is a benefit for them and which counteracts unemployment in the eastern part of Poland. There is a body of research (e.g. Kozanecka 2000, Powęska 2000, Lijewski 2000, Zgliński 2000) which proofs that the cross-border trade is a relevant if not essential element of the structure of employment and income source for the residents of border regions, the regions that are actually the poorest part of Poland and will be one of the poorest parts of the EU after Poland joins it.

Once Poland joins the EU it will be obligated to implement the whole *acquis communautaire*, the so called Schengen *acquis* among them.⁴ In order to match the requirements of the Schengen *acquis* Poland will have to denounce visa-free agreements with the countries that are on the so called 'black list' that is attached to the Schengen *acquis*, and that contains Russia, Belarus, and Ukraine among the other states.⁵

Another issue here is trade between Poland and its eastern neighbours. In the area of trade the EU insists on certain solutions which are due to the whole logic of the Union that is based on the principle of four freedoms of movement -- freedom of goods among them -- what brought up an implication of the creation of a customs union. Joining the EU equals joining the customs union⁶ and joining the customs union means for any member to adjust customs tariffs for goods which are coming from outside the EU. What it means for Poland is in fact the reduction of tariffs on most of goods coming from the post-Soviet countries what will possibly have an impact on Polish trade with its neighbours (although it will not change the general, WTO-based principles in trade and will not cause a radical change in directions of Polish trade)(Paszewski 2000).

What I want to do in my research is to testify the nature of the discussed border as it is currently -- in legal rather than any other terms but I will consider also the major implications

⁴ On behalf of the Article 8 of the Protocol annexed to the Amsterdam Treaty, integrating the Schengen *acquis* into the framework of the EU, the Schengen *acquis* is to be treated as an integral part of the *acquis communautaire* of the EU and thus must be implemented by any new member of the EU without any reservation. As the Schengen *acquis* all the documents enumerated in an annex to the Protocol are considered.

⁵ The total number of visa-free agreements that Poland is obligated to denounce before it joins the EU amounts to 15.

⁶ That rule was established already at the beginning of the creation of the Communities and written down in the Article 9 of the EEC Treaty but the completing of the customs union itself took several preceding years after the Treaty had entered into force.

of the changing of a border regime as for instance the relevance of the easiness of border crossing for the small trade development -- and later on I will analyse the changes that are imposed by the implementation of the Schengen law. I want to contribute to the answering the following question: how will the nature of the border change after the implementation of the Schengen law. My hypothesis is that while we consider a border in different terms (e.g. economic, political, cultural ones) the changes in the nature of a border will differ depending on which kind of border we consider. I expect that when talking about border crossing by people-citizens of Poland, Belarus, Russia, and Ukraine the border will be "hardened" (i.e. the terms of border crossing imposed by the Schengen system will force the government of Poland to make the rules of border crossing stricter), but when focusing on the trade joining the EU will possibly bring "softening" of the border (i.e. terms on which trade between Poland and its eastern neighbours is run will be liberalised) since Poland will have to comply with the rules of the Common Commercial Policy which means for Poland the reduction of customs tariffs on most of goods.

The research will be based on different kinds of sources. Whereas to some parts of the research statistical data will be available and relevant to other areas I find most suitable a pure analysis of the documents which establish the framework of rules. In several parts of the research I will relate to the studies of experts in the fields.

Firstly, I intend to collect statistical data on matters of border traffic of people. It is important to stress here that the agreements on visa-free movement of people will be denounced with Belarus and Russia already in 2001 which means that the first set of data on the changes in the intensity of the movement of people across the border should be accessible as early as the beginning of 2002.⁷ The statistical data will be of help also in the second part of the research where the trade relations will be analysed between Poland on the one hand and Russia, Belarus and Ukraine on the other.

While pure statistics are a part of the sources on which the research will be based, both parts of my study (border traffic of people and the creation of an environment friendly for trade development in the region) will require some other kind of evidence. Thus, in these parts of my research where statistical data is not convenient or where it does not apply, I want to study relevant reports of the governmental institutions as well as dossier available from the

⁷ Whereas the decision has already been made as to Russia and Belarus it is not clear whether the agreement with Ukraine will be denounced at the same time. The Polish government plans to denounce the agreement with Ukraine in 2002 but on the other hand president Kwaśniewski declared that the visa-free movement of people between Poland and Ukraine will be kept up as long as possible and hopefully until the very day Poland joins the EU.

governmental as well as the EU institutions (Polish Ministry of Internal Affairs, Main Customs Office, Governmental Centre for the Strategic Studies, Polish Parliament, and the DGs of Enlargement and Justice and Home Affairs of the European Commission).

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