

The role of Serbian customs services in prevention of smuggling of migrants

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Abstract:

The wars that have been fought in the Middle East countries for the past few years have led to the fact that a large number of refugees from war-affected areas moved towards the countries of Western Europe in 2015, seeking asylum and a chance for a better life. The Republic of Serbia, due to its geographical position, is one of the countries located along the so-called Balkan route, through which 764.000 of refugees passed in 2015. The large flow of people has led to a great opportunity for circumvention of the system and has created a fertile ground for the growth of all forms of crime, particularly the smuggling of migrants, enabling the illegal crossing of the state border without adherence to and compliance with the necessary requirements for the legal entry into the country of reception. Given the number of countries through which the migrants pass, this type of crime has stepped out of the national framework and has taken on international proportions. The fight against this form of organized and international crime requires the engagement and coordinated functioning of all state authorities. One of the state bodies with serious capacities to combat this type of crime is the Customs Administration where, within its Centre for Customs Enforcement, there is also the Department for Fighting against Smuggling. The results of the work of Department for Fighting against Smuggling are certainly visible and do exist, but the Customs Service, with all its organizational units has much bigger and under-utilized potential for detecting and combating the most serious forms of crime, particularly smuggling, and surely deserves a bigger role than it now has in the overall system of the security of the Republic of Serbia.

Keywords: *Migrants, Customs Service, crime, smuggling, coordinated action.*

Introduction

"When the Wise Men had gone, an angel of the Lord appeared to Joseph in a dream. Get up!, he said. Take the Child and His mother and flee to Egypt. Stay there until I tell you, for Herod is going to search for the Child to kill Him. So he got up, took the Child and His mother by night, and withdrew to Egypt".

The Gospel of Matthew

As we can see, according to the Gospel of Matthew, the Lord bestowed upon His Son, Jesus Christ, the new-born, and his righteous parents, Joseph and Mary the refugees and the exile. We cannot help but wonder, is it possible that any man or nation do not "drink from a bitter cup" of exile and migrations during their lifetime? Miloš Crnjanski,

poetically touches the divine providence, and cries: "There is no death, only migration!". The people in Serbia felt it, and still feel it continuously, for centuries, since we migrated to these regions ... Isn't that pro-vocation of a man, especially throughout history, until metaphorically speaking Herod dies, until the countless causes, reasons and circumstances that make the exile inevitable vanish? The massive scale of the exile, assuming the proportions of exodus from war-affected Middle East countries, primarily Syria, Libya, Iraq and then Afghanistan, indicates that the termination of the causes of exile is not even in sight. Given that Europe, where all the refugees rush to, is not all sunshine and roses, and that, above all, economic and any other crisis (spiritual, moral, political) are the reasons which may indicate the justifiability of concern, we wonder, will it in Europe soon gape the powdered wound for which a cure hasn't been found yet? Capitalism absorbed its weaknesses long time ago and lost its antipode of socialism that, conceptually and practically, underwent a defeat in the countries of the former Eastern Bloc, and thus the time and the space in which and where it could shift its own entropy, so the contemporary thought, with a small number of the true thinkers that remained, asked itself: where and how to move on! Perhaps the exodus of refugees from the Middle East is just, as it is told in the aphorism of the Polish poet Jerzy Lec, the migration from Sodom to Gomorrah? We hope not, and we hope that the deep pessimism permeating from this pondering is more of a subjective experience and feeling of the author of these lines than the objective state of affairs. However, there are many reasons for a concern, questioning and an attempt to find an answer for all thinking people, groups and movements! The problem of illegal migrations, or unsolicited or unauthorized entry, movement and stay of a person in the territory controlled by a social group where he or she does not belong to, as we can see from the above written, is as old as the first territorial organized society. Today, the crossing of the state border or a person's residence in the territory of a foreign country without the approval of the competent state authorities is a common offense to which has significantly contributed contemporary globalization trends.¹ Big profitability and low risk when smuggling migrants have led to the fact that this form of crime is present as much as the illegal trade of weapons and narcotics on a global level. The coordination of all national services and international cooperation is one of the ways to fight against this plague of modern times, and precisely the involvement of the Customs Service Administration in this struggle, within its competence and potentials would be the subject of this paper.

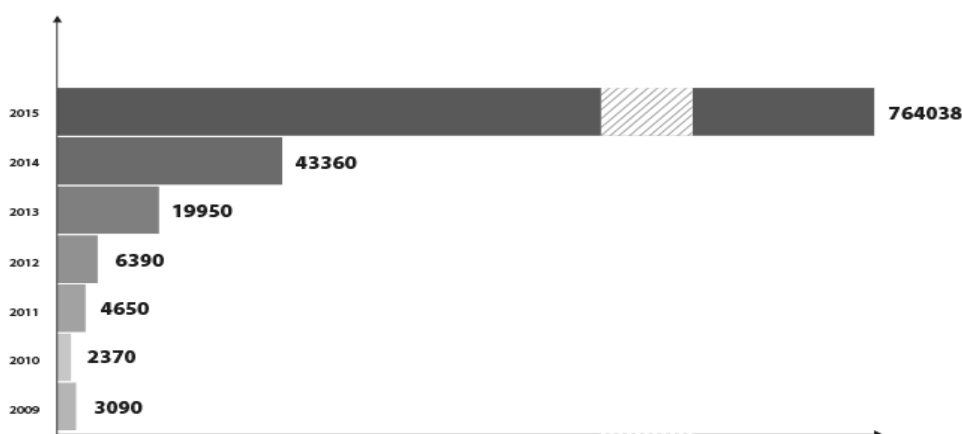
Migrant statistics

Statistical data best reflect the seriousness of the situation in which both Europe and Serbia as well find themselves today. It is estimated that during the last year about one million migrants arrived in Europe, and that a record of 1.82 million people illegally crossed the borders of the EU Member States. This is shown by the risk analysis of the European Union Agency for Border Security, Frontex. The number of requests for asylum grew by amazing 1.35 million in 2015, which was 86% more than in the same quarter last year. The number of illegal crossings was more than six times the previous record set in 2014. The largest number of illegal crossings was registered with people who had arrived to the Greek islands via Turkey, and who later crossed the state

¹ Mijalković, S., *Confronting human trafficking and smuggling of migrants*, PC "Official Gazette", Belgrade, 2009, p. 21.

borders in the Western Balkans as well. The largest number of illegal crossings, near 885.400, was registered in the Eastern Mediterranean route *via* Greek islands in the Aegean Sea, and more than 90% of illegal crossings were recorded in the second half of last year, about 803.000. Syrian nationals accounted for the largest proportion of users of that route, although the share of Afghans rose significantly towards the end of the year. Iraqis were the third largest nationality using that route. Around 764.000 crossings were recorded on Hungary's and Croatia's border with Serbia.² Migrants and refugees are most often transported in rubber boats and overcrowded boats, putting their lives in danger. Frontex managed to save as much as 90% of people in the Aegean Sea around the Greek islands with their actions. Also, in accordance with the enormous increase in the number of migrants in 2015, the number of smugglers increased as well, the victims being mostly Moroccans, Albanians and Syrians.

Graficon 1: *Illegal border crossings on the Western Balkans route in numbers*



Source: www.frontex.europa.eu

The smuggling as a means of illegal immigration

The smuggling is a form of organized crime which includes the legal transfer of goods across the border, avoiding customs controls. Commodities and persons can pass the state border at the official border crossing point or outside it. Avoiding customs control at the border crossing is done by hiding the goods, the use of coercion, corruption of border services or their misleading. The most common forms of smuggling include smuggling of arms, drugs, cigarettes, oil, migrants and many others. Migrant is a person who temporarily or permanently moves from one socio-cultural environment to another or from one country to another. Smuggling of migrants represents a criminal activity where by intermediary operation and with the consent of the person who is the subject of smuggling, the illegal entry to a foreign country is enabled. In domestic legislation, article 350 of the Criminal Code of the Republic of Serbia, the criminal

² Frontex, *Western Balkan route*. Taken from: <http://frontex.europa.eu/trends-and-routes/western-balkan-route/>, last access time: may. 18, 2016.

offense of illegal crossing of the state border and smuggling of people is regulated.³ However, the international nature of this criminal act itself requires the establishment of a system of international assistance and cooperation, as well as the adoption of bilateral and multilateral agreements that would allow more efficient operation of all relevant stakeholders. The Federal Republic of Yugoslavia ratified the United Nations Convention against Transnational Organized Crime in 2001, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea, which supplement this Convention, adopted in Palermo from 12 to 15 December, 2000. The Protocol against the Smuggling of Migrants by Land, Sea and Air, in Article 3 of smuggling of migrants, is defined as ensuring of illegal entry into a foreign country to persons who are not its citizens or have permanent resident status, with the aim to obtain, directly or indirectly, a financial or other material benefit. Illegal entry is any crossing of the state border without adherence to and compliance with the necessary requirements for legal entry into the receiving country.⁴ The forms and the way of the smuggling of migrants differ and may depend on some factors such as: distance of the destination country from the city of the origin of the migrants, the number of migrants, and many other factors, but the aim of the smuggling itself remains the same, and that is the illegal crossing of the state border. Migrants can be smuggled through the official border crossing point, outside the border crossing point, by land, across water surfaces, and by means of air transport. Smuggling of migrants across the territory of the Republic of Serbia has undergone an expansion in 2014 and 2015, when the largest number of refugees from war-affected areas moved towards the Western Europe. Headquarters for fighting against the smuggling of migrants in the Republic of Serbia is the Department of the Ministry of Internal Affairs, more precisely the Border Police Directorate with the assistance of other security services and other state organs. However, the number of 764.000 people, who only in 2015 passed the so-called Balkan route through Serbia, was a kind of test for such an organized system which with great difficulties fought with this problem in an emergency situation. Countries in this region, such as the Former Yugoslav Republic of Macedonia (FYROM) and Serbia, have faced with the dramatic increase in the number of refugees. It is estimated that half of the refugees who have passed through the region remains unregistered by the competent authorities and have been subjected to violence and abuse by smugglers and criminal groups. The capacities of the Republic of Serbia and other transit countries to effectively respond to the emergency situation are severely overstretched. While the authorities are trying to alleviate the situation by establishing facilities to receive and process them, UNHCR is concerned about reports of border police preventing refugees from entering. In some instances, refugees alleged that some police officers are using violence and pushing them back into the hands of smugglers. The refugees, including women and small children, often end stranded along

³ Criminal Code, Official Gazette of RS, no. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013 and 108/2014.

⁴ Act on Ratification of the United Nations Convention against Transnational Organized Crime and its Protocols, the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, Official Gazette FRY-International Agreements, no. 6/2001.

the borders without protection and access to basic services such as food, water and hygiene items. All this shows that there is no adequate coordination between key state bodies and that all the capacities which the state possesses have not been used. The question is whether the significant results in the fight against the smuggling of migrants would be achieved if the individual state authorities are given a broader scope of authority and responsibility, in accordance with organizational capacities they already possess. One of the state bodies with serious capacity for detecting and combating this type of crime that should be given more significant role in the security system of the country is Customs Administration.

The role of the Customs Service

The word customs at the same time marks the authority, service, administration and duties. In our language, it is considered that the customs gets its name from the fact that it represented a duty to be charged in the name of the emperor (czar).⁵ Customs Administration represents the executive body within the Ministry of Finance of the Republic of Serbia, which performs state administration in order to protect the economic, fiscal and financial interests of the Republic of Serbia, and as a protection of the Republic of Serbia from the illicit and illegal trade, as a security and protection of people and the environment and facilitation of the international trade. The customs authority controls international transport of goods, contributing to free trade, implementing the external aspects of the domestic market and principles relating to trade, as well as the general safety of the chain store.

In order to perform the prescribed actions, the customs authority may exercise any control action to ensure proper application of Customs laws and regulations.⁶ The Customs Administration has a large number of organizational units in charge of specific tasks within its competence. One of these organizational units is the Department for Customs Enforcement, which performs the following tasks: suppression of smuggling, customs investigations and intelligence; control of legality in the work of internal units of the Customs Administration on matters of customs clearance, customs control, temporary import – export, material and financial operations, collection of charges, preventing the illegal import of weapons, drugs, currency and other serious violations of customs regulations; it proposes measures and methods for improving risk management planning and analysis of available resources, organization and coordination of the activities of the identification of appropriate targets in the area of the most anticipated risks, contacts with other internal units to ensure the actuality of data, risk analysis and the tendency of new violations of regulations and other activities within a domain of the sector. By National Strategy for Fighting against Organized Crime, the Customs Administration and the Department for Customs Enforcement within it are particularly pointed out as one of the pillars of fight against the organized crime.⁷ The organization itself and competencies of Customs Services are a clear indication that this service has the capacity to be a significant advantage in the fight against all forms of crime. Considering that the Customs Service provides customs supervision and customs control of goods

⁵ Popović, M., *Customs business*, Belgrade, 1974, p. 51.

⁶ Criminal Code, Official Gazette of RS, no. 18/2010, 111/2012 and 29/2015, Art. 2.

⁷ National strategy for fighting against the organised crime, Official Gazette of RS, no. 23/2009.

traffic across the border and that for the smuggling of migrants often are used means of transport for the transport of goods, the customs authority members often come into contact with smuggled migrants and smugglers. Increasing number of perpetrators of this criminal act, caused by migration of people from war zones, require maximum involvement of all state authorities. Bearing in mind all the facts mentioned above, as well as a broad field of operations of the Customs Service within the control of the flow of goods, passengers, means of transport and documentation that define responsibilities in the field of customs, foreign trade, foreign exchange and taxation system, the Customs Service is emerging as a possible factor of cohesion of the new concept of national security and the fight against all forms of crime. To support all the above, the following characteristics of the Customs Service are listed:

- The existence of the information system of the Customs Service, which has been developing since 1974, and has been in function since 1995, and is made of a complex computer system composed of a central computer, more than 100 district computers and 1,000 terminals deployed in 13 customs offices and 127 customs organizational units at the border and within the country.
- The distribution of human and technical resources at the border (24 consecutive hours), and in the interior of the country in strategic places (goods-market-traffic-commercial-industrial centers).
- Preventive action in regard to the suppression of crime activities.
- Familiarity with other state and social entities of formal social control (MIA, inspections Directorate for money laundering prevention, Prosecutor's Office, courts, etc.).
- Non-repressive psychological performance in public in terms of acting (as opposed to the army and police).
- The possibility of international connections and cooperation with foreign customs administrations and international organizations (the Interpol etc.).

We can conclude that the Customs Service, on the basis of the above mentioned characteristics, possesses all the prerequisites of modern safety systems that can significantly improve the fight against all forms of crime. Due to the existing information system there is great potential for the realization of the so-called soft – information power, according to its nature of operation *ante delictum*, i.e. the possibility of discovering wrongful activities during the inspection of goods, means of transport, passengers and documents represents the subject that is primarily in a function of crime prevention (because adverse effects do not occur), there is the possibility of coordination and cooperation, in other words to involve *ante delictum* in the operation and other subjects of formal social control (the army, MIA, inspection services, the financial police, Security Information agency, Prosecutor's Office, Directorate for prevention of money laundering, etc.). The way of organizing government departments and agencies of the United States of America (USA) in the fight against the smuggling of migrants with great success could be implemented in our area. The number of migrants in the world in 2015 reached 244 million, while the USA is the country with the largest number of migrants, as many as 47 million, or a fifth of the total number of migrants in the world. In search of a better life, many migrants from Central America are trying to reach the United States, the largest number coming from Mexico. The concept of national security of the United States involves the coordinated action of all government services. After the September 11th, 2001, when the terrorist attacked on New York and Washington, in the United States a new Ministry of National Security - Homeland

security was formed. The main task of the Ministry is to protect US territory and its population from terrorist threats. However, the Ministry received other jurisdictions, such as control of shipment of infectious diseases, control of road safety, environment, training of civil servants dealing with the suppression of infringements; training and coordination of national measures against infectious diseases; response to natural and nuclear disasters; advancement of scientific technology to ensure the country; protection of the President of the United States; protection of the coast and territorial sea of the United States. As it can be seen from the above, the activity of the new Ministry of National Security is not just a fight against terrorism, although it is one of the most important function, but also the protection of the national territory and population from infectious diseases, nuclear threat, taking measures in case of disasters that occur in the USA and the improvement of scientific and information technology to meet these objectives and organization of training for all civil servants engaged in the fight against violation of regulations. One of the most important agencies that incorporated into the Ministry of National Security is the Customs Service, which has suffered its transformation in 2003. After this transformation, a new body was called the Service for Border and Customs Protection and it included the following authorities: Customs Service, Immigration Service, the Agricultural Inspection Service and The Service of Border patrol. By the transformation of Customs Service into the Service for Border and Customs Protection with the above agencies in its composition, the further rationalization of government bodies working at the USA border was done, efficiency was increased, the border procedures were modernized, better communication was enabled between officials while previously independent agencies conducted it through cross-training. Therefore, the USA Customs as a new organ works not only at the border crossing, but it is also the only state agency that carries out activities on the border of the USA, (in Serbia these activities are carried out by the representatives of MIA) consisting of 80,000 people. As positive experiences that are studied and that can be accepted in Serbia, we are mentioning the following:

- Reduced number of government agencies at the border implies reduced number of centers for decision making as well as improved and modernized process.
- The Customs Service has received the control of travel documents and control of agriculture as its competence, and in that way the procedure at the border crossing of the USA is completed and uniformed.
- Cross-training is done, which means that customs officers are trained in immigration affairs and the affairs of the agricultural inspection, a former immigration officer in customs duties and agricultural activities of control and so on.
- The concept of integrated border management is implemented consistently. At border crossings work Service for Customs and Border Protection, Agency for the control of permits in road transport and Agency for the control of means of transport in order to provide the road safety in the United States. Officials of all three agencies at customs terminals are located in the same area, help each other, and replace each other in a case of need of control outside the business premises.
- All the information is pouring into the center of the Directorate for Customs and Border Protection in Washington, after that in the Ministry of National Security and then can be exchanged with other government agencies

Based on the concept of the present organization of public services of the United States, the benefits of coordinating their action can clearly be seen. The application of this concept in our system, with maximum capacity utilization of all state bodies, would undoubtedly influence the increase of the national security of the country and thus, the elimination of all forms of crime. However, there is a great resistance in all subjects regarding the coordinating role of the Customs Service and introduction of "rights" that Customs becomes correlation factor (especially within the country, rather than at the border). This resistance can be expected mostly by the system and organs in previous periods, and that traditionally in this region were exaggerated, fully independent and powerful (the Army of Serbia, MIA, SIA). These systems will perceive eventual coordination and the imposition of Customs Service as a cohesive and correlative factors as way of limiting their independence, freedom of action and as degradation.⁸ However, there are some assumptions that the Customs Service must achieve in order to become a respectable factor in the fight against organized crime and these are: to carry out the reorganization and modernization of the system in the direction of increasing its efficiency in terms of the flow of goods and passengers, detection and suppression of customs and other offenses, to be well-dressed for the realization of the above mentioned objectives, to be well-equipped and to have the appropriate authorizations. The realization of these four prerequisites will enable the development of Customs Service, from its fiscal and protective functions, that it has now, into the security and coordinative function.

Conclusion

The USA invasion of Iraq in 2003, has opened a process by which the Levant from Beirut to Basra began to return to its historical borders of countries and that, in the so-called "Agreement on small Asia" from the 16th of May 1916, secretly, with the consent of Russia, signed France and Britain, the two colonial powers of that time. By this agreement the division of spheres of influence was made, which was an invisible frame of the geopolitical situation until 2003. Power vacuum in Iraq, which was created by the administration of George W. Bush, has begun to destroy the structure of the artificial state, created at the time of the mentioned Agreement from 1916. Iraqi Shiite and Kurds have their own autonomous regions. Alaviti and their allies-Christians, Druzis, and Ismailis, have autonomous region in Syria, as well as local Kurds. Lebanon is deeply divided. Melting turn could be the emergence of the Islamic State, the militant Sunni group, which in Mosul in June 2014, on the occupied territory from the Euphrates River to the Mediterranean, declared caliphate that rejects the concept of nationality. Kurds are the biggest losers of the 1916 agreement. Palestinians are still waiting for the border of their country. Egyptian Sinai turned into a separate territory outside the control of Cairo. The Middle East is now full of boundaries that do not appear on official maps, and a decades-long geopolitical architecture, built on the Agreement from 1916, today is rocking and crushing dangerously. All this caused that numerous refugees from these regions seek safer place to survive until the great powers and small nations, who can „spoil the stomach" by the great ones, as it warned the Albanian representative of Bismarck, at the Berlin Congress, in 1878, agree on a new (or old) geopolitical

⁸ Jerinić, D., *Modernisation of the Customs Service of Serbia*, Printing press Zagorac, Belgrade, 2007, p. 125.

configuration of this part of the world. Holy Fathers indicate that evil “serves to awaken the good in us and around us” ... perhaps, in terms of this insight we can, without affectation, conclude that refugees and exile, as a consequence of deeper causes, have to wake up empathy in us, of course, primarily at the individual level, and then certainly within the collectivity to which we belong. Many of us had already felt, but many of us may unfortunately feel in the future, the torment of this status. From this human and necessary sense of solidarity, all relevant social and state forces of social control must be put into function, so that each entity within its jurisdiction may give an adequate response to the challenge of exile. However, the effectiveness of prevention and repression of illegal movement of individuals and groups, who do not respect international law and positive law established procedures and activities, mostly depends on the individual efficient or less efficient “response” of certain state bodies or institutions, as well as social, governmental and non-governmental organizations, but that success is directly related to and conditionality, creating the so-called single platform of activities of all relevant governmental and social entities of social control and reaction.⁹ The operation of so-called single platform, primarily involves coordinating and sharing of information. It would be appropriate to appoint a body or bodies that would perform the function of coordinator and who would be responsible to provide an effective and uniform operation. It is clear that good coordination with the relevant authorities of neighboring countries, as well as compliance with what the attitudes of European policy with regard to the problem of refugees must be a common framework and the basis for coordinated action of all European states, first of all, and all those who are in refugee “route” aspiring to be part of the EU and European standards, otherwise, there is no effective way of not converting the torment of the exodus into a ruin and conclusive evidence of the inability of European countries, which are proud of their humanism and high standards. There is no doubt that each body of social control, including the Customs Service, makes its contribution to the detection and suppression of criminal actions. However, multiplication of the effect and achieving the maximum of contribution of each factor of social control is possible only in the context of the organization and training of the so-called single platform of an operation of all relevant government bodies. *De lege ferenda* role of Customs Service of Serbia, we see in realization of the potential coordinating, IT and security role of Customs Service, primarily within the IT resources and performances that modern Customs service already has. The above mentioned means operationalization and constant improving of the networking with all the other relevant factors of social control and, also, the exchange of relevant information. This primarily refers to the cooperation of the intelligence department of the Customs Service, Department for Risk Analysis and the Department for the Prevention of trafficking (which are constituted and operate in a modern way within the Customs Administration since 2004) with the appropriate intelligence centers of relevant state bodies and institutions (SIA, MIA, judiciary, inspection bodies, etc.). US practice and the concept of Homeland Security show that this expectation is reasonable and appropriate, because this is the concept in which the Customs Service represents the pillar of the national security system and the factor of more efficient response to all security challenges of the 21st century, including an effective framework approach to the issue of immigrants and illegal crossing of a border.

⁹ Bjelajac, Ž., Marković, M., and Pavlović, Z., *Particulars of modern slavery as a deviant social phenomenon*, The review of international affairs, Belgrade, 2012, no. 1146.

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