

Agnieszka Weinar, PhD  
Centre of Migration Research  
Warsaw University

## Border policy and politics on the Eastern border: The possibilities for Europeanization in Poland

DRAFT VERSION

Please, direct your comments to:

[aweinar@uw.edu.pl](mailto:aweinar@uw.edu.pl)

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## 1. Introduction

Eastern border management policy was a reaction of the Polish State to the new historical circumstances it was exposed to after 1989. Before that date, Poland's migration policy, of which border policy is a part, used to be rather focused on emigration and Western border. The communist Poland had a long tradition of various political decisions shaping the outflow of its own citizens, but after 1989 the focus was changed not only because of democratization, but also by the influx of migrants, either seeking employment in Poland or traveling further West.

Initially Polish authorities treated foreigners as one of the side-effect of the transformation.<sup>1</sup> However, they did not account for the global dimension of the phenomenon. Poland entered the regional migratory system in the early 1990s, which were the period of a refugee crisis in Europe<sup>2</sup>. Soon it became obvious that the initial small inflow of asylum seekers returned from Sweden was not an isolated case, also Germany started readmissions procedures. The CEE countries were required to accept the shift of the asylum inflows to their territories, taking in a relatively small portion of the applicants. They were also charged with the new mission of Gatekeeping, i.e. keeping the dangerous exterior in a distance from the safe European interior. Their readiness to access was connected discursively with the feeling of security of the EU societies. Candidate countries had to "*reassure populations in Europe that gaps were being filled in the fight against crime.*"<sup>3</sup> Development of this domain of migration policy was perceived as *sine qua non* of Poland's credibility on the international scene, what of course reflected the need to comply with Copenhagen criteria. Additionally, readmission agreements were usually followed by financial support to Polish governmental agencies, since Western European states provided technical and financial aid to assist Poland with this new responsibility.

The pressures from the Western European countries, fearing so called "permeable Eastern borders" impacted the 17 years of Polish migration policy development. It became focused mainly on the border management issues, ignoring such questions as labor migration or integration. Related to this was the special interest in asylum policy, as undocumented migrants crossing the borders usually sought humanitarian protection when apprehended.

The development of immigration policy in Poland has been always treated as an expression of the coercive nature of the Associated, and later of the Candidate State's relations with the EU. Main issues raised from this perspective are the imposed asylum policy that transformed Poland into a buffer zone of the Schengen area, or the reluctance with which Polish government introduced visa policy towards Ukraine and Belarus. One aspect of these changes however is missing – the possibility of actual modification of the system of beliefs. The fact that a restrictive policy versus foreigners emerged in the country of very low immigration levels, only slightly exceeding 0.1% of total population, cannot be explained by domestic processes (Zolberg 1978, Holliefield 1992, Kubat 1993, Puchala 1997). This policy, virtually inexistent in Poland prior to 1990, was created by subsequent Polish governments from nothing, in the process of policy learning. The models were the Western European countries, and the sheer fact of introducing Poland into the European migration policy making

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<sup>1</sup> Szonert, (2000) describes in detail the first year of the immigration crisis. in "Rok 1990 – Początki Opieki nad Uchodźcami". In: Jan E. Zamojski, *Migracje Polityczne XX Wieku* pp. 35-64.

<sup>2</sup> In the years 1991-1993 the numbers of applications hit the ceiling in many Western European countries. E.g. Germany received 438.200 applications in 1992 (cfr. 193.100 in 1990 and 127.200 in 1994); Italy – 31.700 in 1991 (cfr. 4.700 in 1990 and 2.600 in 1992); Sweden – 84.000 in 1992 (cfr. 27.400 in 1991 and 18.600 in 1994); UK – 44.800 in 1991 (cfr. 26.200 in 1990 and 24.600 in 1992). Papademetriou, D. (1996). *Coming together or falling apart? The European Union's Struggle with Immigration and Asylum*. Washington: Carnegie Endowment for International Peace, p.70.

<sup>3</sup> European JHS Commissioner A. Vitorino cited in Enlargement Weekly Newsletter, 19th March, 2002.

system (i.e. COE, Budapest Group, Vienna Group) also shaped the newborn policy. It was not discussed by the media, society or politicians, it was mainly created by technocrats without consultation, and yet – it was widely accepted.

It is thus beyond any discussion that there were circumstance favoring Europeanization of Polish border management policy, mostly through the influence of individual member states, and on the European level in the whole pre-accession period (Weinar 2003, Weinar 2006, Górny et al. 2007).

However, it is not clear what degree of Europeanization we have witnessed, since it differs depending on the policy section we are looking at. The future border policy seem to be doomed to Europeanize the deepest as Poland enters Schengen area, but is it really the case?

In this paper I want to examine the prospects of Europeanization of the migration policy, and especially the border policy beyond accession. I argue that Eastern border policy in Poland will not be thoroughly Europeanized since the situation before and after Enlargement is different. Firstly, I will discuss the concept of Europeanization from the perspective of a former accession country. I will show how it differs from Europeanization discussed in relation to old EU-15. Then I will present the state of border management in Poland, especially in relation to its security agenda. In the end I will focus on the present situation of policy making through the lenses of Europeanization.

The paper used both desk research methods and empirical studies conducted in 2003 and 2006.<sup>4</sup> It takes into account the debates of the subsequent Alien Bills, where the strategies of the actors and the argumentation were studied. Moreover, the analysis uses the in-depth interview data gathered in Poland among the policy makers, secondary statistical sources and documentary data on Polish immigration policy developments.

## **2. Europeanization of migration policy in Poland**

Discussion of Europeanization of migration policy in Poland requires presentation of the main assumptions the study relies on. The most important claim is that we can discuss Europeanization in the context broader than EU membership (Kazan/Weaver 1994, Agh 1997, Grabbe 2001). It was especially clear in the case of accession countries, which experienced a strong Europeanization in the policy fields under negotiations. Sometimes, as in the case of JHA chapter, they became more Europeanized than the member states themselves (Grabbe 2003, Weinar 2006).

Another assumption is that Europeanization is the set of processes of construction and institutionalization of formal and informal rules of doing politics, of shared systems of beliefs (cfr. Radaelli 2000:4), thus it goes beyond a mere harmonization of law. Moreover, Europeanization of policy in the case of CEE countries before accession was both direct (vertical), through the coercive relations with European institutions, and indirect (horizontal), through the convergence of policy, modeled on the EU member states. Finally, the most important feature of Europeanization when discussing CEE countries is the fact, that the changes have been actor-driven, strongly linked to the processes of policy learning and socialization (Checkel, 2001).

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<sup>4</sup> The paper is based on my earlier work on Europeanization of Polish migration policy in the framework of my PhD project (Weinar, 2006) and the Challenge research project ([www.libertysecurity.org](http://www.libertysecurity.org)).

## **2.1 Europeanization studies and the Polish case**

Europeanization, in its political science theoretical background, has not been a major scientific approach used to analyze Poland's European integration and its social or institutional consequences.

Having said that, we have to acknowledge the attempts to actually use the Europeanization framework in the analysis of the Polish migration policy development (Weinar 2003, Weinar 2006, Górný et al. 2007). The works used the analytical approach of policy learning and socialization, focusing on the role of actors in the process. All authors supported the thesis that the Europeanization started already in the early 1990s as a consequence of interactions between Polish and European policy-makers, Polish and international institutions. The main channel of Europeanization though, facilitating the policy learning and policy transfer, was the accession negotiation process, with the leading role of the European Commission and EU conditionality mechanisms.

Górný et al. (2007) undertook also the measurement of the degrees of Europeanization in various migration policy subfields. It was shown that this particular policy is "advanced yet uneven" depending on the policy subfield. Asylum policy, created according to Western experiences and the developed EU *acquis* in the field, was claimed to be most Europeanized (transformation) whereas the visa policy was presented as more domestically shaped (absorption).

I took more discursive approach elsewhere (Weinar 2006). The proposed analysis of the migration policy-making process with the focus on legislative process showed that the concepts and the legitimizing strategies originating from Western European debate influenced the shape of migration policy in Poland. The Europeanization of political discourse in Poland was displayed through the juxtaposition of humanitarian and securitizing discourses that was transferred to Poland from Western Europe. The Europeanization of Polish migration policy was to a great extent dependant on the discursive turns. The restrictive policy, resulting in some serious expenses for the taxpayers, was rather unlikely to find support in the country where immigration was not perceived as a problem. Thus legitimization could only occur if the migration became an issue. This was achieved by linking migration policy to EU accession, modernization and securitization. While two first concepts were gradually undermined by Eurosceptics, securitization could not possibly be contested. It happened also by creating the feeling that the policy is needed, and it is needed as restrictive as it's possible under the circumstances. The restrictiveness became identified with being modern and European. On the other hand, together with growing usage of security arguments, the liberalization of the policy took place – Aliens Act of 1997 was much less foreigner-friendly than the one of 2003. What happened was a transplantation of Europe-wide policy gap, with harsh discursive strategies borne by securitization, and humanitarian provisions accepting liberal values and human rights. In this sense the Polish policy makers proved that they are truly European.

The analysis allowed for building a model of migration policy in Poland. It is characterized by the discrepancies between external pressures and internal needs in policy development, and by the technocratic way of policy-making without the involvement of the public opinion (Weinar 2006: 19-20). The political elites were thus the central actors, policy entrepreneurs in the "top-down" policy-making model (Weinar 2006: 221-222).

## **2.2 Europeanization of the Polish border policy**

If at the very beginning of the system transformation, it was possible to speak of the relatively 'soft' attitude of the authorities concerning border crossings, towards the end of the 1990s

and the beginning of the 2000s, we have encountered an intensification of activities concerning the legal and institutional elaboration of answers to various immigration-related issues. They were exemplified by the new Aliens Act passed in September 1997<sup>5</sup>, the amendment to this Act passed in 2001<sup>6</sup>, and the new Aliens Act passed in May 2003<sup>7</sup>. Administrative-legal regulations did not appear as a result of clear stated goals and long-term state plans but as fragmented activities under pressure of events in the country and influences from beyond its borders. That is why Poland was constrained to change so abruptly and often its immigration laws. Definitely, the problem of Polish immigration policy has been its dependency on the EU *acquis* regulations, and the obligation to keep pace with the requirements that have been “under construction”. They concerned asylum policy and border control, reflecting both the most institutionalized policy sectors on the European level and the fields of the greatest concern for the member states.

The Europeanization of the border control started with the opening of the borders in 1989. The restricting regulations followed, stemming from the regional initiatives on migration, which influenced Polish migration policy development in the very beginning. Among them was participation in the Berlin Group, initiated in October 1991. The Group, formed by the Vienna Club and non-Vienna Club European Community member states, 13 Central and Eastern European countries, set forth the cooperation in the field of illegal immigration, borders control and re-entry agreements. The direct consequence of the Berlin Process was establishing of even closer cooperation under the Budapest Group, involving EC presidency, Schengen Group, EFTA, Poland, Hungary, the Czech Republic and the Slovak Republic. The Budapest Group members still cooperate in the field of illegal migration and trafficking. Thus started the process of socialization of the Polish policy makers in the milieu of officials who viewed migration mainly as a threat (Huysmans 2000).

In the pre-accession decade, the ideas about migrations were definitely shaped by the European ideas of human rights on one hand, and by the migration control models existing in the Western European countries, on the other. Focusing on restricting the inflow by opening up the gate to send the immigrants back East from the Polish territory, the policy makers decided to copy the Western model and in 1996 they proposed the signing of the readmission agreements with Ukraine, Belarus and Russia.<sup>8</sup> Similar agreements were signed with other neighbors.

The Act on Border Guards was adopted as early as 1990, creating thus the new uniformed formation responsible for the management of the borders. In the period of 1995 (first drafts of the Polish new aliens laws) and 2003 (the visa regime introduced), the process of construction of alien law in Poland went through three important stages. First stage, from 1994 to 1997, was informed mainly by international policy learning, and ended with the Aliens Act of 1997<sup>9</sup> and the new Constitution, where the foreigners were granted the right to asylum and refugee status. The Act itself was surprisingly restrictive in spirit, providing for non-flexible measures concerning refugees and asylum seekers, and defining in a very narrow way the catalogue of premises on which a foreigner can be granted a temporary or permanent permit. The Act was eclectic, built from the parts of various alien laws taken from the laws of some European countries, which thus provided legislative and institutional templates. The Act established the first permits for foreigners and it defined asylum policy, bringing in the new concepts already present in the Western discourse on immigration, but completely new to the Polish political domain, as linking immigration with various threats or linking restrictiveness of the policy with its modernizing, or Europeanizing, character.

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<sup>5</sup> Aliens Act of June 25, 1997, *Dziennik Ustaw*, 1997, no 114, item 739

<sup>6</sup> Amendment of the Aliens Act of April 11, 2001, *Dziennik Ustaw*, 2001, no 42, item 475

<sup>7</sup> Aliens Act of June 13, 2003 *Dziennik Ustaw* 2003, no 94, item 788; Act on Protection of Aliens on the Polish Territory of June 13, 2003, *Dziennik Ustaw*, 2003, no 94, item 788)

<sup>8</sup> Only Ukraine accepted the agreement. In case of Belarus, even if there is no readmission agreement, in practice the readmission is very smooth, on the basis of the Polish-Belarusian Border Treaty (I8).

<sup>9</sup> Aliens Act of June 25, 1997 (*Dziennik Ustaw* 114, item 739, 1997)

In 1998-2001, Poland found itself in a new political situation. Firstly, since it started its negotiations phase in the Chapter of JHA; secondly, that after the Amsterdam Treaty, the Schengen acquis was incorporated in the accession acquis, what meant broader scope of alien laws. In the screening procedure Poland adopted 180 legal acts in the JHA, out of which 160 was part of Schengen acquis. Hence, Poland needed an amendment to its Alien Act.<sup>10</sup> It was adopted in 2001 and it bore a much more accentuated element of liberal approach and human rights than the previous law. The most important change here was the introduction of family reunification, mainly for refugees. Poland was now more dependable on EU for any further autonomous decisions, since new mechanisms were introduced to monitor Polish developments in this area: the gate-keeping, i.e. guarding access to negotiations and further stages in the accession process, as well as advice and twinning.

In the last period before introduction of the visas, Polish decision makers prepared new acts - Aliens Act of 2003 and Aliens Protection Act of 2003.<sup>11</sup> They divided thus the law more humanitarian in scope, concerning refugee status and asylum from the alien law, definitely more restrictive. The visa regime can be mentioned here as an example. In that period, the incorporated laws were following strictly the EU conditionality, and there was a very limited margin of any national choices. The conditional closure of negotiations in the chapter 24th provided for constant benchmarking and monitoring of the progress Poland would make on the way to Schengen standards.

To sum up briefly – the foreigners protection policy, and especially refugee policy, was systematically made less restrictive, with the Act of 2003 providing for the most humanitarian solutions; the policy concerning foreigners in general was changing in the opposite direction, from quite flexible (no provisions at all) to more institutionalized and regulated approach. These changes were accompanied by the changes in discourse. All the provisions were justified by two main argumentative patterns: modernization and securitization (Weinar 2006). These two strategies were often interrelated, as the Western Europe, i.e. what Poland would like to become (modernization) would be showed as an example of negative consequences of migration (securitization). These two discourses practically hushed any debate on the proposed solutions. Until the visa regime was proposed.

The prospect of Poland's accession to the EU meant that it was necessary to change the regulations for the citizens of Eastern states traveling to Poland. The need to introduce visas has, for a number of years, been one of the major issues in our relations with the Eastern countries; on the one hand, our Eastern neighbors feared hindrance to our mutual contacts and the emergence of a new 'iron' or 'paper' curtain; on the other, Euroskeptics kept telling the public that Poland and Europe, by introducing visas, will turn their back on our Eastern neighbors. The policy has been focused on the objectives quite contrary to the common understanding of the role the visas play in the regulation of migration flows. The visa policy has been seen as externally imposed tool related to the EU conditionality, not in tune with the Polish tradition nor Polish national interest. The presence of the social, economic, cultural and historical ties with Ukraine, which per se led to quite significant immigration flows to Poland, have been seen as enriching phenomenon rather than security concern. The negotiation between the two standpoints led to a particular mixture: strict policy regulations and lax implementation. The rationale behind this policy created outcomes quite different from the usually expected.

Initially, Poland made attempts (particularly in its relations with Ukraine) to find an alternative to visas. Finally, however, the government unequivocally declared readiness to fully harmonize these regulations with the Schengen standards. Aware of the benefits: the prospect of abolition of border control between Poland and Germany and that of cooperation in the field of security with other EU states, Poland was also conscious of the dangers. That

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<sup>10</sup> Act amending the Aliens Act and some other acts of 11 April 2001, Dziennik Ustaw, No 42, item 475.

<sup>11</sup> Aliens Act of 13 June 2003 (Dziennik Ustaw No.94, item 787); Act on Protection of Aliens on the Territory of the Republic of Poland of 13 June 2003 (Dziennik Ustaw No.94, item 788)

is why the preparations to introduce visas were accompanied by the will (enjoying wide popular support) to introduce solutions which would minimize inconveniences connected with applying for a visa and prevent the emergence of a barrier to our contacts with the Eastern neighbors.

Securitization of visa policy was thus impossible at that stage since it was not a political issue; on the contrary, this decision was extremely unpopular in the public discourse. No force on the domestic forum could support a securitizing move – such a move would be dangerous for political integrity of securitizing actor. Instead, security discourse on visas was performed on supranational level, as a form of strategic socialization. On the domestic level, visas were legitimized by the discourse of the EU conditionality and the question was virtually omitted in securitizing discourse, with the exception of the official presentation of the policy provisions in the parliament.<sup>12</sup>

Polish visa regime offers ca. 23 types of various visas, and such diversification gives a wide range of options for the consulates to run user-friendly policy. Moreover, Poland negotiated fee-free movement from Ukraine (in exchange for no-visa for Polish citizens). Russia and Belarus rejected such an offer – the citizens of these countries have to pay 10 EUR for one-entry visa, 16 EUR for double entry visa, and 50 EUR for multiple entry visa. However, in many cases the fee is waived or reduced. The details are provided in the bilateral agreements between Poland and the three countries.

In Belarus, entry visas are granted free of charge to people under 16 and over 65; to people visiting graveyards in Poland (twice a year); to participants of scientific, educational, cultural, technical, or sport events on international, interregional and interdepartmental level; to academics, scholars, or students participating in exchange programs; to investigation or court officers; to disabled persons and their assistants; and to the members of Euroregions "Niemen", "Bug", and "Puszcza Białowieska". Multiple entry visas at 50% discount are granted to individuals visiting close relatives.

In Russia, no fee entry visas are issued to individuals under 16 and over 70; to disabled persons; to individuals visiting the graveyards (twice a year); to individuals visiting sick family members or entering to attend a funeral; to participants of scientific, educational, cultural, technical, sport events; to exchange academic teachers and exchange students; to railways employees while working; and to inhabitants of the Kaliningrad District.

In Ukraine, where the visas are still free of charge, the main objective is to facilitate the frequency of movement. And thus the multiple entry visas are issued to railway employees while at work; to international truck drivers; to exchange participants on different government levels; to participants of bilateral programs in any important spheres of collaboration; to the owners of real estate in Poland or inheritors of such; to people visiting graveyards; to people visiting families; and to the retirees.

As it can be easily guessed from the catalogue, these facilitations are aimed mainly at fostering the human dimension of the border crossings: family ties, business networks, institutional collaboration.

The reform of the consulates was also needed in view of several hundred thousand visas to be issued annually. The consulate with the highest volume, Lvov, which issues over 1000 visas daily, introduced internet procedure to facilitate and to speed up the process.

TAB. 1 Consulates issuing the largest number of visas in 2004

Lvov	217.935	Brest	102.494
Lutsk	178.046	Grodno	84.304

<sup>12</sup> E.g. Sejm, seating no 49, 20 May 2003.

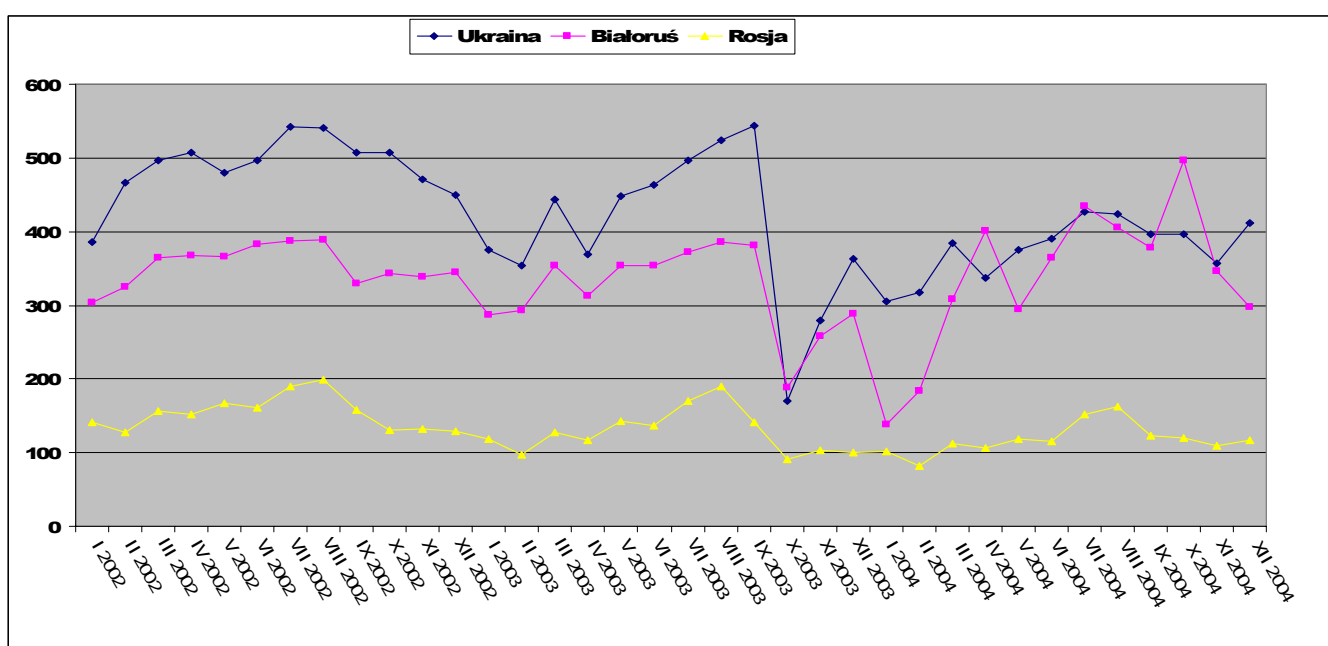


Kiev	148.233	Moscow	49.083
Kaliningrad	136.736	Kishinev	18.350
Minsk	105.667	Odessa	18.292

Source: Polish Ministry of Foreign Affairs

The measures seem to work and the volume of crossings, after the drastic drop in incoming movement from the three countries that occurred in the period following September 30, 2003 seem to have returned to the previous size.

FIG. 1 Border crossings on the borders with Ukraine, Belarus and Russia, 01.02-12.04



Source: Polish Chamber of Tourism

Nevertheless, the visa regime has redefined Polish geographical position. As it can be concluded from the table below, the contacts with Poland's Western and Southern neighbors have been more intensive. The EU accession played a crucial role here, not only promoting Polish business opportunities, but also Polish products and tourist attractions. Thus the purpose of the visit declared by the foreigners coming from these directions was mainly business and tourism.

TAB. 2 January-June 2004 Incoming Foreigners Changes in relation to 2003 in the same period

Total	27180,221,0	%
EASTERN BORDER	4729,3	-10,5%
Russian Federation	287,9	-5,0%

Lithuania	659,8	8,1%
Belarus	1845,0	-2,7%
Ukraine	1936,61	-14,3%
SOUTHERN BORDER	7336,0	25,0%
Slovakia	1458,7	100,1%
Czech Republic	5877,2	14,3%
WESTERN BORDER	13990,6	37,4%
Sea border	477,3	-17,7%
Airports	647,0	19,4%

Source: Polish Chamber of Tourism

The crossings from the East definitely dropped, but they are nonetheless expected to rise in 2006 statistical report.

Polish visa regime, with individual-oriented ideology of implementation, has not generated the phenomena present in other CEE states introducing acquis Schengen. These include permanent drop in legal cross-border movements and increase of citizenship applications from the members of the minority abroad, as it was the case of Hungary and is the case of Bulgaria.

It might be stated that Polish visa policy, through its flexibility and user friendly mechanisms in fact limited a possible inflow of migrants looking for “extra-legal” way of entry. Of course, we cannot rule out the rise in unregistered migration, but as for now the numbers reported by the Border Guards do not seem much changed.

TAB. 3 Foreigners apprehended for illegal border crossings.

Year	1998		2000		2002		2004		2006 (Jan-Sept)	
	From Poland	To Poland	From Poland	To Poland	From Poland	To Poland	From Poland	To Poland	From Poland	To Poland
Totals	2,339	1,868	2,295	1,771	1,739	1,512	3,124	1,608	1,060	1,225

Source: Border Guards statistical reports.

Therefore, given the overall developments in the field and the uneven degree of its Europeanization, can we expect further changes leading to more Europeanized border policy and politics?

### 3. The future of border management in Poland

The border policy related to migration depends to a large extent on three factors: institutions shaping it, the security agenda behind it and the actual implementation.

As a consequence of the historical processes described above, the Polish borders are managed by several institutions using several legal acts. As it has been said, the management is free from the public opinion pressures.

The governmental body truly interested in borders per se is of course the ministry of Defense. However, in the context of border policy as a part of migration policy, it has a limited say. On the other hand, the Ministry of Interior and Administration has within its structures three official bodies that are responsible for the migration-related border policy: the

Border Guards, the Police, the Office for Repatriation and Aliens. The Office has been responsible for legislative proposals concerning the border, most recently it has prepared the amendment of the Aliens Act of 2005, transposing 6 EU directives in the field of migration policy. The Police holds prerogatives concerning checking documents and arresting undocumented aliens. It is the Border Guards who actually implement the policy on the borders. The role of Parliament is limited to discussing the legislative proposals and adopting them, usually without putting a fight. Another potentially important player might be Frontex, after Poland's accession to Schengen, and provided that the agency grows in strength, both budget- and operationally-wise.

Polish Border Guards are thus the main recipient and executor of the border policy related to migration. The formation, created with the Act on Border Guards in 1990 has been operational since 1991. As far as the Eastern border, it is responsible for 1,186 km of it, out of which 535 km with Ukraine, 418 km with Belarus and 232 with Russia. The unit employs over 15,000 operational employees, but the presence on the Western border has been reduced by 50% and is supposed to disappear upon the Schengen accession, meaning that Eastern border will receive the influx of additional officers. The Polish Border Guards are considered to be one of the best organized formation of this type in Europe. It is important that it is an autonomous unit, with its own annual budget, what of course provides a wide margin of independence. The Border Guards as a executing organ, has an active role in consultations of the legislative proposals. However, the most important is its capability of introducing pilot studies, joint programs and other experiments improving the cross-border cooperation.

To understand the future developments of the border policy in Poland we have to highlight Polish security policy. Polish defense and security agenda is neither long nor complicated. The key tenets of our security are based on Poland's membership in NATO, including participation in missions and developing Polish army according to NATO standards. NATO, however, is associated mainly with the US and Poland has been focusing on bilateral politico-military co-operation with the US as its second tenet of security agenda. Polish presence in Afghanistan and, most notably, in Iraq stems from these two points. Unfortunately, for the time being, Poland has been only giving concessions to the US demands without getting much in exchange. The lure of economic gains in the war in Iraq has been deluded, and the construction of some parts of the US anti-missile shield on the Polish territory was not truly negotiated by the Polish government. Somehow, for the politicians leading Poland now, into Schengen and as far as into its 5<sup>th</sup> year in the EU, the US relations are the top priority.

The European Union, on the other hand, is apparently not seen as important partner in the security agenda. Of course, Polish governments multiple times stressed their commitment to further develop effective European Security and Defense Policy, but the actual innovation in this field is rather limited. Firstly, the plans for the anti-missile shield overlook NATO, and thus several important European players. Poland did not happen to promote the shield as European/NATO security tool. The Polish proposal of the European Union army (in November 2006), under the command of the President of the European Commission was surrealistic, it ignored the basics of the European institutional system. What is actually important is that the current Polish government and administration actually ignores European dimension and lacks the know-how to foster its interests on this level.

Another important point on the security agenda are good relations with all seven neighbors of Poland: Germany, Czech Republic, Slovakia, Sweden, Ukraine, Belarus, and Russia. This is the statement of the most important consequences for the border policy, because it implies, among others, transborder cooperation. If the first four cases are pretty clear in terms of the border, as the EU member states, the last three cause quite a political confusion.

The majority of undocumented crossings, or their attempts, happens on the Western border of Poland, from Poland to Germany. Polish-German cross-border cooperation set an

example to follow also on other borders. It includes joint patrols and information exchange outside of the Schengen system. The working readmission agreements lead almost always to unproblematic deportations to Poland. Actually, undocumented migrant apprehended by a joint Polish-German patrol is noted as apprehended on the Polish territory. Polish citizens are often let into Poland by a German police officer and vice versa. This cooperation is built on reciprocity and trust, elaborated over nearly 17 years of leading joint actions and mutual exchange. Since Germany was Poland's main ally in the development of the migration policy and its main teacher, the trust on the Western border has developed, what is quite remarkable given the history of wars and territorial claims between the two countries – only in 1990 Germany did recognize the border on Oder.

Similar comprehensive cooperation is now being developed with Slovak and Czech border guards – but the Southern border of Poland is the true pre-Schengen trial.

Ukraine, especially after its Orange Revolution, earned a credit of friendship and support among Polish elites of all options. Thus this is the country that really dominates the visa debate. Poland is the only country trying to develop the same level of cooperation with Ukraine as it has developed on the German border. One was the program ARGO, an attempt to form joint patrols, what for the time being is very difficult, given the problems with information flows (level of access to information on both sides). Polish officers provide training for Ukrainian ones, trying to reach out to them. However, the mutual relations on the local level are not rosy. There are problems with having readmission agreement fulfilled and in general the cooperation in apprehension is difficult. Therefore, the patches of the border with Ukraine are perceived as porous.

On the other side of the spectrum, Belarus has been perceived as a dark corner of Europe, and the border with Poland is presented to be the only light in the tunnel for the active but weak opposition. Therefore the policy on this piece of the border has different implications, the discourse is focused on human rights and democracy. Interestingly enough, just because the neighbor on the other side is not democratic, the border is easier to control. Very few undocumented migrants or other unwanted individuals manage to leave Belarus. There is almost no cooperation, with a small exception of Chechen asylum seekers, who generally come to Poland through Belarus.

When it comes to Russia, here the border, and thus visa issues are not a priority. Under the present governments, both Polish and Russian, the mutual dialog has been entangled into the matters of meat trade, gas and anti-missile shield, each of these point treated as a security issue. In consequence, such as energy security entered Polish discourse only last winter, during the Russian gas crisis. There is no collaboration between Polish and Russian border patrols and it is unlikely there ever will be.

Apart from the on-the-grounds cooperation, Poland participates in the EU- and US-driven programs. They are mostly concerned with the remote control – against crime and terrorist threat. Using the platform of pre-Frontex focal points and the net of information exchange facilitated by the EU membership, Poland can participate in the pursuit of organized crime. As for the cooperation with the US, Poland participates in the passengers black list program. However, still the Schengen accession remains the main challenge for Polish government and institutions. It has been seriously delayed for the number of mainly technical reasons. On one hand, the modernization of the Sea and Land Border Direct Protection System required new bids (e.g. sea border protection) and infrastructure, which were delayed by the backlogs in the European Commission. The greatest delay was however caused by technical imperfections of the Transfer Agent, the national module of SIS II, with the problems concerning technical specifications.

Poland has also problems concerning its own capacities. The sole modernization of the airports in order to get them be cable of serving cheap flights to UK and Ireland, both non-Schengen countries to where most of the cheap flights and flights in general coming from Poland go, is likely to take more time than initially foreseen.

However, despite the slow progress towards Schengen, we can state that it is very unlikely for Poland to Europeanize stronger in the next few years. The character of Europeanization in Poland until the date was top-down, meaning the presence of mediating agents (policy entrepreneurs), some kind of pro-European discourse used to promote policy change, and cooperation with the European counterparts, both vertically and horizontally. These elements have been largely missing from the scene after accession.

First of all, the policy entrepreneurs have changed their attitudes. The legislative process on the EU level was lengthy, causing member states to final scapegoating, with Poland being an ideal candidate. This could have risen resentments on the domestic level. Since 2006, Poland has a clearly Eurosceptic, not to say, Europhobic government. For several months the new team did not participate in the crucial, for Poland, meetings of the Council's Visa Workgroup or meetings concerning Schengen. The Polish ambassador to the EU was not appointed for months. The new civil servants who exchanged to a great extent the old, experienced batch have had little interest in the European issues, being constantly shaken by the domestic political storms. Poland has disappeared from the serious political debate on the EU level. It can be almost stated that after the accession Polish technocrats stopped even to learn things from their European counterparts, treating EU directives as a necessary evil, looking at the European transformation with repulsion and ignorance.

The same can be said about the legitimizing discourse. For the time being, the argument Europeanization=Westernization=modernization has lost its grip in the present parliament. The national arguments are more priced. The amendment of immigration law in 2005 was still legitimized through the European lens, but since then the works have been very slow. Poland has become more interested in the nationally driven policies. We could even talk about Europeanization *au revers*, with Poland noticing suddenly that different member states have different migration policies and that they have not followed any European top-down pattern. The first sign of this might be the ad hoc seasonal workers program proposed by the government, which ignores all pre-Schengen regulations and agreements, and promises to go on AFTER the accession.

Last, but not least – cooperation. As I have indicated above, cooperation between the states and with the EU have been weakened. Poland has the worst relations with Germany since 1989, there is hardly any Western European state with which the cooperation would flourish (maybe the UK is an exception, because of the mass emigration of Poles). On the European level there is a new player Frontex, the agency based in Warsaw. Polish government and its bodies have little or no interest in it. The common attitude is that for the time being and in the shape it is, it is not really needed. It is mostly because Frontex has tried to coordinate multilateral joint actions that are already relatively easily organizable between the member states, on the basis of the existing agreements. On the other hand, its role in risk analysis exercise is perceived as important. Its main objectives as development of equipment, providing standards of trainings, technical progress monitoring, coordination of IT communication network and coordination of the deportation system are promising, but regarded as a far future.

Thus, we can see that prospects of Europeanization of Polish border policy are rather bleak in the near future. The main three elements of the to-the-date Europeanization, i.e. the policy entrepreneurs, Europe-centered legitimizing discourse and pan-European cooperation, are largely missing, or they have lost their symbolic importance. The rising Polish nationalism is likely to produce Polish migration policy in the times, when all other member states are working on a common one. It is thus very likely that Polish border control and its access into Schengen will bring about minor, but nevertheless some, discrepancies with the EU-level provisions, only to accentuate the national touch. Maybe as a result we will witness bottom-up Europeanization also on the Polish side.

#### 4. Conclusions

Polish visa policy has been developed under the direct influence of the supranational powers, both on the EU and wider, pan-European level. It was created in the process of policy transfer, learning and strategic socialization. Its development is characterized on one hand by the gradual flexibility of the policy concerning asylum and related concepts by introducing the higher European standards of protection, and by the gradual securitization of the policy as such. The visa policy is the only element of the policy versus foreigners that does not fall into the securitization scheme. It can be said that Europeanization of Polish policy towards foreigners was uneven: in some policy field deeper than the others, depending on the level of harmonization of the given policy on European level itself. Europeanization occurred by legitimizing discourse, crucial in the process of policy transfer.

Following the Western European phenomenon, the policy versus immigrants in Poland has been securitized on the domestic level mainly in its “asylum” and its “third-country resident” dimension. Visa policy could not have been securitized for the general negative attitudes towards this idea – firstly, there was a popular disagreement on the second “iron curtain” cutting across strong business and family ties; secondly, Poles have to provide visas to some other countries of the world, and thus they feel strongly about the procedure. There has been a definite divergence between the security discourse and the actual implementation of the visa regime. Polish visa policy has been designed to keep up the volume of border crossings and to keep the mutual contacts on the both side of the border. As for now, this policy can be said to be a success. It can be said that because of it, there has been no decisive increase in the immigration flows to Poland through other legal channels, and most probably – also illegal. Of course, with the full implementation of Schengen Treaty, the situation could change drastically. The repercussions are hard to predict, but certainly, it will harm Polish neighborhood policy and most probably bring about much more illegal phenomena.

The Europeanization of Polish border policy is rather unlikely in the near future. The three elements *sine qua non* Europeanization in the pre-Enlargement Poland, i.e. the policy entrepreneurs, Europe-centered legitimizing discourse and pan-European cooperation, have been missing, due to the regime change or they have lost their symbolic importance. Poland has lost interest in Europeanization, as the official discourse has been slowly stopping identifying Europe with modernization. It can be argued that Polish border control and its access into Schengen will bring about minor, but nevertheless some, discrepancies with the EU-level provisions, only to accentuate the national touch. There is a danger of retrenchment, however, maybe as a result we will witness bottom-up Europeanization also on the Polish side.

For the time being, we have to wait for the term of Polish Presidency to see some important developments. It is, for now, the only hope that Poland will go back on the Europeanizing path, and not only to the level of absorption.

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