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The Migration of Ukrainians to Poland: The Context of Border Criminology

Abstract: The phenomenon of migration is common in modern times. People move around the world for touristic, financial, educational, social and other reasons. One of the destination countries is Poland, in which Ukrainians, the largest contingent of all foreigners, have arrived for a number of years. Currently, the war is in progress in Poland's neighbouring country. More than 3 million Ukrainian citizens have come to our country in search of temporary or long-term shelter. Considering the increased number of the Ukrainians, Polish people have posed the question as to whether greater delinquency where immigrants are perpetrators will constitute one of the negative outcomes. Accordingly, the decision was made to analyse the phenomenon of the migration of Ukrainians to Poland over the last few decades, as well as their engagement in delinquency, in the context of border criminology. It was also determined to review literature and statistical data concerning the phenomenon discussed. In view of the above, the prediction is made that in the immediate future, the rates in offences committed by these foreigners will increase proportionally to the number of Ukrainian immigrants.

Keywords: border criminology, delinquency, eastern border area, immigration

Introduction

People have always moved, looking for their own place in the world. However, they settled themselves in places where they felt safe. Nothing has changed in this regard to this day. Everyone looks for their own exceptional corner, being driven by the possibility of fulfilling their individual needs, among which a central position is taken by a sense of safety. The situation changes dramatically once a human starts to feel threatened. They are left with the choice to either remain in their place of resi-

dence or to look for a place that will guarantee them better living conditions. Thus, the migration of the population is not anything bizarre, as it is to a large extent conditioned by the social and economic situation in a country and in the world. History shows times when migration indicators increased and times when they decreased. Times of peace and currency stability favour permanent settlements, whereas crises, including war, intensify the process of movement. It is in such volatile times that the people of the world find themselves in right now, especially the citizens of countries that are either at war or bear its direct consequences. Among these countries are Ukraine and Poland. In Ukraine the war is in progress, and Poland, as one of its nearest neighbours, accepts millions of refugees, giving them safety. Nevertheless, the question arises of whether the humanitarian reaction of Poland may be related to negative consequences in the form of an increased number of offences with the involvement of Ukrainians in our country. As a result, it was resolved to analyse the phenomenon of the migration of Ukrainians to Poland over the last few decades, as well as their involvement in delinquency, which may, to a certain extent, portray this migration from the perspective of criminogenic factors. Despite the fact that it is untypical in criminology to provide the sources of delinquency based on statistical data, it is a prevalent practice in the analysis of criminological phenomena.¹

1. Border criminology assumptions – a critical analysis

Researchers are greatly interested in the European Union's neighbourhood policy because the illegal migration of citizens from the countries bordering Europe in the south (e.g. Tunisia) and in the east (e.g. Ukraine) is highly likely.² In the globalized world, territorial borders assume special meaning, but the issues pertaining to them are still too rarely explored as part of criminology, the interest of which is in the commission of offences related to national borders. Criminologists investigate the activities of institutions and the enforcement practices of territorially limited state entities. Unfortunately, such an approach is inadequate in the light of the increased level of cross-border delinquency, in which technological innovations are more frequently used. On the other hand, it should be admitted that such technologies provide opportunities for more effective state control.³

These measures produce an emerging class of the 'mobility poor' who seem destined, like the 'masterless men' and 'valiant beggars' of previous centuries, to shoulder the generalised anxieties of insecure and turbulent times. This network of

1 J. Błachut, *Problemy związane z pomiarem przestępczości*, Warsaw 2007, p. 81.

2 P. Green, *State Crime Beyond Borders*, (in:) S. Pickering, L. Weber (eds.), *Borders, Mobility and Technologies of Control*, Dordrecht 2006, p. 151.

3 S. Pickering, L. Weber, *Borders, Mobility and Technologies of Control*, (in:) S. Pickering, L. Weber, *Borders, op. cit.*, p. 1.

selective controls designed to protect the secure and developed world from the incursions of the poor and insecure has been graphically described by A.H. Richmond (1994) as 'global apartheid'.⁴

In The Hague, the priorities of the European Union in the field of border policy were determined as follows: 'to prevent and combat illegal immigration, inform on legal channels for migration, resolve refugee situations by providing better access to durable solutions, build border control capacity, enhance document security and tackle the problem of return'.⁵ With justified assumptions, it must be acknowledged that partnership for the benefit of the policy's implementation does not concern refugee protection but immigration control. Fekete claims that the European Union takes the most care of both creating barriers for the movement of migrants and extending the area of its influence on border-control strategy.⁶ Consequently, a problem arises with reference to the implementation of humanitarian obligations as imposed by the Geneva Convention, aimed at protecting those who flee from persecution from the states of their citizenship.

Stumpf draws our attention to the fact that in border control, the notion of 'non-members' is used, whereas Bosworth and Guild employ the term 'non-citizens';⁷ yet Krasmann writes about 'enemies' so as to define foreigners who want to get into a given country (e.g. Poland). Even these terms foster repressive actions on the part of Poland, and constitute the basis for the social exclusion of foreigners.⁸ Krasmann puts forward an even deeper interpretation: not just social exclusion, but extermination.⁹

Many criminologists debate whether lack of citizenship (in this case Polish citizenship) enables imprisonment or deportation.¹⁰ The question is brought up if stigmatization of the citizens of a given country in the name of security is necessary. Krasmann concedes that '[t]he enemy is the vector for the anticipatory rationale of security, as "a menace is always already there", justifying coercive action ahead of any "prospective attacks"'.¹¹ He reckons that sovereignty represents a priority for the target immigration country, and enemy penology pertains to the 'renaissance of sov-

4 *Ibidem*, p. 9.

5 P. Green, *State...*, *op. cit.*, p. 152.

6 L. Fekete, *From Refugee Protection to Managed Migration: The EU's Border Control Programme*, 'European Race Bulletin' 2003, vol. 43, p. 3.

7 M. Bosworth, M. Guild, *Governing Through Migration Control: Security and Citizenship in Britain*, 'British Journal of Criminology' 2008, no. 48, pp. 703–719.

8 L. Weber, J. McCulloch, *Penal Power and Border Control: Which Thesis? Sovereignty, Governmentality, or the Pre-Emptive State?* 'Punishment and Society' 2019, vol. 21, no. 4, p. 26.

9 S. Krasmann, *The Enemy on the Border: Critique of a Programme in Favour of a Preventive State*, 'Punishment and Society' 2007, no. 9, p. 311.

10 J. Stumpf, *The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power*, 'American University Law Review' 2006, vol. 56, p. 377.

11 S. Krasmann, *The Enemy...*, *op. cit.*, p. 308.

ereign power in the name of population management'.¹² Dauvergne approves of this viewpoint, saying that migration law is 'the new last bastion of sovereignty' in the sphere of controlling those who enter the territory of a given country.¹³

The manner of the contemporary management of migration policy is based on coercion inasmuch as it imposes power over the will of others, their autonomy, the free movement of people and their self-determination. Penal measures are used in the process of making the decision about who is and is not a member of a given country. The control of such delinquency is a method of ensuring social safety, which means safety in social relations and social bonds, with reference to a specific community. Therefore, migration policy can be recognized as criminal, because it deprives people of liberty and inflicts harm on them. The penalties provided for are something other than justice.¹⁴ Barker perceives here even a threat to fundamental principles of justice.¹⁵ Garland applies the notion of 'criminology of others', but with positive intentions towards migrating foreigners.¹⁶ According to him, nowadays the focus of governments is on a policy of risk management and reaping the political benefits from depreciating immigrants' values, not providing help for them.¹⁷

In light of the aforementioned arguments, Weber and Pickering propose changes to border criminology.¹⁸ They propose abandoning repressive strategies in favour of pre-emptive strategies, aimed at identifying threats and undertaking intervention prior to borders being crossed by foreigners. "Illegalities" are constituted and regimented by the law [...] with a considerable degree of calculated deliberation.¹⁹ Without any doubt, border control cannot be restricted to the identification of enemies – foreigners – by way of profiling them by considering their future and past misdemeanours and offences, their affiliation to certain groups distinguished on the grounds of sex, race, sexual preferences, etc., as this is a direct path towards selective inclusion and simultaneously exclusion from the society of a given country.²⁰

12 *Ibidem*, p. 301.

13 C. Dauvergne, Sovereignty, Migration and the Rule of Law in Global Times, 'The Modern Law Review' 2004, vol. 67, no. 4, p. 588.

14 V. Barker, Penal Power at the Border: Realigning State and Nation, 'Theoretical Criminology' 2017, vol. 21, no. 4, p. 444.

15 *Ibidem*, p. 449.

16 D. Garland, Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society, 'British Journal of Criminology' 1996, vol. 36, no. 4, pp. 445–471.

17 S. Krasmann, The Enemy..., *op. cit.*, p. 306.

18 L. Weber, S. Pickering, Constructing Voluntarism, Technologies of 'Intent Management' in Australian Border Controls, (in:) H. Schwenken, S. Russ-Sattar (eds.), New Border and Citizenship Politics, Basingstoke 2014, p. 18.

19 N.P. de Genova, Migrant 'Illegality' and Deportability in Everyday Life, 'Annual Review of Anthropology' 2002, vol. 31, p. 424.

20 L. Weber, J. McCulloch, Penal..., *op. cit.*, p. 26.

Barker elucidates the present direction of border-control policy through combining two processes.²¹ On the one hand, globalization induces subordination to transnational requirements of international law, exceeding state borders, customs and norms, but on the other hand, a given state wants to remain sovereign as well as socially and culturally independent. This presents an enormous challenge for state authorities, in particular in the situation of intensified migration that citizens are dissatisfied with. It is difficult to adhere to the international nature of the migration process when the protection of national interests and the maintenance of high living standards are demanded at the same time. Hence it seems that the priority consists in the discussion about the way of implementing the concept of balance in border criminology policy, yet mitigating migration restrictions as a condition necessary for preserving a stable world order.²²

2. Ukrainians in Poland: statistical tendencies

A significant event that influenced the increase in the number of immigrants in Poland was the accession to the European Union in 2004. At that time, improved accessibility to means of transportation and new technologies, thanks to EU funds, was also not without importance. Foreigners were taking up diverse activities: profit-making, settlement-oriented, educational.²³ Their stay was most frequently short-term, but the number of refugees settling in our country increased.

As of 21 December 2007, upon the implementation of the Schengen acquis by Poland, the eastern border of the European Union with Russia, Ukraine and Belarus, as well as the internal border with Lithuania, is in Poland. In 2010 the number of immigrants exceeded 17,000 persons. In the majority of cases, these were Polish people returning from emigration who had checked out of their permanent residence, along with their children who had been born abroad. The reasons for such a phenomenon can be found, among others, in the world economic crisis.

In 2011 the number of Ukrainians amounted to 38,797 persons (in contrast to 2002 data -27,172).²⁴ Most of the persons registered for permanent residence were from Ukraine (2,200 thou.) and Kazakhstan. Most frequently they settled in Mazowieckie province, especially in big cities, and most rarely in Warmińsko-Mazurskie and Lubuskie provinces.²⁵ Among the foreigners, women prevailed decisively, though

21 V. Barker, *Penal...*, *op. cit.*, pp. 442–443.

22 S. Pickering, L. Weber, *Borders...*, *op. cit.*, p. 11.

23 Główny Urząd Statystyczny Statistics Poland, *Sytuacja demograficzna Polski do 2019 r. Migracje zagraniczne ludności w latach 2000–2019*, Warsaw 2020, p. 65.

24 Mniejszości Narodowe i Etniczne, *Charakterystyka mniejszości narodowych i etnicznych w Polsce*, <http://mniejszosci.narodowe.ms.gov.pl/mne/mniejszosci/charakterystyka-mniejs/6480,Charakterystyka-mniejszosci-narodowych-i-etnicznych-w-Polsce.html> (15.07.2022).

25 Główny Urząd Statystyczny Statistics Poland, *Sytuacja...*, *op. cit.*, p. 119.

the greater part of the persons applying for a work permit was represented by men.²⁶ In the Population Census of 2011, a national and ethnic identity other than Polish was most frequently declared by Ukrainians (51,000 thou.), out of all immigrants,²⁷ while a declaration of a dual national identification was submitted by 20,800 thousand persons.²⁸ Fifty seven per cent were married; the remaining individuals did not have a permanent partner. Twenty-six per cent had a higher education, and 31% a secondary education; the rest had lower than secondary education. Children and young people represented 5,618 persons (14% of all Ukrainians), while 9,706 persons (23%) were over 60 years old, which means that 37% were aged between 19 and 59 years,²⁹ i.e. they were at the age when people are educationally and professionally the most active. A year later, 2,757 pupils in 169 institutions were learning the Ukrainian language as a mother tongue.³⁰ Working individuals constituted 41% of all the arrived Ukrainians.³¹ 'The constant increase of the share of permits issued to Ukrainian citizens in the total number of these documents is characteristic of the whole reference period: from the level of 30–45% in 2008–2011 to 50–60% in the subsequent three years.'³² In the years 2011–2013, a slight decrease occurred in the number of all the foreigners in our country,³³ but a substantial increase in immigrants from Ukraine took place in 2013, which was related to the escalation of the conflict with Russia and a deterioration of the economic situation in their country. The Ukrainians could improve their social situation by arriving in the nearest country, which was Poland.³⁴

Looking at the statistical data in the area of migratory movements in the EU countries, it is clear that we still have an increased influx of migrants in this direction, although far fewer than in the peak year of 2015. Undoubtedly, this was influenced by the Covid-19 pandemic in 2020. However, the trend of the increase, which is still high, calls for a revision of the current approach to shaping a common policy on migration and asylum.³⁵

Among 288,700 thousand the Pole cards granted in Polish consular offices in the ten years to 2019, the institutions in the Republic of Belarus and in Ukraine pre-

26 *Ibidem*, p. 122.

27 Główny Urząd Statystyczny, *Struktura narodowo-etniczna, językowa i wyznaniowa ludności Polski. Narodowy Spis Powszechny Ludności i Mieszkań 2011*, Warsaw 2015, pp. 30–31.

28 *Ibidem*, p. 38.

29 Lubelski Urząd Wojewódzki, *Dane statystyczne dotyczące mniejszości narodowych i etnicznych według Narodowego Spisu Powszechnego Ludności i Mieszkań z 2011 r.*, <https://www.lublin.uw.gov.pl/wsoic/dane-statystyczne-dotycz%C4%85ce-mniejszo%C5%9Bci-narodowych-i-etnicznych-wed%C5%82ug-narodowego-spisu> (15.07.2022).

30 *Mniejszości Narodowe i Etniczne, Charakterystyka...*, *op. cit.*

31 Lubelski Urząd Wojewódzki, *Dane statystyczne...*, *op. cit.*

32 Główny Urząd Statystyczny Statistics Poland, *Sytuacja...*, *op. cit.*, p. 143.

33 *Ibidem*, pp. 112–113.

34 *Ibidem*, pp. 74–75.

35 A. Doliwa-Klepacka, *The New Pact on Migration and Asylum as a Response to Current Migration Challenges: Selected Issues*, 'Białostockie Studia Prawnicze' 2021, vol. 26, no. 1, p. 10.

vailed (91.4% of all the Pole cards).³⁶ According to the Office for Foreigners, in recent years a considerable increase in the number of newly arrived foreigners has occurred, and in 2019 the largest number was again produced by Ukrainians (214,700 thou.). This means that the Polish labour market is attractive for citizens from the eastern border countries. Working Ukrainians arrive on the basis of a work permit, a seasonal worker permit or an employer's declaration. The number of documents issued surged the most in the years 2015–2019. In 2000–2019, Polish citizenship was conferred upon 62,900 thou. foreigners, the majority of whom were Ukrainians (24,500 thou.). As of 2014, the number of foreigners studying has expanded, especially those from Ukraine.³⁷ Among the students with Polish citizenship in the academic year 2018/2019, students from this country prevailed (3,600 thou.).³⁸

This data allows us to formulate several conclusions:

Poland is transforming from a typically emigrating country into an emigrating and immigrating country [...] the balance of migration for permanent residence starting from 2016 has been positive, which means that the number of immigrants exceeded the number of emigrants; in recent years an increase in the number of foreigners living in or arriving in Poland has been observed. In particular, the number of economic immigrants has been growing, especially of Ukrainian citizens interested in undertaking temporary work in Poland. The increase in the number of foreigners interested in continuing their studies at Polish universities can also be noticed.³⁹

The observed tendencies reflect the outcome of important events: the commencement of the Russian and Ukrainian conflict in 2013, the introduction of the Act on Foreigners of 2013, the refugee crisis in Europe in 2015, the amended Act on the Pole's Card of 2016, visa-free movement between the European Union and Ukraine, the conclusion of the agreement on the readmission of the Union with Ukraine, among others, in 2017. The last few years are characterized by Ukrainization.

Within the territory of our country, the Ukrainians have their own associations and societies, e.g. the Association of Ukrainians in Poland or the Society of Ukraine, periodicals, e.g. *Our Voice*, and cultural events are organized by them, e.g. the Ukrainian Cultural Festival and Ukrainian trade fairs, which are helpful for foreigners in nurturing Ukrainian customs.⁴⁰ The Russian–Ukrainian war, which broke out in 2022, has probably changed the image of a Ukrainian foreigner in Poland for many years, though only the future will disclose the number of Ukrainians willing to

36 Główny Urząd Statystyczny Statistics Poland, *Sytuacja...*, *op. cit.*, p. 195.

37 *Ibidem*, p. 65.

38 *Ibidem*, p. 157.

39 *Ibidem*, p. 166.

40 *Mniejszości Narodowe i Etniczne, Charakterystyka...*, *op. cit.*

return to their country and those who will stay permanently in our country.⁴¹ Nevertheless, it can be assumed with 100% certainty that plenty of persons will elect to settle in our country.

3. The eastern border area

Unquestionably, 'border area' refers to the area located near a border with other countries, though '[b]order land should be perceived from a broader perspective – as a zone under the simultaneous influence of both general economic (or social) mechanisms and the processes occurring beyond the national borders.'⁴² When defining the term, not only regional location near a national border is taken into account, but also the impact of the border on these areas in the following dimensions: the economic dimension of export–import, the conduct of economic entities that link their activity to this location, the supply of services and goods abroad and within the country, formal and informal connections on both sides of the border, and equipment in cross-border infrastructure, including roads.⁴³ This means that the inhabitants of the localities situated near the eastern border with Ukraine reap certain benefits and incur some losses.

Extensive research pertaining to this issue was conducted at the end of the 20th century. In the opinion of 262 borderland communes, the impact of a location in the eastern belt was average.⁴⁴ In the eastern part of our country, foreigners were arriving less frequently for touristic purposes in comparison to the western part, which can be explained by the Russian crisis in the middle of 1998' as Szul asserts.⁴⁵ The movement of parts of production processes – the assembly of parts – towards Ukraine in particular meant strengthening regular commercial collaboration, which simultaneously diminished the role of borderland markets, the places of exchange between Polish manufacturers and Ukrainian customers. As a result of fluctuations in the rates of the currencies exchanged at the eastern borders, the citizens of these countries were more often coming to sell their goods and purchase our goods.⁴⁶

41 W. Kozłowski, *Przestępczość graniczna, celna i dewizowa na zachodnim odcinku granicy państwowej w latach 1990–1997*, 'Studia Zachodnie' 2000, no. 5, p. 136.

42 A. Gałązka, A. Mync, *Zmiany społeczno-gospodarcze i infrastrukturalne na obszarach przygranicznych w warunkach otwierających się granic*, Warsaw 1999, p. 44.

43 *Ibidem*, p. 44.

44 B. Jałowiecki, *Oddziaływanie granicy na gminy województw przygranicznych. Wyniki badań ankietowych*, (in:) A. Mync, R. Szul (eds.) *Rola granicy i współpracy transgranicznej w rozwoju regionalnym i lokalnym*, Warsaw 1999, p. 26.

45 R. Szul, *Transformacja a rozwój obszarów przygranicznych*, (in:) A. Mync, R. Szul (eds.) *Rola granicy i współpracy transgranicznej w rozwoju regionalnym i lokalnym*, Warsaw 1999, p. 17.

46 B. Jałowiecki, *Oddziaływanie...*, *op. cit.*, p. 27.

Gałązka and Mync prove that the development of contacts between Poland and Ukraine was slower than with neighbours on the western border.⁴⁷ They perceived fewer financial benefits compared to the inhabitants of communes in the west of Poland.⁴⁸ The inhabitants of these communes complained the most about the burden of living near the eastern border. They pointed out the traffic and the substantial increase in delinquency.⁴⁹ Moreover, obstructions in the road traffic, i.e. frequent blockades at border crossing points, are inconvenient for them.⁵⁰

In the period of transformation in the east, the opening of the border entailed a minimization of disadvantages and the occasional occurrence of weak effects from mutual influences. However, from 1998 the disadvantages related to dwelling near border areas took precedence over the advantages.⁵¹ Szul believes that therefore, the Polish borderland was at that period between a wave of coexistence and one of collaboration.⁵² In the neighbouring countries, restrictions on the export of currencies and the import of goods were implemented, which contributed to the cessation of individual trade carried out by inhabitants of border areas.⁵³ It is, however, worth highlighting the tremendous instability in the movement of goods and money, which is dependent on social and political conditions behind the eastern border.⁵⁴

In the implementation of actions relating to foreign policy, the attitude of Polish citizens towards foreigners who, when choosing a destination country, take into consideration the kindness of a given nationality, among other things, should be established. Research findings from the Centre for Public Opinion Research in 2015 prove that the surveyed Poles observed advantages from immigration in the form of an enrichment of cultural diversity, which was conducive to a general alteration of attitudes towards greater openness and tolerance for others. More than 80% of them declared that they would accept a foreigner as a neighbour, collaborator, or as a person rendering professional services. These opinions were greatly affected by positive experience in their contact with foreigners.⁵⁵ According to Łodziński, still in 2016,

47 *Ibidem*, p. 59.

48 *Ibidem*, p. 30.

49 *Ibidem*, p. 31.

50 R. Szul, *Transformacja...*, *op. cit.*, p. 21.

51 R. Szul, *Rola granicy w gospodarce – próba ujęcia teoretycznego*, (in:) A. Mync, R. Szul (eds.) *Rola granicy i współpracy transgranicznej w rozwoju regionalnym i lokalnym*, Warsaw 1999, p. 228.

52 *Ibidem*, p. 230.

53 R. Szul, *Transformacja...*, *op. cit.*, p. 18; Ustawa z dnia 25 czerwca 1997 r. o cudzoziemcach (Dz.U. Nr 14, poz. 739); Rozporządzenie z dn. 23 grudnia 1997 r. w sprawie szczegółowych zasad, trybu postępowania oraz wzorów dokumentów w sprawach cudzoziemców (Dz.U. z 1998 r. poz. 1)

54 R. Szul, *Transformacja...*, *op. cit.*, p. 23.

55 J. Włodarczyk-Madejska, M. Kopeć, G. Goździk, *O przestępczości cudzoziemców i przestępczości wobec cudzoziemców w Polsce na podstawie statystyki policyjnej*, 'Archiwum krymi-

Polish people were in the majority of cases opposed to accepting foreigners, treating them as 'suspect society', i.e. threatening safety and cultural stability.⁵⁶ Research from 2000 disclosed that most of the inhabitants had a positive attitude towards Ukrainians, although older people, who took part in the war, had different experiences and, consequently, assessed them more negatively.⁵⁷

Kurczewska and Bojar carried out studies with the participation of inhabitants from border areas with Ukraine. They determined that the tightening of the eastern border, in compliance with EU recommendations, after 2004 was linked to plenty of disadvantages for the inhabitants. The opening of the border in the west fostered much more investment in our country.⁵⁸ In addition, in 2008 Radek revealed that in the first years of the accession of Poland to the European Union, the communes located in the eastern borderland could benefit the most from the possibility of obtaining European aid funds, from social and economic development thanks to the formation of cross-border cooperation, and from the extension of commune infrastructure. The number of cultural and sports events as well as commercial cross-border trade soared. Interpersonal relationships strengthened, along with relations between institutions. On the other hand, a favourable period for smuggling, delinquency and misdemeanours started.⁵⁹

4. Delinquency with the involvement of Ukrainians

Every increase in border traffic implies an increase in negative social phenomena. Border delinquency related to the illegal crossing of the border and transport of goods is on the rise. Common delinquency is rising as well, i.e. the rate of thefts, frauds, mugging and offences against decency, e.g. prostitution.⁶⁰ Research findings indicate that one of the effects of an increased number of immigrants is an escalation of delinquency.⁶¹

nologii' 2021, vol. 43, no. 2, p. 273.

56 *Ibidem*, p. 275.

57 M. Sobczyński, Percepcja współpracy transgranicznej Polski z sąsiadami pośród mieszkańców pograniczy, (in:) M. Malikowski, D. Wojakowski (eds.) *Granice i pogranicza nowej Unii Europejskiej. Z badań regionalnych, etnicznych i lokalnych*, Kraków 2005, p. 72.

58 J. Kurczewska, H. Bojar, *Konsekwencje wprowadzenia układu z Schengen – wyniki badań społeczności pogranicza wschodniego*, Warsaw 2002, p. 5ff.

59 R. Radek, *Współpraca transgraniczna jako narzędzie przełamывania uprzedzeń i stereotypów na polskich pograniczach (wybrane problemy)*, 2012, p. 59ff., https://dspace.uni.lodz.pl/bitstream/handle/11089/31114/55-88_Wspolpraca%20transgraniczna.pdf?sequence=1&isAllowed=y (15.07.2022).

60 R. Szul, *Transformacja...*, *op. cit.*, p. 21.

61 B. Jałowiecki, *Oddziaływanie...*, *op. cit.*, p. 31; R. Radek, *Współpraca...*, *op. cit.*, p. 81.

According to the Border Guard, illegal mass migration to Poland began in 1991. The Ukrainians, similarly to the citizens of other countries of the former USSR, Asia and Africa, started to willingly cross the border of our country. The number of detentions for border offences tripled between 1990 and 1991 and between 1991 and 1992. In 1992, there were 743 Ukrainians detained on account of attempting to illegally cross the border at its western section (they represented the third position in the ranking, after Romanians and Bulgarians). In 1993, there were 1,446 Ukrainians detained, most of them at the western border.⁶² Organised smuggling channels appeared. Human smuggling was undertaken primarily by organized criminal groups for financial purposes, but their centres were situated behind the eastern border, which hampered combating such a type of delinquency. This practice was accompanied by other offences, e.g. forgery of documents. Polish citizens were engaged in smuggling, even children, who were assigned the task of keeping an eye on the movements of the Border Guard.⁶³ In 1995, 347 citizens of our country were detained.⁶⁴

Data available from the police confirms the larger participation of Poles in offences committed in our country, rather than foreigners. This coefficient amounted to 5–6 in the years of 2009–2012, which means that per 100,000 inhabitants of Poland, there was exactly this number of foreigners suspected of an offence, but in 2013–2016 this coefficient increased to 10–12. In the subsequent two years, it exceeded 20.⁶⁵ Foreigners were most frequently suspected of offences against security in communication (with the overwhelming dominance of the offences of driving under the influence of alcohol or in a state of intoxication (Article 178a of the Polish penal code)) and offences against property. Five per cent of foreigners were suspected of offences against life and health.⁶⁶

According to Border Guard data, in the first quarter of 2021 the territory of the Republic of Poland was entered by 861,159 Ukrainians and a year later by 3,180,897 Ukrainians, which stemmed from the war raging in Ukraine. In the first quarter of 2022, a threat to public order, internal security, public health or international relations of one or more EU Member States, as well as a lack of appropriate documentation justifying the aim and conditions of a stay, was referred to 3,312 persons from Ukraine. Permits for the entry of Ukrainians into the EU borders in the last quarter were not granted to 8,347 persons (5,970 persons in 2021). At the border with Ukraine, there were 821 persons detained or found by the Border Guard

62 W. Kozłowski, *Przestępczość...*, *op. cit.*, p. 136.

63 *Ibidem*, p. 138.

64 *Ibidem*, pp. 136–137.

65 J. Włodarczyk-Madejska, M. Kopeć, G. Goździk, *O przestępczości...*, *op. cit.*, p. 284.

66 *Ibidem*, p. 285.

(1,322 persons in the first quarter of 2021), including 882 Ukrainians (1,379 persons in the first quarter of 2021), for crossing or attempting to cross the state border against regulations. Six hundred and thirty-nine citizens of Ukraine used forged documents authorizing them to cross the border or stay in the territory of Poland (1,110 people in the first quarter of 2021). Five hundred and eight citizens of Ukraine were detained or found while illegally staying in Poland (829 persons in the first quarter of 2021). More than three thousand (3486 persons; 1,498 persons in the first quarter of 2021) were found while illegally performing work, entrusting work to others or conducting business activity. The Border Guard, together with other services, seized the following goods at the border with Ukraine from offenders in the first quarter of 2022: vehicles to the value of PLN 1,677,000 (PLN 879,000 in the first quarter of 2021), alcohol to the value of PLN 2,324 (PLN 1,802 in the first quarter of 2021), cigarettes to the value of PLN 431,259 (PLN 1,316,488 in the first quarter of 2021), tobacco to the value of PLN 173,713 (PLN 2,104 in the first quarter of 2021), and other goods to the total value of PLN 304,592 (PLN 2,027,939 in the first quarter of 2021).⁶⁷

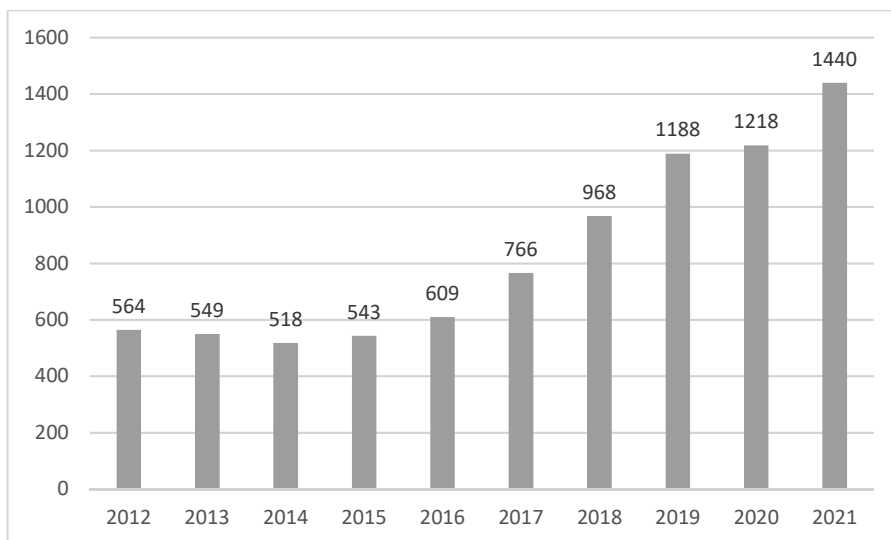
In the years 2004–2019, more than 37% of all the foreigners registered in police statistics were represented by the Ukrainians.⁶⁸ In 2019 Ukrainians prevailed as suspects for bribery, theft (over 37%), burglary (approximately 50%), and driving under the influence of alcohol or in a state of intoxication (nearly three-quarters of all foreigners). In 2013, among those suspected of committing murder, there were two citizens of Ukraine, whereas in 2019, it was 17 out of 24 of all the offences in this category.⁶⁹

On the basis of the statistical data of the Central Board of the Prison Service, a graphical representation of the number of convicts in the last decade with Ukrainian citizenship was made (see Figure 1).

67 Straż Graniczna, Statystyki SG, <https://www.strazgraniczna.pl/pl/granica/statystyki-sg/2206,Statystyki-SG.html>, pp. 2–35 (15.07.2022).

68 J. Włodarczyk-Madejska, M. Kopeć, G. Goździk, O przestępczości..., *op. cit.*, pp. 287–288.

69 *Ibidem*, pp. 290–301, 303.

Figure 1. Number of convicts with Ukrainian citizenship in the years 2012–2021.⁷⁰

In the years 2012–2015 in Polish penal institutions, the penalty of the deprivation of liberty was served by more than 500 Ukrainians. In 2016 the number exceeded 600 individuals, and a year later was 760 individuals. An increase of 200 occurred in both 2018 and 2019. In 2020 there were 1,218 persons who were put into confinement, while in 2021, there were 1440. Based on this, it can be stated that only in 2013 and 2014 was there a slight and statistically insignificant decline in the number of convicts with Ukrainian citizenship. Apart from that, a constant increase in the number of convicts from the neighbouring country is observed, which is indirectly related to the increase of citizens from Ukraine.

Conclusions

In domestic and international literature, the conduct of border criminology policy is currently widely criticized. Attention is drawn to the restrictiveness of law in

70 Ministerstwo Sprawiedliwości Centralny Zarząd Służby Więziennej, Roczna Informacja Statystyczna, <https://www.sw.gov.pl/assets/19/51/61/a542f3464c6b93a4771c38eac7813b2b3aaee79c.pdf>; <https://www.sw.gov.pl/assets/95/70/75/c1cee7d03200820a03cdaa2c6afe897c482422ca.pdf>; <https://www.sw.gov.pl/assets/07/04/98/5aef7bb45347469a8fec566a1c8277cd60048432.pdf>; <https://www.sw.gov.pl/assets/12/29/79/ce6663c30cb8ea38fccc716bb9b9fd250d4a341f.pdf>; https://www.sw.gov.pl/uploads/5846c007_9380_4602_b12e_213cc0a80015_rok_2013.pdf; https://www.sw.gov.pl/uploads/5846c00d_ab44_4d17_9588_213cc0a80015_rok_2011.pdf (15.07.2022).

this regard and the infringement of fundamental humanitarian principles towards immigrants. A change of border-control strategy towards an anticipatory one is postulated, in which the principles of equality and fairness are respected. The debates on this issue are of paramount importance, as migration of humans in the world is inevitable. They move for different reasons, according to their individual needs, but in the case of refugees, because of their need for physical and mental safety. It seems that the inevitability of this phenomenon should be accepted, though one should be aware of its repercussions. To illustrate this point, Szul indicates a plethora of benefits stemming from neighbouring another country (especially a location in border area).⁷¹ He perceives the effect of synergy in the form of access to the resources of neighbouring countries, the differentiation of sources of supply, and the effect of the direction of sale on prices on both sides of the border, plus the form of cultural exchange.

People have been moving from place to place since time immemorial. While some relocate in search of a better job, education, economic benefits, or family reunion, others are forced to flee from conflict, terrorism, or human rights violations. The number of those who are being removed from their places as a result of the effects of climate change, natural disasters, or other environmental factors is growing.⁷²

The border may also be a neutral factor if it does not constitute a barrier and economic conditions are the same or similar in neighbouring countries. Unfortunately, it may also be the source of many threats. It appears that with Ukraine as a neighbour, the last decades may be called a period of synergy. Nonetheless, the border is becoming a negative factor inasmuch as the war in Ukraine has contributed to a deterioration of balance in respect of a broadly understood exchange. Three types of relationship can be distinguished, based on analysis of the nature of the relationship between the neighbouring countries: neighbouring equivalence, asymmetry in which the country with lower costs of production takes a better position, and asymmetry in which the richer party indicates a cross-border division of work for its own benefit.⁷³ In the near future it will be shown which type of asymmetry applies to the relationship between Poland and Ukraine, the key relationship in the context of border control.

The overview of literature and statistical data unequivocally shows that among immigrants, the Ukrainians have dominated for at least 30 years. Within this period of time, several breakthrough events have occurred that have contributed to the increase in the number of Ukrainians in our country. Nevertheless, the last several months (starting from March 2022) are a time when the eastern border has been crossed by several million of our neighbours. The war is in progress. It is unknown

71 R. Szul, Rola..., *op. cit.*, p. 228.

72 N.D. Hetmantseva, O.V. Kiriiak, I.G. Kozub, The Phenomenon of Labor Migration as a Determining Factor of Global Problems, 'Białostockie Studia Prawnicze' 2021, vol. 26, no. 1, p. 65.

73 R. Szul, Rola..., *op. cit.*, p. 229.

when it will be finished and what extremely negative effects will be incurred by the Ukrainians in their country. Therefore, it is hard to say for how long they will want to or will be forced to stay in Poland. It may be assumed, however, that they will more often be the perpetrators of offences (including convicts in the prison population). It has been observed that together with the increase in the number of immigrants from Ukraine, the number of perpetrators of offences with their involvement increases on a pro rata basis in our country. It may seem that out of over 200,000 citizens of Ukraine staying in Poland in 2019, only 2.5% were suspected of committing an offence, though in numerical data this means that approximately 5,500 thou. Ukrainians were offenders.⁷⁴ Police data shows that between 2009 and 2019, more than 54,000 foreigners from more than 160 countries were victims of crime. Among them, 29% are citizens of Ukraine. It is worth emphasizing that out of all the foreigners in Poland, Ukrainian citizens most frequently become the victims of offences – in 40% of thefts, and in nearly 50% of burglaries. Comparing the data on the victimization of Ukrainians and the crimes they commit, it can be concluded that in 2019 they were as often victims of crime as they were suspected of committing it. It is reasonable to assume that many of the factors behind their victimization are not due to immigration or foreign origin, but are rather related to general knowledge about the causes of crime against certain people or people in a certain situation.⁷⁵ Klaus and Woźniakowska-Fajst say that the reason for the different approach to representatives of minority groups may be prejudice, and it results in various forms of discrimination, the most egregious manifestation of which are crimes caused by prejudice.⁷⁶ It is optimistic that:

Although as many Poles sympathize with Ukrainians as dislike them, it is with respect to them that we have seen the greatest improvement in attitudes over the past several dozen years or so. Compared to 1993, the percentage of respondents expressing sympathy for Ukrainians has almost tripled, while those declaring dislike has decreased by more than half.⁷⁷

This means that the change in attitudes toward them will result in a decrease in the rate of victimization of them.' Thus, in accordance with the principles of anticipatory prevention, various activities of a criminological nature, including the victimological one, should be undertaken right now for the benefit of immigrants from Ukraine.

74 J. Włodarczyk-Madejska, M. Kopeć, G. Goździk, O przestępczości..., *op. cit.*, p. 308.

75 *Ibidem*, pp. 291–295.

76 W. Klaus, D. Woźniakowska-Fajst, Związki między wiktymizacją oraz ubóstwem i wykluczeniem społecznym, 'Archiwum Kryminologii' 2012, vol. 34, p. 63.

77 M. Omyła-Rudzka, Stosunek Polaków do innych narodów, Centrum Badań Opinii Społecznej, http://cbos.pl/SPISKOM.POL/2012/K_022_12.PDF (13.01.2023).

Weber and Pickering say that the transnational movement of peoples fleeing conflict, persecution and poverty is a global responsibility, requiring nation states to collaborate for humanitarian resolutions embedded in human rights.⁷⁸ The authors emphasize the human cost of inhumane and populist government immigration and border-entry policies underpinned by ideologies of retribution, suspicion and demonization. According to them, we can observe 'the legal and political power of those who define who is to be included and who excluded at the border' and acknowledge 'the political and legal discourse that invariably defines representations of legal and illegal actors.'⁷⁹ Security comes to define the modern territorial state, as the territorial state defines the nature and parameters of security. Concomitantly, the border features in the security narrative as a fixed cartographic and physical characteristic, inscribed with clear social, cultural, political and legal legitimacy.⁸⁰

Faced with the inevitable changes associated with globalization, wealthy countries should embrace a more mobile and inclusive world and attempt to manage population movements through structural reforms to create 'decent work'. Criminal activity and other security threats will continue to emerge at borders and to challenge any utopian vision of migration, but simply loosening border controls would virtually eliminate one category of cross-border crime by removing the market for human smuggling.⁸¹

It seems that for the duration of Russia's war with Ukraine, the policy of the Polish government has radically changed towards Ukrainians crossing our border. For the moment, at least, people seeking refuge have become more important than political gain. The safety of Ukrainian citizens has become as important as the safety of Polish citizens. Questions remain open about whether the war will permanently modify political attitudes toward migrants and whether the concept of borders will be redefined.

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