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"Gateways to Europe" – a friendly border?

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The enlargement of the Schengen area in 2007 was the result of several years of preparing borders of these countries to operation as external EU borders. Important changes had been made in the legal area; infrastructure has been improved to create optimal conditions to protect the border from the inflow of unwanted persons and goods. The EU-external border is being strengthened security-wise, but what are the conditions of crossing the border that travellers have to deal with?

An answer to this question was provided by the report "Gateways to Europe", based on data collected just prior to the enlargement of the Schengen area (July–October 2007) at nineteen border-crossing points aspiring to create the external EU border¹. The report is the result of a co-operation between research institutions from Bulgaria, Estonia, Finland, Hungary, Poland, Romania and Slovakia.

The key conclusion is that with regard to the external EU border, attention should be paid not only to security, but also to quality of services and conditions at border crossing points. Several problems that became evident during the monitoring should be dealt with in order to improve the standards of border crossing points on the external EU land border.

The main problems are visible in the following areas:

- Infrastructure of border crossing points;
- Communication: access to information about border crossing procedures and communication between travellers and border staff;



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¹ The research was based on surveys and in-depth interviews gathered among (1) travellers, such as cross-border traders, labour migrants, businessmen, people visiting family members, tourists; (2) checkpoint officials: Border Guard and Customs officers and (3) local experts. 300 questionnaires were conducted at large border-crossing points, 200 questionnaires at small border-crossing points, indepth interviews – 366 with travellers, 89 with local authorities, 64 with border officials. The research teams also carried out "hidden" observations at the border crossing points, crossing the border anonymously as tourists.

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 Cooperation between border authorities, local municipalities and state authorities (also with the non-EU side).

The consequences of the problems in the areas mentioned above include:

- The formation of queues;
- Insufficient application of non-discrimination rules;
- Corruption practices.

The current approach to border management, which sees border crossing points solely as places separating European Union countries from third countries and treats the border primarily through its security function, needs to be discussed. However, the need to change this approach is visible, as it is crucial to allow eligible persons to cross the EU border in accordance with elementary European standards, based on the Schengen *acquis* and the Customs Community Code, and above all the European Convention on Human Rights.

The conditions of crossing the external EU border, including the standards of travel documents control and customs clearance, are the most important aspect of the functioning of the border from travellers' perspective. Given the current conditions at border-crossing points, the everyday experiences of thousands of travellers moving across borders - whether as drivers, passengers or pedestrians - constitute a serious problem. Regardless of whether the travellers are EU or non-EU citizens, no matter what their reason for travelling, they are waiting in long queues, often in uncomfortable conditions; they and their belongings are subjected to detailed control; they are quite frequently hard-pressed to obtain relevant, up-to-date information about border crossing regulations.

According to the results of the research, the standards of functioning of the border need to be visibly improved. The main problems concern the quality of infrastructure, as well as communication and co-operation issues, which have strong impact on the formation of queues, the implementation of the nondiscrimination rule, and the existence of corruption. For analytical purposes, in this policy brief we will focus on two main problem areas: infrastructure and quality of services rendered by Border Guard and Customs officers. Although this study was conducted before the enlargement of the Schengen area, it identified currently relevant problems. We analyse the main research results giving as a comparative background the regulations of Schengen Borders Code.

I. Infrastructure

The layout and infrastructure of border crossing points, despite being among the most fundamental elements of efficient cross-border movement, were consistently found to be the weakest aspects of the border-crossing points assessed during the research.

1. Lanes at border-crossing points

According to recital 10 of Schengen Borders Code, Where it is deemed appropriate and if local circumstances so allow, Member States should consider installing separate lanes at sea and land border crossing points. However, at several of the researched border crossing points with heavy traffic there were no separate lanes for EU- and non-EU citizens. This problem was noted at the Tiszabecs border crossing point on the Hungarian-Ukrainian border. Officially, the "one-lane control" procedure was in place, which meant that travellers' cars were stopped at one point to allow for customs control and for the verification of documents.

Moreover, as referred to in Article 9(1), Member States should clearly signpost lanes at bordercrossing points. As results from the research, although signs indicated the purpose of each lane, travellers were confused about when to use a particular lane, because during shifts the rules of using them were changed by officers of Border Guard and Customs. Most problems arose around the use of the "nothing to declare" lane, which often failed to proceed as quickly or efficiently as it should have. While many travellers expected that the "nothing to declare" lane would provide the most expeditious way of crossing the border, whether they were crossing the border for professional reasons such as business trips or in order to fulfil duties ordered by an employer, they were somehow regarded as "suspicious" and subjected to the same treatment as informal petty-traders.

In the opinion of travellers, the most important was the insufficient number of lanes compared to the intensity of traffic. This problem concerned the majority of the researched border crossing points that were established for local or regional traffic and had to adapt to international mobility. For example in Zosin on the Polish-Ukrainian border there were only two entrance and exit lanes; in Sighetul Marmației on the Romanian-Ukrainian border and Tiszabecs on the Hungarian-Ukrainian border, bridges connect the two neighbouring countries, which allows for one-way traffic only, and cars have to wait for their turns.

Research results indicated some problems appeared in relation to Article 9(4) of Schengen Borders Code saying that In the event of a temporary imbalance in traffic flows at a particular border crossing point, the rules relating to the use of the different lanes may be waived by the competent authorities for the time necessary to eliminate such imbalance. With the insufficient number of lanes, some travellers remarked that Border Guard officers, instead of being flexible, refused to let part of the non-EU travellers pass through the EU-lane the moment the latter was free. Many complaints about an imbalance in the use of lanes were received on the Polish-Ukrainian border at Medyka bordercrossing point. The EU lane was served faster and there were shorter queues, while in the non-EU lane the waiting time was generally considerable. This situation had strong impact on non-EU travellers' impression of being discriminated by EU Border Guard and Customs officials.

The problem of infrastructure concerns also the question of compatibility of both the EU and non-EU sides of the border crossing points. High standard of buildings and lanes on the EU side of a border crossing point do not solve the problem of traffic capacity when third country crossing points do not have a sufficient number of terminals to carry out the controls of travel documents and property. This shows that problems of border-crossing point infrastructure are complex and require close cooperation with the neighbouring countries.

2. Problem of queues

Queues were found to form at border-crossing points due to an insufficient number of lanes and/or inadequate management of border traffic. Respondents complained about long waiting times. According to the results of the research, the longest waiting times occurred at the external EU borders with Ukraine and Russia. For example, on the Polish-Ukrainian border there were two checkpoints with very long average waiting times: Medyka - six hours, and Zosin - almost five hours; at the Slovak-Ukrainian border in Vysne-Nemecke the average waiting time was more than 4 hours. A very long waiting time was also observed in Bezledy, at the Polish-Russian border. These long waiting times affect not only the non-EU citizens who are subjected to more extensive inspection procedures according to EU regulations, but also EU citizens.

Traveller's overall negative perception of the quality of services provided at border crossing points resulted not only from the long waiting times, but also from the uncomfortable and sometimes even dangerous conditions in the queues. The queues formed mainly when entering the EU. Border Guard and Customs officers suggested that one of the main reasons for the creation of long queues was the increased volume of traffic. That is certainly true, especially during particular seasons or times of day when the intensity of traffic across the border increases. However, taking a look at traffic intensity at the studied border crossing points in that period and comparing it with the data on gueues it is clear that the greatest complaints were most frequent not necessarily in places with the highest traffic.

3. Additional infrastructural problems

The conducted research indicated that there were also other infrastructural problems, such as the lack of well-equipped waiting rooms and areas before customs clearance and passport control, low quality or utter lack of restrooms, or the lack of sufficient number of buildings to carry out detailed controls on persons or cars.

To be more precise, there were cases of no separate bus terminals and terminals for pedestrians. For example, in Zosin, although there was no bus terminal at the crossing point, busses were allowed to cross, which meant that regular vehicles had to wait much longer while the passengers from the bus were undergoing control. The Koidula border-crossing point on the Estonian-Russian border and Tompa on the Hungarian-Serbian border did not have terminals for pedestrians, which meant that those crossing on foot had to wait between cars to have their travel documents checked. The number of buildings was insufficient to carry out control and administrational work, for example on the Polish-Russian border at the Bezledy border-crossing point and on the Slovak-Ukrainian border. In the case of Medyka border-crossing point on the Polish-Ukrainian border, there was just one building to carry out detailed inspections on cars. Because of the high intensity of traffic at this border crossing, Customs and Border Guard officers were forced to perform detailed controls of cars at the open-air car park.

The conducted monitoring of border crossing points indicated insufficient restroom facilities, waiting rooms and services for persons with disabilities and for parents with small children. Only 4 out of 19 border crossing points were equipped with special infrastructural solutions for disabled and parents with children. For instance, the restroom at the Terespol crossing point was paid and there was none in Zosin, while the restroom facility for women at the Medyka crossing point was closed. Other border crossing points had toilets but most of them were of a low standard.

In addition, infrastructure before the actual border-crossing point was insufficient to meet travellers' needs. Long queues formed which were not sufficiently managed by the border staff and local authorities. Respondents at the EU-Ukrainian border most often complained about the lack of order in the queues. Travellers skipped queues, forced their way to advance in the queue, paid bribes and used other informal strategies to cross the border faster. While waiting in long queues, travellers needed to use facilities in the area of the checkpoint, such as gastronomic services, currency exchange points or restrooms. In the case of Medyka and Bezledy border crossing points, the standards of cleanliness and services of such elementary facilities as bars, toilets and waiting rooms had to be improved.

The infrastructural conditions described above constitute a significant limitation for ensuring a better implementation of elementary human rights on the borders.

II. Between Scylla and Charybdis? Quality of services

Due to the stringent levels of militarization in the past, crossing the borders of countries which are today responsible for the external EU border used to be an unpleasant and often traumatic experience for many travellers. Having in mind the restricted international mobility prevailing for half a century at these border crossing points, the quality of services provided there currently take on, next to the EU standards of respect for human rights, even more significance. Moreover, the present day detailed controls and cases of unpleasant behaviour, regardless whether towards EU or non-EU citizens, breach the personal dignity of travellers.

The quality of services provided at the border can be analysed from three perspectives: firstly, the efficiency of carrying out checks, including communication skills, such as knowledge of foreign languages, and facilitating a fast crossing of the border; secondly, the attitudes of Border Guard and Customs officers during controls; and thirdly, the co-ordination of activities and communication of the border authorities with local government and third country border authorities. All three of these aspects interact and result in the overall evaluation a traveller leaves the border crossing point with.

Article 7(2) of Schengen Borders Code states the following regarding the border checks on persons: The minimum check... shall be the rule for persons enjoying the Community right of free movement. This means that EU citizens are exempted from a more thorough check, which is obligatory in the case of the so-called third country nationals. The control of travel documents, however, does not have to be an unpleasant experience – this is to be guaranteed by the professionalism of Border Guard officials inscribed in Schengen Borders Code, such as respect for the non-discrimination rule, high level of communication skills and fulfilling duties in accordance with the objectives pursued. In addition, the preamble to the Code states that citizens of third countries should also enjoy the right of free movement equivalent to that of Union citizens (recital 5)². Thus, both EU and non-EU citizens ought to expect, having complied with legal regulations, a smooth and efficient control of travel documents and belongings at border crossing points. However, the difference in regulations concerning checking travel documents of EU and non-EU citizens entails the assumption of third country citizens being less trustworthy. This conviction is visible at some border sections in the behaviour of border authorities, for whom balancing the fine line of the rights and restrictions concerning non-EU citizens is clearly difficult. What seems to be more the rule – by pushing the controls to an extreme, prolonging the waiting times – is "rather be safe than sorry". Thus, it would seem that more security

entails less respect for human rights; but is that really a justified trade-off?

1. Efficiency of controls

According to the research results, the efficiency of border authorities was, in general, positively evaluated. The efficiency of Border Guard officers' performance was assessed more positively than that of Customs officers. This was partly linked to the respondents' inability to differentiate between the roles of Border Guard and Customs officers and the protocols and procedures they entailed. The border authorities were also compared by respondents to their non-EU colleagues, which resulted in the quality of their work being perceived much more positively. Additionally, there were significant differences between evaluations of the officers of Border Guard and Customs by EU and non-EU travellers, with the latter often being more critical in their responses. This is especially the case of border crossing points with Russia and with Belarus.

Travellers gave negative evaluations at some of the sections of the EU-Ukrainian border. Specifically, this occurred at the Polish section, where the majority of the negative opinions came from pedestrians crossing the border. The negative evaluations provided by Ukrainian citizens were, in part, reactions to the detailed inspections that they were obliged to undergo. Meanwhile, at the Hungarian section of the EU border with Ukraine, the efficiency of Border Guard and Customs officers was more positively assessed. The opinions at the Slovak section of the border with Ukraine were similar.

The negative evaluation is among others related to the already discussed long waiting times in queues. Travellers claimed that they were formed due to the inefficient control of documents and belongings carried out by the border authorities. Many had the impression that the control of third country citizens was prolonged on purpose. The reason behind such thinking could be the lack of information about differences in control procedures with regard to EU and non-EU citizens.

² "The definition of common rules on the movement of persons across borders neither calls into question nor affects the rights of free movement enjoyed by Union citizens and members of their families and by third-country nationals and members of their families who, under agreements between the Community and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens". Recital 5 of Schengen Borders Code.

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According to the preamble to the Schengen Borders Code, Member States should ensure that control procedures at external borders do not constitute a major barrier to trade and social and cultural interchange. To that end, they should deploy appropriate numbers of staff and resources. Meanwhile, at many of the studied border crossing points travellers complained about long-lasting and very detailed controls in the case of groups crossing the border as part of some form of cultural cooperation or exchange program. For instance at Polish-Russian, Polish-Ukrainian and Slovak-Ukrainian crossing points all travellers were subjected to as detailed controls as petty border traders although they informed the Border Guard and Customs officers about the purpose of their travel. This indicates that the external EU border is, in some cases, a barrier to cross-border cooperation, which was confirmed by other studies (Krok, Smetkowski 2006, Szul 2001).

One aspect of inefficient controls mentioned by travellers relates to Article 10 of Schengen Borders Code, with no clear provisions on how to stamp travel documents of third-country nationals. Meanwhile, travellers claim that Border Guard officers stamp their passports using space in them inadequately, thus forcing them very soon, due to lack of space for new entrances, to apply for a new passport – a timeconsuming and costly procedure. This form of placing stamps in travel documents means that those who have to travel frequently are constrained by their passports lacking quickly space.

Both Border Guard and Customs officers are responsible for checking the means of transport and the goods carried by travellers. This is among others provided for in Community Customs Code and Schengen Borders Code (Article 7(1)). A number of respondents – especially those who were engaged in petty trade – frequently complained about the very detailed inspection to which vehicles were subjected. Customs officers in some cases used inappropriate instruments to carry out their duties, and thereby damaged some travellers' vehicles. Individuals who were randomly selected for detailed inspections were surprised by the rough nature of this procedure and often expressed concern about the condition of their vehicles. This took place especially at the Polish section of the border with Ukraine.

In addition, some respondents had negative experiences with detailed inspections of their luggage, where goods and articles were opened and tested in front of Customs officers and often damaged in the process. There is no doubt that, in order to ensure legal and safe cross-border movement, travellers and their goods should be subject to inspections. However, attention should be drawn to the fact that Customs officers use sometimes inappropriate, inefficient or otherwise costly practices to "expose" travellers alleged smuggling intentions. Respondents claimed that these excessively detailed, occasionally damaging controls were carried out purely as "warnings" to dissuade cross-border traders from engaging in any illegal activity. All in all, detailed inspections by Border Guard and Customs officers did convey an impression of disrespect for personal dignity of an individual.

One of the side-effects of inefficient border checks is corruption. However, according to this research, corruption has visibly decreased in comparison to how the research checkpoints operated in the past. One of the likely reasons for this decrease is the recent establishment of anticorruption institutions and the installation of surveillance systems at most border crossing points. Still, most respondents believed that "hidden" corrupt practices still persisted along the borders, that is, outside the main area of the cross border points. Bribes are given to border officials by petty traders and smugglers to increase the number of goods brought across the border, but they are also offered by businessmen who want to cross the border faster.

2. Non-discrimination rule

Article 14 of the European Convention on Human Rights sets forth the non-discrimination rule that entitles all citizens to all the Community rights and freedoms³. In addition, the question of respect for human dignity during border checks is addressed in the preamble to the Schengen Borders Code (recital 7)⁴ as well as in Article 6 (Conduct of border checks): 1. Border guards shall, in the performance of their duties, fully respect human dignity. Any measures taken in the performance of their duties shall be proportionate to the objectives pursued by such measures. 2. While carrying out border checks, border guards shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

However, many travellers did feel discriminated on the basis of their citizenship, which often, but not always, correlated with being of a different ethnicity. In general, the attitude toward EU nationals was professional and polite, while toward non-EU citizens, officers' behaviours were described as disrespectful, informal and often patronising. Non-EU citizens, as well as individuals who crossed the border frequently for trade or for work purposes, reported receiving condescending or even insulting remarks from officers as they inspected documents and asked questions. Attitudes toward tourists and businessmen were more respectful and civilized than they were toward traders and truck drivers. Thus, the type of treatment travellers received could be determined by their nationality/ethnicity and/or their purpose of travel.

Such negative experiences were voiced at some border-crossing points between the EU and Ukraine in Slovakia and Poland. At the EU-Russian border, the condescending attitude of Border Guard officers was particularly

noticeable when they dealt with petty traders. In Estonia, negative evaluations of Border Guard's work were given by respondents who felt that their fellow citizens and other countries' nationals were being treated differently. According to one respondent, There is a long waiting in the general queue while EU citizens often cross the Estonian side of the border more quickly using a separate window. That creates situations in which citizens of third countries are obliged to stay in a queue for a longer time while the Border Guard officer at the EU booth is free. At the border between the EU and Moldova, Moldovan citizens claimed that there was a marked difference in the treatment that foreign travellers received.

3. Communication skills

Pursuant to national legislation, Customs and Border Guard officers are obliged to be conversant in a few languages, especially those spoken in the two bordering countries. The ability to communicate with travellers is an essential component of the professional service expected at border crossing points. Research indicated three main problems with regard to officers' communication skills. First, inadequate command of foreign languages: Border Guard or Customs officers resorted to an incomprehensible melange of two languages that was extremely difficult for travellers to understand. Second, refusal to speak foreign languages: Border Guard officers, although able to speak foreign languages, presumed that travellers understood the language spoken in their destination country and so spoke to them only in that language. This bred much misunderstanding and confusion among travellers who may or may not have had a solid command of their destination country's predominant language. Third, speaking in a language that is undesirable for political and historical reasons: Ukrainian and Belarusian travellers were forced by Border Guard officers to communicate in Russian. Problems with officers' (lack of) knowledge of foreign languages were mostly evident on the Polish border with Ukraine and Russia, the Bulgarian border with Turkey and Serbia, and the Hungarian border with Serbia.

³ "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status". Article 14 of ECHR.

⁴ "Border checks should be carried out in such a way as to fully respect human dignity. Border control should be carried out in a professional and respectful manner and be proportionate to the objectives pursued". Recital 7 of Schengen Borders Code

Another important element of communication is the form of addressing travellers. According to the research results, the border authorities addressed the travellers in general in a polite way. However, again the main problems were noticed at the border crossing points with Ukraine, where a large number of Ukrainian travellers claimed that the behaviour of Border Guard officers depended on the overall context when crossing the border. The main problems with addressing travellers – especially non-EU citizens - politely were observed at the border crossing points with Ukraine in Zosin. Over one third of travellers from Ukraine claimed that means of address depended on the context in which meeting with border authorities took place. In Hungary, although the majority of respondents believed that other countries' citizens were not addressed differently, there was a difference between border crossing points: more people at Tiszabecs (border with Ukraine) than at Tompa (border with Serbia) were of the belief that Border Guard officers addressed people differently. At the Polish border crossing points with Ukraine, more positive opinions were found among travellers in private cars than among pedestrians crossing the border. The style in which border officials addressed travellers was also influenced by the behaviour of the travellers themselves. For instance, the behaviour of some of the inhabitants of Slovakia or Poland who used various "strategies" to conceal and protect their smuggled goods during inspections triggered more severe reactions from the officials. On the other hand, some Border Guard and Customs officers addressed travellers harshly without provocation.

III. Conclusions

The above analysis of the selected aspects of the functioning of external EU border crossing points allows the conclusion that the border functionality is insufficient with respect to the quality of services provided to travellers. The management of border traffic, infrastructure and services at border crossing points need to be improved to make them more travellerfriendly. This is especially important in the context of economic and social meaning of borders, which are the "gate" to the European Union for third country nationals. Moreover, the quality of services ought to be used as an important component of propagating a positive image of the European Union.

Some EU institutions have already undertaken some steps in this direction. For example, FRONTEX has developed documents on the standards of educating border authorities (Common Core Curriculum) and other solutions are being developed on the basis of debates on the role of human rights in the training of European Border Guard officers⁵. These solutions partly cover the problem indicated in above presented study. To achieve high standards quality of operation border-crossing points at EU land border, a systematic monitoring of border crossing points should be carried out according to recommendations presented below.

IV. Recommendations

Infrastructure

- Improve the quality and number of lanes, restrooms, waiting areas and gastronomic facilities in the area of border crossing point as well in the entrance area to the border crossing point;
- Build and/or improve existing facilities for people with disabilities and parents with small children;
- Given the composition of the travelling population, establish medical posts with first aid and emergency medical equipment at all border crossing points;
- Improve the management of the area at border crossing points, which requires co-operation of the following institutions: local government, local police and Border Guard and Customs officers;
- Improve the quality of infrastructure on the UE side, which requires the recognition of

⁵ Meeting of representatives of Frontex, UNHCR, IOM and ICMPD, devoted to the best ways of including human rights in the training of Border Guard officers in EU Members States – Prague (the Czech Republic), 25th November 2008.

conditions of infrastructure on the non-EU side of the border crossing point, and building a common strategy for bordering countries to develop existing and to build new border crossing points;

Improve legal and infrastructural conditions of crossing the external EU land border taking into consideration its importance for EU trade with non-EU partners such as Russia.

Queues

Decreasing the waiting times in queues requires:

- Improving the border-crossing points' infrastructure;
- Bettering the co-ordination between the EU and non-EU border authorities;
- Increasing efficiency of work of Border Guard and Customs officers;
- Increasing the number of functioning bordercrossing points.

Communication

- Due to the frequent changes in customs and passport control regulations – especially those concerning the entrance of the countries like Estonia, Latvia, Lithuania, Poland, Slovakia and Hungary, into the Schengen area – put in place a well-functioning system of information on this section of the external EU borders;
- Translate all information in the languages of neighbouring countries, and one of the languages most frequently used in the EU (like English, French, German);
- Improve the availability of information at the non-EU side of the border, in the area of the EU border-crossing point, as well in the entrance area to EU side of border crossing point;
- Improve the Border Guard and Customs officers' knowledge of foreign languages and arrange trainings and courses especially designed for these professional groups. Encourage border staff to use foreign languages when communicating with foreign travellers;
- Create financial and legal instruments to establish and maintain closer institutional ties

between local communities, Ministries or administrative units responsible for border management;

Stress the need of professional and polite way of communication of Border Guard and Customs officers with travellers, with special focus on the respect of non-discrimination rule, as well as the protection of human dignity.

Non-discrimination rule

- Improve respectful and not-discriminatory behaviour of border guards and custom officers towards travellers regardless of their citizenship, ethnicity and purpose of their travel;
- Create clear standards of respectful carrying out of detailed inspections on persons and travellers' belongings.

Co-operation

- Ensure equal earnings and other benefits of Border Guard and Customs officers;
- Improve the co-ordination of shift changes of EU and non-EU Border Guard, especially during the different holidays of the neighbouring countries;
- Improve the quality of information given to non-EU Border Guard (especially in Ukraine), as well as of that received by EU border staff, about border crossing rules of the neighbouring country;
- Create special financial, personnel and legal instruments as a basis for the development of good communication between Border Guard and Customs officers from both sides of the border, as well as between other institutions or organizations important for the operation of border-crossing points.

Corruption

- Continue anticorruption initiatives;
- Support responsible discussion in mass media about the prevention of corruption on the border;
- Build efficient instruments to prevent further development of "hidden" corruption at

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border crossing points. One of those instruments could be the duty of Border Guard and Customs officers to submit annual reports on the state of their belongings to suitable authorities.

Local communities near the border-crossing points

 Continue to develop co-operation within the framework of Euroregions.

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