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**THE CRIME OF MATERIAL FORGERY
OF DOCUMENTS IN THE CONTEXT OF ILLEGAL
CROSSING OF EXTERNAL BORDERS
OF THE EUROPEAN UNION AND SECURITY
OF THE STATE AND CITIZENS**

Abstract

The main purpose of the article is to draw attention to the material forgery of travel documents as a practice that enables illegal crossing of the external borders of the European Union/Schengen Area and free movement within these areas. The author's intention was also to indicate the relationship of this practice with the security of citizens and the state, which results from the fact that from the legal, forensic and criminological point of view, forgery of documents, including travel documents, is associated with a number of other types of crime, such as trafficking in human beings, including in particular children, arms and drug trafficking. The issue of crimes against the credibility of documents has gained importance in modern times, in which the international mobility of society is growing at a rapid pace. A very important aspect in the context of the analyzed issues is the situation that occurred in Belarus in connection with the civil war in Syria, as well as in the Russian-Ukrainian conflict, which worsened at the end of 2021. The analysis of the presented statistical data of the European Border and Coast Guard Agency shows that every year there are many crossings or attempted crossings of the external borders of the European Union against the law with the use of false documents. Despite the downward trend in this area in 2015-2020 and the lower intensity of this practice, in 2021 a significant increase in the number of such cases was recorded. The above allows us to conclude that the aetiology of illegal border crossing with the use of forged documents should be sought in the situation that occurred in Belarus in connection with the civil war in Syria, as well as in the Russian-Ukrainian conflict, which was escalating at the end of 2021.

Keywords: falsification of documents, citizen security, illegal border crossing

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Introduction

The state and its organs are charged with the obligation to ensure security and public order, in which individual units could function and multiply their goods. Proper implementation of tasks in this dimension by state authorities is an essential condition for the material and cultural development of people residing in the territory of a given state and the fulfilment of its functions¹.

Taking into account the thesis according to which the forgery of documents makes it possible to commit other criminal activities, and thus to commit many acts important from the perspective of the security of the state and citizens, it can be concluded that forgery of documents constitutes a significant threat to the stability and integrity of the legal system of the Polish state and widely understood security of the state and its citizens. In this process, it should also be borne in mind that after Poland's accession to the Schengen area/European Union, the main burden of responsibility in the field of border control and protection of the state border rests on the eastern section of the state border, which is also the external border of the said area.

The main purpose of this publication is to draw attention to the material forgery of travel documents as a practice that enables illegal crossing of the external borders of the European Union/Schengen Area, free movement within these areas, as well as an indication of the relationship of this practice with the issues of security of citizens and the state. In this context, a thesis was put forward according to which forged documents in many cases are a tool for illegally crossing the borders of the European Union, and that the aetiology of these phenomena is influenced by many factors, which undoubtedly include armed conflicts, including the civil war in Syria or the conflict in Ukraine that started in 2014, with particular emphasis on its current phase of military operations, which has been ongoing since February 2022. This thesis was verified using, among others, legal-dogmatic and sociological method, which was used to present the statistical data of the European Border and Coast Guard Agency. A direct, free from axiological evaluation, description of the phenomenon of legal highs is possible thanks to the use of the phenomenological analysis method². In the implementation of the research pro-

¹ S. Pikulski, *Podstawowe zagadnienia taktyki kryminalistycznej*, Białystok 1997, pp. 23-24; See more: A. Dzwonek, T. Kling, *Biometria w dokumentach podróży*, [in:] *Dokumenty we współczesnym prawie*, ed. E. Gruza, Warszawa 2009, p. 39.

² M. Szostak, M. Szostak, *Sekty destrukcyjne. Studium metodologiczno-kryminalistyczne*, Kraków 2011, p. 20.

cess, the research method referred to as a case study (case study) is also helpful, which can be used in a narrow sense - to reconstruct the course of a given phenomenon, to present the conditions and factors that shape it and broadly, i.e. to broaden knowledge about phenomenon that is not fully defined³, is a new, undefined phenomenon.

It should be emphasized that in recent years rapid changes in threats to the security of citizens, society and the state have become noticeable. The analysis of this issue allows us to see close links between selected categories of crime and security on a micro and macro scale. Clear interactions occur in particular in the relationship between the security of citizens and the state and certain types of crime, including include: organized crime, terrorism, economic and common crime⁴. This applies in particular to crimes against the credibility of documents. Documents very often serve both as an object and a tool in committing many crimes that significantly threaten the legal order, the security of citizens and the state. There is a view in the literature according to which document forgery is a common "satellite" crime, constituting an indispensable element of modern organized crime, in which the document is the most important means of committing crimes⁵. This means that these acts are very often a key element enabling other criminal activities, such as trafficking in human beings, smuggling of migrants, drugs, weapons, stolen vehicles⁶. Therefore, there can be no doubt about the observation that the problem of crimes against the credibility of documents, in particular travel documents, has become even more important in modern times, when the international mobility of society is growing at a rapid pace. A very important aspect in the context of the analysed issues is the situation that occurred in Belarus in connection with the civil war in Syria, as well as in the Russian-Ukrainian conflict, which worsened at the end of 2021. In this context, it is worth paying attention to illegal immigration as a challenge for many countries and international organizations, including European Union. This practice is largely based on forgery of documents. It

³ P. Mielcarek, *Metoda case study w rozwoju teorii naukowych*, „Organizacja i Kierowanie” 2014, no. 1, pp. 106-107.

⁴ J. Murasicki, *Relacje między wybranymi kategoriami przestępczości a bezpieczeństwem obywateli*, „Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej im. Witolda w Legnicy”, 2014, no. 12, p. 49.

⁵ H. Kolečki, *Technicznokryminalistyczne badania autentyczności dokumentów publicznych nieniszczącymi wielospektralnymi technikami optycznymi za pomocą wideospektrokomparatora VSC-1*, Poznań 2002, p. 33.

⁶ *Sprawozdanie Komisji dla Parlamentu i Rady z postępów w zwalczaniu handlu ludźmi* (2016 r.), Bruksela, 19.5.2016, COM(2016) 267 final; European Union, <https://eur-lex.europa.eu> (20.10.2022).

is enough to mention in this regard that forgery of documents and identity theft are proven ways to facilitate obtaining, for example, a permanent residence permit in the territory of the EU⁷.

Material forgery of documents - legal aspects

The main purpose of this article is to draw attention to the material forgery of documents⁸ travel as a practice enabling illegal crossing of the external borders of the European Union/Schengen Area. The need to undertake a debate in this regard results from the connection of this practice with the issues of security of citizens and the state, and the author's belief that the use of counterfeit and forged documents determines this security.

Using a false document is one of the forms of illegal entry into the territory of a given country/European Union/Schengen Area. It is worth emphasizing that the use of such a document has been penalized both in Polish law and in the law of other EU Member States. Since the framework of this article does not allow for a comprehensive discussion of the criminal law aspects of document forgery, the discussion of the essence of the indicated procedure is based on the provisions of the Penal Code in force in Poland⁹ (hereinafter referred to as PC) concerning the most important issues of material falsification of documents¹⁰. According to the Communication from the Commission to the European Parliament and the Council, "Action plan to strengthen the European response to travel document fraud", the travel document is usually a passport, but it can also be a national identity card and a residence permit issued to third-country nationals (when used in an area without internal border controls). A citizen of the Union may enter its territory, the Schengen

⁷ K. Izak, *Brak dokumentów, fałszywa tożsamość i dziurawe prawo sposobem na pobyt stały w UE*, „Człowiek i Dokumenty”, 2019, no 52, pp. 48, 57.

⁸ Ustawa z dnia 6 czerwca 1997 r. Kodeks karny (Dz.U. 2022, poz. 1138); G. Kopczyński, *Kryminalistyczne aspekty przestępstw przeciwko wiarygodności dokumentów w kodeksie karnym z 1997 roku*, „Nowa Kodyfikacja Prawa Karnego”, 2000, no.4, pp. 245–263; H. Kolečki, *op.cit.*, p. 29; W. Wróbel, T. Sroka, *Komentarz do art. 212-277d*, [in:] *Kodeks karny. Część szczególna*, Tom II. Część II, ed. A. Zoll, Warszawa 2017; J. Piórkowska-Fliieger, *Falsz dokumentu w polskim prawie karnym*, Kraków 2004, pp. 148, 337; J. Materewicz [et al.], *Kodeks karny. Komentarz*, ed. M. Mozgawa, Warszawa 2015; I. Jankowska-Prochot, *Karnoprawne aspekty przestępstwa fałszerstwa intelektualnego*, „Journal of Modern Science”, 2016, vol. 28, no. 1, p. 237.

⁹ Ustawa z dnia 6 czerwca 1997 r. Kodeks karny...

¹⁰ See more: D. Semków, *Falsz materialny dokumentu. Aspekty prawne i kryminalistyczne*, „Przegląd Prawno-Ekonomiczny”, 2019, no. 1, pp. 40-54.

area and some third countries, as well as leave this territory, using an identity document issued by a Member State. In practice, this means, among other things, that foreign terrorist fighters may be able to travel between the EU and Turkey on the basis of their identity card¹¹.

In the Polish legal system, pursuant to the provisions of the Act of 12 December 2013 on foreigners, a travel document is a document recognized by the Republic of Poland, which entitles the foreigner to cross the border, issued to a foreigner by a foreign state authority, a Polish authority or an international organization or an entity authorized by a foreign state authority or a foreign state authority. A foreigner who crosses the border is obliged to have a valid travel document (Article 23). Based on Article 28 sec. 1 point, the lack of a valid travel document, valid visa or other valid documents entitling to enter the territory of the Republic of Poland and stay on this territory constitutes a reason for refusing entry to the territory of the Republic of Poland. According to the judgment of the Voivodship Administrative Court in Warsaw¹² border check activities do not have to involve the production of any evidence, although in some cases detailed verification may lead to obtaining printouts from databases or justify the preparation of an official note, which may be used in the subsequent proceedings on refusal of entry. The admissibility of issuing a decision on refusal of entry to a foreigner depends not only on proving that he/she does not meet the conditions listed in Art. 28 sec. 1 of the Act of 2013 on foreigners, but also from explaining whether during the border control he did not declare his intention to submit an application for international protection¹³, which is a very important aspect in the context of the ongoing armed conflict in Ukraine with the Russian Federation. It should be pointed out that Poland is the only EU country that may consider a person's application for

¹¹ *Komunikat Komisji do Parlamentu Europejskiego i Rady, Plan działania na rzecz wzmocnienia europejskiej reakcji na przestępstwa przeciwko wiarygodności dokumentów podróży*, Bruksela, dnia 21.3.2017 r. COM(2016) 790 final/2, s. 2, European Union, <https://ec.europa.eu> (27.03.2020).

¹² Wyrok Wojewódzkiego Sądu Administracyjnego w Warszawie z 8.12.2017 r., IV SA/Wa 2271/17, LEX no. 2453614.

¹³ See also: Konwencja dotycząca statusu uchodźców sporządzona w Genewie dnia 28 lipca 1951 r. (Dz.U. 1991, nr 119, poz. 515 i 516); Protokół dotyczący statusu uchodźców sporządzony w Nowym Jorku dnia 31 stycznia 1967 r. (Dz.U. 1991, nr 119, poz. 517); Konwencja o Ochronie Praw Człowieka i Podstawowych Wolności (Dz.U. 1993 r., nr 61, poz. 284). A. Szklanna, *Ochrona prawna cudzoziemca w świetle orzecznictwa Europejskiego Trybunału Praw Człowieka*, Warszawa 2010; P. Dąbrowski, *Rozstrzygnięcie spaw o udzielenie ochrony międzynarodowej obywatelom Ukrainy w świetle koncepcji alternatywy ochrony wewnętrznej w kraju pochodzenia*, „Polski Rocznik Praw Człowieka i Prawa Humanitarnego”, 2018, no. 9, pp. 59-60.

international protection in a situation where a person enters the EU for the first time in Poland¹⁴. The second of these circumstances, which is a negative premise for issuing a decision on refusal of entry, makes it necessary to assess whether the will to submit such a form has been expressed. Pursuant to sec. 1 item 6 of the discussed article, refusal of entry into the territory of the Republic of Poland also occurs in the case of possession of counterfeit or forged documents mentioned above.

For the sake of clarity, it should be noted that forgery of documents, listed in Chapter XXXIV of the Penal Code, entitled Offenses against the credibility of documents, can take one of two forms. The first is material falsification, which is defined in Art. 270 PC. The second type is intellectual falsehood, defined in art. 271 of the Penal Act. In the literature on the subject, it is indicated that the term falsity is used interchangeably with the term falsification, the explanations of which in Polish language dictionaries emphasize its close relationship with legal language¹⁵. In the dictionary of the Polish language, forgery is defined as counterfeiting something, presenting it incorrectly¹⁶ or counterfeiting or altering documents, money, works of art, official signs¹⁷. Forgery of a document is one of the basic crimes in the group of those that affect documents¹⁸.

The crime of material forgery derives its name from the fact that the perpetrator affects the matter of the document, and his goal is to give it the appearance of authenticity¹⁹. The provisions of both the applicable criminal law, the doctrine of criminal law, the judiciary as well as the opinions of commentators and experts in forensic research indicate two forms of material forgery of a document²⁰. Article 270 § 1 (*in principio*) clearly indicates that it can be committed either by forging or by counterfeiting a document²¹. According to the judgment of the Supreme Court²² counterfeiting of a document takes place only when the document does not come from the person on whose behalf it was drawn up, when it is produced by a person not authorized to issue it. It is therefore about

¹⁴ *Dostęp do ochrony międzynarodowej*, UNHCR, <https://help.unhcr.org> (05.07.2023).

¹⁵ J. Piórkowska-Flieger, *Rozdział I. Prawna i społeczna doniosłość ochrony wiarygodności dokumentów* [w:] *Falsz dokumentu w polskim prawie karnym*, Kraków 2004.

¹⁶ *Słownik języka polskiego*, vol. II, red. W. Dorszewski, Warszawa 1965, p. 803.

¹⁷ *Ibidem*.

¹⁸ J. Piórkowska-Flieger, *Rozdział I. Prawna i społeczna doniosłość...*

¹⁹ I. Jankowska-Prochot, *op.cit.*, p. 237.

²⁰ H. Kolečki, *op.cit.*, p. 29.

²¹ W. Wróbel, T. Sroka, *Komentarz do art. 212-277d...*

²² Wyrok SN z dnia 24 października 2013 r., sygn. III KK 373/13, LEX no. 1386041; see also: Uchwała SN z 17.03.2005 r., sygn. I KZP 2/05, Opublikowano: OSNKW 2005/3/25.

drawing up a document consisting in maintaining the appearance that it comes from an authorized entity, i.e. the so-called forgery or imitation of a genuine document. The alteration of a document should be understood as giving the document a different content than what it originally had. This may be done by adding something to its content or removing some entries from it by an unauthorized person²³. It should be noted that it does not matter whether the content of a document corresponds to the facts stated therein or not²⁴.

Judicial jurisprudence has from the beginning expressed the conviction that criminal prosecution includes counterfeiting and falsification of documents that may serve as evidence of the creation, change or termination of a right or obligation. They include any unilateral or bilateral legal act and any legal relationship or entitlement showing a connection with the creation or change of their rights and obligations²⁵. This thesis is extremely important in the context of the problem of forgery of travel documents discussed in the article. These documents include to the catalogue of documents confirming the fulfilment of the conditions for granting a permanent residence permit to foreigners, and thus the acquisition of many rights. The lack of documents specified by law or their forgery may result in leaving such an application without consideration and in refusing to initiate the procedure for granting a permanent residence permit. The third of the hallmarks of the crime under Article 270 § 1 of the Penal Code is to use a counterfeit document or a forged document in the previously indicated manner as if it was an authentic document. This means that regardless of the punishability of material forgery, Art. 270 § 1 of the Penal Act provides for criminal liability for using a counterfeit or forged document as an authentic²⁶. Pursuant to the provisions of the discussed article of the Penal Code, "use" means submitting a document to another person, authority, institution, organization or using it in connection with the operation of the device (e.g. to verify one's identity). It does not have to be used by the perpetrator, but it can also be by another person²⁷.

²³ Z. Kukuła, *Komentarz do niektórych przepisów Kodeksu karnego*, [w:] *Przestępstwa przeciwko dokumentom w obrocie gospodarczym. Zbiór orzeczeń Sądu Najwyższego i sądów apelacyjnych*, Warszawa 2013.

²⁴ See more: W. Wróbel, *Komentarz do art. 117–277*, [in:] *Kodeks karny. Część szczególna*, vol. II, ed. A Zoll Warszawa 2008.

²⁵ Z. Kukuła, *op.cit.*

²⁶ W. Wróbel, T. Sroka, *Komentarz do art. 212–277d*....

²⁷ L. Arkadiusz, *Komentarz do art. 270*, [in:] *Kodeks karny. Komentarz*, wyd. II, ed. V. Konarska-Wrzošek, Warszawa 2018; *Uchwała SN z 17.03.2005 r., sygn. I KZP 2/05, opublikowano: OSNKW 2005/3/25.*

Forgery of documents in the context of illegal crossing of the external borders of the European Union in 2015-2021 and the security of the state and citizens

The dynamics and changing nature of crimes imply the need to adapt or modify the solutions adopted in individual areas of state security, including solutions related to the protection of the state border²⁸. In the literature on the subject, the tightness of the state border is defined as one of the basic elements of ensuring state security²⁹. In the light of the above, the current picture of growing threats, constituting the critical points of the state's activity in the area of ensuring the security of citizens, makes it necessary to pay special attention to the problem of preventing forgery of travel documents³⁰. The use of forged documents may make it possible to move around the territory of a given country, and what is more, this practice creates an opportunity to obtain the right to permanent residence in a given country, thus giving the opportunity to carry out systematic reconnaissance, as well as to carry out terrorist attacks³¹. Undoubtedly, criminal acts committed with the use of false documents are a significant factor threatening the security of citizens. An example of this, apart from illegal migration flows, are also the terrorist attacks carried out in 2016 in Brussels or earlier in Madrid, London, Copenhagen and Paris³². It should be emphasized that there is a practice of obtaining authentic documents on the basis of false documents enabling identification (such as birth certificates, marriage certificates or death certificates). Limited opportunities to detect this type of fraud are one of the main threats to the growing scale of crimes related to document forgery³³.

²⁸ B., Mróz, *System ochrony granicy państwowej wobec współczesnych zagrożeń bezpieczeństwa państwa*, „Journal of Modern Science”, 2016, vol. 2, p. 308.

²⁹ E.W. Pływaczewski, *Bezpieczeństwo obywateli - Prawa człowieka - Zrównoważony rozwój*, Białystok 2017, p. 411.

³⁰ Ustawa z dnia 13 lipca 2006 r. o dokumentach paszportowych (Dz.U. 2018, poz. 1919); Konwencja dotycząca statusu uchodźców sporządzona w Genewie dnia 28 lipca 1951 r. (Dz.U. 1991, nr, 119, poz. 515); Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 23 czerwca 2009 r., w sprawie dokumentu podróży przewidzianego w Konwencji Genewskiej (Dz.U. 2009, nr 99, poz. 835).

³¹ H. Kolečki, *op.cit.*, p. 33.

³² See more: *Współczesne oblicze terroryzmu w Unii Europejskiej*, Rządowe Centrum Bezpieczeństwa, <https://rcb.gov.pl/> (15.03.2023).

³³ Komunikat Komisji do Parlamentu Europejskiego i Rady: Plan działania na rzecz wzmocnienia europejskiej reakcji na przestępstwa przeciwko wiarygodności dokumentów podróży, Bruksela, dnia 21.03.2017 r. COM(2016), s. 2, European Union, <https://eur-lex.europa.eu> (03.11.2022); Rozporządzenie Parlamentu Europejskiego i Rady

Among many examples of forgery of documents carried out in Poland, the following can be pointed out. K. Izak mentions that in 2017, officers of the CBŚP and the Silesian Border Guard Division broke up an organized criminal group dealing in counterfeiting and selling passports, identity cards, driving licenses, diplomas of various schools, business activity certificates and documents used to legalize the stay of foreigners illegally residing in the territory of the Republic of Poland. The investigation into this case led the Border Guard officers to a Ukrainian citizen who legalized stays of Russians, Ukrainians, Belarusians and Uzbeks in Poland by forging residence permits. He used forged seals of the Lower Silesian Voivode. On the other hand, the associates of a citizen from Ukraine hired substitute persons acting as owners of pole companies. In fact, they did not run any economic activity, and they registered declarations of intention to entrust work to foreigners in labour offices. On the basis of these declarations, foreigners received work visas from Polish consulates and entered Poland. In addition, the alleged owners of the companies, in consultation with foreigners, certified untruths and misled employees of employment offices and voivodship offices by submitting layers to them, on the basis of which immigrants received permanent residence and work permits from one to three years. There are many more cases of this type in Poland³⁴.

European Union Member States report thousands of cases of document forgery every year, which means that the crime of document forgery remains one of the biggest challenges for European border control³⁵. Confirmation that EU travel documents forged or counterfeited are the main tool for illegal border crossing is confirmed by the data that at least three quarters of the false documents detected at the external borders as well as in the area without internal border controls are fake documents, the originals of which are issued by EU Member States and Schengen Associated Countries. According to data from the European Border and Coast Guard (Frontex), less secure identity cards issued by Member States are among the most frequently detected false documents used for intra-Schengen travel. A perfect example is the statistical data for 2016. Back then, 74.33% of fake IDs, 60.46% of fake residence permits and 17.11% of fake passports were fake EU documents³⁶.

(UE) nr 910/2014 z dnia 23 lipca 2014 r. w sprawie identyfikacji elektronicznej i usług zaufania w odniesieniu do transakcji elektronicznych na rynku wewnętrznym oraz uchylające dyrektywę 1999/93/WE (Dz.U. L 257 z 28.08.2014).

³⁴ *Ibidem*, pp. 65-69.

³⁵ Falszerstwo dokumentów jako główne wyzwanie kontroli granicznej, *Europejska Sieć Migracyjna*, <https://emn.gov.pl> (15.11.2022).

³⁶ Document fraud is a key challenge in border control. Frontex is on the case, FRONTEx, European Border and Coast Guard Agency, <https://frontex.europa.eu>,

In the light of the data analysed for the years 2015-2018 on the number of false documents used at the EU's external borders when attempting to cross the territory of the Member States, it should be accepted as true that there was a tendency to reduce the number of traditional frauds over several years, which focus on physical documents and involve, for example, changing the expiry date of a passport (forgery) or producing completely false documents (counterfeiting). This conclusion is drawn from the analysis of detailed data from the European Border and Coast Guard. In 2015-2018, there was a systematic decrease in the number of forged documents detected at the EU/Schengen external borders. In the first analysed year, 9,676 of them were detected, a year later, i.e. in 2016, this number decreased to 8,221, in 2017 it was 8,167, while in 2018, according to the data, it amounted to 8,099³⁷, in 2019, 7,536 forged documents were detected³⁸, a year later, that number dropped to 4,726³⁹. In 2021, the number of falsified documents detected at the external borders increased for the first time since 2015 and reached 8,703 cases⁴⁰.

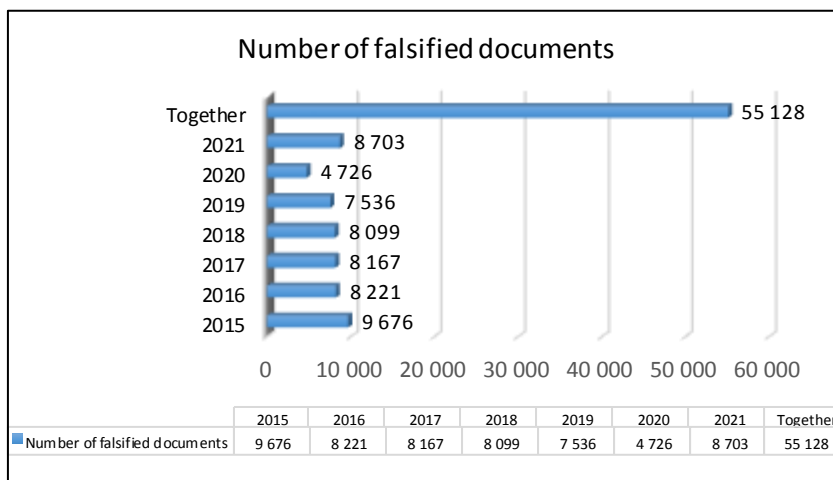


Chart 1. Number of forged documents detected at the external borders of the European Union in 2015-2021

Source: European Border and Coast Guard Agency data

(11.10.2022); Komunikat Komisji do Parlamentu Europejskiego i Rady. Plan działania..., p. 2.

³⁷ *Risk Analysis for 2018*, Frontex, <https://frontex.europa.eu> (29.10.2022); *Risk Analysis for 2019*, Frontex, <https://frontex.europa.eu> (29.10.2022).

³⁸ *Risk Analysis for 2020*, Frontex, <https://frontex.europa.eu> (11.10.2022).

³⁹ *Risk Analysis for 2021*, Frontex, <https://frontex.europa.eu> (11.10.2022).

⁴⁰ *Risk Analysis for 2022/2023*, Frontex, <https://frontex.europa.eu> (11.10.2022).

The analysis of the presented statistical data of the European Border and Coast Guard Agency shows that every year there are many crossings or attempted crossings of the external borders of the European Union against the law. Despite the downward trend in this area in 2015-2020 and the lower intensity of this practice, in 2021 a significant increase in the number of such cases was recorded. The above allows us to conclude that in this case, the aetiology of the illegal border crossing procedure should be sought in the situation that occurred in Belarus in connection with the civil war in Syria, as well as in the Russian-Ukrainian conflict, which intensified at the end of 2021.

As already mentioned, the tool used to cross the border illegally is the crime of document forgery. This thesis is confirmed by the presented statistics. Cases of false documents, systematically disclosed over the years, testify to the permanent perpetration of this crime, which opens the way to other criminal activities. It should also be noted that in total, from 2015 to the end of 2021 this year, officers of the European Border and Coast Guard Agency revealed over 55,000 at the external borders of the European Union. forged documents. Using them - and thus introducing them into legal circulation - gives rise to a legal effect in the form of the acquisition of many rights by the person illegally using such a document.

The phenomenon of forgery of documents is fostered by progress and easy access to the latest technologies⁴¹, which creates continuous opportunities for counterfeiters to improve their criminal activities through the use of modern technologies, equipment and materials. Thus, this practice is a new challenge for expert forensic services⁴² and one of the main problems of law enforcement agencies in individual countries, as well as on a European or global scale.

Conclusion

Summing up the considerations undertaken in this article, it should be firmly stated that the forgery of travel documents is one of the basic forms of illegal crossing of the external border of the European Union or the Schengen area. Usually, these acts are only a preliminary stage, enabling other criminal activities to be carried out. It should also be emphasized that the use of false documents, and thus their introduction into

⁴¹ M. Goc, *Falszerstwa dokumentów – trochę historii*, „Człowiek i Dokumenty”, 2008, no.11, p. 15.

⁴² A.P. Kuczkin, *Falszerstwo dokumentów i znaków pieniężnych w Republice Białorusi*, „Człowiek i Dokumenty”, 2008, no. 11, p. 22.

legal circulation, gives rise to a legal effect in the form of the acquisition of many rights by a person illegally using such a document. Events such as the war in Ukraine as well as the situation in Belarus due to the civil war in Syria have changed the perception of the eastern borders of the European Union. They also determined the emergence of challenges related to border management in a long-term perspective, as well as the need to cope with the elimination of illegal practices. The conflict in Ukraine serves to intensify criminal activity and take advantage of the situation of people from Ukraine who are in a state of danger. Very often, the situation of these people is exploited by people involved in criminal activity - thus, potential refugees lured by criminals with the promise of quick and effective access to the EU or the Schengen area may become victims of trafficking in human beings, including trafficking in children.

The issue of illegal crossing of state borders, which in the case of the borders of the Republic of Poland are also the external borders of the European Union/Schengen area, and the practice of document forgery, including travel documents, is therefore closely related to the phenomenon of illegal immigration. The aetiology of these phenomena is influenced by many factors, which undoubtedly include armed conflicts, including the civil war in Syria or the conflict in Ukraine initiated in 2014, with particular emphasis on its current phase of military operations, which has been ongoing since February 2022. In this context, it is necessary to point to the year 2021, which was a special year throughout the analysed period. The officers of the European Border and Coast Guard Agency then recorded the first increase in the number of forged documents since 2015.

In the face of the Russian attack on Ukraine, there was a rapid influx to Poland of Ukrainian citizens using various identity documents. From the point of view of the practice of people verifying the authenticity of documents, it is necessary to have knowledge about the form of these documents and the security features used in them, in order to effectively verify the identity of people who use them in such a way as to be able to really protect the rights of those who actually have them. Therefore, the essence of the security system is to ensure protection and prevent counterfeiting in such a way that the documents are used by legitimate beneficiaries and not by people who want to obtain refugee status that is not theirs by forging documents and taking advantage of the conflict situation.

Actions aimed at counteracting the forgery of travel documents result from the regulations of both international law and national law. Due to the risks associated with illegal crossing of borders, the discussion on a European scale emphasizes the need for efforts by the EU and Member

States to improve the security of travel documents issued to EU and third-country nationals. Not without significance is the exchange of information between Member States' law enforcement authorities and EU agencies, as well as improving the interoperability of relevant databases and information systems. In the process of counteracting document forgery, it is also indicated that the Interpol database containing data on stolen or lost travel documents should be used more systematically and consistently, and the need for more efficient exchange of information between law enforcement authorities of the Member States within Europe⁴³.

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⁴³ See more: *Komunikat Komisji do Parlamentu Europejskiego, Rady Europejskiej i Rady: Realizacja Europejskiej agendy bezpieczeństwa w celu zwalczania terroryzmu i utworzenia drogi ku rzeczywistej i skutecznej unii bezpieczeństwa*, Bruksela 2016, s. 10–12, European Union, <https://eur-lex.europa.eu> (29.10.2022).

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Przestępstwo fałszerstwa materialnego dokumentów w kontekście nielegalnego przekraczania granic zewnętrznych Unii Europejskiej oraz bezpieczeństwa państwa i obywateli

Streszczenie

Główny cel artykułu stanowi zwrócenie uwagi na fałszerstwo materialne dokumentów podróży jako na proceder umożliwiający nielegalne przekroczenie granic zewnętrznych Unii Europejskiej/Strefy Schengen i swobodne przemieszczanie się wewnątrz tych obszarów. Zamierzeniem autorki było także wskazanie na związek tego procederu z problematyką bezpieczeństwa obywateli i państwa, co wynika z faktu, że z prawnego, kryminalistycznego i kryminologicznego punktu widzenia fałszerstwo dokumentów, w tym dokumentów podróży, związane jest z szeregiem innych rodzajów przestępstw, takich jak handel ludźmi, w tym w szczególności dziećmi, handel bronią czy narkotykami. Problematyka przestępstw przeciwko wiarygodności dokumentów zyskała na znaczeniu we współczesnych czasach, w których mobilność międzynarodowa społeczeństwa wzrasta w szybkim tempie. Nader istotny aspekt w kontekście analizowanej problematyki stanowi sytuacja, która zaistniała na Białorusi w związku z wojną domową w Syrii, jak również zaostrzający się pod koniec 2021 r. konflikt rosyjsko-ukraiński. Analiza przedstawionych danych statystycznych Europejskiej Agencji Straży Granicznej i Przybrzeżnej pozwala stwierdzić, że rokrocznie dochodzi do wielu przekroczeń lub usiłowania przekroczeń granic zewnętrznych Unii Europejskiej wbrew przepisom prawa, z użyciem fałszywych dokumentów. Pomimo utrzymującej się w latach 2015–2020 tendencji spadkowej w tym zakresie i niższego nasilenia tego procederu, w 2021 r. zanotowano istotny wzrost liczby tego typu przypadków. Powyższe pozwala stwierdzić, że etiologii procederu nielegalnego przekraczania granicy przy wykorzystaniu sfałszowanych dokumentów należy dopatrywać się w sytuacji, która zaistniała na Białorusi w związku z wojną domową w Syrii, jak również w zaostrzającym się pod koniec 2021 r. konflikcie rosyjsko-ukraińskim.

Słowa kluczowe: fałszerstwo dokumentów, bezpieczeństwo obywateli, nielegalne przekroczenie granicy