Monika Trojanowska-Strzęboszewska

THE EXTERNAL BORDER POLICY
OF THE EUROPEAN UNION –
NEW THEORETICAL APPROACH

ABSTRACT

The paper presents a proposal of a new perspective as regards the way of defining the EU's policy concerning the functional dimension of its borders. Thus, it comprises a counterproposal to the narrow definition of the whole policy, limited to the issues of border control and the principles of border crossing. In this approach, the EU's border policy constitutes a kind of political framework for three programmes, implemented under three separate sectors of this policy, programmes of the EU activity oriented towards: cross-border cooperation of local communities; the establishment of tightened control and border protection and finally the stabilisation of the EU outside its borders. This is a three – dimensional, internally diverse policy of the EU, the implementation of which – depending on the dimension – is carried out by means of financial, legal or political instruments. This proposal constitutes a more complex approach to the analysis of the EU policy towards its borders and provides the opportunity to consider a particular EU border from the perspective of the level of isolation of border areas, the degree of permeability of the border control regime and of the "friendliness" or "hostility" of relations with neighbouring countries. It seems that such a perspective can better convey the diverse character of the EU's external borders and determine their actual level of openness or closeness.

Keywords: the European Union, border, frontier, cross-border cooperation, Schengen regime, border control, security, external relations

INTRODUCTION

T HE ISSUES OF borders, unlike many have already announced, have not disappeared and borders themselves have not lost their importance and sense of existence. Neither the end of a certain historic era nor the globalization of economy and culture made them pass into oblivion[1]. The last twenty years have proved again that borders are an everlasting phenomenon of political life and serve as key institutions on the international arena as well as they constitute fundamental elements of spatial organisation of power and politics. It is true that the meaning of what used to be called the state with its sphere of sovereignty has been thoroughly reshaped and there have been numerous attempts to get rid of the term of territorially organized power, still, many of the traditional functions of international borders have survived and many others have been replaced by new entities of international relations, going beyond the structures and territories of single states.

Europe especially has become the arena of both dismantling and creating borders, weakening and strengthening their functions, belittling and glorifying their importance. The establishment of the EU has had the fundamental influence on these processes. On the one hand, it deepened the economic, political and social integration, "invalidating" the border divisions between member states, on the other hand, due to increasingly intense internal unification, the EU faced problems on its outside frontiers. In this way the EU not only marked the space on which the numerous barriers resulting from the functioning of national borders were being abolished, but first of all it became an active actor leading its policy towards the establishment of its own boundaries, both in their territorial and functional dimension.

While the process of demarcating the outside borders of the EU was being carried out within the framework of the enlargement policy, which determined the EU's goals and priorities in this area, the process of fitting these borders in particular functions seems to lack clearly predetermined political strategy. However, at the same time the process is one of the EU's key elements defining itself by

---

[1] There was a common conviction at the turn of the 1990s that international borders are losing its importance because of the creeping globalization processes in the sphere of economy and culture as well as because they no longer fulfil significant ideological functions. See: K. Ohmae, *The Borderless World*, New York 1990; F. Fukuyama, *The End of History and the Last Man*, New York 1992.

deciding about the nature and shape of its territoriality[2] through determining the functions of its outside frontiers.

Since it is difficult to find a predefined, coherent vision of external borders of the EU in this implementation process, the question about the essence of this policy arises. Thus, is it at all possible to talk about the EU's external border policy in the functional aspect and to what spheres of the EU's activity does it refer? Which of the activities of the EU may be considered as having a direct influence on shaping the functions of its outside borders?

The identification of the scope of this policy is not an obvious matter and in the literature of the subject, especially the foreign one, there are different approaches to this problem. In this article the author will try to present one of the possibilities of theoretical and methodological clarification of the term "the EU's border policy", referring to the functional dimension of its outside frontiers.

THE DETERMINANTS OF THE EU'S BORDER POLICY

The establishment of the EU put the question of its borders in the very centre of the political debate. The member states, deciding to tighten the economic integration and tackling the challenge of complementing it with a political and social aspect, were obliged to make significant choices regarding the character of the territoriality, shape and function of the newly created political unit's outside borders. The questions about the political, social and cultural degree of homogeneity or heterogeneity of the structure under construction, the nature of its authority as well as the question of its sovereignty, they all required solutions concerning the future location of external borders of the EU and the functions which would be attributed to them.

---

[2] The issue of character and shape of the EU's territoriality is one of the key subjects of the discussion on what is or in which direction the European Union is going (what kind of polity the EU is?). Within a wide debate on this problem researchers are trying to describe the shape of Union territoriality through referring to models of, for examples, Europe of nations, federal quasi-state, Europe of regions, neo-medieval Europe and the empire model. See: J. Anderson, *Singular Europe. An empire once again?*, [in:] *Geopolitcs of European Union Enlargement. The fortress empire*, W. Armstrong, J. Anderson (ed.), London–New York, 2007; U. Beck, E. Grande, *Empire Europe: statehood and political authority in the process of regional integration*, [in:] *Political theory of the European Union,* J. Neyer, A. Wiener (ed.), Oxford 2011.

Should the EU aim at reaching the highest possible degree of internal coherence and keep the ability to take decisions within 12 or at most 15 member states, or should it meet the expectations of the new democracies and take a missionary direction towards the enlargement, exposing itself to the danger of institutional and decisional paralysis[3]? Going beyond *stricte* economic integration, should the EU aim at establishing a totally "border free zone"[4], ensuring the EU's citizens the freedom of migration, at the same time tightening the control on its outside borders, or maybe one should be careful with taking actions resulting in sharp divisions, separating the privileged inside from the non-privileged on the outside, who queue for visas and the possibility to enter the EU's Eldorado? And who would be on the one, and who on the other side?

It was not easy to answer the above questions, and the solutions often came up in the least expected situations and they did not form a fully rational, systematic and coherent strategy of political action[5]. Still, they were a sign of the EU's interest, especially of its basic institutions, in both the functional and territorial dimension of its outside frontiers. It may be acknowledged that they gave origin to the EU's border policy which was then under construction.

---

[3] William Wallace presented an interesting overview of these dilemmas. See: W. Wallace, "Europe after the Cold War. Interstate order or post-sovereign regional system?, "Review of International Studies" 1999, no. 25, pp. 201–24.

[4] This idea appeared as early as in the 1970s, in the proposals made in the discussion on the possibility of the establishment of the Union. It was pointed out that the perception of a free flow of goods from the perspective of rational exploitation of labour force is too narrow and this issue should lay the foundations for the rights of citizens of the future European Union. Such view of the EU as a "borderless zone," which went beyond the economic aspect, was already present in the Tindemans Report. This argumentation was later used at the intergovernmental conference (1990–1991), which discussed the content of the Treaty on European Union. See: K. Popowicz, *Rozwój podstaw prawnych Unii Europejskiej*, Warszawa 2010.

[5] A spectacular example was the European Council decision in Corfu to enter Cyprus and Malta on the list of priority states from the point of view of the future EU enlargement (together with the countries of Central and Easter Europe), which was forced on tired European leaders by the Foreign Minister of Cyprus late at night. Cyprus, which lies further to the South than Tunis and further to the east than Moldova or Belarus, located just 200 km away from Lebanon and having strong economic ties with the Russian Federation and the Middle East hardly fit the vision of the EU's European borders promoted before that. Moreover, Cyprus' accession required answering a difficult question about the Union's attitude towards the division of the island and necessitated a more active policy towards Turkish EU aspirations, which proved to be extremely difficult in the light of European societies' growing aversion to Turkey. See: M. Anderson, E. Bort, *The frontiers of the European Union*, New York 2001.

Those decisions were made under the influence of numerous different factors, some of internal and others of external character. It is worth pointing at those whose influence on shaping the EU's policy towards its outside borders was the biggest.

First of all, within the area of the internal factors, the nature of the European project itself was a key question. The decision about embracing the cooperation referring to the foreign policy and security as well as the judiciary and internal affairs with the EU's structure caused that the borders of such a political unit were gradually equipped with functions of a political and social nature, with reference both to controlling a flow of people and providing it with internal and external security. Since then, the EU has had to be in favour of the question of border and visa regime as well as if and how it is going to ensure security to its citizens against different threats from the outside. Thus, together with the creation the EU, its borders gained political and social meaning.

Secondly, the internal dynamics of the integration process was crucial for shaping the EU's border policy as it was connected with adopting the schedule of the full implementation of the idea of a "border-free market". As a result, in the area of regional policy, a cross-border priority was established and – to some extent – a significant "communization" of the Area of Freedom, Security and Justice, the key instrument of which became – so far intergovernmental – the Schengen system. The role and meaning of Community institutions in this process, especially the European Commission and the direction of gradual but inconvertible process of integration it took, could not be overestimated[6.]

Thirdly, the influence on particular EU decisions concerning its borders was connected with the accession of EFTA countries to the EU and with showing the perspective of membership to the Central and Eastern Europe countries, and then to the Southern European countries. Paradoxically, activating the pre-accession process for countries from Central and Eastern Europe motivated the Community to intensify action towards the Mediterranean border. This direction was expected

---

[6] It was connected with the thesis promoted by the Commission, which claimed that the primary integration function is the neofunctionalist principle of spill-over. It recognized processes of the deepening and broadening of integration activity as an inevitable, automatic and self-regulating process, which required the subjects of integration to make a specific decision. The recognition of the fact that integration in one sphere entails the need for taking integration action in another led to member states' having to waive their further competences. See: J.A. Caporaso, A. Stone Sweet, *Conclusion: institutional logics of European integration*, [in:] *The institutionalization of Europe*, A. Stone Sweet, W. Sandholtz, N. Fliegstein (ed.), Oxford 2001, pp. 221–30.

by the southern countries of the EU which were afraid of the marginalisation of their political and economic interests because of activating the EU's enlargement process to the East. In turn, joining the EU by Sweden and Finland has strengthened the subregional thinking in the EU's geopolitics. It was reflected in accepting strategies as well as in pursuing policies which divided the European border areas into subregional zones towards which separate aims and mechanisms of cooperation with the external environment were formed. A pattern-making example of that was the establishment of the Northern dimension of the EU.

The determinants which reflect the pressure coming from the external environment may be recognized as another group of factors influencing the process of shaping the EU's policy towards its external borders. This pressure made and sometimes even forced the EU's decision-makers to adopt particular assumptions and objectives of the EU's border policy. The political and geopolitical processes which took place in the nearest environment of the EU should be acknowledged here as key factors.

Firstly, the fall of communism and changes in the political system of Central and Eastern Europe made the EU use long-term thinking about its neighbours and recognize the enlargement as an effective tool of their stabilisation.

Secondly, the collapse of Yugoslavia followed by the outbreak of the civil war caused that it became a crucial issue for the EU to prove it can act independently in crisis situations, especially when it comes to the direct threat of its security[7]. At the same time these events exposed the real capacity of the EU and the effectiveness of its actions in this respect.

Thirdly, the conflict in Kosovo motivated the EU to create the European Security and Defence Policy and strengthened the conviction of the EU's decision-makers that the most effective and the least expensive policy is the one of conflict prevention which uses political and economic instruments simultaneously.

Finally, what strongly influenced the EU's activities concerning its outside borders was the issues connected with an inflow of immigrants. The increasing scale of this phenomenon and the escalation of social fears related to its implications for the labour market, internal security and national identity, motivated the European Union to intensify efforts to build the effective system of controlling flows of people and managing its borders. These activities got an additional impulse after the September 11 attacks and the growing threat of terrorism in Europe.

---

[7] See: J. Zajączkowski, *Unia Europejska w stosunkach międzynarodowych*, Warszawa 2003.

It must be emphasized that the above-mentioned factors increased the awareness of the potential character of the Union's territoriality and of the function its borders fulfilled and will fulfil in the future. There was a growing conviction among the member states and Union institutions – especially in the late 1990s – that these issues are of primary importance and they have a significant influence on the nature of the constant process of establishing the EU. Nevertheless, the division into pillars, which had been maintained until the Treaty of Lisbon, the diversity of the EU's institutional and legal structure, as well as its internal and changing dynamics of both the subjective and territorial scope of integration, all caused that the Union's policy towards its external borders covered a large number of areas and forms of its activity.

WHAT KIND OF POLICY IS THE EU'S BORDER POLICY?

The European Union's border policy is not based on any treaties and does not enjoy the status of common policy. Although the EU founding treaties include references to outside borders, they only concern the issues connected with the principles, standards and procedures of crossing and controlling borders. Such approach persists, despite successive treaty amendments, which enlarged the scope of the EU's authority in this respect. In the newest, Lisbon revision of the Treaty on the Functioning of the European Union, the term "policy" is for the first time used in relation to Union activities towards external borders, but it refers exclusively to the issue of border control[8]. It seems, however, that the lack of legal definition of this policy does not mean that the EU's activities concerning its outside borders cannot be viewed as policy.

The issue of treaty definitions of particular EU policies are not clear and unambiguous, after all. When, under the Treaty of Maastricht, the European Union was established, it was specified that – in accordance with art. 1 (A) of the Treaty on European Union – „the Union shall be founded on the European Communities, supplemented by the policies and forms of cooperation established by this Treaty"[9].

---

[8]   The expressions "border control policy" and "policy concerning border policy" appear in Title V (the Area of Freedom, Security and Justice) of the Treaty on the Functioning of the European Union. See: *Traktat z Lizbony. Ujednolicone teksty Aktów Podstawowych Unii Europejskiej*, R. Bujalski, P. Łędzki (monograph), Warszawa 2008.

[9]   *Dokumenty Europejskie. Tom III*, A. Przyborowska-Klimczak, E. Skrzydło-Tefelska (monograph), Lublin 1999, p. 51.

In art. 3 of the Treaty Establishing the European Community, when detailing the areas which specify the subjective scope of the Community, diverse nomenclature was used such as: "Community policies" (or "common policies") on agricultural policy, fisheries, trade; "contribution" or "participation" in policy with regard to health, culture, education, scientific research; and policy "measures" with respect to energy, tourism or civil defense[10]. This terminology – like the expressions included in art. 1 (A) of the Treaty on European Union – did not determine what was and what was not the subject of the EU's political action, but they specified the scope of subsidiarity of this action, i.e. the system of relations between the competence of member states and that of the Community. Thus, the expression "EU policy" may equally refer – and it does so – both to the area in which it has the exclusive authority and to the ones where it shares it with member states[11].

Researchers on European integration have often derived the concept of EU policy in a given area less from the subjective scope of integration and more from the analysis of the objectives for the implementation of which the European Union was founded. This is how the EU's regional policy was defined – it was based on a generally formed goal of the EU, i.e. the strengthening of economic and social cohesion in the area of the Community[12]. John K. Glenn adopted a similar principle when he was analysing the EU's enlargement policy, although he did admit that its subjective scope far exceeded one area of Union policy as defined by treaties[13].

When thinking on the ways of defining the EU's border policy, it is worth mentioning various methods of defining – based on political science – what politics is. (In the Polish language there is no distinction between "policy" and "politics" – both are described with the word *polityka*. In the following part of the article the author defines *polityka* in the latter meaning. Later the author clarifies the distinction between the two English terms, translator's note) It should be remembered that most political science analyses have developed their own set of concepts and basic theoretical assumptions on the basis of the study of the state. The traditional

---

[10] Ibidem, pp. 103–105.

[11] In most course books on European integration and in more advanced studies of these phenomena, the term "policy" is applied to very different areas of EU activity, which may also have a different degree of "communizatio." See: *Integracja europejska*, A. Marszałek (ed.), Warszawa 2004.

[12] See: M. Rudnicki, *Polityka regionalna Unii Europejskiej. Zagadnienia prawno-finansowe*, Poznań 2000.

[13] See: J.K. Glenn, *Poszerzanie Unii Europejskiej*, [in:] *Unia Europejska – organizacja i funkcjonowanie*, M. Cini (ed.), Warszawa 2007.

view of politics as "what concerns the state"[14,] restricts the study of politics to a focus on the personnel and machinery of government. The European Union is not a state, but it is a structure of authority – which is difficult to define clearly, though. No matter whether this authority is centralized or hierarchical, dispersed and vertical or imperial, it constitutes and establishes a certain political project on its own.

It must be emphasized that the concept of politics is ambiguous and broad-ranging. In the area of political science it is defined, among other things, as the exercise of power, joint decision making, allocation of scarce resources, an art of compromise and consensus, but also as a source of stratagem, deception and manipulation[15]. Various definitions are formed on the basis of different approaches and theoretical and methodological orientations.

Andrzej W. Jabłoński distinguished five principal ways of defining politics. According to his classification, particular definitions may be focused on the analysis of:

1) the activity of state institutions (formal and legal orientation);
2) mutual relations of authority, influence and conflict, which exist in different layers of social life (behavioural orientation);
3) functions in the social system which guarantee its development (functional orientation);
4) the decision-making process as part of the process of exercising authority and battling for power (rational orientation);
5) solving social problems resulting from the deficit of goods (post-behavioural orientation)[16].

Eugeniusz Zieliński also points out the diversity and complexity of phenomena encompassed by politics. He writes that politics used to be perceived as an isolated and autonomous sphere of social life, a sphere of relations and actions which often assume the form of conflicts, compromises and cooperation between large social groups, nations, political organisations, policy decision-making centres and individuals"[17]. As one of the key features of politics, Zieliński recognized authority, through exercising of which these different subjects try to satisfy their own needs and to realize their own interests.

---

[14] A. Heywood, *Politics,* New York 2002, p. 6.
[15] See: *What is politics? The activity and its study*, A. Leftwich (ed.), Oxford–New York 1984.
[16] See: A.W. Jabłoński, *Polityka. Interpretacje definicyjne*, [in:] *Kategorie analizy politologicznej*, A. Jabłoński, L. Sobkowiak (ed.), Wrocław 1991.
[17] E. Zieliński, *Nauka o państwie i polityce*, Warszawa 2001, p. 208.

Tomasz Żyro indicated other qualities of what might be called politics. In his opinion, politics is "the process in which a group of people, whose views are originally divergent, reaches joint decisions, uniting the group which from then on becomes reinforced through cooperation"[18]. Therefore, for political action it is essential that subjects have initially divergent goals and/or use different measures for reaching them, as well as the fact that in the course of this process common decisions are formulated and then implemented through collaboration.

The application of this definition in theoretical deliberations on the EU's border policy helps to highlight the issue if reaching agreement, compromise and consensus, as well as – as defined by neofunctionalists – redefining the national interest into the common European interest[19], and then imposing it on all subjects of Union policy. As this definition focuses on the ways of reaching common decisions, it emphasizes an important aspect of the EU's political action, i.e. its institutionalized centre of power. The internal logic of Union authorities, the way of organizing subjects of the EU's activity as well as strictly specified procedures within which these entities may operate, all necessitate particular methods, or even styles of behaviour, often affecting the character of decisions made[20].

Marek Chmaj and Marek Żmigrodzki, in turn, define politics focusing on other aspects. In their opinion, politics is a "set of actions taken by the decision-making centre, which aim at reaching intended objectives with the use of properly selected measures"[21]. Politics defined in this way encompasses only those actions which are consciously undertaken by political actors and which are supposed to be teleological. At the same time, the general character of this definition does not determine with which decision-making centre political activity should be identified, nor does it exclude the situation in which particular objectives in the sphere of political action may be incompatible, or even contradictory.

The above considerations make this definition useful also for formulating the general definition of the EU's policy on its borders. First of all, it must be indicated

---

[18] T. Żyro, *Wstęp do politologii*, Warszawa 2004, pp. 16–17.

[19] L. Cram, *Integration theory and the study of the European policy process. Towards a synthesis of approaches*, [in:] *European Union. Power and policy-making*, J. Richardson (ed.), Abington 2001.

[20] See: *Policy-Making in the European Community*, H. Wallace, W. Wallace (ed.), Oxford 2000.

[21] M. Chmaj, M. Żmigrodzki, *Wprowadzenie do teorii polityki*, Lublin, 1996: 20. Opałek used a similar definition of politics. He wrote that politics is the "activity delimited by the decision-making centre of a formalized social group (organization) aimed at the implementation of definite goals with the use of specific measures." K. Opałek, *Zagadnienia teorii prawa i teorii polityki*, Warszawa 1986.

that it limits its scope only to the activities focused directly on the Union's external frontiers, excluding all forms of indirect influence on borders, which would be a side effect of other policies. This forms a relevant distinction between the EU's border policy and different kinds of political factors, affecting its external frontiers. Owing to this, the subjective scope of this policy becomes easier to define.

Another issue which is helpful in this analysis is the distinction between "policy" and "politics" used in the Anglo-Saxon science[22]. The term policy is usually used for describing the process of making decisions by an individual or a group, which concern the choice of goals and methods of implementing them within a strictly specified framework of authority that a decision-maker has. Policy refers to political – i.e. joint (collective) – activity in a practical sphere, e.g. economic, agricultural, environmental or educational policy. Politics, in turn, refers to the process occurring in the social system, consisting in selecting and arranging the principal objectives of this system, according to the criteria of their importance and feasibility, in the aspect of time and allocation of resources. Politics concerns the sphere of social activity. It encompasses collective decisions, which refer to a certain political unit, and which reveal methods and strategies used when formulating and implementing particular policies. Thus, politics is a kind of political and ideological project, and expresses a vision of internal and external relations of the subject which pursues it.

If we apply the term politics to the EU's border policy, we may obtain a much broader view of the activities which shape the specific character and functions of Union borders. From such perspective, this policy refers to a certain project of political activity, expressed by the EU in its decisions concerning its outside borders. It helps to show as wide spectrum of Union activities towards its external borders as possible, as well as to reveal the diversity of goals which these borders were supposed to serve, and identify a rich set of instruments used for assigning them with specific functions. On the other hand, the EU's border policy analysed in this way may increase our knowledge of the nature of Union territoriality and the corresponding visions of the political shape of this community.

---

[22] R. Scruton, *Słownik myśli politycznej*, Poznań 2002.

WHAT DOES THE CONCEPT OF THE EU'S BORDER POLICY ENCOMPASS?

While the above discussion concerned the choice of a definition of policy which would be suitable for the EU's border policy, we should also specify the scope of this concept with regard to the whole palette of the Union's activity. In other words, we should identify what type of actions related to borders may be included in the Union's border policy. So far, no definite solutions concerning this issue have been develope[23]d in the literature on the subject.

We may basically assume that Polish researchers of European integration tend to define the EU's border policy in narrow terms, restricting its subjective scope to the issue of border regime, formulated and implemented as an element of the Schengen system. In this meaning they usually use the term of the European border control policy[24]. What is important, this area of the EU's activity is often combined with visa policy. However, a broader expression, "border policy," is more and more frequently used. It encompasses such issues as ensuring control at internal borders, establishing norms and procedures of exercising control at external borders as well as regulations concerning visas and conditions on which citizens of third countries may move freely in the EU's territory[25].

Nevertheless, it must be mentioned that this practice has a relatively short tradition. Before, scholars used the expressions such as "issues of border control", (or the "principles and measures of border control") and "issues of border defence"[26] by contrast to the EU's activities concerning visas, asylums or immigration, which

---

[23] It must be added that the issues of principles and procedures of crossing and controlling the EU's external borders were originally part of deliberations on the Union's visa policy and were not given a status of separate policy. See: W. Czapliński, *Obszar Wolności, Bezpieczeństwa i Sprawiedliwości. Współpraca w zakresie wymiaru sprawiedliwości i spraw wewnętrznych*, Warszawa, 2005; W. Kałamarz, *Swobodny przepływ osób i polityka wizowa*, [in:] *Obszar wolności, bezpieczeństwa i sprawiedliwości Unii Europejskiej*, F. Jasiński, K. Smoter (ed.), Warszawa 2005.

[24] Such term is used, for example, by Izabela Wróbel. She uses the expression "border and visa policy," locating it as one of five areas of EU activity: in the sphere of internal affairs and judiciary, alongside asylum policy, immigration policy, judicial cooperation in civil cases as well as police and judicial cooperation in criminal cases. See: I. Wróbel, *Polityka UE w dziedzinie wymiaru sprawiedliwości i spraw wewnętrznych*, [in:] *Integracja europejska. Wstęp*, K.A. Wojtaszczyk (ed.), Warszawa 2006.

[25] See: A. Graś, *Porozumienie z Schengen – geneza i stan obecny*, [in:] *Polska droga do Schengen. Opinie ekspertów*, Warszawa 2001.

[26] See: R. Rybicki, *Ochrona granic zewnętrznych w kontekście współpracy Schengen*, [in:] op.cit., F. Jasiński, K. Smoter (ed.), pp. 165–184.

were referred to as "visa policy," "asylum policy" and "immigration policy" right from the beginning[27].

In order to explain this situation, we need to point out that the terminology applied in the Polish literature on the subject corresponded to the terminology used by the European Union itself, especially in the area of treaty provisions and secondary legislation. Consequently, as the expressions included in the language of the EU's legislation and bureaucracy changed, similar changes occurred in the terminology used by researchers. It may have resulted from the fact that the Union was reluctant – as were researchers – to recognize the border issue as the Community's competence, no matter whether it was its exclusive authority or whether it shared this competence with member states. Borders are still a generally accepted attribute of statehood and they reflect the state's sovereign and autonomous power. Thus, a number of controversies arise when the EU takes over authority in the issues connected with the state.

On the other hand, it must be noted that the principal rights in the field of management of the EU's borders, which refer to the principles, standards and procedures of controlling them, were established in the Union's legislation not earlier than in the late 1990s, and the proper, dynamic development of the system of the EU's border management began at the beginning of 2002. What was of the key importance in this aspect was the project of the common, integrated policy on external border management, which was the first indication that the European Union recognized that its activities in this area are of a political nature.

In the world literature, especially in the works of Anglo-Saxon authors, the issue of using the expression "the EU's border policy" is more complex. On the one hand, there is a strong tendency to narrow this problem by focussing on the research on the standards and procedures of control and on the principles of crossing the EU's external borders[28]. In this approach, the term "policy" is used instead of "politics," and the word "border" is used. The term "border" is close to the concept of a demarcation line and it emphasizes its linear route, which is clearly marked in space.

On the other hand, many scholars are inclined to define this issue more broadly, going beyond the analysis of the formulation of goals and methods concerning

---

[27] See: K. Nowaczek, *Polityka Unii Europejskiej wobec procesów imigracyjnych*, Toruń 2004.

[28] See: *Justice and Home Affairs in the European Union. The Development of the Third Pillar*, R. Bieber, J. Monar (ed.), Brussels 1995; J. Monar, R. Morgan, *The Third Pillar of the European Union*, Brussels 1994.

scrutiny functions of Union borders. Borders have become the subject of the EU's policy with all their meanings and legal, social and cultural functions, which concern security and defence[29]. That is why, in order to underline the complexity of this phenomenon, some researchers use the term "frontier"[30]. Frontiers not only determine the territorial scope of the EU, but they also specify – more or less precisely – the sphere in which two authorities, two systems, two legal, socio-economic or cultural-civilization orders meet[31].

In such broader view of the EU's border policy, it is emphasized that the Union adopts goals and specifies methods of common action in the issues concerning the location of external borders and stabilizing its border areas[32]. At the same time, the process of the EU's enlargement is examined not only from the point of view of the opportunities and threats that the accession of new countries entails, but is also the expression of the Union's geostrategic vision, in which the establishment of borders is the key element of self-identification[33].

In this trend, researchers ask questions about the coordination of action towards external borders, which are conducted in different fields of the Union's activity. This issue was raised by Heather Grabbe when she was analysing the coherence of the EU's goals and methods of operation in the area of internal and external secu-rity with regard to its borders with the countries of Central and Eastern Europe[34]. To this end, when she was examining the Union's policy conducted within the framework of the Area of Freedom, Security and Justice and the Common Foreign and Security Policy, Grabbe used the expression of "the EU's border policy". Her

---

[29] See: M. Anderson, E. Bort, op.cit.; E. Bort, *European borders in transition: the internal and external frontiers of the European Union*, [in:] *Holding the line. Borders in a global world,* H. Nicol, I. Townsen-Gault (ed.), Vancouver–Toronto 2005.

[30] See: M. Anderson, M. Boer den, P. Cullen, W. Gilmore, C. Raab, N. Walker, *Policing the Euro-pean Union*, Oxford, 1995.

[31] For more details about the differences in meaning between English terms referring to the Polish word "granica" see: M. Anderson, *European frontiers at the end of twentieth century: an introduction*, [in:] *The frontiers of Europe*, M. Anderson, E. Bort (ed.), London 1998.

[32] See: J.W. Scott, *Szersza Europa: Procesy włączania i wyłączania na zewnętrznych granicach Unii Europejskiej*, [in:] *Nowe granice Unii Europejskiej – współpraca czy wykluczenie?*, G. Gorzelak, K. Krok (ed.), Warszawa, 2006; J.W. Scott, *A networked space of meaning? Spatial politics as geostrategies of European integration*, "Space and Polity" 2002, vol. 6, no. 2, pp 147–167.

[33] See: C. Hill, *Geopolitical implication of enlargement*, [in:] *Europe unbound. Enlarging and reshap-ing the boundaries of the European Union*, J. Zielonka (ed.), London–New York 2002.

[34] See: H. Grabbe, "The sharp edges of Europe: security implications of extending EU border policies eastwards," *Occasional Paper* (March 2000), http://www.weu.int/institute/occasion/occ13x. html, accessed 12.12.2006.

analyses proved that the EU may pursue a policy – towards the same group of countries – which, on the one hand, is oriented towards establishing deepened integration relations, and, on the other hand, reinforces borderlines through restrictive visa and immigration regulations.

In later works, published after the EU's enlargement of 2004, an even broader subjective scope of the Union's border policy was adopted. Two Estonian political scientists Erik Berg and Piret Ehin have published an analysis which is particularly significant in this respect. They defined the Union's border regime as a policy encompassing issues from the area of regional policy, the judiciary and internal affairs, as well as neighbourhood and enlargement policy[35].

If we want to describe the nature of EU borders in a comprehensive manner and fully answer the question about the goals they serve, it seems more useful to approach the Union's border policy in a more complex way than it is commonly done in the Polish literature, where its scope is limited to the issue of border control and the principles of border crossing.

Quite similarly to Berg and Ehin's approach, we may also use the concept of "composite policy," proposed by Ulrich Sedelmeier. He indicated that its individual components are affected by the activity of different groups of subjects, whose preferences are shaped by the paradigms of separate, specific policies[36]. When proposing the concept of composite policy with regard to the Union's policy towards the countries of Central and Eastern Europe, Sedelmeier pointed out that it combines separate policy decisions rooted in different fields of the EU's political action, constituting part of accession negotiations[37]. According to this approach, composite policy may be a broader political framework, the essence of which consists in combining (but not necessarily coordinating) separate sets of political action.

Using this theoretical proposal, the EU's border policy may be defined as a political framework for various Union activities, referring directly to the functional dimension of its external borders. These activities, performed within particular sectoral policies, may include such aspects of the EU's border policy as: trans-border cooperation, the control of a flow of people and the stabilization of

---

[35] See: E. Berg, P. Ehin, *What kind of border regime is in the making?: Towards a differentiated and uneven border strategy*, "Cooperation and Conflict" 2006, vol. 41, no. 1, pp. 53–71.

[36] See: U. Sedelmeier, *Sectoral dynamics of EU enlargement: advocacy, access and alliances in a composite policy*, "Journal of European Public Policy" 2002, no. 9, pp. 627–649.

[37] See: U. Sedelmeier, H. Wallace, *Eastern enlargement: strategy or second thought?*, [in:] op.cit., H. Wallace, W. Wallace (ed.).

borders. From such perspective, the Union's border policy becomes an internally complex programme of action, established by a heterogeneous decision-making centre, which is oriented towards:

1) trans-border cooperation of local communities inhabiting border areas,
2) establishing strengthened border control,
3) stabilization of Union borders,

with the use of properly selected and diversified financial, legal and political instruments.

THE INTERNAL DIFFERENTIATION OF THE EU'S BORDER POLICY

The main feature of the EU's border policy defined in this way is its internal differentiation and heterogeneity. The differentiation results from the fact that this policy encompasses the Union's direct actions towards its external borders, conducted within three separate spheres of the Union's activity. These actions were oriented – right from the beginning – towards achieving separate targets. They were also based on different principles and their implementation used differing instruments. What is more, three aspects of this policy led to the differentiation of its institutional and legal framework, which specified the participation and competence of particular EU institutions and decision procedures. When the EU was established, all elements of its border policy were located in different pillars of the Union's structure, in which the scope of authority of its principal institutions (especially the Council, the Commission and the Parliament) was diverse, and decisions were made unanimously in some issues and with a qualified majority in others. It resulted in a different degree of "communization" of the aspects of the EU's border policy[38].

It must also be emphasized that, depending on the aspect, the Union's border policy has been implemented at different levels: local (and regional), state and subregional. Table 2 presents the material definition and characteristics of this policy.

---

[38] It must be mentioned here that the dynamic character of EU integration led to the fact that, with each treaty revision, the degree of communization of actions taken by the Union in particular aspects of border policy increased.

Table 2. The material definition of the EU's border policy

EU's specific policies	Regional policy	Area of Freedom, Security and Justice	External relations: Common Foreign and Security Policy and the Community's foreign policy
Objective of specific policy	Internal coherence	Area without borders and internal security	Peace and external security
The degree of implementation/ influence	Local (and regional)	Interstate	Subregional
Priorytet w odniesieniu do granic	Trans-border cooperation	Strengthened border control	Stabilization of neighbouring areas
Dominant operational instruments	Financial – Union's initiative INTERREG	Legal – Schengen *acquis*	Political – accession strategy and partnership strategy
Goal with regard to borders	Open borders and integrating border zones	Tight, strict, closed borderlines	Friendly, mobile border areas

First of all, until the Treaty of Lisbon all aspects of the EU's border policy had been developed within the framework of separate pillars of the Union's structure. Action was focused on promoting and initiating trans-border cooperation and conducted as part of regional policy, rooted in a community pillar. The issues concerning border crossing and border control were first part of the EU's third pillar, and then, under the Treaty of Amsterdam, were moved to the first pillar, becoming an element of the Area of Freedom, Security and Justice. In turn, the stabilizing actions were conducted by the EU within the framework of both the Common Foreign and Security Policy, being part of its second pillar, and the Community's foreign policy, located in the first pillar.

The specific nature of particular sectoral policies and forms of cooperation – located in separate pillars of the EU – left a distinctive impression on the priorities, goals and instruments of the Union's border policy.

The primary objective of regional policy was to achieve the highest possible degree of internal coherence and to eliminate all delays in the development of less privileged regions, which also included border areas[39]. A few specific goals have been derived from this main objective, for example, the one concerning the Union's external borders. It was based on the conviction that increasing the level of devel-

---

[39] See: A.K. Bourne, *Regionalna Europa*, [in:] op.cit., M. Cini (ed.).

opment of border areas is correlated with the degree of openness of borders and of the intensification of integration between frontier communities in the institutional, infrastructural, economic, social and cultural dimension. Therefore, what became the EU's priority towards both its internal and external borders at a local and regional level was trans-border cooperation, focused on overcoming negative effects of borders and the marginal position of border areas[40]. The main instrument of the EU's operations in this sphere was the Community initiative INTERREG, through which the Union supported all kinds of trans-border undertakings, which are used for eliminating both physical and institutional barriers to people inhabiting border areas. The ultimate objective of these activities was to have an "open," almost imperceptible border, which would support the comprehensive development of peripheral border areas and the free flow of people and goods. Programmes of trans-border cooperation have become a tool for dismantling borders in the functional sense (especially as regards their legal, economic and social function) and for deligitimating divisions between what is inside and what is outside.

In turn, the EU's primary objective in the Area of Freedom, Security and Justice was to establish the "area without internal borders," which in turn implied the need for strengthening action which would compensate for potential threats to internal security. Therefore, two tasks were being simultaneously implemented: the elimination of restrictions in the free flow of people inside and the construction of the system of reinforced control outside the Union[41]. Thus, the objective of the EU's border policy in this aspect was to establish a tight and uniform regime of border control, which would encompass standardized principles of crossing them, an integrated management system, common standards and control procedures, as well as a harmonized catalogue of control measures and tools. The EU's main operational instrument in this aspect was the adoption, and then development of legal regulations constituting the Schengen *acquis*, which are binding for member states and are imposed both on the countries aspiring to EU membership and on

---

[40] Researchers of trans-border cooperation point out that "owing to this, border areas gain a particular opportunity for creating a network of cross-border links which will benefit communities inhabiting them." As a result, their development potential will increase. It is particularly emphasized that the dividing effect of a border has decreased and the potentials of the areas on both sides are complementary, and the functional effectiveness and economic competitiveness of border cities increases. K. Krok, *Współpraca przygraniczna jako czynnik rozwoju lokalnego*, [in:] *Polska regionalna i lokalna w świetle badań EUROREG-u*, G. Gorzelak (ed.), Warszawa 2007, p. 213.

[41] See: E. Uçarer, *Co-operation on Justice and Home Affairs matters*, [in:] *Developments in the European Union*, L. Cram, D. Dinan, N. Nugent (ed.), New York 1999.

the ones linked with the Union with various forms of cooperation. The special emphasis was laid on the establishment of a homogeneous border regime, which ignores the specific nature of particular national borders and is focused on strengthening and improving efficiency of border control[42]. As a result, a mechanism of multiple control has been created. This mechanism goes beyond passport and customs control conducted at external borders to encompass the control exercised while visa applications are submitted and police checks performed in the EU's territory. In accordance with the adopted policy, borders were meant to become fully impermeable, or even entirely closed, to protect the Union against the uncontrollable inflow of immigration, becoming a barrier to all forms of crime and undesirable factors.

The EU's principal aim in the sphere of its outside relations was formulated as maintaining and reinforcing peace and stability in its external environment. It involved taking action towards stabilizing the Union's neighbourhood (especially the closest one) at both a political and socio-economic level. This strategy was based on the conviction that collaboration is the best method of solving and preventing conflicts[43]. Actions towards reaching this target were performed within the framework of both the Common Foreign and Security Policy and the Community's foreign policy[44]. It was decided that offering EU membership or partnership to neighbouring countries is the best instrument of action in this respect as it would create a dense network of political, economic and socio-cultural relations. What is important, this action is not limited to encouraging neighbouring countries to adopt the Union economic and political model and constantly enlarged set

---

[42] The regulations concerning low level cross-border traffic and liberalizing the flow of people (of selected categories) in a specified section of the EU's outside border may be recognized as one of the few differentiating mechanisms in this system. See: Commission of the European Communities, *Towards integrated management of the external borders of the Member States of the European Union*, COM (2002) 233final, Brussels, accessed 7.05.2002.

[43] Commission of the European Communities, *Wider Europe – Neighbourhood: A new framework for relations with our Eastern and Southern neighbours. Communication from the Commission to the Council and European Parliament*, COM (2003) 104final, Brussels, accessed 11.03.2003.

[44] Ehrhart emphasized the role of the Area of Freedom, Security and Justice in this aspect. He pointed out that such policy "will most effectively contribute to maintaining European security through stabilizing – political, technical and financial – activity in the surrounding Eastern and Southern regions." H.G. Ehrhart, *Bezpieczeństwo przez integrację? O roli Unii Europejskiej i Unii Zachodnioeuropejskiej w kształtowaniu nowej, europejskiej architektury bezpieczeństwa*, [in:] *NATO a Europa Wschodnia. Rozszerzenie NATO na Wschód – ostatnie wyzwanie europejskie XX wieku: materiały z międzynarodowej konferencji naukowej, Warszawa 27–28 czerwca 1997 r.*, K.A. Wojtaszczyk, J.M. Niepsuj (ed.), Warszawa 1998, p. 26.

of Community legal regulations. This strategy focuses on the application of the EU's standard system in these countries – the system based on democracy, freedom, lawfulness and human rights[45].

It reflects the view that truly safe borders are the ones with neighbours who are "similar to us," with whom we maintain friendly relations, based on cooperation. Intensive and extending relations with the external environment have been replaced with military measures of territorial defence, traditionally considered to be the best guarantees of safety. As a result of this strategy, external borders of the EU are becoming larger frontier areas of friendly and stable neighbourhood rather than defensive lines on the map, which clearly separate what is inside from what is outside.

Thus, the Union's border policy in the functional dimension is subordinated to the implementation of three primary goals, resulting in the adoption of specific priorities in its particular aspects. In the sphere of trans-border cooperation, the priority is to eliminate the isolating effects of the functioning of borders, which will help to achieve economic and social coherence. In the aspect of controlling a flow of people, the priority is given to strengthening control at external borders which will ensure internal safety in the European Union. In the context of stabilizing relations with abroad, the EU's border policy is focused on imposing Community political, economic and cultural norms and values on its surrounding countries, which is expected to guarantee peace and safety in the Union's border areas.

It must also be indicated that this praxeology is accompanied by the adoption of three separate principles of the implementation of the Union's outside border policy. Each of these principles refers to different degrees of borders' influence, which at the same time constitute the field of influence of particular aspects of the EU's border policy:

– the principle of cooperation, concerning the border's influence at a local (and regional) level, focused on minimizing negative consequences of the existence of national borders on a micro scale and on breaking the resulting isolation of border areas,

– the principle of control, referring to the borders' influence at a national level, which is focused on eliminating trans-border crime and illegal immigration through tightening national borders, and

---

[45] See: I. Manners, *Normative Power Europe: A contradictions in terms?*, "Journal of Common Market Studies" 2002, vol. 40, no. 2, pp. 235–58.

– the principle of stabilization, which guides this policy at a subregional level, which is focused on a different financial, legal and political character, specific to the EU's methods of operation within the framework of its particular sectoral policies and forms of cooperation.

The internal differentiation of the EU's border policy is also evident in relation to the decision-making procedures within the framework of this policy and the Union's institutional and legal system that establishes it. Basically, it must be assumed that this policy has been formulated – just like any other form of Union action – with the use of the set of EU principal institutions[46]. However, the competences of particular Union's institutions and their role in establishing this policy was and – despite the Lisbon reform – still is differentiated depending on the fact whether a given sphere of EU activity is of an intergovernmental or supranational nature. The authority of the European Commission is especially important in this respect, as it is very high with regard to the aspect of trans-border cooperation, and clearly limited in the sphere of stabilizing external relations. Another significant factor is the fact that decision-making procedures in the Council of the European Union as well as the role of the European Parliament are subject to constant change[47].

Moreover, analysing this policy from the perspective of the types of international integration, we may notice that its most intergovernmental aspect became evident in the context of stabilizing external relations, whereas in the area of trans-border cooperation it was established in a clearly supranational manner. In turn, in the aspect of border control, elements of intergovernmental integration were combined with those of a supranational character. However, this sphere was gradually "communized" through the application of Community methods to the growing number of issues connected with crossing and controlling Union borders.

These issues have significantly affected the unequal development of particular aspects of the EU's border policy in terms of its scope and pace.

---

[46]   It must also be noted that within the framework of particular aspects of this policy ancillary bodies, especially the advisory ones, have also become participants of a decision-making process.

[47]   The Council of the European Union's decisions concerning trans-border cooperation were based on Codecision procedure, while with regard to border control the European Parliament was only granted the right (in 1999) to consult proposals for legal acts. See: W. Góralski, *Instytucjonalizacja współpracy międzyrządowej w III filarze UE*, [in:] *Unia Europejska. Tom II. Gospodarka – Polityka – Współpraca*, idem (ed.), Warszawa 2007.

CONCLUSIONS

The above proposal of a new approach to defining the EU's border policy contrasts with the narrow definition of the scope of this policy – dominant in the Polish literature – which restricts it to the issue of border control and the principles of border crossing. This proposal constitutes a more complex approach to the analysis of the EU policy towards its borders and provides the opportunity to consider a particular EU border from the perspective of the level of isolation of border areas, the degree of permeability of the border control regime and of the "friendliness" or "hostility" of relations with neighbouring countries. It seems that such a perspective can better convey the diverse character of the EU's external borders and determine their actual level of openness or closeness. It seems that such perspective is more likely to convey the diverse character of different sections of the EU's borders and to specify their actual degree of openness or closeness.

This approach also enables us to ask a question about the coherence and complementarity of the Union's policy towards individual countries or a group of neighbouring states. If we conduct analyses based on such research approach, we will be able to find out whether and to what extent the EU's actions, undertaken in the aspect of trans-border cooperation – are harmonized with its actions in the sphere of border control, and how they correspond to the adopted strategies of stabilizing Union frontiers. They also help to identify which of the actions, instruments or specific solutions, formulated within the framework of three aspects of the EU's border policy, reinforce and which of them weaken its coherence.

Moreover, the three-aspect approach to border policy seems to be more useful for analysing the specific nature of the Union's territoriality and its vision of external borders, underlying specific Union strategies. If we assume that the establishment of the EU's own external borders and assigning particular functions to them is an element of the processes of self-determination and self-identification, the analysis of the nature of these borders may become part of deliberations on the essence of the EU itself. Thus, questions about the external borders of the EU become questions about the concepts of its political nature. The Union's borders may become similar to national borders, becoming a factor which reinforces the project of the quasi-state European Union, but they may also become blurred borderlines, which emphasize the diversity and fuzziness of the Union's territory, resembling medieval Europe, with a multitude of overlapping centric-peripheral

centres of power and merging loyalties[48]. Finally, what some scholars try to point out[49], the EU's borders ma reflect the imperial nature of the Union project, based on an asymmetric relation between the centre and peripheries, in which linear and sharp borders give way to widely extended areas, i.e. liquid and mobile border zones.

To sum up, the new approach to the EU's border policy proposed above first of all aims at broadening research perspectives of this issue and overcoming hermetic analyses of the Union's specific policies, which – as it appears – lack comprehensive insight into complex and multi-layered processes of European integration.

---

[48] J. Anderson, *The shifting stage of politics: new medieval and postmodern territorialities?*, "*Environment and Planning D: Society and Space*" *1996*, vol. 14, no. 2, pp. 133–53.

[49] See: J. Zielonka, *Europa jako imperium. Nowe spojrzenie na Unię Europejską*, Warszawa 2007.