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## UNIFIKACJA OCHRONY BEZPIECZEŃSTWA PUBLICZNEGO W UNII EUROPEJSKIEJ

**Streszczenie:** Współczesna Unia Europejska przez wzgląd na bardzo szeroki zakres współpracy rozwijanej przez lata w wielu dziedzinach pomiędzy państwami członkowskimi pierwotnie w ramach tzw. Starej Unii, a potem w rozszerzonym składzie, aż do obecnej wielkości w liczbie 27 państw jest bez wątpienia szczególnym tworem w skali globalnej. Jest unią niezależnych państw europejskich, gdzie zakres współpracy doprowadził w wielu dziedzinach do zaawansowanej integracji. Sieci złożonych powiązań pomiędzy państwami członkowskimi zauważalne są w wielu obszarach aktywności państw członkowskich, nie tylko politycznym, gospodarczym, społecznych, ale również w sferze bezpieczeństwa publicznego. Celem opracowania jest uzyskanie odpowiedzi na pytanie czy niezwykle rozwinięta i dojrzała sfera współdziałania w zakresie ochrony bezpieczeństwa publicznego pozwala na obecnym etapie uznać Unię Europejską za integralny podmiot bezpieczeństwa. Czy też Unię Europejską należy wciąż postrzegać, z perspektywy jej państw członkowskich jako grupę niezależnych podmiotów bezpieczeństwa. Próba rozwiązania tego problemu została podjęta poprzez analizę rozwoju współpracy w Unii Europejskiej, w skali kilkudziesięciu lat, w zakresie ochrony bezpieczeństwa publicznego w dwóch bardzo istotnych obszarach, a mianowicie problemów nielegalnej imigracji oraz terroryzmu. Autor dążył, poprzez ocenę zaawansowania, kierunków i zakresu rozwoju współpracy skierowanej na ochronę państw Unii Europejskiej przed najpoważniejszymi zagrożeniami, do uzyskania odpowiedzi na pytanie jaki kształt ma wspólnotowy zakres ochrony bezpieczeństwa publicznego i czy jest on argumentem na to, by w analizach bezpieczeństwa Unię Europejską uznawać jako integralny podmiot bezpieczeństwa, mając na uwadze że składa się ona z niezależnych i suwerennych państw, na których wciąż spoczywa obowiązek ochrony bezpieczeństwa publicznego. Wyniki badań pokazały, że ewolucja współpracy w zakresie ochrony bezpieczeństwa publicznego w Unii Europejskiej doprowadziła do głębokiej unifikacji działań państw członkowskich w bardzo zaawansowanym i decydującym dla jej bezpieczeństwa publicznego zakresie, przy uwzględnieniu transgranicznego charakteru jego zagrożeń. Tak wypracowany kształt systemu bezpieczeństwa każe patrzeć na Unię Europejską jako jednolity podmiot bezpieczeństwa, mimo że składa się ona z niezależnych, suwerennych państw.

**Słowa kluczowe:** bezpieczeństwo Unii Europejskiej, bezpieczeństwo publiczne, współpraca w zakresie bezpieczeństwa, terroryzm, nielegalna imigracja.

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## УНІФІКАЦІЯ ЗАХИСТУ ГРОМАДСЬКОЇ БЕЗПЕКИ В ЄВРОПЕЙСЬКОМУ СОЮЗІ

Сучасний Європейський союз, безсумнівно, є унікальним утворенням у глобальному масштабі завдяки дуже широкій сфері співпраці, яка розвивалася протягом багатьох років у багатьох сферах між державами-членами, спочатку в рамках так званого Старого Союзу, а потім у його розширеному складі до нинішнього розміру в 27 держав. Це союз незалежних європейських держав, де ступінь співпраці призвів до поглибленої інтеграції у багатьох сферах. Мережу складних зв'язків між державами-членами можна спостерігати в багатьох сферах їх діяльності, не тільки в політичній, економічній, соціальній, а й у сфері громадської безпеки. Метою дослідження є відповідь на питання: чи дає змогу надзвичайно розвинена і зріла сфера взаємодії у сфері захисту громадської безпеки вважати Європейський союз на даному етапі цілісним суб'єктом безпеки. Або чи слід все ще розглядати Європейський союз, з точки зору його держав-членів, як групу незалежних суб'єктів у сфері безпеки. Була зроблена спроба розглянути це питання, проаналізувавши розвиток співробітництва в Європейському союзі в масштабі кількох десятиліть у сфері захисту громадської безпеки у двох дуже важливих сферах, а саме: у проблемі нелегальної імміграції та тероризму. Автор намагався, оцінюючи стан, напрями та масштаби розвитку співробітництва, спрямованого на захист держав Європейського союзу від найбільш серйозних загроз, отримати відповідь на питання: якої форми набуває сфера захисту громадської безпеки Співтовариства і чи є вона

аргументом на користь визнання Європейського союзу як цілісного суб'єкта безпеки в безпековому, беручи до уваги те, що він складається з незалежних і суверенних держав, на яких все ще лежить відповідальність за захист громадської безпеки. Результати дослідження показали, що еволюція співробітництва у сфері захисту громадської безпеки в Європейському союзі призвела до глибокої уніфікації дій держав-членів у дуже передовій і вирішальній для його громадської безпеки сфері, враховуючи транскордонний характер її загроз. Сформована таким чином система безпеки змушує розглядати Європейський союз, як єдиний суб'єкт безпеки, навіть якщо він складається з незалежних суверенних держав.

**Ключові слова:** безпека Європейського союзу, громадська безпека, співробітництво у сфері безпеки, тероризм, нелегальна імміграція

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## UNIFICATION OF THE PROTECTION OF PUBLIC SECURITY IN THE EUROPEAN UNION

**Abstract.** The modern European Union, by account of the very extensive scope of cooperation that has developed over the years in many fields among the member, states originally within the so-called Old Union and then in an expanded formation to its present volume of 27 states, is undoubtedly a unique entity on a global scale. It is a union of independent European countries, where the extent of collaboration has led to advanced integration in many spheres. Networks of complex ties between the Member States can be perceived in many areas of Member State activity, not only political, economic and social but also in the realm of public security. The objective of the study is to answer the question of whether the extremely developed and mature domain of interaction in the protection of public security allows the European Union to be considered an integral security entity at this stage. Or whether the European Union should still be seen, from the perspective of its Member States, as a group of independent security actors. An attempt was made to address this issue by analysing the development of cooperation in the European Union, on a scale of several decades, in the area of public security protection in two very important areas, namely the problems of illegal immigration and terrorism. Having assessed the advancement, directions and scope of development of cooperation directed at protecting European Union states against the most serious threats. The author sought to obtain an answer to the question of what shape the Community's scope of public security protection takes and whether it is an argument for the European Union to be recognised as an integral security entity in safety analyses, bearing in mind that it consists of independent and sovereign states that still have the responsibility to protect public security. The results of the research have shown that the evolution of cooperation in the protection of public security in the European Union has led to a profound unification of the actions of the Member States in a very advanced and decisive area for its public security, taking into account the cross-border nature of its threats. The shape of the security system developed in this manner makes it necessary to look at the European Union as a unified security player, even though it consists of independent sovereign states.

**Keywords:** European Union security, public security, security cooperation, terrorism, illegal immigration.

### An introduction to the problem

An attempt to define the security of a specific entity requires clarification of its basic values, i.e. the features that are essential for it to exist and the scope of the threat to these [1]. Thus, in the case of a human being, those will be threats to his existence, while in the case of the state, threats to its attributes, the loss of which causes the state to cease to function as a country [2]. Regardless of whether the subject of security will be a person, a nation, perhaps a larger or smaller social group, or a state it can be assumed that in the objective context the safety of the subject is shaped in the security environment in which he or she functions, while in the subjective one in his or her consciousness [3]. The bilateral nature of the relationship in formation of security (i.e. the impact of the environment on the subject and of the subject on the environment) is not at odds with the claim that the safety of the entity is formed in the security environment [4], since even taking into account the impact of the subject on the security environment, the

security of the latter is ultimately shaped by the said environment, unaltered or modified by the entity.

Since the security environment of an entity is so fundamental, it is worth considering what characteristics it possesses. For any security entity, including a state, "the safety environment (...) is the main determinant of its functioning. The processes and events that occur in the external environment of states and its internal circle, around organisations created by countries, such as the police or the armed forces and any kind of others, have a direct impact on their secure existence and development. They have a turbulent character, almost unpredictable" [5]. The high level of complexity of social relations of the modern world determines the sophistication of the state security environment [6]. The progressive process of globalisation of many spheres of activity of the modern, highly developed state makes it increasingly difficult for an institution such as the state to define the limits of its activity, to identify the spheres of its exclusivity. It is considered that

nowadays "the boundaries of the country are vague, undefined, in many dimensions transparent, ephemeral. In its external environment there is a huge, ever-growing number of organisations of various types: political, economic, cultural, religious, financial, environmental, terrorist, criminal and others. These include states, large industrial corporations, religious associations, humanitarian organisations, political parties, international communities - in a word, organisations - institutions, separated from their environment (...) But in the environment of the state there are also whole groups, social groups, local, ethnic and national communities with different cultures, and the global society. Finally, people, socio-psycho-physical entities, the plant and animal world and man-made artifacts" [vii].

In the context of the above considerations, it seems interesting to try to look at the security of an even more complex entity than the state. An excellent platform for consideration in this regard is the European Union as an actor consisting of 27 independent states. Can such an entity be viewed as a separate security body or is it the sum of separate security entities? In what direction, then, is the security policy of such an organism shaped? The following discussion is aimed at answering that question. Due to the vast area of the European Union's security issues, the present discussion will be limited to finding an answer to the question posed above only in the realm of public security.

Referring to the objective and subjective scope of public security, it may be assumed that a threat (in the large meaning) to such a value will be a condition during which the subject of security is (or may be) affected by factors (of anthropogenic nature and/or caused by forces of nature) disrupting its normal functioning, directed against its life, health, property, or the legally established order and rights and freedoms legally guaranteed to that subject [viii]. It is, therefore, a very vast plane of social activity. Such an extensive scope ascribed to the sphere of public security and the limited publication framework make it necessary to narrow the context of the considerations carried out hereinafter to only selected areas. In order to gain an overview of the questions posed, it seems appropriate to analyse three key issues in the area of public security in the European Union, namely illegal immigration, terrorism and organised crime.

#### **Development of public safety protection**

The problem of illegal immigration, which falls within the area of public security of the present European Union, was for a long time outside the area of active cooperation. At the level of collaboration, concerns about illegal immigration were made clear during the development of the idea of a "Europe for Citizens" at the Paris Summit in 1974. However, the idea of free movement of people within the

Community, did not find majority support due to concerns over internal community security and a lack of initiative to tackle the problem together. To some extent, however, cooperation began to develop as a result of the needs that existed in this regard. It is believed that "despite the lack of developed and sanctioned by the norms of the community law methods of supranational action in the field of justice and internal affairs, still at intergovernmental levels, as it were, 'alongside' the communities, the member states have been developing cooperation" [ix]. An example of such activities was the TREVI Working Group [x], which was a kind of signal indicating the need for a communitarian approach to internal security issues. Within the group, sub-groups were formed over time, one of which (TREVI 5) addressed, inter alia, the area of prevention of illegal immigration. In the area of such initiatives, it is worth mentioning the Immigration-ad-hoc group, established in 1986 [xi], which comprised national officials dealing with immigration issues and Commission officials [xii]. One of its significant achievements was the negotiation of the Dublin Convention in 1990 [xiii]. On the initiative of the group, the Centre for Information, Discussion and Exchange of Experiences on the Crossing of Frontiers and Immigration (CIREFI) was established [xiv].

Especially significant for the development of security policy against illegal immigration was the creation and implementation of the Schengen Agreement in 1985 and the Convention implementing the Schengen Agreement in 1990. It is noteworthy that the Schengen Agreements were not acts of Community law. They had the character of international agreements to which countries that were members of the European Community were signatories. The Schengen idea necessitated the development of an appropriate level of cooperation between, among others, judicial, police and migration services. The Schengen Agreement did not provide such solutions. It was not until 1990, when the Convention implementing the Schengen Agreement was signed, that cooperation mechanisms were developed in this regard. The solutions contained therein were compensatory measures aimed at filling the gaps created in the internal security system after the abolition of internal border controls. The aim was to standardise measures directed, inter alia, at combating illegal immigration and to introduce new, where they did not exist, common mechanisms for coordinating action at the international level. The most important solutions aimed at activating cooperation in the fight against illegal immigration, including the movement of foreigners and their control, are contained in Title II of the Convention "Abolition of Internal Border Controls and Movement of Persons". The Convention, while laying

down uniform criteria for the crossing of borders by foreign nationals [xv], standardising the rules for their control at the border, at the same time obliged the signatories to introduce sanctions for breaches of the rules for crossing the border in a manner other than prescribed by the Convention. Quite precisely, the scope of community cooperation is defined in Article 7, obliging the parties to cooperate continuously and closely with a view to the effective implementation of border control and surveillance at the frontier, inter alia, by exchanging information, standardising guidelines for the authorities in charge of control and surveillance and cooperation in training. Direct cooperation has also been extended in the area of visas for third country nationals.

Extremely important in the area of combating the phenomenon of flows of illegal immigrants was the definition of common rules governing the movement of foreigners within the territory of the Community. A common obligation was imposed on the signatory states to introduce into national law the principles of the responsibility of the carrier who transports a foreigner for the fact that the latter is in possession of the required travel documents [xvi]. The very important issue of the responsibilities of individual states for processing an application submitted by a foreign national was also regulated. The Convention specified that only one State Party was competent in this regard, irrespective of how many and where the foreigner had previously submitted applications. This eliminated the possibility of applying in different states. The next step in the fight against illegal immigration in the asylum sphere by regulating the competence of Member States to process asylum applications was the Dublin Convention [xvii].

The experience of numerous states in the struggle against illegal immigration shows that its most dangerous aspect is the involvement of international organised crime. The Convention, in Title II 'Police and Security', set out the principles of cooperation between States Parties in the area, introducing new developments. Its most important elements are the exchange of information, the sharing of liaison officers within the Member States. In the sphere of criminal proceedings, legal assistance and extradition procedures were simplified [xviii]. A particular manifestation of police cooperation within the community, requiring mutual trust, was the introduction of the institutions of cross-border pursuit and cross-border surveillance [xix]. One of the most important measures to improve cooperation between the Member States was the establishment of a system for the rapid exchange of information, the Schengen Information System (SIS), which is indispensable from the point of view of maintaining an appropriate level of internal security in the Community, including protection against unwanted immigration [xx]. It is

believed that 'the signing of the Schengen Implementing Convention and the accession of new States, gave impetus to the quest for ways of deeper integration in the field within the Communities. The necessity of such cooperation was increasingly recognised, especially in the face of growing organised crime in Europe, the threat of international terrorism and illegal immigration' [xxi].

The forthcoming expansion of the European Union to include the countries of Central and Eastern Europe was not without significance for the intensification of cooperation in the EU. Extremely significant for the further development of cooperation in the area of combating illegal immigration were the provisions of the Maastricht Treaty [xxii]. The Treaty of Maastricht, by giving the EU a unified institutional and legal framework, brought impetus to efforts to balance the importance of cooperation in individual areas and, above all, in the third pillar. The direction of third column integration was defined by Title VI of the TEU 'provisions on cooperation in the field of justice and home affairs'. Article K.1 of the TEU identifies as areas of intensive cooperation, among others, asylum policy, rules on the crossing of external borders and controls thereon. On the other hand, within the framework of migration policy towards third-country nationals, the demand to combat illegal forms of immigration, residence and work of third-country nationals in the territory of the Member States was explicitly formulated. The scope of cooperation thus shaped was not ideal. The decision-making mechanisms developed in Pillar III differed significantly from those defined in the other branches. The level of cooperation was intergovernmental rather than communitarian. This resulted in a significant limitation in the power of influence of the ideas developed, not least because of the different (to the other pillars) legal means available to the Council [xxiii]. Significant changes in the area in question were brought about by the provisions of the Treaty of Amsterdam [xxiv]. The growing importance of cooperation between Member States in an area arising from the principle of free movement, including the struggle against illegal immigration, was demonstrated by the fact that these issues were transferred to the first pillar (under Titles IV and X of the Treaty Establishing the European Communities - TEC), which had the effect of moving this area of cooperation from an intergovernmental to a Community framework, giving greater impact to the solutions developed in this area in the context of both decision-making and enforcement [xxv].

Intergovernmental cooperation within the Schengen area has produced a number of practical solutions for combating and reducing illegal immigration. Some of them, called good practices, have been included in the Common Schengen

Handbook [xxvi]. It was the basis for the Schengen Borders Code introduced in 2006 [xxvii], which is an important *acquis* in cooperation between Member States on a uniform policy on immigration control at the external borders of the European Union, and which also defines the rules on the control of foreigners in the Schengen area. On the other hand, the example of the operation of the SIS has shown how important and effective a common database of direct access information is for the effective coordination of targeted activities. On the basis of this experience, a decision was reached to establish the Visa Information System [xxviii] (VIS), which offered the possibility of more effective protection against illegal immigration while still in the country of residence, during the processing of visa applications.

A further step in the development of EU cooperation in the sphere of combating illegal immigration was taken at the Tampere European Council (1999). One of the issues discussed was the attempt to create common principles for an EU migration policy, drawing attention to the need to improve the control of immigration flows jointly with countries of origin and transit. The need to focus action in the area of illegal immigration, not on migrants, but on the organisers of human smuggling and on countering forged documents, was highlighted. The subsequent Laeken Summit (2001) dealt with the issue of a new approach to the protection of the Community's external borders against illegal immigration, among many subjects. The idea of setting up a common EU service responsible for external border surveillance, as well as a common visa system and common consular offices, emerged. The idea was realised, however, only with regard to the establishment of a common visa system. The will to further develop coordinated joint action against illegal immigration in the EU was set out in the so-called Hague Programme. The Luxembourg European Council (2004) adopted a new EU cooperation programme for the period 2005-2009 for the strengthening of the area of liberty, security and justice. It follows on from the Tampere Programme (1999) approved by the European Council. It promoted the view that there is a need for a holistic approach to the problem of illegal immigration, also taking into account the sources of the phenomenon, including the conditions of entry and admission of third-country nationals, as well as integration policies.

The issue of illegal immigration has become a priority concern in the EU. This was reflected in the European Pact on Migration and Asylum, adopted at the Council of Europe in 2008. It marked an important stage in the EU's efforts to develop a comprehensive Union migration policy. Recommendations in the area of cooperation were directed towards intensifying cooperation between Member States on the effective implementation of the expulsion of illegally staying

foreigners and cooperation with countries of origin and transit of illegal immigrants. Further development of EU cooperation in combating illegal immigration is noted in the provisions of the so-called Stockholm Programme [xxix], designed for the period 2009-2014. Increased emphasis was placed on more effective exchange, between Member States, of information in the area of migration and asylum. There is a clearer emphasis on the need to support those Member States with the highest immigration flows.

Concerted action by Member States in the area of gaining control over the phenomenon of illegal immigration in the EU has also been developed on an institutional level. One such example was the establishment of the European Agency for the Management of Operational Collaboration at the External Borders of the Member States of the European Union (FRONTEX) [xxx]. Its main tasks were the coordination of operational collaboration in the management of external borders by Member States, the creation of a common integrated risk analysis model for the ongoing development of threat assessments for illegal immigration, and the exchange of information in this area.

In order to exchange information on, *inter alia*, the risks related to illegal immigration, yet another instrument has been created - the European Migration Network [xxxi] which is a response to the postulates of the Hague Programme [xxxii]. Its purpose was to provide up-to-date information to both Community and Member State institutions and the European public in the area of migration and asylum. In the area of information exchange, in addition to the systems already presented, an important function was played by the iFADO system [xxxiii] (Intranet False and Authentic Documents Online), which was a platform for the direct exchange of information on specimens of authentic travel documents of the Member States and selected other European countries and, unusually, contained examples of forgeries of that kind of documentation uncovered within the Union [xxxiv].

Another sector of Community cooperation is the area of financial support operating through European funds established in selected spheres of activity. The Solidarity and Management of Migration Flows (SOLID) programme, among others, was set up to finance the resulting instruments [xxxv]. Its components are:

European Return Fund (EFPI), External Borders Fund (EBF) [xxxvi] for the financing of the efficient management by the Member States of the movement of persons at the external borders, the European Refugee Fund (ERF) [xxxvii]; European Fund for the Integration of Third-country Nationals (EIF) [xxxviii].

The issue of developing police cooperation, in turn, came up at the Tampere European Council,

where it was proposed to activate joint investigative measures by setting up joint investigation teams involving EUROPOL [xxxix]. This was confirmed in the Council Decision establishing EUROPOL [xl], the task of which was to initiate and coordinate and support collaboration between Member States. The Council Decision significantly extended EUROPOL's remit to, *inter alia*, combat the smuggling of illegal immigrants [xli].

The provisions of the Prüm Convention play an important role in the area of enhancing cooperation [xlii], which aimed at improving the exchange of information as the most important instrument in the area of interoperability in the sphere of public security. Here, cooperation has taken on a high level of mutual trust expressed in the exchange of DNA profile data, dactyloscopic data and intelligence on persons of interest to the police services of the Member States. The scope of cooperation has furthermore been extended to the possibility of carrying out joint cross-border operational activities, including the exchange of police officers. It is believed that 'the Prüm Agreement sets new standards for cross-border cooperation to ensure the security of citizens and combat major threats such as terrorism, organised crime and illegal immigration.' [xliii]. It can be assessed that the provisions of the Convention have given a strong impulse to even closer cooperation of the authorities of the EU Member States in combating organised smuggling of illegal immigrants [xliv].

It seems that a similar level of development in the protection of public safety took place in the case of terrorism [xlv]. The beginning of post-war European cooperation in the field of counter-terrorism dates back to the 1970s. The initiating factor was the high level of activity of European terrorism. The first clear voice of opposition by European politicians to the increasing incidents of terrorism appears to have been Resolution (74)3 of the Committee of Ministers of the Council of Europe on International Terrorism in 1974, followed in 1977 by the signing in Strasbourg of the European Convention on Combating Terrorism, the main intention of which was to prevent the evasion of criminal prosecution and punishment of the perpetrators of terrorist crimes. Among the Council of Europe's subsequent important activities, the 2005 Convention on the Prevention of Terrorism deserves mention. The area of counter-terrorism policy-making is also evident in a number of resolutions, declarations and recommendations of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe.

The European Union has an extremely rich experience in the development of an anti-terrorist framework. Undoubtedly, its current shape was influenced by the bloody attacks carried out on its

territory following the 2001 attack in the USA<sup>[xlv]</sup>. However, the activity of the European community in this regard is noticeable much earlier. One of the first initiatives to counter the dynamically developing threat was an intergovernmental endeavour that resulted in the establishment (outside the framework of the European Communities) of the aforementioned TREVI working group to deal also with the issues of terrorism, radicalism, extremism and international violence. It has become a platform for cooperation between the Ministers of Interior and Justice of the European Communities to address issues related to international organised crime and terrorism. The establishment of the group appears to be a kind of signal indicating the need for a Community approach to internal security issues, in particular terrorism. One of the important initiatives of the group was the creation of a system of information exchange and cooperation in the combat of terrorism and organised crime. However, it was not until the signing of the Maastricht Treaty in 1992 that counter-terrorism issues were integrated into the framework of EU activities. Most of the existing measures and instruments in the field of counter-terrorism were integrated into the intergovernmental third pillar of Justice and Home Affairs (JHA). The Trevi Group was formally adopted under the third pylon at the same time two working groups were set up under the second column of the Common Foreign and Security Policy and the third pillar of Police and Judicial Cooperation in Criminal Matters. The Maastricht Treaty further provided for the establishment of a European police agency. Europol was fully operational in 1999 and was mandated to organise and support cooperation between Member States in the fight against terrorism, drug trafficking and other forms of international crime.

Although counter-terrorism cooperation became more active in the European Union during this period, it was nevertheless of a declarative nature and was still considered as a component of other interrelated security issues such as drug trafficking, illegal immigration and organised crime. It appears that it was only the attacks of 11 September 2001 that gave a new impetus to the European dimension of counter-terrorism by reaching beyond the merely intergovernmental area of arrangements in this area towards the start of a process of institutional counter-terrorism<sup>[xlvii]</sup>. A few days after the 2001 attacks in the USA, the Extraordinary European Council adopted a multifaceted Counter-Terrorism Action Plan, divided into five main points: police and judicial cooperation, international legal instruments, financing of terrorism, aviation security, coordination of EU external action. There has been a stepping up of activities as a result of the call for closer judicial cooperation on extradition procedures and a common definition of terrorist

offences. Europol's mandate was extended and forces (police and intelligence officers) were consolidated. In addition, the judicial cooperation unit Eurojust was established in 2002, a European Union body set up to strengthen the effectiveness of legal cooperation between Member States in the case of serious cross-border crime. Other major steps were the implementation of the Framework Decision on the European Arrest Warrant (2002/584/JHA) [xlvi] and the Framework Decision on Joint Investigation Teams (JIT) (2002/465/JHA) [xlvii]. One of the most important developments in the formulation of counter-terrorism policy during this period was the implementation of the Framework Decision on Combating Terrorism (2002/475/JHA). The decision was the first step in the harmonisation of national counter-terrorism legislation. It sets out the legal framework in the prosecution of terrorists and, crucially, a unified definition of a terrorist offence. The inclusion of a unified definition across the European Union, in the legal systems of the Member States was a key foundation for further judicial and police cooperation. This step was particularly significant given that only six Member States had anti-terrorism legislation at the time [1]. At the end of 2003, European Council adopted the European Security Strategy, which identifies terrorism as one of Europe's key threats, while emphasising the need to combine different instruments, in intelligence, police and judicial efforts.

The further development of a common policy in this area was prompted by the growing, genuine threat of terrorist attacks. Another terrorist attack (Madrid 2004) resulted in the adoption, less than two weeks later, of the Plan to Combat Terrorism resulting from the Declaration on Combating Terrorism signed at the time. In the same year, the European Council adopted the Declaration on Combating Terrorism, which is a compilation and update of the initiatives introduced so far in the fight against terrorism. Five months after another attack (London 2005), the Counter-Terrorism Strategy was adopted, committing Member States to fight terrorism while respecting human rights. It identifies four key spheres of counter-terrorism: prevention, protection, prosecution and response. With counteraction directed at addressing the causes leading to radicalisation and the recruitment of candidates by terrorist organisations. This responded to the already visible process of the growing radicalisation of EU citizens. This year also saw the implementation of the Strategy on Combating Radicalisation and Recruitment to Terrorist Organisations.

In the domain of strategic papers relating to the issue of public security, important in the context of counter-terrorism activities for defining the interface within the European Union and with non-EU countries is the European Union's Internal Security Strategy

entitled *Towards a European Security Model* and the communication from the European Commission to the European Parliament and the Council entitled *Internal Security Strategy in Action, Five Steps Towards a More Secure Europe*, which presents five strategic objectives and concrete actions (2010).

Since the events of 9/11, the institutional field has also intensified. Counter-terrorism cooperation within the EU has been built on the basis of past experience and good practice developed at the level of Community cooperation in the broader area of Union security. There is no doubt that this is a great potential for opportunities, which in the long run has translated into a multitude of institutional arrangements, among which it is pertinent to mention the following: the EU Counter-Terrorism Coordinator (CTC), the Standing Committee on Operational Cooperation on Internal Security (COSI), the European Law Enforcement Agency (EUROPOL), the European Office for the Enhancement of Judicial Cooperation (EU-ROJUST), the EU Working Party on Terrorism (WPT), the EU Counter-Terrorism Coordinator (COP) and the EU Counter-Terrorism Task Force (CTF). The EU Police Working Group on Terrorism (PWGT), the EU Working Group on the Application of Specific Measures to Combat Terrorism (CP 931 WP), the ATLAS Group, the Financial Intelligence Units (FIU) Platform, the G-6 Group, the Terrorist Finance Tracking Programme (TFTP), the Madrid Group, the Club of Bern (CdB), or the Counter-Terrorism Group (CTG). In this context, mention shall be made of instruments of a legal nature that are extremely relevant to the functioning of the above-mentioned agencies (and institutions cooperating with them), such as a series of directives regulating and activating the scope of cooperation in the area under analysis.

### Conclusions

In conclusion, the protection of public security within the present European Union has evolved intensively. However, the emerging level of cooperation in the most vulnerable spheres since the 1970s was mostly of a declarative nature, recommending only cooperation. Over the years, inter alia as a result of significant developments in the domain of public security, the European community has intensified the implementation of many, often previously developed measures. This gradually led to the harmonisation of the *acquis* and laid the foundation for the development of a structural capacity for more effective cooperation in the fight against illegal immigration and terrorism. The gradual unification of the criminal law systems of the EU Member States has proved to be an extremely pertinent move. This has provided a real opportunity for effective joint action in the protection of public security. The scope of unification of public security protection has expanded over time to include other

forms of activity such as the development of common strategies to combat threats, unification of national legislation of Member States, standardisation in terms not only of legislation but also institutional training. It has also meant significant financial support for important programmes to combat threats, or the development of capacities and legal means to support Member States at risk in a particular area of intensity. It must be emphasised that, in retrospect, the extent of the unification of the protection of public security, over the period under consideration, descended from the political level to the strategic horizon, until it embraced unification at the operational scale. The main objective of such a direction was, it seems, to merge the forces of the Member States and to standardise operations in this realm in order to maximise the effectiveness of public security protection activities. This advanced area of integration in the field of public security policing has resulted in the European Union interacting with the security environment as a unified entity.

Summarising the above considerations, it can therefore be concluded that the evolution of cooperation in today's European Union with regard to the protection of public security has led to the unification of the actions of the Member States in a very serious and, as it seems, decisive area for its safety, taking into account the supranational nature of the most serious hazards. This shape of the security system makes it necessary to look at the European Union as a unified safety entity, even though it consists of independent and sovereign states. It seems that the further evolution of public protection of security will involve lower and ever lower levels of cooperation in order to unify protective actions at the tactical horizon, which is already taking place to some extent.

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9.<sup>1</sup>More A.Babiński, W poszukiwaniu definicji bezpieczeństwa publicznego, „Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej im. Witelona w Legnicy”, 2(35), pp. 91-109.

10.<sup>1</sup>D. Magierek, Rola Straży Granicznej w zapewnieniu bezpieczeństwa Polski (1990-2004), , Toruń 2011, p. 115.

11.<sup>1</sup>TREVI – (fr. Terrorisme, Radicalisme, Extremisme, Violence Internationale) was a working group dealing with internal security issues, established in 1975 in Luxemburg by the European Council. The TREVI Permanent Secretariat was established the same year in Rome. The group was instituted as a forum for cooperation between the interior and justice ministers of the European Community in the area of security policy. This initiative is regarded as the foundation of the later so-called Third Pillar, formed by the Treaty of Amsterdam (J.Starzyk-Sulejewska, Implementacja współpracy policyjnej w sprawach karnych, [in:] W.M.Góralski, Unia Europejska. Gospodarka- Polityka- Współpraca. Tom II, Oficyna, Warszawa 2007, pp. 249-250.

12.<sup>1</sup>This group later functioned within Pillar III as one of the Steering Groups on Immigration and Asylum.

13.<sup>1</sup>J.Balicki, P.Stalker, Polityka imigracyjna i azylowa, Warszawa 2006, pp. 171-172.

14.<sup>1</sup>H.Maroń, Integracja europejska a prawo karne, Toruń 2003, pp. 13-14

15.<sup>1</sup>P.Wawrzyk, Polityka Unii Europejskiej w obszarze spraw wewnętrznych i wymiaru sprawiedliwości, Warszawa 2007, pp. 188-189.

16.<sup>1</sup>The Convention provides for this to be regulated by the internal law of the State concerned, but taking into account the security interests of the Community (Art. 6 CFR).

17.<sup>1</sup>Directive 2001/51/EC specifies the principles of the carrier's responsibility set out in Article 26 of the Schengen Implementing Convention, indicating that this responsibility also appears when the entry is refused to an alien in transit through the zone and the subsequent carrier or the country of destination refuses to accept him.

18.<sup>1</sup>The Dublin Convention entered into force on 1 September 1997 for the 11 Member States that were



signatories to it in June 1990. (Belgium, Greece, Spain, France, Germany, Ireland, Italy, Luxemburg, the Netherlands, Portugal and the United Kingdom), and Denmark, which ratified the Convention in June 1991. The Convention came into force on 1 October 1997 for Austria and Sweden, and in January 1998 for Finland. - Finland. As it was an international agreement and not part of the *acquis communautaire*, it was enshrined in EU legislation by Council Regulation (EC) 343/2003 of 18.02.2003 (OJ L 50, 25.02.2003), known as the Dublin II Regulation.

19.<sup>1</sup>The provisions of the Convention sought to supplement and simplify the solutions contained in the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and Chapter II of the Benelux Treaty on Extradition and Mutual Assistance in Criminal Matters of 27 June 1962.

20.<sup>1</sup>These arrangements gave police officers of the Member States the authority to continue their observation or pursuit of an offender in the territory of a neighbouring state. It is important here that the Convention grants officers carrying out surveillance or pursuit the same status as officers of the state on whose territory the action was continued.

21.<sup>1</sup>The Schengen Information System was established on the basis of the provisions of Title IV of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985. The current, extended version (SIS II) was established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20.12.2006 on the creation, operation and use of the second generation Schengen Information System (SIS II), (Official Journal of the EU L 381 of 28.12.2006).

22.<sup>1</sup>D. Magierek, *Rola Straży Granicznej...* op. cit., p. 117.

23.<sup>1</sup>Treaty on European Union (TEU), signed in 1992 in Maastricht (the Netherlands) at the meeting of the leaders of the European Economic Community (EEC). It was an agreement between the twelve member states of the European Communities. It established the European Union. It instituted three pillars of cooperation: the first relating to the scope of the European Communities (European Coal and Steel Community - ECSC, EUROATOM, EEC), the second were regulations relating to cooperation in the field of foreign and security policy and the third relating to action in the area of justice and internal affairs.

24.<sup>1</sup>More H. Maroń, *Integracja europejska...* op. cit., pp. 16-20.

25.<sup>1</sup>Treaty Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts (Official Journal of the EC C 340 of 10.11.1997, Official Journal of 2004 No. 90 item 864).

26.<sup>1</sup>It should be emphasised that the area of police and judicial cooperation in criminal matters remained in the third column.

27.<sup>1</sup>This solution did not have the form of a legal act. It was a compilation of rules on the functioning of the Schengen area and jointly developed best practices on the protection of external borders, illegal immigration and readmission.

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30.<sup>1</sup>The Stockholm Programme - An open and secure Europe serving and protecting citizens (Dz.Urz. UE C 115 z 04.05.2010 r.).

31.<sup>1</sup>The FRONTEX Agency was established by Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Dz.Urz. UE nr L 349 z dnia 25.11.2004 r.). The current name of the Agency is the European Border and Coast Guard Agency.

32.<sup>1</sup>Council Decision 2008/381/WE z dnia 14 maja 2008 r. w sprawie ustanowienia Europejskiej Sieci Migracyjnej (Dz.Urz. UE nr L131 z 21.05.2008 r.).

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35.<sup>1</sup>The information collected in the system is made available only to authorised organs of the Member States. An information-limited version, , is available for general use - Public Registry of Authentic Documents Online (PRADO).

36.<sup>1</sup>The framework programme on Solidarity and Management of Migration Flows was established for the period 2007-2013 in order to improve the management of migration flows within the European Union and to strengthen cooperation between Member

States in this regard. It was designed with four dimensions: The External Borders Fund within the framework of the integrated management of external borders, another in the field of asylum policy, the Refugee Fund, the European Return Fund within the framework of the return of third-country nationals illegally residing in the territory of the Member States and the struggle against illegal immigration, the fourth European Integration Fund at the level of social, civic, cultural integration of non-EU foreigners. It was implemented by the Communication from the Commission to the Council and the European Parliament establishing a framework programme on Solidarity and Management of Migration Flows for the period 2007-2013 [COM (2005) 123 final - not published in the Official Journal].

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39.<sup>1</sup>Council Decision 2007/435/EC of 25. June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007-2013 as part of the General programme 'Solidarity and Management of Migration Flows' (Dz.Urz. UE nr L 168 z dnia 28.06.2007 r.).

40.<sup>1</sup>EUROPOL (European Police Office) - was established on the basis of the Maastricht Treaty (Article K.3) by the Convention on the Establishment of a European Police Office (EUROPOL Convention) (Dz.Urz. UE nr C316 z 27.11.1995 r.). Initially, its activities were limited to combating organised European drug crime only. Since 1999, EUROPOL has expanded (following the ratification of the EUROPOL Convention by its member states) its scope of activities.

41.<sup>1</sup>More H. Maroń, *Integracja europejska...* op. cit., pp. 72-79.

42.<sup>1</sup>Annex to Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (EUROPOL), (Dz.Urz. UE L 121 z 15.05.2009 r.).

43.<sup>1</sup>The Prüm Convention was an initiative that originated from a growing sense of threat to the internal security of the EU (WTC, Madrid and London terrorist attacks). It was initiated by

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44.The text of the agreement was published by the Council of the EU in the document 10900/05 LIMITE CRIMORG 65 ENFOPOL 85MIGR 30 from 7 July 2005.

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49.<sup>1</sup>See R.Kochańczyk, *Counter terrorism strategy*, „Zeszyty Naukowe SGSP”, 73/1/2020, pp. 245-250.

50.<sup>1</sup>The European Arrest Warrant (EAW) was a breakthrough in judicial cooperation in criminal matters supported by the principle of mutual recognition. It set out a framework for cooperation on formal extradition procedures, calling on Member States to recognise requests for the arrest and surrender of a person detained by another Member State for the purpose of criminal prosecution or execution of a sentence.

51.<sup>1</sup>The JIT envisaged the creation of Joint Investigation Teams (JITs) in the field of police cooperation, as an instrument for cooperation between Member States in cross-border criminal proceedings.

52.<sup>1</sup>The Framework Decision was amended a few years later (2008) by Framework Decision 2008/919/JHA introducing provisions relating to public provocation to commit terrorist offences, recruitment and training for terrorism. This introduced greater possibilities for the criminal prosecution of suspects and perpetrators of terrorist activities.

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**Оглядова.**

Надійшла до редакції 17.03.2023.

Прийнято до публікації 18.05.2023.