

# **The new border regime at the Bug river The east of Poland and the PHARE programmes**

(2003)

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Control towers and helicopters, optical and electronic high-tech - with the PHARE project, the EU finances the design of Poland's eastern borders. The future border regime is a socio-technological attack on the informal cross-border economy.

Until 1997, research into Polish refugee and migrant politics was relatively easy: you only had to look at the allocation of finances and regulations laid down by the German government, which primarily invested in the infrastructure of the western Polish border police in the form of sturdy police equipment and deportation prisons.

In July 1997, Poland started implementing the EU- and the Schengen acquis and in July 2002 the accession negotiations with regards to Justice and Home Affairs cooperation were completed. With the enlargement procedure, the militarisation of borders shifted from west to east Poland. The future EU external border will separate Poland from the Russian Federation (except Kaliningrad), from Belarus and from the Ukraine. Measuring 1,143 kilometres, the border will be more than twice as long as the German-Polish border.

During the same period, the financing of the border project under the EU framework has become more varied and a lot more substantial. The EU Commission is responsible for the budgetary framework for the EU enlargement process and the financing of projects of the EU in Eastern Europe is laid down in the PHARE projects.[1] Since November 1997 the Commission has invested significant finances into the militarisation of Poland's eastern borders. With these projects the general rule is that every Euro that the Commission puts into accession countries via the PHARE programmes triggers the spending of four more Euro by other member states or international institutions and causes expenses of three Euro in the relevant accession country.

The project specifications of the PHARE programmes not only regulate the allocation of capital. The PHARE plans of 2001 and 2002, only recently published on the internet, provide insight into the modernisation and extension of Poland's eastern borders. Section PL01.03 of the 2001 programme outlines 11 different projects under the Polish National Programme implemented for EU accession in the area of Justice and Home Affairs; the annual programme for 2002 (PL02.03) so far contains two different projects [2]. The projects specify a planning framework until 2005/2006, which the Polish government has outlined with a 'Strategy of integrated administration at borders' (2000) and a Schengen Action Plan (2001). Within that period, the militarisation of the EU's eastern borders is supposed to have been completed. Only then, at the earliest in 2006, at the latest in 2008, will controls at the Polish EU internal borders be abolished.[3]

Up to now, PHARE 2001 and 2002 (Part I) for Poland encompass 450 million Euro. 77 million of those are allocated to Justice and Home affairs as well as customs. Border control and, according to EU logic, the closely related fight against crime receive 31 million Euro, almost exclusively for equipment: high technology for border control as well as computers, software and fibre optics for data transfer. These are the largest individual projects in the history of the PHARE programme.

### **Europe's outskirts: war, oppression and poverty**

The border reality should not only be understood as the sole product of state bureaucrats and their fancies. In particular Poland's borders with Belarus and the Ukraine can serve as an example for the whole of Europe in that the local population, since the end of the Cold War, have had a considerable defining power over the reality of the borders. During the 18<sup>th</sup> and 19<sup>th</sup> century, the Polish-Belarus-Ukrainian border region was on the periphery of the Prussian agricultural state and Tsarist Russia. Its population has never accepted these borders but has utilised them within the framework of a west-east migration economy in particular through small scale trading. There is almost no other region that has been destroyed to such an extent in the 20th century: initially through the First World War and the anti-Bolshevik civil war, then through the Nazi occupation, which the Jewish population particularly fell victim to. Up to today, different nationalities overlap in the border regions, and Lithuanian, Roma, Muslim, Russian and other groups are settled there. During the politically ambivalent inter-war period, many were abused politically as national minorities or stigmatised as a fifth column. The immediate post-war period, with its mass migrations, the bloody Ukrainian national uprising and the forced resettlement of most east-Polish Ukrainians to west Poland, has left deep scars.

The poor farming population still constitutes more than half the population in these parts of Poland. The dying industries (textiles, refineries, coal power stations) were based on the suppressed wages of workers, who drew their living wage mainly from their own food production. The land reforms, which were aimed at triggering the rural population to a large-scale selling of the small land holdings, have failed so far. There is currently another attempt at land reform through a merging of small land holdings with a view to the EU accession procedure.

After the opening of the Soviet borders in 1991, the currency rate between Poland and its eastern neighbouring countries *developed to 10:1*. Bazaars run by tourist traders and other informal cross-border economies developed all over the country. Some regions experienced an enormous, albeit short-lived, economic upturn. In Poland, the new cross-border trade led to the development of some new agricultural centres. Six of Poland's ten biggest dairies are located in Podlachien in the north-east of Poland. The Elizowka market, which is the most modern vegetable market in eastern Poland is located on the outskirts of Lublin. East Polish timber firms manufacture furniture from wood exported from Russia and export it back again. Various small goods are brought into Poland from the Ukraine, Belarus and the Russian Federation. Sometimes economic-political centres lie outside the borders, so that far more buses depart daily from the south-eastern Polish city of Przemysl to the west Ukrainian metropolis Lwiw than to Warsaw. In short, the region survives on agricultural self-sufficiency and on cross-border small scale trading.

The beginnings of the new border regime predate the Polish accession procedure. A readmission agreement with the Ukraine has been in force since 24 May 1993. Similar agreements followed, with the Russian Federation in May 1994 and with Belarus in August 1996. In 1997, Warsaw

restricted immigration criteria for Ukrainians: although they do not need a visa, they have to provide enough cash and a reliably documented reason for travel. Because Kiev introduced value added tax at the same time and Russia's financial crisis also gripped the Ukraine and Belarus, the statistically documented Polish east-export dropped by 75% in three years, and many newly established businesses declared bankruptcy.[4] Since 2000, Poland's employment offices, border guards and police have been hunting undocumented Ukrainian workers and staging spectacular deportation actions.[5] The Polish ministry for economic affairs is initiating dramatic attacks on the unprofitable social support structures of industrial society, which also have created niches for migrants and refugees: international second-hand car markets as well as milk bars (cheap subsidised restaurants that are present in every part of town) and second-hand textile shops, which live off the international trade. The latter comprises around 75,000 jobs in the sorting lines and retail sector, not to mention the importance of second-hand businesses hold for low income households.[6]

### **The birth of a comprehensive foreigners police**

The future border regime - as an overview of the eleven PHARE projects of 2001 exemplifies - represents a socio-technological attack on the informal cross-border economy and on transit migration. The first project concerns the Polish asylum bureaucracy, which will be extended to include a central administration focusing on foreigners and which, via computerised software, will be linked to Poland's eastern border control units. At the beginning of the 1990's, under pressure from the German and Swedish governments, the Warsaw refugee and migration bureaux was formed. Since 1993, it has been responsible for nation-wide decisions on asylum applications as well as running refugee camps.[7] During 2001/2002, the bureaux's tasks included the setting up of a comprehensive central register for foreigners, entitled OBCY-POBYT ('Aliens-Residency'). It further took on the cases of Russian immigrants of Polish descent and on 1.7.2001 was renamed the 'Office for Return and Aliens'. The common theme in the Office's various tasks is the administration of the personal data of all non- or newly arrived Polish people.

The call for tenders for the expansion of the register is run by the EU Commission.[8] From mid-2003 onwards, the Office for Return and Aliens will be assisted by an EU 'Pre-accession Adviser', who will supervise the development of the register in cooperation with the interior ministry, the border police and the ministry for employment and social affairs.[9] PHARE already financed the computer installations and the first expansion phase, the German government took over the costs of the nation wide laying of glass fibre cables and implementation of safety precautions for data transmission.[10]

The historical importance of the foreigners central register is the computerised collection of positive and negative asylum decisions by the refugee and migrant bureaux since 1995. Little by little and with the help of the German government and the PHARE programme, this register became a data bank for various statuses of residency, orders to leave the country and notices to be rejected at the border. Since 1999/2000, it also contains details on visas and the relevant invitations, limited residency permits and entry refusals. The regional administrative districts and larger border guard offices have had online access to the register since 1998/99 and the decentralised terminals along the eastern border are currently being connected, in particular those of the border police. The reformed Aliens Act from 1.7.2001 allows other authorities (justice, customs, various police offices, etc.) direct access to the data held in the register. Further, Poland introduced a new machine-readable passport in 2001.[11]

Various other databases for international networking (Schengen, Europol amongst others) are based on the Warsaw central foreigners register. The automated fingerprinting identification system AFIS represents the Polish link to the EU-wide fingerprinting database Eurodac. From 2003 onwards, Poland is supposed to have at its disposal a national component for the Schengen Information System (SIS).

### **Visa politics and border surveillance**

The second project deals with visa politics. On 27 July 1999, the Polish government declared that it would implement the harmonised EU visa politics before the accession date.[12] In 2000, Poland imposed visa requirements on Azerbaijan, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan; in 2001-2002, Poland did not renew expiring agreements on visa-free entry with 54 more states. Citizens of the Russian Federation, Belarus and the Ukraine will require visas from 1.7.2003, but are supposed to be able to receive multiple and long-term visas in fast-track procedures after the negotiation of relevant agreements. The central visa register, which the Consular personnel abroad will have access to, is planned to be online by the end of 2004.[13] If a substantial number of the ten million CIS citizens who travel to Poland every year cease to come because of new visa restrictions, the bankruptcy of numerous businesses is foreseeable, and the subsistence economy on both sides of the border is threatened with collapse.

The third PHARE programme of 2001, as well as one other programme from 2002 are dedicated to the surveillance of borders. Alongside the regular border police, police and customs units are deployed as well. The regular border police (border guards), which was once a military unit (border troops), had 17,210 staff in 1998, of which 3,700 were civil service workers and 3,050 conscripts who mostly worked along the eastern border.[14] From 2007 onwards Poland is planning to cease deploying military conscripts for border surveillance. The number of border guards deployed at the eastern border is planned to be more than doubled from its current 5,300 by new recruitment and the transfer of units currently serving at the western borders. Some technical equipment will also be transferred from the western to the eastern border and new acquisitions will be made.[15] The biggest areas of investment by the PHARE programme for the eastern border are communications technology (contract with Motorola) and optical technology (contract with Zeiss). Planned purchases include five units for 'aerial reconnaissance' with military helicopters at more than half a million Euro each, 60 mobile optical surveillance devices at a price of 413,000 Euro per unit as well as 236 mobile hand held heat-sensitive cameras at 49,000 Euro each.

Unlike the German-Czech border, the demarcating barbed wire from the time before the collapse of the Warsaw Pact wall will not be removed. The fortified border watchtower, invented by the conquering and territorial states, celebrates its resurrection here. Such towers are planned to be built every 15 to 20 kilometres, each equipped with the most advanced and expensive electronic and optical paraphernalia. Spying from above and hunting down with special units on the ground - with the border surveillance at Poland's eastern border, military and police units converge in new ways. However, the EU and the Polish government have exchanged the traditional military front-line position towards the neighbouring countries for one in search for cooperation.[16] In particular the German government is pushing for Poland to declare its eastern neighbours 'safe third countries' and 'safe countries of origin', thereby enshrining in law the possibility of the immediate removal of migrants within 48 hours of their arrival.[17] In future, border police units from Poland and her eastern neighbours will cooperate more closely on the

fight against refugees and migrants - amongst other means through bilateral contact centres. A relevant treaty with Lithuania has been in force since 10.11.2001.[18]

Highly mobile, networked through numerous authorities, electronically and optically equipped: but it is not only the German, British and Dutch border guard units that train the Polish border guards.[19] Within the framework of the PHARE Horizontal Programme (PHP) and through the EU-Odysseus programme, international organisations - in particular the International Centre for Migration Policy Development (ICMPD) and the International Organization for Migration (IOM) - have taken over a substantial part of border police training. Furthermore, their training concepts and international border police conferences are helping to root the border police firmly into the socio-political system. They advise the EU and its accession countries in police-political matters and on the new personal data collection projects.[20] Also the Warsaw Helsinki Foundation, which was funded on its refugee-political work by the UNHCR in the 1990's, became an advisory body for the EU Commission in questions of the east-Polish border militarisation.[21]

Projects number four, five and six deal with the border management of all pan-European passageways, which are extended in particular to deal with traffic from the east to the west. At the relevant Polish-Belarus and Polish-Ukrainian check points, gigantic border crossing constructions are in the making, replacing current smaller check-points. In these inflated structures, home to digitally recorded personal data and goods mobility, local border-crossers will be separated from international long-distance travellers. The architecture of these mammoth border crossings will make blockade actions substantially more difficult. These actions, staged by the local population especially in the Bialystok area since 1997, have again and again paralysed the management of borders.

Project seven and eight deal with the 'political' dimension: local NGO's and community representatives shall receive funding, albeit small-scale, in order to build a consensus. International advisors are hired to work locally on the more sensitive aspects of external border politics. They are responsible for parts of the accompanying evaluation of the PHARE projects.

What is particularly striking in projects 9,10 and 11, is that they are seen in context of the east-Polish border management: the fight against crime (project 9), amongst other things, especially deals with the connection of the online-databases located at the eastern border to the SIS and Europol, with the creation of a DNA database with British and German support and with the centralised fight against organised crime. The social conditions relying on income from the economic 'grey' zones, as one PHARE point details, should also be fought with police force. Judicial and police cooperation, both in the EU and Eastern Europe, and the prison system (projects 10 and 11) will also be extended with a view to the new border regime. Poland signed a cooperation agreement with Europol on 3.10.2001. A national Europol unit already exists. In the near future, liaison officers will be sent to Britain, Austria, Italy and the Scandinavian countries. Police agreements, amongst others, for the 'Fight against Organised Crime' have already been completed with Finland (4.11.1999), Lithuania (4.4.2000) and Germany (18.2.2002), and more are being planned.[22]

### **Modern state-customs border**

That a restrictive asylum politics involves a new foreigner and border police can be seen with the west-European experience. On the German side along the Oder and Neiße however, the current

EU external border has been based on a combination of electronic equipment and the willingness of the local population to denunciate since at least the 1990's. With the implementation of the PHARE programmes, the new external border at the river Bug returns to the 18<sup>th</sup> and early 19<sup>th</sup> century customs borders, which also targeted the people living in the border regions. Secret border crossings but also the blockade of border crossings were then a legitimate tool in social disputes. The military front-line position towards neighbouring states however has become outdated. Instead, new police and military instruments are brought into line when it concerns the fight against poverty-stricken cross-border 'enemies'.

The PHARE programmes, with their economic and neo-liberal lay-out, are surely imposed by Brussels and Berlin. But the destruction of the informal border economy will also benefit a new political elite in Poland, which views the EU accession as a political as well as an economic chance to break out of centuries of marginalisation. It will also have an interest in the border police keeping the controlled traffic passageways relatively free of obstacles and being able to deport many unwanted refugees and migrants eastwards.

The question: is eastern Poland being used as a laboratory for new executive powers, carried out by mobile units linked through communication technology, deserves to received more attention in the coming years. If it is possible depends not only on police concepts and the known susceptibility of surveillance technology to disturbances. The border population has time and again demonstrated against the new border regime and has on many occasions paralysed the region with blockades. The local population has forced a delay in the imposition of visa requirements for citizens of neighbouring countries. A lasting link could be created between the interests of refugees and migrants with the social structures of poverty in the relevant regions.

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[1] PHARE, initially standing for APologne - Hongrie: Assistance à la reconstruction économique.

[2] <http://europa.eu.int/comm/enlargement/pas/phare/programmes/national/poland/2001> (and .../2002 respectively). Access to the file 'PL01.03.02: Twinning for border and visa policy'; is denied. If not otherwise specified, the information given is based on these documents.

[3] Council document 11087/02, 23.7.2002 (Enlargement: Preparation of the next Accession Conference with Poland; Chapter 24: Cooperation in the Fields of Justice and Home Affairs).

[4] Frankfurter Rundschau, 8.12.2000

[5] Frankfurter Rundschau, 11.4.2001

[6] Neue Züricher Zeitung am Sonntag, 2.7.2002

[7] In 2001, 4,500 persons officially lodged an asylum application. 1,820 asylum procedures have discontinued because the applicant had apparently travelled on westwards. For more

information on the Polish government's practices hostile to refugees see the publication by Forschungsgesellschaft Flucht und Migration (FFM) 'Poland', Berlin - Göttingen (1995); see also 'Ukraine', Berlin - Göttingen (1997) and the FFM press release from 30.10.1996 as well as Dietrich, Helmut: 'Akcja Obcy' (Action Foreigners) in Poland, published in *Mittelweg* 36, 1999, H. 2, pp. 2-11

[8] see APL-Warschau: Phare - Modernisierung des Systems OBCY-POBYT, no's 134361-2001 and 119523-2002, in : "Supplement to the Official Journal of the European Community, p.197, 12.10.2001 and p.151, 6.8.2002

[9] <http://www.esteri.it/polestera/ue/twinning/2002/polonia/pl02jh02.doc>

[10] From 1998 to 2000 (implementation period: 2000-2001) German financial support for the extensions of the OBCY-POBYT system encompassed 302,500 €, the PHARE programme contributed 640,000 €, the Polish state 1,35 m. €

[11] Council Document 11087/02, 23.7.2002

[12] Government of Poland: Poland's Negotiation Position in the Area of Free Movement of Persons. Synthesis (document 2), Warsaw 27.7.1999, p. 40. Armenians are required to apply for a visa already since the Armenian-Azerbaijani war. Around 15-20,000 Armenians live in Poland.

[13] CONF-PL 8/02 (The abbreviation CONF-PL refers to documents related to the conferences on Poland's accession to the EU.)

[14] EU Commission: Regular Report on Poland's Progress on the Path to Accession, 4.11.1998, p.48

[15] CONF-PL 46/02

[16] compare Kempe, I.; Meurs, W.; Ow, B.v. (eds.): *Die EU Beitrittsstaaten und ihre östlichen Nachbarn*, Gütersloh 1999

[17] According to the UNHCR, in 2001, 14 people were able to lodge an asylum application on the border to Russia, 34 on the border to the Ukraine and 523 on the border to Belarus. 1,187 were taken into detention awaiting detention.

[18] CONF-PL 5/02

[19] CONF-PL 5/02 and 46/02

[20] See ICMPD (ed.): *Border Management in Europe. An Overview [of the border control systems of EU and candidate countries]*, December 1999; ICMPD (ed.): *Future External Border of the EU. Teaching Material*, edited by R. Schweighofer, September 1999, Seminar 'External Borders' for Hungary, Poland, Czech Republic, Slovenia and Estonia (Klagenfurt, 19-23 October 1998), Seminar 'Mediterranean Borders' for Cyprus (Larnaca 17-21 May 1999), Seminar 'Austria Second Round' for Romania, Bulgaria, Slovakia, Lithuania and Latvia (Illmitz 21-25 June 1999). On border police activities of the IOM in Middle-eastern Europe see FFM: Ukraine cited in footnote 7, p. 15 et seq.

[21] Kazmierkiewicz, P.: Case Study. Polish Helsinki Human Rights Foundation from the Implementing Partner to UNHCR to the Advisor to the European Commission Delegation (1999); <http://www.policy.hu/kazmierkiewicz/polishcase.html>

[22] Council Document 11087/02, 23.7.2002