

# Digital Technological and Legal Support of the Illegal Migration Control: a Population and National Security Aspects

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**Abstract**—Control over the problem of illegal migration as a subsector of migration in the Republic of Latvia is one of the tasks to be implemented by the executive power, such as the Ministry of the Interior and its subordinate institutions, mainly the State Border Guard and the Office of Citizenship and Migration Affairs. The purpose of the article is to study digital technological and legal solutions for controlling illegal migration through the prism of population and national security. The following research methods were used in the development of the study: descriptive, analytical, statistical analysis, inductive method. Results of the study: 1) the regulation of identified digital technological security (tools and means) of illegal migration and problems related thereto, in the context of the position of the State of Latvia in control of illegal migration; 2) the official statistics of illegal migration (data of the State Border Guard of the Ministry of Interior and the Office of Citizenship and Migration Affairs) (statistical data on criminal and administrative offenses) were compiled for the last three-year period, taking into account also latent illegal migration approximate indicators; 3) problems identified in the application of the digital, technical and legal regulation of illegal migration in the State border and within the State, which officials encounter in the practice of law enforcement.

**Keywords**— digital technical security, illegal migration and its control, legal security, national security.

## I. INTRODUCTION

At the level of EU policy priorities, the Stockholm Program outlined several aspects, starting with the protection of individuals' fundamental rights and freedoms within the so-called personal security paradigm, European rights and justice, the protection of the European area, and

Europe's responsible role in the world (aspects of European freedom, security, and justice) [1].

Several security paradigms are described in literature sources. The traditional security paradigm prioritizes national and state security, whereas the personal security paradigm considers the individual as the primary object to be protected. The social security paradigm positions society as the central object of security threats. For a long time, the European strategy in the field of social protection was based on the personal security doctrine. However, given the significant increase in the degree of social security threats, it became necessary to focus on the understanding of so-called "initial" security, whose main goal is to protect the public sphere, allowing the implementation of secret and non-transparent security and surveillance measures, justified by so-called "emergency" measures [e.g., 2].

From a socio-economic aspect, in the context of the security of the EU's external borders, there are several groups of risks and levels. From the perspective of the residents living near the Latvian border, as well as the legal perspective, one of the sociological studies (2021) emphasized that in some of the regional municipalities in Latvia there is a lack of reflection of public security aspects in policy planning documents or their specifically outlined results (e.g., Rezekne's territorial planning for 2018-2030, the situation as of 2021). Within the vision of the "Rezekne City Sustainable Development Strategy 2030," the task of "building Rezekne as a human and environmentally friendly, safe, and modern city on the eastern border of the European Union" is mentioned. Indirectly, threats to the public security sector are defined in relation to improving the quality of education, preserving cultural and ethnic

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diversity, and strengthening social integration.. According to the SWOT (SWOT – strengths, weaknesses, opportunities, threats) analysis, potential threats include a lack of connection between different planning levels and an insufficient number of attendees at cultural events (therefore, we can see the problem of diminishing affiliation with Latvian culture) [3].

The topicality of the study is determined by the global and regional challenges of recent years, which involve not only migration, but also illegal migration problems in Latvia as an EU Member State. Along with significant changes at the international level, improvements are also needed in the area of prevention and measures to combat illegal migration. And taking into account that the task of preventing illegal migration in Latvia is implemented by the State institution, i.e. the State Border Guard, these improvements are a topical matter exactly in the activities of this institution mentioned above, as well as in the activities of other State institutions that support the State Border Guard and cooperate with it in the field of prevention of illegal migration.

**Consequences of illegal migration.** These consequences occurs both for illegal migrants themselves and for the state. From a human rights perspective, illegal migrants are exposed to risks of exploitation and human trafficking. For example, one of the latest cases of a human trafficking network being uncovered and dismantled is the one reported by the Spanish police at the end of February 2025, who arrested 48 people in connection with the sexual exploitation and forced labour of more than 1,000 women, mainly from Colombia and Venezuela) [4].

The end of the 20th century and the 21st century are the era of high technology, offering various identification options exist. In this era of high technology, accurate identification is of crucial importance because it guarantees security and reliability. Every system or process uses trusted identification to ensure that only verified users are given access [5].

In an interview, the Minister of the interior R. Kozlovskis expressed the opinion: Smart borders are modern border control systems that use automated technologies to manage the flow of persons and vehicles between countries efficiently, safely and quickly. Unlike traditional borders in recent history, where checks were largely manual, smart borders are based on modern solutions [6].

Future challenges could be related to the ever-increasing number of travelers, increasingly complex threats, and possible hybrid threats from individual countries. Undeniably, this will require new, innovative approaches to border control and immigration control within countries. Smart borders help to mitigate security risks, as there is still a possibility of entering the EU or Schengen area countries with criminal intentions, creating potential security risks in the future [7].

The fourth section of the Schengen Convention, the Schengen Information System (SIS), is of great importance

in the work of law enforcement agencies. It provides for a global information system for combating crime and cooperation between Member States and is in force in most EU countries and the Schengen associated countries of Switzerland, Norway, Liechtenstein, and Iceland. Every day, around 3.5 million people cross internal borders for work or study or to visit families and friends, and almost 1.7 million people reside in one Schengen country while working in another [8].

The use of the SIS has led to significant changes in the regulation of the immigration process in each Schengen Member State [9].

The purpose of this is to strengthen public policy and public security on the territory of the Member States by ensuring the availability of reports to the competent authorities and institutions of the Member States (Schengen Information System Operating Law, 2007) [10], although these reports sometimes do not contain sufficient grounds of public policy interests to refuse entry to individuals [11].

Key smart border IT (information technology) tools are constantly being improved to help combat crime and protect national borders: Visa Information System (VIS) (Schengen Visa info, 2023), Entry/Exit System (EES) (Regulation (EU) 2017/2226 (Regulation EU 2017), European Travel Information and Authorization System [12].

The Criminal Law also contains provisions on liability for illegal crossing of the state border (Criminal Law, Article 284), ensuring the possibility to illegally reside in the Republic of Latvia (Criminal Law, Article 285 prim), as well as ensuring in bad faith to a person the possibility to acquire the legal right to reside in Latvia, another Member State of the EU, a country of the EEA (European Economic Area) or the Swiss Confederation (Criminal Law, Article 285<sup>2</sup>) [13].

## II. MATERIALS AND METHODS

Article 4 of the State Border Guard Law defines the main functions of the Border Guard, namely ensuring the inviolability of the State Border and preventing illegal migration. The implementation of the above tasks should extend not only to the activities of the border protection itself, but also to activities within the state, thereby ensuring the security of the population and national security in general. The use of criminal and administrative legal means to control illegal migration is also the responsibility of other competent bodies, such as the State Police, which is subordinate to the Ministry of Internal Affairs. In particular, the challenges of recent years in the field of illegal migration on the state border and within the Republic of Latvia make this issue even more important and urgent.

**The research hypothesis is defined as follows:** in the field of illegal migration, new challenges are emerging, the prevention and control of which requires technical and legal solutions that meet the requirements of modern technological and public relations development. The object

of the study is the legal relations in the field of control over illegal migration. The subject of the study is the possibilities of digital technological and legal security for controlling illegal migration in the application of legal relations.

**The following research methods are used in the development of the study:** a) descriptive (describing the problem of illegal migration and its impact on society as a whole, on legal relations based on the situation in Latvia), b) statistical analysis method (by analysing the number of cases detected in criminal offences directly related to illegal migration (illegal crossing of the State border and unlawful conveyance of a person Across the State Border) for the last 10 years, i.e., in the period from 2014 to 2024), c) analytical method (performing analysis of changes in the potential threat of illegal migration from the point of view of criminological forecasting), as well as sociological observation method (authors of the article, applying personal professional experience, legal practices in the field of administrative and criminal law, as well as institutions responsible for the prevention of illegal migration, i.e. in the field of activity of the State Border Guard).

### III. RESULTS AND DISCUSSION

**Situations/types of illegal migration** (based on the example of illegal crossing of the state border). There are several situations that illegal/potential illegal migrants find themselves in. The above situations can be divided into the following groups: a) a person/group of persons crosses the state border through the border control points without a visa with a valid/invalid/forged document for travel or without valid travel documents or without any documents that could identify the person; b) a person/group of persons crosses the state border through the “green border” (outside the territories of border control points) and is detained on the so-called “green border”. They could also be *potential victims of human trafficking*, beginning with carriers (including in practice as carriers or so-called “wearers”, among whom in practice there were citizens of other countries, as well as local residents living in the border area who are looking for means of subsistence, or residents who do not have a legal income, with a low income level, with an insufficient standards of living, and who their own personal motivation), and ending wanted for committing crimes; c) a person or persons who cross the state border outside the border control points (bypassing the established procedure) through the “green border” as unidentifiable and are illegally staying in the country.

#### *A. Digital technical solutions for combating illegal migration*

The legal framework of the European Union includes Regulation (EU) 2016/399 [14], or the Schengen Borders Code, which is directly linked to the so-called Smart borders. The above Regulation establishes the rules and procedures for border crossings at both the internal and external borders of the EU. Smart borders are an important tool that helps Member States effectively implement the

principles of border control, ensuring both security and efficient management of persons and their flows.

Automated document scanners with biometric data [15] (face, fingerprints, fingermarks and palmmarks, DNA (for missing or wanted persons) reading capabilities have been implemented in SIS since March 2023 [16]. These modern technologies, as an integral part of the smart border, are especially important at control points with a large simultaneous flows of people, in such places as airports, ports and railway stations at state borders, but also at border crossing points on roads, where the flow of people is more uniform, the use of such modern technological tools would be necessary to avoid queues and conduct border control as quickly as possible, reduce the number of errors and help border crossing persons navigate the border control procedure. Opinions and insights about this have already been expressed in the literature [e.g.,17].

Artificial intelligence also plays a significant role in the operation of the smart border, processing in real time [18] not only biometric, but also other data, such as information obtained about vehicles, including their number plates and other information [19].

The digitalization of personal data and the increasingly active use of technical and digital means for obtaining biometric data contribute to the protection of human rights and also have a positive impact on the control of illegal migration. Another challenge is the ability of smart devices to operate in various weather conditions, in conditions of limited communication and electricity, along with work organization issues, lack of human resources and finances, issues of normative framework, and high costs for both acquiring and maintaining the technology.

In 2024, at the 9th International Scientific and Practical Conference “Border Security and Management”, representatives of Latvia, neighbouring countries and other Schengen countries, based on risk analysis, survey data and other performance indicators, as well as institutional reports, identified the main problems of the implementation and operation of smart borders, including the lack of regulation at both the EU and national levels, problems with the principle of solidarity in the EU and Schengen countries, the operability of smart devices, and high costs of acquiring and maintaining technologies [20]:

- high costs of both acquiring and maintaining technology;
- limited interoperability of systems and system management problems, sometimes linked to staff management problems and their turnover;
- lack of human and financial resources.

#### *B. Legal solutions to prevent illegal migration*

From a human rights perspective, becoming an illegal migrant can occur due to different circumstances beyond person’s control (global or regional events) and/or due to events in a person’s life. Illegal migrants are exposed to

high risks of various forms of exploitation. Illegal migration, on the other hand, as a negative phenomenon, also poses a threat to the state as well as to the security and public order of the designated territories, and public safety. Because of illegal status, illegal migrants are denied the opportunity to legally earn a living, pay taxes, obtain an identity document, as well as residence permits in the relevant EU member state.

There are various legal tools to prevent and control the problem of illegal migration. And such tools could be divided into several groups. Figure 1 illustrates the legal solutions to prevent illegal migration. *Figure 1 clearly illustrates the legal means of preventing illegal migration (the authors this article developed).*



Fig.1. *Legal means to prevent illegal migration*

Figure 1 shows four types of groups of legal measures to prevent illegal immigration. The first group includes measures taken by competent and responsible authorities to prevent illegal immigration. Article 4 of the State Border Guard Law includes the task of preventing illegal immigration. The application of such legal means falls within the competence of the said body. Another agency under the Ministry of the Interior, the Office of Citizenship and Migration Affairs, is responsible for examining applications and making decisions regarding asylum seekers. Thus, in the event of a refusal to grant refugee status or alternative status, the person has the right to appeal this decision to the Administrative Court. Another internal affairs agency, the State Police, is responsible for cooperating with other agencies, such as the municipal police, in carrying out tasks to ensure public safety and order.

The second group includes the application of measures of the administrative process. And this is reflected in the activities of another institution subordinate to the Ministry of Internal Affairs, namely the Office for Citizenship and Migration Affairs, whose competence includes reviewing applications and making decisions for asylum seekers. Thus, in the event of a refusal to grant refugee status or alternative status, a person has the right to appeal this decision to the Administrative Court in accordance with the procedure established in the Administrative Proceedings.

The third group includes administrative-legal and procedural means applied in accordance with the Law on Administrative Liability, the Immigration law when establishing the fact of a person’s presence in the country without valid documents (visa, residence permit) or a person wanted for committing a criminal offence in Latvia or another state and illegally staying in the country.

For example, the authors of this article reviewed statistics on applications for refugee and alternative status in an article published in 2016 [21].

The detained foreigner is placed either in the premises of the State Border Guard for temporary detention, or in an accommodation center, which may subsequently end with administrative procedures for determining refugee or alternative status. Several hundred such cases have been considered in the Administrative Court. In turn, when analyzing statistical indicators, in most cases - 95% of cases, alternative status or refugee status is refused, respectively, only 5% of the received applications for granting refugee or alternative status are satisfied [22].

The fourth group could include criminal legal remedies if a person residing illegally in the country commits a criminal offense.

The fifth group includes means of criminological prediction, which includes criminalization, decriminalization, penalization and depenalization and their measures. And finally, means of legal policy are regulated by the legislator.

Considering that one of the risks at the state border is illegal border crossing, it is necessary to consider statistical data on such illegal activity over a longer period of time. Illegal crossing of the state border entails criminal liability under Article 284 of the Criminal Law. Table 1 shows the changes in statistical data in the period from 2014 to 2024 [23]. *See Table 1.*

Year	Criminal proceedings initiated in Latvia pursuant to Article 284 of the CL (unlawful crossing of the State border) in the period from 2014 to 2024			
	Article 284 of CL	Article 284, paragraph 1 of CL	Article 284, paragraph 1 of CL	Article 284, paragraph 2 of CL
2014	32	12	-	20
2015	83	26	-	58
2016	101	27	-	74
2017	62	23	0	38
2018	46	15	3	28
2019	31	17	0	14
2020	8	no data	4	2
2021	46	9	0	35
2022	62	27	1	34
2023	142	63	0	79
2024	40	28	0	12

Table 1. *Criminal proceedings initiated in Latvia pursuant to Article 284 of the CL (unlawful crossing of the State border) in the period from 2014 to 2024 [23].*

From the contents of Table 1, it can be seen that over the past eleven years, an average of 57 criminal proceedings were opened and initiated annually for illegal crossing of the state border.

Most of these cases were initiated under the first part of Article 284 of the Criminal Law without qualifying elements. In turn, it should be mentioned that by

30.12.2023 the Article 284 of the Criminal Law was supplemented with the new prim paragraph, providing for liability for intentional illegal crossing of the state security, if the border violator has been banned from leaving the country in order to prevent a threat to national security (Article 284 of the Criminal Law), [17]. The highest number of crimes committed for illegal border crossing was registered in 2023 (142 cases). In turn, the lowest number of such crimes was registered in 2020 (8 cases) [23].

Note: Article 284, Paragraph 1.<sup>1</sup> of the Criminal Law has been included in the Criminal Law from 23 May 2017 [24].

When compiling statistics on identified cases of ensuring the possibility to illegally reside in the country (Article 285 of the Criminal Law) [23], it should be concluded that the largest number of such cases were identified in 2023 – 85 cases [23], while in 2020, such cases were not identified.

In turn, the number of cases of ensuring in bad faith to a person the possibility to acquire the legal right to reside in Latvia or another Member State of the EU has averaged 15.5 cases annually over the last eleven years (from 2014 to 2024). In 2021, the highest number of such cases was recorded–58 [23]. In contrast, no cases of ensuring in bad faith were detected in 2014 and 2020.

#### IV. CONCLUSION

1. The authors believe that the search for such new solutions should be the focus not only for the development of measures by the relevant competent authorities (primarily the responsible authorities of the State Border Guard of the Republic of Latvia or other EU Member States) in implementing their cooperation but also be in the centre of attention and monitoring of scientists and researchers. Cooperation could be improved both in the legal framework – in both the short-term and long-term perspective– and in the enhancement of technical and digital tools and means.

2. The range of measures to prevent illegal migration at the external border of Latvia is diverse and must be improved along with the development of new digital and technical means, as well as legal means in general.

3. Smart state border measures to help improve prevention of illegal migration are information technology tools, including the Visa Information System (VIS), the Entry/Exit System (EES), as well as European Travel Information and Authorization System (ETIAS). Digitization of personal data and new technical solutions for obtaining biometric data are important from the point of view of human rights, since the use of such tools must be balanced with human rights principles and current EU legal norms. Legal means of combating illegal migration, on the other hand, can be divided into four groups of measures. Those include depending on the sub-branch of

law, administrative and criminal legal means and solutions can be distinguished.

4. However, there is a problem of uniformity of practice in the application of anti-illegal migration rights. Besides that, the legal tools and knowledge available to the State Border Guard and other law enforcement authorities in the application of this instrument (law enforcement) correspond to the level of development and requirements of the regulatory framework and modern social relations in general. The effectiveness of technical means can be significantly and negatively affected by deficiencies in personnel training or even by its absence.

5. Legal measures for effective control of illegal migration can be divided into several (5) groups: 1) authorities (within the limits of their competence established by law); 2) means of administrative process (examination of refugee or alternative status applications, administrative procedures); 3) Administrative-legal and procedural means (application of administrative liability); 4) criminal-legal and procedural means (application of criminal liability); 5) means of criminological prediction of illegal migration (includes law policy measures – criminalization, decriminalization, penalization, depenalization and with the related measures); and finally 6) means of legal policy are regulated by the legislator.

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