

THE IMPORTANCE OF THE NAVAL COMPONENT OF THE ROMANIAN BORDER POLICE WITHIN THE EU'S EXTERNAL BORDER

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At European and international level, the surveillance of the maritime space, rivers and harbours, saving and protecting the sea life, the prevention and countering the trans-border criminality, the surveillance of the maritime border, countering the piracy and the terrorism, the protection of the marine environment, the control of the compliance with the rules foreseen by the maritime legislation, ensuring the public order, the security of the maritime transportation, the protection of the exclusive economic zone's resources, represent a wide range of attributions assigned to one authority with different structures and roles, also usually known under the name of Coast Guard.

Keywords: surveillance of the maritime space; prevention; countering; illegal migration; trans-border criminality; Naval Group.

At local level, the Romanian Border Police organizes, on the basis of the Law no. 280/7th of December 2011¹ the Coast Guard, under the direct supervision of the Border Police general inspector, with juridical personality and an area of competency correspondent to Tulcea and Constanța counties.

The Coast Guard has competencies in a area of 30 km from Romania's border towards the interior, within the territory of Constanța and Tulcea counties, within the Black Sea and within the area of 10 km on both shores of the Danube, in Ialomița and Tulcea counties, with the following attributions²:

- border surveillance and crossing control of the border between Romania and Ukraine on a length of 207.9 km;

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¹ Law no. 280/7.12.2011, concerning the modification of the Law no. 265/2010 for updating the Emergency Government Ordinance no. 104/2001 related to the organization and functioning of the Romanian Border Police and for rending obsolete art. 4 paragraph. (4) of the Emergency Government Ordinance nr. 105/2001 Romania borders, and for updating the Emergency Government Ordinance no.104/2001-the organization and functioning of the Romanian Border, published in the Official Journal no. 877/12.12.2011

² <http://www.politiadefrontiera.ro/organizare/> last accessed on 09th of January 2012

- border surveillance and crossing control of the border between Romania and Bulgaria on a length of 161,325 km;
- surveillance of the interior Danube, Macin and Sulina canals opened to the international navigation on the range of competency of Cernavodă, Isaccea, Tulcea, Pardina, Chilia and Sulina Border Frontier Sectors;
- border surveillance and crossing control of the territorial sea, contiguous zone and exclusive economic zone on a length of 193,5 km;
- compliance with the provisions of the treaties, agreements, conventions and borders protocols between Romania and Ukraine, Bulgaria and other international regulations border state related, in which Romania is part of.

The Coast Guard is organized in services, territorial services, Naval Groups, sectors and points of the border police, in accordance with the order of the ministry of administration and interior. From internal point of view, the Coast Guard is composed by services, bureaus, compartments and training center.

The Naval Group and Border Police sectors are execution units from within the Coast Guard, with limited competency and they are organized in compartments and shifts, in compliance with the specificity of their activities, having as main attributions the surveillance and the control of the Romanian border crossing, the prevention and the countering of the illegal migration and trans-border criminality within the competency zone and also any other offence related to the state border legal framework.

The points of the Border Police are subordinated to the Naval Groups and Border Police Sectors and they function on the basis of the bilateral agreements concluded between Romania and the neighboring countries, in accordance with the national legislation and their main attribution consists in controlling the documents during the crossing of the border, ensuring a fluent, coherent and civilized traffic for the travelers and merchandises through the border crossing points, together with other authorities with control competencies in the field of border crossing.

In order to fulfill its attributions, the Coast Guard collaborates and cooperates with the structures of the state's institutions that develops activities at the borders and also with the border institutions of the Ukraine Republic and Bulgaria, through the above mentioned subordinated structures.

The Coast Guard must be a strong institution with clear defined attributions, with well trained personnel, both flexible and capable to impose the compliance with the legal provisions and the state's authority in the area.

This authority was created by a high number of countries, some of them with decades or even century ago, some of them were recently created. Its structure and attributions can vary from country to country; nevertheless its specificity is being determined by the attributions assigned and by the maritime space, rivers and harbours that has to be managed.

Analyzing the Law no. 280/07.12.2011³ concerning the constitution of the Coast Guard we reached to notice two aspects that neglect the basis component of a Coast Guard (the Vessels of the Coast Guard), namely the organization and the attributions of the naval component. As we mentioned in the reasons expose, within the European Union, out of 27 member states, 24 have a coast zone/maritime border and 20 countries have a Coast Guard, authorities that have a common element, namely the naval component (the vessels of the coast Guard and their crews).

The naval component of the Coast Guard is organized in naval structures distinctively named, Coast Guard Naval Base or Coast Guard Naval Group within the Coast Guard and not within the terrestrial structures as it is mentioned in the law at point 3 paragraph 6 of the 12 article within the border police sectors.

The organization of these naval structures is different from the terrestrial structures and their coordination is made by the Zone Centers of the Coast Guard that have the role of ensuring a unitary coordination of the Coast Guard's specialized structures: marine structures (Naval Groups of the Coast Guard); aviation structures (Air Bases of the Coast Guard); terrestrial structures (the sectors of the Coast Guard or for example the special forces in the case of the Greek Coast Guard).

The Zone Center of the Coast Guard with responsibilities within the Black Sea, *in our opinion*, will probably be The Command and Control Center SCOMAR.

The arguments for supporting the idea of having a distinctive naval structure within the Coastal Guard are determined by the following aspects:

- the specificity of the accomplished tasks, the procedures used on sea, the particularities of the radio naval communications that are developed in accordance with the international regulations;
- the specific legislation; the surveillance of the maritime border is made on the basis of the principle of harmless passage defined by the Law no. 17 R1990 concerning the legal framework of Romania's internal maritime waters, the territorial sea, the contiguous zone and the exclusive economic zone;
- the complex training of the navigant personnel which involves acquiring competencies in the maritime/inland waterway law enforcement,

³ Law no. 280/7.12.2011, concerning the modification of the Law no. 265/2010 for updating the Emergency Government Ordinance no. 104/2001 related to the organization and functioning of the Romanian Border Police and for rending obsolete art. 4 paragraph. (4) of the Emergency Government Ordinance nr. 105/2001 Romania borders, and for updating the Emergency Government Ordinance no.104/2001-the organization and functioning of the Romanian Border, published in the Official Journal no. 877/12.12.2011.

compliance with the navigation and exploitation rules in adequate parameters for the navigation, communication, radar and electronic surveillance equipments, armament and electro-magnetic devices;

- the existence of marine technique which involves appropriated maintenance for the vessels.

The naval personnel's training (the crews of the Coast Guard's vessels) is organized within all Coast Guards' training schools, which ensures the acquirement of the above mentioned competencies.

From the analyze of the legislative regulation it's not very clear what are the attributions of the future Coast Guard, taking into consideration that all the Coast Guards from within the European Union have attributions established by the law.

In our opinion the main attributions of the Coast Guard are:

- to ensure the unitary implementation within the subordinated structures, of the Romanian Border Police Concept related to the surveillance and control of the state's border, of the provision of the methodology concerning the Regulation CE no. 562/2006 and of other legislative regulations in the field, of the Strategy for securing the state's border, the Border Integrated Management Strategy, the conventions, the agreements and settlements in which Romania is part of;

- to ensure the effective disposal of the forces and technical means (naval and terrestrial mobility), in accordance with the operative situation indicated by the system SCOMAR and the threats assessment;

- to supervise the implementation of the Schengen acquis within the subordinated structures and the applicability of the communitarian best practices in the field of surveillance and control of the border crossing;

- to supervise the accomplishment of the legal attributions by the entire personnel of the Coast Guard and the subordinated structures;

- to ensure and to supervise the way of action for the activities developed under the auspicious of FRONTEX, in the field of competency and other international activities developed by the Coast Guard;

- to represent the Romanian Border Police Inspectorate within the meetings, national and international missions in accordance with the assigned prerogatives;

- to draft and to present with the view of obtaining general inspector's approval the principles of operational employment of the forces and means in time of peace, mobilization, crisis, deployment of subordinated structures in time of peace;

- to ensure the maintenance and the development of the operational and intervention capabilities of the subordinated structures and to supervise

the fulfillment of these structures' missions in accordance with the legal provisions;

- to participate in drafting and to ensure the applicability of the provisions, cooperation plans related to the intervention, guard and defense of the objectives from the area of competency, reestablish and maintain the public order together with other forces from within the Ministry of Administration and Interior and Ministry of National Defense;

- to supervise and gather the data related to the events that take place in the area of competency in connection to the field of activities and to draft notes, summarizes, studies and prognosis with the view of informing the management of the Romanian Border Police and other authorities entitled to receive such information;

- to ensure the application of the provisions, treaties, agreements, conventions and protocols related to the frontiers and concluded by Romania with the neighbouring countries in order to implement an unitary concept concerning the bilateral cooperation and some bilateral regional programs (inclusively programs for accessing European funds destined for the regional development);

- to permanently assess the organization functionality and to propose improvement measures for the structure's organization, in accordance with the legal provisions;

- to ensure the operative management of the subordinated structures and investigate the complex penal cases, which are not in the competencies of the territorial subordinated structures;

- to develop supportive, guidance, coordination and control activities for the subordinated structures;

- to participate together with the territorial authorities for the environment protection and with the border authorities of the neighbouring countries, in taking the necessary measures in order to prevent the ecological risks and the damages and also in case of accidents that affect the environment factors and in eliminating their effects;

- to execute, directly or together with the custom authority, the control of the vessels suspect for committing illegal activities in the area of competency or which are actually caught in action committing such activities;

- to execute the control of the vessels together with the subordinated structures in case of the evacuation of the used waters or in case of an accidental pollution;

- to participate in the surveillance, control and ensuring the protection and conservation of the hunting and natural phishing resources by preventing and countering the illegal hunting and phishing and also the illegal

exploitation of other biological and non-biological resources located in the area of competency;

- to execute the surveillance and to participate in the control of the compliance with the rules foreseen for the navigation's order and security within the waters from the area of competency and harbours, in collaboration with the harbours captains;

- to manage the state's budget funds and to ensure the increase of the efficient use of funds by accomplishing a centralized material acquisition;

- to take the necessary measures in order to increase the level of non-returnable communitarian funds' absorption;

- to ensure the efficient repartition of the equipments and material, in accordance with the activities of each subordinated structure and to coordinate their maintenance activities at regional level;

- to administrate the movable and immovable patrimony of the Coast Guard and its subordinated structures;

- to ensure the recruitment, selection, training, employment and professional evaluation of the Coast Guard and its subordinated structures' personnel;

- to ensure the management and efficient use of the financial resources of the Coast Guard and also the specific accountancy activities for the subordinated structures;

- to verify the way of implementing the quality management within the Coast Guard and its subordinated structures and to organize the specific activities in order to prevent and to counter the non-compliance with the legal rules foreseen for the personnel of the Coast Guard and its subordinated structures, to organize and to control the way the subordinated structures are fulfilling their tasks in accordance with their competencies;

- to represent and to defend the legitimate interest of the Coast Guard (as an institution with legal personality) in front of courts and other public authorities;

- to develop cooperation activities with similar institutions from other/neighbouring states, on the basis of the bilateral cooperation documents, the purpose being to ensure a high level of surveillance and control of the border crossing in the area of competency;

- to organize the psychological periodical evaluation of the Coast Guard and its subordinated structures' personnel and to elaborate organizational diagnosis;

- to organize and to ensure the institutional communication with the civil society, mass media and non-governmental institutions, with the role of

maintain a favourable image of the Coast Guard and the Romanian Border Police in general;

- to develop activities related to traditions and culture with the view of ensuring the cohesion of the personnel and to promote the respect for the institutional and Romanian people values;

- to supervise the compliance with the legislation related to the classified information and personal data by all the subordinated structures and to take the necessary measures for ensuring the legality of the activities of registration, process and archive related to this type of documents;

- to identify the risks that can affect the Coast Guard's objectives and to take the necessary measures in order to reduce these risks.

In our opinion, the Coast Guard's service is responsible with imposing the law on the sea (being the only armed service) and leads the maritime safety under all aspects. Also, the importance of the Coast Guard for the Romanian population is a result of the high seas' effect. Only those who cannot understand the vital importance of the sea for Romania's safety, prosperity and development, will have a hard time understanding why it is necessary to have a modern Coast Guard and its total implication in solving the problem of the maritime security of Romania and EU's external border.

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