

## ILEGALNE MIGRACIJE IN VLOGA SLOVENSKIH OBOROŽENIH SIL

## ILLEGAL MIGRATION AND THE ROLE OF THE SLOVENIAN ARMED FORCES

**Povzetek** Slovenska vojska pomaga Policiji pri varovanju zunanje schengenske meje od evropske migrantske krize leta 2015. Čeprav krize ni več, število ilegalnih migracij leta 2020 ne pojenja. Slovenska vojska še intenzivneje podpira Policijo pri preprečevanju ilegalnih prehodov meje tudi na notranji evropski meji z Italijo. Vojska pomaga pri preprečevanju ilegalnih migracij tudi v drugih državah članicah EU. V prispevku poskušamo ugotoviti, katero vlogo imajo oborožene sile pri preprečevanju ilegalnih migracij, ali je njihova uporaba na mejah pri preprečevanju ilegalnih migracij pravi odgovor na nacionalni in evropski ravni ter kako to vpliva na opravljanje njenih temeljnih nalog.

**Ključne besede** *EU, ilegalne migracije, oborožene sile, Slovenska vojska, Policija.*

**Abstract** The Slovenian Armed Forces have been assisting the police in protecting the Schengen external border since the European migrant crisis of 2015. Despite the fact that the crisis is over, the number of illegal migrations in 2020 is not decreasing, and the Slovenian Armed Forces is supporting the police even more intensively at the internal European border with Italy. The military also helps to prevent illegal migration flow in other EU Member States. In this paper, we try to analyze the role of the armed forces in the prevention of illegal migration, and determine whether their use at the borders in the prevention of illegal migration is the right answer both at the national and the European levels, and what effects it has on the SAF's ability to do its primary job.

**Key words** *EU, illegal migration, military, Slovenian Armed Forces, Police.*

## Introduction

During the European migrant crisis in 2015, Slovenia included the Slovenian Armed Forces (SAF) in the crisis operation of the country, due to the large number of migrants. The military is often an integral part of crisis management and has in the past often engaged in military support to civilian authorities, e.g. during the floods in 2010, 2012 and 2014. The year 2014 was particularly marked by an ice storm, which paralyzed much of the country and caused great material and financial damage; in this case, too, the military provided assistance to the civilian authorities. Since the assistance of the military is regulated by legal basis, let us see what the basis for the work of the SAF are.

The first point of Article 37 of the Defence Act sets out the tasks of the military as being to carry out military education and training in armed combat and other forms of defence; to ensure its readiness; to provide defence in the event of an attack on the state; to participate in protection and rescue activities in the event of natural and other disasters, in line with their organization and equipment; and to carry out obligations assumed by the state in international organizations and through international treaties.

The third point states that the Government will decide on the participation of the SAF in protection and rescue activities. During a state of emergency, such a decision is made by the Minister of Defence at the proposal of the Civil Protection Commander of the Republic of Slovenia, or the Chief of General Staff on the authorization of the Minister. According to the fourth point, the SAF may, together with the police, participate in the wider protection of the national border within the national territory, in accordance with the plans and upon the prior decision of the Government. However, SAF members do not have police powers in the performance of these tasks.

In February 2016 Article 37 of the Defence Act was amended by what is known as extraordinary powers of the armed forces, with the emphasis on making the police more effective during the migrant crisis, although in practice, those powers were never used during that three month period (Garb, 2016, p 10).

The first point of Article 37 states that should the security situation so demand, the National Assembly may, by a two-thirds majority vote of the deputies present and at the proposal of the Government, adopt a decision that the members of the SAF will, in cooperation with the police and on an exceptional basis, and in accordance with the plans and upon the prior decision of the Government as referred to in paragraph four of the preceding Article, also exercise the following powers in the wider protection of the national border: to warn, to direct, to temporarily restrict the movement of people, and to participate in crowd management.

The second point states that the powers referred to in the preceding paragraph will be exercised under the conditions prescribed for police officers. The third stipulates that the police will immediately be informed of any powers that have been exercised under paragraph one of the Article. According to the fourth point, the legal act referred to in paragraph one of the Article, the National Assembly will define the

time frame within which the members of the SAF will exercise the powers referred to in paragraph one of the Article, which must be limited to the time required for their execution, and should not exceed three months. This period may be extended under the same conditions.

In May 2016, the SAF prepared an analysis of its operations in support of the police in relation to the migrant issues during the period October 2015–May 2016. The Annual Report of the Ministry of Defence of the Republic of Slovenia 2016 states that the SAF supported the Civil Protection Service in dealing with migrants in the first quarter of 2016. From this we can assume that when the SAF stopped supporting the Civil Protection, the migrant crisis as a humanitarian operation ended.

In 2020, SAF members are still patrolling the Schengen border and the border with Italy in support of the police. In this regard, we want to find the answers to two questions.

The first question asks why members of the armed forces, in this case the SAF, are patrolling a border between two EU member states in 2020, if freedom of movement applies between Member States, except at external Schengen borders. During the European migrant crisis of 2015, the SAF supported the police in monitoring migrants through Slovenian territory to other targeted countries, setting up technical barriers and co-operating in the protection of the southern Schengen border, where it patrolled the border together with the police. Why, then, five years later when the migrant crisis is over, are members of the SAF still patrolling the external European border and the internal border with Italy?

The second question, which should perhaps be the first, is whether the use of the military at a time of massive illegal migration to the Schengen area is an appropriate way to address this problem.

In searching for answers to these questions, we used a comparative analysis of primary and secondary written sources, and a comparative analysis between different EU Member States which have been dealing with illegal migration for some time, with an emphasis on secondary written sources. In the case of Slovenia and the SAF, we have selected a study of three examples of SAF cooperation in connection to illegal migration. We are aware that there are relatively few scientific and professional works on this topical issue in Slovenia. This is understandable, as it is a problem that is relatively new, developing quickly, and influenced by many different factors. Regardless, we believe that it is essential to share some very specific experiences with other countries and armies for a very simple reason. Illegal migration takes place in all EU Member States, as well as in third countries. It is therefore up to the EU as a community of 27 countries to deal with the growing number of illegal migrations within its proper context of law enforcement in the future. They could well use their armed forces to deal with this problem, or find a different political solution at the EU level. In the methodological design of this paper, we have mostly

used the deductive approach. Its basic purpose is to find answers to the questions asked, as well as to stimulate discussion on this and similar topics in scientific and professional environments and with the public.

## 1 ILLEGAL MIGRATION

The main reason why SAF members are patrolling the southern EU border and the border with Italy in cooperation with the police is the illegal migration problem. It could be argued that the European migration crisis in the EU is over, but the fact is that the numbers of illegal migrants are rising, and there is constant change in the migrants' original countries.

Within the theories of EU integration, Cierco and Tavares de Silva wrote that we are dealing with the neo-functionalism that sees integration as transcending political, social, or economic borders, decreasing the significance of internal Union borders. Within the ideal of an EU without frontiers, freedom of movement is an essential feature of the integration process, promoting a sense of community and a European identity. However, we also have the inter-governmental perspective, in which the notion of security is placed over liberty of movement. As Cierco and Tavares de Silva stress, states have the right to control their own borders, and the movement of foreigners between them is an essential expression of national sovereignty. Therefore, the perception of how they enable or prevent migration differs between the EU member states due to the varying political cultures and migration traditions, leading in some cases, to the construction of walls between them (Cierco and Tavares de Silva, 2016, p 2).

According to Lutterbeck, there has been growing concern in Europe over irregular migration across the Mediterranean since the beginning of the 1990s. Illegal immigration has increasingly come to be viewed as a security risk in many, if not all European countries. In particular by virtue of its association with human smuggling and trafficking, as well as other forms of cross-border organized crime, it is seen not only as a threat to national welfare systems and cultural or national identities, but also to domestic peace and stability (Lutterbeck, 2006, p 59).

Cierco and Tavares de Silva state that the end of Cold War created a structure dominated by insecurity, and the chief goal of independent states is to preserve their national sovereignty regardless of any moral criteria. They claim that states are unlikely to co-operate, and that each one seeks to create viable and defensive borders to ensure its "internal security". Conversely, the EU has an idealist perception of borders as a supranational organization, which entails respect for the freedom and equality of people, and requires a regime of borders open to everyone due to the basic human right of free movement. Therefore, a Europe without frontiers, which means de-bordering within Europe, has lain at the heart of the European project since its beginning (Cierco and Tavares de Silva, 2016, p 4).

The “idealist perception of the EU border as a supranational organization” was put to great test in the case of the European migrant crisis in 2015. Crowds of migrants crossed the borders of different countries without abiding by the prescribed procedures at national borders, as well as at the Schengen border. For example, in the autumn of 2015, 334,838 illegal migrants crossed the Slovenian border. Of these, 166,136 were from Syria, 109,211 from Afghanistan and 59,491 from Iraq. They also included people from many other countries whose total numbers were not so significant (Slovenian Police Report for 2015, p 68). Many migrants entered Slovenia as their first EU country without identity documents, which is not possible for EU citizens.

The very first response in Slovenia was a humanitarian one, but later, when the masses of migrants became bigger and more difficult to handle, the second response was about security. At that time Svetlič wrote that, in a humanitarian crisis, the protection of migrants and refugees is the most important responsibility of the state, but when the state itself is in danger because the numbers of the migrant flow are too great, then the state needs to primarily protect its own citizens and enforce its laws (Svetlič, 2017, p 126).

The question of security issues related to the migrant flow appeared in the Slovenian media quite late, only in December 2015. Before that, migration was most often framed from an informational, political, human rights, and social viewpoint; however, by the end of the year the security issues of the crisis had come to prevail (Brožič, 2017).

Five years later, the structure of the illegal migrants by their origin differs in comparison with that of 2015. In 2019, the majority of illegal migrants entering Slovenia came from the following countries: 3,012 from Pakistan, 1,263 from Afghanistan, 952 from Morocco, 633 from Iraq, and 540 from Iran and 540 from Syria (Policija, 2019, online). The facts from the police reports are about those illegal migrants who were stopped at the borders or were already in the country, but not of those who were merely transiting the country to other destinations.

Božić et al. wrote about the experience of human smuggling as a form of crime in Croatia between 2009 and 2015. They noted that human smuggling is generally not perceived in society as a serious form of crime, but more often as helping others in need. In practice, criminal groups promise illegal migrants a smooth crossing of a state border for a reasonable amount of money. After receiving the money, they either provide the promised transport across the border or every trace of them disappears. In some cases, migrants are indeed transported across the border, but sometimes it happens that they are simply dropped off just before the border. Božić et al. noted that the reasons for migrants leaving the country are different (e.g. economic, political, etc.). War criminals are fleeing from justice, and members of criminal groups or associates are fleeing from other members of the group; some people flee in response to natural and other disasters, whilst others are forced to leave due to war or other

forms of armed conflict. All of the above are potential victims of criminal groups which engage in human smuggling or trafficking. Croatian statistics show that only 30% of those who intended to reach the “Promised Land” actually arrived there. All the others remained on one of the many stages of their illegal journey. Between 2009 and 2015, Croatia returned 20,000 illegal migrants (Božić et al., 2015, p 284). The price paid to smugglers by an individual illegal migrant in this period ranged between 500 and 5,000 euros, depending on the means of transport, the number of border crossings on the desired route, and the size of the risk for the organizers (Ibid., p 291). This is a very high amount compared to the standard in the countries from which illegal migrants come.

Thus, five years after the humanitarian migrant crisis, illegal migration is primarily the subject of research as one or more forms of crime that are prosecuted *ex officio*. Armies in several EU Member States, including the SAF, continue to work together with the police in 2020 to protect Europe’s internal and external borders.

## 2 POLICIZATION OF THE ARMED FORCES AND MILITARIZATION OF THE POLICE

Sotlar and Tominc claim that traditional (primarily military) threats have declined, while at the same time, societal sources of threats have increased. Since the possibility of global war has become unlikely, local ethnic conflicts have escalated to local wars, and secondary consequences such as refugees, trafficking in illegal immigrants, extremism, terrorism, and other challenges to security have emerged. It has been observed that global climate change has increased the number and severity of natural disasters, and has brought a myriad of consequences affecting human health. As central components in the power structure of any state, the police and armed forces are heavily involved in the new realities of security, generating both latent and the obvious blurring boundaries (Sotlar and Tominc, 2016, p 329).

Cierco and Tavares de Silva stated that the rise of western nation-states at the beginning of the 19th century led to a strict functional differentiation between the agencies responsible for their external and national security – the military and the police respectively. While the mission of mass armed forces was limited to preparing and conducting wars for defending their borders, police forces were charged with law and order within the borders of these nation states. Cierco and Tavares de Silva concluded that at the end of 20th century that clear division of labour began to blur (2016, p 16).

Enloe wrote that the police and the armed forces have at least one common feature – they are institutions which consolidate and maintain the state’s authority (Enloe, 1990 in Sotlar and Tominc, 2016, p 330).

One of the main reasons for the phenomenon of the policization of the armed forces and the militarization of the police is the fact that there has been a major change in

the structure, number and organization of European armies. They have changed from the mass conscript-filled armies of the post-Cold War period to a drastic reduction in their end-strength, abandoning conscription and establishing a professionally manned army. Therefore, for the present, Resteigne and Manigart state that modern armed forces have extremely diverse missions. Western post-modern armed forces have ceased to be organizations specializing in the management of collective, organized violence (war), as they have taken up constabulary forces specializing in crisis management, both within and outside national borders (Resteigne and Manigart, 2019, p 16), although they are much smaller in size.

So, many authors (Cierco and Tavares de Silva, 2019; Resteigne and Manigart, 2019; Sotlar and Tominc, 2016, Easton et al., 2010; Garb, 2018, etc.) have recently debated the policization of the armed forces and the militarization of the police, as can be seen in the following case studies.

In 2006, Lutterbeck stressed that since the beginning of the 1990s there had been a burgeoning literature on Mediterranean security and the various security challenges that had come to affect the region in that time, but the law enforcement or policing aspect of the Mediterranean security agenda had thus far been neglected. In comparison to the Mediterranean, he claimed that there was a considerable body of analyses of literature which then existed on irregular migration and cross-border crime in a similar north-south context, the US-Mexico border. Lutterbeck understood the drug trafficking and undocumented immigration recognized by the USA as a “national security threat”, which had increasingly resorted both to using military-style technology, and military personnel in securing the border, as “militarization” (Lutterbeck, 2019, p 60). On the other hand, Resteigne and Manigart wrote about the policization of the Belgian military forces during patrolling to support the police on the streets of their country (2019, p 26). According to Sotlar and Tominc, the traditional function of both repressive institutions is the implementation of criminal/internal security and defence policy and has never been changed; what has actually changed is that the new functions have emerged at the forefront of both institutions (2016, p 330). They suggested answers to the questions of how, why, and when the police and armed forces are used. Easton wrote that the capacity of police forces increases and so does the use of military tactics, organizational concepts, and equipment for operating successfully in a violent environment (Easton et al, 2010).

The policization of the Belgian armed forces began in January 2015 in the response to an imminent terrorist threat. Military units were deployed in support of the police to monitor sensitive areas, guard buildings, and patrol streets. For the Belgian army this was a new mission, although it had been used for similar kinds of work and postures abroad as part of their crisis operations (Resteigne and Manigart, 2019, p 27).

In Italy, the policing of migration and cross-border crime began almost thirty years ago with the eminent phenomenon of what were called by Lutterbeck “would-be

immigrants". He speaks of the militarization of migration and crime control across the Mediterranean region. In the process of border militarization along the Mediterranean EU frontiers, both Italy and Spain have been increasing deployments and the expansion of semi-military security forces with a military status to deal with undocumented immigration by sea. These are internal security or police forces that have a number of military characteristics in terms of organization, equipment, and formal affiliation. The Guardia di Finanza, which is organized along military lines, is formally considered as a paramilitary force and reports to the Minister of Finance. Since 1990, the Guardia di Finanza has emerged as the predominant agency in Italy in the prevention of illegal immigration by sea. For example, Lutterbeck stressed that by 2000 its budget had tripled, while its staff had grown by 28%. Even then, it was equipped with a great deal of military-style hardware, including actual warships, with the intensification of the fight against clandestine immigration by sea. Lutterbeck argued that in Spain the increasing concern with irregular migration and narcotics smuggling from the south prompted the trend towards militarizing the country's southern borders. The lead agency in dealing with illegal migrants is the Guardia Civil, a paramilitary police force that reports to the Minister of the Interior and the Minister of Defence. Lutterbeck claims that the Guardia Civil had the most technologically sophisticated coast control system at that time, composed of various military style technologies, such as fixed and mobile radars, infrared sensors, boats, helicopters, and aeroplanes (2006, pp 64-66).

A discourse about the policization of the armed forces and/or the militarization of the police is very interesting in the case of Austria. As Potočnik emphasised, the Austrian Federation Act<sup>1</sup> stipulates that, among other functions, the Austrian army ensures general internal order in the country, and the Defence Act<sup>2</sup> determines the maintenance of internal public order and security. Both the Austrian army and the police have traditionally co-operated extensively with each other. The most interesting thing is that the state has already regulated their "modern cooperation" within the legislation. As Potočnik noted, the Austrian army evolved from the gendarmerie (Potočnik, 2016, p 134, 140), which means that there is no classic demarcation of competences between the police and the army such as we were discussing at the beginning at this section. We can state that this is the reason for the absence of discourse on this topic in Austria, and the great efficiency of both the police and the army, as both appear wherever there is a need for their engagement. Potočnik compared cooperation between the police and the armed forces in Italy, Austria, the Netherlands, Great Britain, Switzerland, and Slovenia in 2016. His main findings were that, with regard to the police, all the countries function well, and that the armed forces have sufficient legal bases in their fundamental documents to be able to co-operate with the police in a quality manner without violating any laws (Potočnik, 2016).

<sup>1</sup> Article 79, *Bundes-Verfassungsgesetz (B-VG)*, BGBl, No. 1.

<sup>2</sup> Article 2, *Wehrsgesetz*, BGBl, (Nr, 146, 2001).

We note that the militarization of the police and the policization of the military is a phenomenon that is not exactly new. In some EU Member States, such cooperation between the police and the military is indeed a constant practice, and in some cases it has been going on for so long that it is no longer the subject of professional and scientific controversy. The question, however, remains why such cooperation is made into a problem in Slovenia.

### 3 SLOVENIAN ARMED FORCES CASE STUDY

The SAF have participated in many multinational operations and missions (MOMs) during the past 23 years.

Its members were first deployed to mission ALBA in Albania in 1997. By the end of 2018, there had been approximately 13,500 deployments in 25 MOMs<sup>3</sup>. According to Osterman, the participation of the SAF in MOMs represents a direct contribution of the Republic of Slovenia to ensuring peace, stability, and security in the regional and global security environment. In this respect, the SAF makes a visible and recognizable contribution and is, as such, a recognizable partner among the Allies, both in terms of its competence and its equipment and weapons. (Osterman, 2019, p 127).

The SAF has abundant experience in participating in the international environment, from which some<sup>4</sup> conclude that it is in fact most experienced in the field of ensuring public order, as opposed to war-fighting. Potočnik, however, does not agree with this, and notes that the SAF has used force only twice in its almost 30-year history, on both occasions in Afghanistan. Hence he claims that, according to the actual experience of the SAF at events where public order violations would be so intense as to impose injuries to demonstrators or violators of public order, the SAF, with the exception of the military police, does not have sufficient experience in “police tasks” (Potočnik, 2016, p. 228). According to Garb, the SAF units and individual members have been deployed on MOMs to perform various tasks ranging from medical treatment to monitoring, patrolling and information gathering, force protection, riot control, and training and mentoring of local armed forces. She states that some humanitarian work was also done by the SAF on these missions. The SAF’s support work in the event of natural disasters is highly appreciated by local populations; however, the military are not always included and have not been trained and equipped for the

<sup>3</sup> Osterman claims that since 2004, the SAF has taken part in the EU’s operation Althea in Bosnia and Herzegovina; in the military observation mission UNTSO in the Middle East and UNSMIS in Syria; in NATO’s Joint Enterprise operation in Kosovo as KFOR; in North Macedonia and Serbia; in NATO’s operations in Afghanistan and Iraq; in the UN peacekeeping mission UNIFIL in Lebanon; in the EUFOR operation in Chad in 2008 and 2009; in the maritime military operation EU NAVFOR Somalia in 2009; in the military operation EUTM Mali; in the humanitarian operation Mare Nostrum in Lampedusa in 2013 and 2014; in the Global Coalition against Daesh in Iraq; in the EU Operation EU NAVFOR MED/Sophia in the Mediterranean Sea; and in NATO’s Enhanced Forward Presence in Latvia (2019, p 128).

<sup>4</sup> At the time of writing his dissertation, Potočnik conducted interviews with leaders in the national security system, with many participants from the police ranks concluding as stated (Potočnik, 2016, p 228).

whole range of the tasks that must be done in such cases (Garb, 2016, p 7). In the following sections we will examine the actual experience of the SAF with illegal migration and the ways in which its members have helped the police in this matter.

### 3.1 The Mediterranean

The SAF has been numerically involved in many MOMs, three of which were related to illegal migration.

#### Mare Nostrum

SAF members were included in the illegal migration crisis in the Mediterranean on the basis of a technical arrangement between the Ministry of Defence of the Republic of Slovenia and the Ministry of Defence of the Italian Republic, concerning the participation of the SAF patrol boat *Triglav 11* in the operation of the Italian defence and security forces “Mare Nostrum”, signed in Rome in December 2013<sup>5</sup>. The operation took place between 15 December 2013 and 31 January 2014. According to Article 6 of the arrangement, the SAF was obligated to provide first aid, as well as the necessary safety, security, and sanitary measures on the patrol boat during the operation.

#### EU Operation EU NAVFOR MED/Sophia

The decision of the EU member states to start Operation Sophia, an EU Common Security and Defence Policy (CSDP) mission, was made in 2015, following the end of Operation Mare Nostrum. The mandate of Operation Sophia was decided by all the Member States, including its Libya focus, and was part of a wider tendency to use CSDP missions for migration prevention rather than for genuine security objectives, claims Woolard. The operation’s core mandate was to contribute to the EU’s work to disrupt the business model of migrant smugglers and human traffickers in the southern central Mediterranean. The operation also included support tasks, which were to train the Libyan Coastguard and Navy and monitor the long-term efficiency of its training, and this contributed to the implementation of the UN arms embargo on the high seas off the coast of Libya. The operation also conducted surveillance activities, and gathered information on illegal trafficking of oil exports from Libya, in accordance with the UN Security Council resolutions. The operation contributed to the EU’s efforts for the return of stability and security in Libya, and to maritime security in the central Mediterranean region. The mission rescued tens of thousands of people. Many European policymakers were wedded to the idea that search and rescue creates a pull factor and must end, despite the overwhelming evidence of the horrific push factors in Libya that led anyone to get on a boat, especially when combined with smugglers’ lies and pressure (Woolard, 2019).

<sup>5</sup> For more see <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2014-02-0010/wredba-o-ratifikaciji-tehnicnega-dogovora-med-ministrstvom-za-obrambo-republike-slovenije-in-ministrstvom-za-obrambo-italijanske-republike-o-sodelovanju-vecnamenske-ladje-slovenske-vojske-vnl-triglav-11-na-operaciji-italijanskih-obrambnih-in-varnostnih-sil--mare-nostrum->, 18.7.2020.

The operation made it possible to identify, capture and destroy vessels used or allegedly used by smugglers or migrant traffickers. During the operation, 87 suspected smugglers and traffickers were arrested and handed over to the Italian authorities. More than 255 vessels were neutralized. In addition, the operation saved more than 22,000 lives and helped other organizations save more than 36,000 people<sup>6</sup>.

In addition to the crew of the multi-purpose ship *Triglav II*, which included 37 members, the Slovenian contingent consisted of two members of the military police, two members of the medical service, and three members of the national support element, who provided logistical support for the contingent. The latter were stationed at a naval base in Augusta in eastern Sicily, from where the *Triglav II* operated. The SAF also had a liaison officer aboard a ship of the Italian Navy. In the military humanitarian operation organized by the Italian naval forces to address the refugee problem, and in response to the tragic events in the area of the island of Lampedusa, the Slovenian contingent carried out surveillance in international waters with the aim of strengthening maritime security and providing assistance to those in need (SAF website).

On multi-day voyages within its area of responsibility, the SAF prevented the possibility of illegal migration and the smuggling of weapons or petroleum products by being present and navigating in places where smugglers usually operated, which was the mission's main focus at the time (Ibid.)

### **EU Operation EU NAVFOR MED/IRINI**

The participants of the Berlin Conference on Libya on 19 January 2020 committed in particular to fully respecting and implementing the arms embargo established by the United Nations Security Council Resolutions (UNSCR) 1970 (2011), 2292 (2016) and 2473 (2019). Against this background, the Council reached a political agreement to launch a new operation in the Mediterranean, aimed at implementing the UN arms embargo against Libya by using aerial, satellite, and maritime assets on 17 February 2020. In parallel with the launch of Operation IRINI, the existing EUNAVFOR MED operation in the Mediterranean, SOPHIA, permanently ceased its activities<sup>7</sup>.

In accordance with the decision of the Government of the Republic of Slovenia, the SAF is also participating in the new Operation IRINI to the same extent as in the previous EU operation NAVFOR MED Sophia. The scope of cooperation includes up to 12 members and occasionally, and when the conditions are met, the multi-purpose ship *Triglav II* with an associated crew of up to 43 members. Since the end of Operation EU NAVFOR MED Sophia, whose technical mandate expired on 31

<sup>6</sup> European Council. Council of the European Union. EUNAVFOR MED Operation Sophia authorised to start two additional supporting tasks <https://www.consilium.europa.eu/sl/press/press-releases/2016/08/30/eunavfor-med-sophia-op-add-supporting-tasks/>, 23.7.2020.

<sup>7</sup> Operation EU NAVFOR IRINI. <https://www.operationirini.eu/about-us/>, 23.7.2020.

March 2020, the SAF has been participating in Operation IRINI with two members at its Rome headquarters<sup>8</sup>.

### 3.2 European migrant crisis

The problems with illegal migrants, which before 2015 plagued mainly Italy and Spain, have increased significantly because of the situation in Syria. Illegal migrants found a new “Balkan route”, through which they travelled in large numbers to Austria, Germany and Sweden via Turkey, Greece, Macedonia, Serbia, Bosnia and Herzegovina, Croatia, and Slovenia.

Garb notes that the SAF began to support the Civil Protection forces (particularly in terms of logistics) in Slovenia on 16 September 2015, when the migrants crossed the Slovenian and Schengen border, and the police on 19 October (Garb, p 8).

According to the Annual Report of the Slovenian Ministry of Defence 2015, the SAF supported the migrant crisis in three phases: the first, which began on 19 October, supporting the police in dealing with the migrant flow; the second from 21 November when they began the construction, operation, and maintenance of physical obstacles on the border (which remains in progress); and the third, which began on 15 February 2016 and is also still in progress, patrolling the borders with the police (MOD RS, 2016).

In June 2016, the SAF published an analysis of SAF operations in support of the police in relation to migrant issues for the period from October 2015 to May 2016. The analysis states that all tasks were performed in accordance with the adopted operational and tactical plan, rules on the use of force, and other implementation and coordination documents. All tasks were performed at the request and under the control of the police. At the operational level, the execution of tasks was co-ordinated between the General Staff of the SAF and the General Police Directorate, and at the tactical level between the units and the competent police directorates, or members of the police who led the execution of tasks on the ground. The requests of the police were forwarded from the operational headquarters of the General Police Directorate, and after its dissolution, from the Operations and Communication Centre of the General Police Directorate. Reports and briefings, however, were delivered in the opposite direction. According to the SAF analysis, the cooperation with the police went well.

Due to the scope of their engagement in tasks related to migrant issues, the main units responsible for capability-building faced serious difficulties in carrying out their planned tasks. The activities related to the building of a multi-purpose engineering company were also stalled, as the majority of members of engineering units were engaged in erecting the protective technical obstacles. The attempt to relieve the

<sup>8</sup> *Slovenska vojska sodeluje v operaciji IRINI*. <http://www.slovenskavojska.si/odnosi-z-javnostmi/sporocila-za-javnost/novica/nov/slovenska-vojska-sodeluje-v-operaciji-irini/>, 23.7.2020.

burden from the units engaged in the main effort by transferring personnel from other SAF units proved to be ineffective, since such transfers created more difficulties than solutions. Partial relief was achieved by the mobilization of contractual reserve forces members, who were mostly assigned the tasks of securing the facilities, thus at least partially relieving the units on the ground (Analysis, 2016, p 8).

This was the first<sup>9</sup> occurrence of such cooperation between the SAF and the police, and successful cooperation required constant adjustments and coordination. The coordination of operations proved to be appropriate, and units at the tactical level liaised with their respective interlocutors. Both sides were open to coordination and adjustments, which contributed to the high quality of the completed tasks. The general assessment of the participants was that cooperation with the police was carried out smoothly and at a high level (Ibid.)

Key features from the analysis were that the cooperation with the Ministry of the Interior was a novelty for both systems; the Ministry of the Interior has a different approach to command and control/management than the SAF; police directorates enjoy greater autonomy; and the General Police Directorate operates with individuals, while the SAF operates with units (Ibid.).

As positive experiences, effective cooperation with the Ministry of the Interior at all levels occurred, despite the different roles and organization structures.

As for negative experiences, the analysis recognized that occasional arrangements had been made at the lowest tactical levels, but not coordinated and reported through the chain of command up to the appropriate level; the General Police Directorate had difficulties in providing the requirements concerning the erection of the temporary technical obstacles in time (Ibid).

### 3.3 Illegal migration in the post European migrant crisis period

The volume of illegal migration to Slovenia has increased in recent years, due to the situation in the countries of origin and to the fact that illegal migrants are increasingly preferring to use the route across the eastern Mediterranean towards the western Balkan region. The Slovenian Police have strengthened control at border crossing points with Croatia by redeploying staff, as well as by setting up and maintaining technical equipment used for border control in the parts of the country where the terrain is flatter. New border security vehicles were provided for the police. They were assisted in this by the SAF and auxiliary police officers, according to the Police Annual Report 2019. In 2019, police officers dealt with 16,143 illegal crossings of the external Schengen border, compared to 9,262 the year before. In the past two

<sup>9</sup> *In the past, the police and the SAF have often cooperated in the event of natural disasters such as e.g. floods and the case of the ice storm in 2014, which covered a large part of Slovenia and caused a lot of damage. Nevertheless, the experience of cooperation in the case of the migrant crisis and illegal migration was quite different. For more see Slovenia v ledenih okovih 2014 (Slovenia in ice shackles 2014).*

years, the number of illegal border crossings by Pakistanis stands out the most. Most illegal migrants continue their journey across the Western Balkans from Turkey. The work of police officers on this issue also focused on the interior of the country, dealing with 734 people in 2019 and 494 in the previous year. Here Afghan citizens have been stopped more frequently in the past three years (Police Annual Report 2019, p 30).

Based on international agreements, the police returned 11,150 people to foreign security authorities in 2019, compared to 4,810 in the previous year. The security authorities of other countries returned 643 foreigners to Slovenia in 2019, compared to 579 in the previous year. Most of them were returned from Italy, and in most cases they were illegal migrants who officially intended to apply for asylum in Slovenia and later continued illegally on their way to their destination state (Ibid., p 31).

In 2019, of the people in Slovenian centres for foreigners, 73.9% were men, 20.2% were unaccompanied minors, 3.8% were women and 2.2% were children (Ibid., p 130).

According to the official website of the SAF<sup>10</sup>, it has been continuously supporting the police in preventing illegal border crossings since 2015. Since September 2019, they have been providing two infantry companies daily to support the police in the prevention of illegal migration, thus responding again to the increased demands of the police. In addition, since August 2019, the SAF has been supporting the police in the protection of the national border with a Bell 206 helicopter and its crew to observe the border area. In their work, the deployed SAF members use mostly the assets of the SAF, from observation equipment to armoured vehicles. Based on a decision of the Government of the Republic of Slovenia, the SAF has been providing support to the Ministry of the Interior in resolving the situation concerning illegal migration without pause since 19 October 2015. Since February 2016, they have also been providing support to the police in the protection of the national border. Since they began to support border protection activities and up to March 2020, SAF members had been deployed 108,441<sup>11</sup> times and had participated in more than 64,111 patrols (SAF, 2020).

The Police have been setting up and maintaining temporary technical barriers. Since October 2018, the SAF have been supporting the police by observing a wider area of the state border with personnel and UAVs. In total, SAF members supporting the police have been deployed 150,054 times and have travelled nearly 5,300,000 kilometres. In line with the directions of the police, they have erected and maintained

<sup>10</sup> *The SAF continue to support the Police in protecting the national border:* <http://www.slovenskavojska.si/en/public-affairs/news/news-single/nov/the-slovenian-armed-forces-continue-to-support-the-police-in-protecting-the-national-border/>, 22.7.2020.

<sup>11</sup> *The data is from the SAF website in March, 2020.:* <http://www.slovenskavojska.si/odnosi-z-javnostmi/sporocila-za-javnost/novica/nov/slovenska-vojska-nadaljuje-z-neprekinjeno-podporo-policiji-pri-varovanju-drzavne-meje/>, 22.7.2020.

about 160 kilometres of temporary technical barriers. From 24 February to 23 May 2016, the Government of the Republic of Slovenia granted additional powers to the SAF arising from Article 37a of the Defence Act in support of the settlement of the migrant situation. In accordance with these powers they were allowed, during this time, to alert, refer, temporarily restrict movement, and participate in crowd control<sup>12</sup>. In addition, the SAF used helicopters to patrol the border and supplied police helicopters with fuel (Ibid.).

In line with a Government decision, the SAF also provided support in the resolution of the migration situation to the Administration of the Republic of Slovenia for Civil Protection and Disaster Relief and to the Civil Protection Service between 16 September 2015 and 7 December 2017. During that period, members of the SAF provided transportation and supplies, protected and set up reception and accommodation centres, applied rodent control or disinfection measures in Civil Protection facilities, prepared and distributed both hot meals and beverages, and set up mobile showers (Ibid.).

To return to the topic of the second section, in which we presented the theoretical aspects of the policization of the military as described by Resteigne and Manigart, and the militarization of the police as understood by Lutterbeck, then we can conclude that the military's assistance to the police by applying Article 37a of the Defence Act is the policization of the military, and the implementation of military assistance to the police through the use of military personnel and equipment is the militarization of the police.

## 4 DISCUSSION

In the section on illegal migration after the European migrant crisis, we found that illegal crossings increased the most in 2019 compared to the previous year. This relates to our first question, about what the SAF is doing on the Slovenian-Italian border. According to police data, the Italian security authorities returned 643 illegal migrants to Slovenia, so we can conclude that there must have been some who were not intercepted by the Slovenian or Italian security authorities and who continued their illegal journey to other countries. We also found that the SAF and the police patrol the border in accordance with the applicable regulations, and after prior coordination and cooperation with the police (more details on the normative aspect in Sotlar and Tominc, 2016, Garb, 2016, and in Potočnik, 2016). According to the Police Annual Report, the number of illegal migrants coming to Slovenia has been growing in the past three years. By far the largest number of illegal migrants are men; their proportion in the centres for foreigners is 80%. Illegal border crossing is considered an offence, and is linked to organized crime.

<sup>12</sup> When in October 2015 the SAF was activated to support the police, subsequent evaluations found that its support was insufficient without police powers. Intense debate followed and the Defence Act was changed in Article 37 by Appendix 37a. See more in Garb, 2018, p 10, paragraph The legislation: repairing the unbroken?

As for the second question, whether the use of the armed forces is the right response to illegal migration, we found that the tasks of the police and those of the army changed significantly in the post-Cold War period. The key change, otherwise dictated by the changed security circumstances, is the transition from mass armies to a professional army. One of the consequences is a drastic reduction in the size of armed forces, which perform significantly more diverse and demanding tasks in the changed conditions. The security threats that are emerging in new forms are forcing us to find solutions that no one in the past had foreseen, and even if they had, we would most likely disagree with the idea of dealing with illegal migration in the future both at the borders and within the country, and this in a modern democratic society. The “traditional” tasks of the armed forces do not include the possibility of the army engaging with (illegal) migrants, as we have seen in the examples of some authors in previous chapters. It is true, however, that some countries (Italy, Austria, Spain) have recently gained important experience from police and military cooperation in various fields (more in Potočnik, 2016), for which they have prepared accordingly, normatively, organizationally and in terms of personnel. For those countries which have been discussed in this article, we can say that the issue of illegal migration is now one of the permanent tasks of their national security system.

Dealing with illegal migration is no longer a humanitarian problem, but above all a security problem, which is why the proper organization of a state and its national security system is crucial for maintaining order and legality in the country.

The increased activities of the army and police, as well as other state bodies, in connection with illegal migration also represent a large financial cost for the country, although none of them publishes this information publicly.

In June 2020, according to SAF data, 6,321 (7,055 in 2015) active members and 696 (860 in 2015) contract reserves were employed in the SAF. In July 2020, the Police employed 8,189 people (8,171 in 2015). All in all, there are not as many members of the SAF and the police together as there were illegal migrants who were stopped at the illegal border crossing in 2019.

The data show that the SAF has decreased by 10% in the past four years.

This is worrying. We can conclude that the two key pillars of the national security system in connection with illegal migration are being depleted in terms of staff and finances. The manning problem of state border protection can be replaced by technical barriers, and some forms of control such as drones, satellites, helicopters and other modern equipment; however, this requires greater financial resources, time and additional training. All of these will probably not be enough in the case of political and security changes in the Western Balkans and the Middle East, where in Bosnia and Herzegovina, Serbia, Greece, Turkey, and elsewhere large numbers of migrants are waiting for the first opportunity to continue their journey.

Theoretically, three scenarios are possible in the future. The first is that the number of illegal migrations will decrease by itself or for a yet unknown reason, which in reality is not very likely to occur.

Alternatively, the trend in the number of illegal migrations will remain at about the same level as in 2019, suggesting that both the police and the military will approach burnout. Police manpower is relatively stable, but still small in terms of the number of illegal migrants and the fact that the police have many other tasks.

On the other hand, the option to significantly improve the SAF's manning structure in the coming years is relatively small. Given the possibility that it could be strengthened, a lot of active staff would have to be engaged in the training of new employees, which in turn means an additional burden for the existing staff.

Both the SAF and the police could be relieved of the burden of dealing with illegal migrants by a public-private partnership established by the state, which would additionally engage private security services. The EU and some Member States already include this, but note that there is also a conflict of interest and the possibility of abuse (Davitti, 2019).

For the SAF, the reactivation of Article 37a would probably significantly contribute to the effectiveness of both the police and the SAF in the current situation with illegal migrants in 2020, but not in the long run. Regardless of the tasks the SAF performs in assisting the police, the current military situation is worrying if we take into consideration its primary tasks and mission command at home and abroad.

A third possibility is for the number of illegal migrants to increase beyond the numbers in 2019, which could mean the inability of the country to maintain public order, legality and security for all.

A solution at the political level within the EU seems to be the most appropriate. Due to the large number of illegal migrants, solving this problem at the national level is doomed to failure in the long run, despite the fact that the majority of illegal migrants do not stay in Slovenia. Slovenia has always been and will remain a country where immigrants come to live in a legal way. For example, up to the end of June 2019 there had already been 159,363 applications for permanent or temporary residence granted to legal immigrants from 135 countries in Slovenia (Ministry of Internal Affairs). The legal arrival of foreigners is a path that the EU must encourage in order to improve its demographic picture and future. Possibilities for the revitalization, rebuilding and rehabilitation of the countries from which migrants come should also be explored. Social systems in EU countries can remain high only up to a certain number of beneficiaries, otherwise they may collapse due to overload. It is thus essential for the EU and its members to maintain the right balance in accepting false migrants and to adopt a more appropriate policy in the field of illegal migration.

Under such conditions, police and military forces will be able to perform “traditional” police and military tasks again in the future.

## Conclusion

The policization of the armed forces and the militarization of the police seem to be the result of the incompetence of global and European politics in the Middle East and North Africa. Universal access to the internet and the desire of the masses for a better life have also greatly contributed to this. As the cradle of the development of science, human rights, and ethical and moral principles, Europe has succeeded in realizing the great idea of an Union where quality of life is at a relatively high level compared to other parts of the world. Mass migration in 2015 and the increase in the number of illegal migrants in the subsequent years have put European ideas ahead of the facts that the EU is still not dealing with in 2020.

The Slovenian national security system is overloaded. Faced with Covid-19 in 2020, illegal migration has become a side issue that fails to get on the policy-making agenda. The absence of professional and scientific discussions, which died out years ago in the field of security, contributes a lot to this. Public discourse on this issue is therefore essential in order to find new solutions for the future security challenges.

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