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LEGAL AND ADMINISTRATIVE ASPECTS OF CONTROLLING OF THE LEGALITY OF FOREIGNERS' STAY IN POLAND

This theses presents the legal and administrative conditions for controlling of the legality of foreigners' stay in the territory of the Republic of Poland. It discusses the role and competences of the authorities authorized to conduct such checks, in particular the Border Guard, the Police, the Head of the Office for Foreigners, voivodes, and the National Revenue Administration. It also analyzes control procedures and the rationale for the temporary reintroduction of internal border controls in the context of the Schengen Borders Code. The study also highlights practical aspects of counteracting illegal migration and the legal consequences of illegal foreigners' stay.

Keywords: *control procedure, illegal migration, foreigners' stay, public administration.*

Monitoring of the legality of foreigners' stay is a form of combating illegal migration both within the country and within its borders. The Border Guard is responsible for combating illegal migration, conducting checks on the legality of stay, and protecting the state border. According to the Border Guard Act of 1990, combating and counteracting illegal migration is to be achieved by monitoring the legality of foreigners' entry and stay in the territory of the Republic of Poland [3]. The Border Guard's tasks in this regard also include identifying and analyzing threats in the context of migration and performing the tasks specified in the aforementioned Act. Protecting the external borders of the Republic of Poland involves protecting the Republic of Poland physically. However, checks are not carried out at internal borders, except for exceptions relating to threats to public order for a period not exceeding 30 days (this period may be extended according to strictly defined procedures). This exception is described in the Schengen Borders Code (Chapter II). The procedure for reintroducing border control (internal borders) involves the obligation to inform the other Schengen countries and the European Commission about this fact.

The fact of reintroducing internal border controls must be proportionate to the threat to which the country intends to apply such measures. This reason should be disclosed to the Schengen countries, and the period during which such controls will take place should also be specified. If this period is to be extended, the Schengen member states and the European Commission must be notified. As with the first attempt, this information must be supported by an appropriate, proportionate, and adequate reason for the country's decision to extend the period.

The main premise and goal of the aforementioned control is to determine the legality of entry or stay in Poland, i.e., whether the given state complies with the law regarding the entry or stay of foreigners in the Republic of Poland [4].

The Border Guard and the Police are responsible for verifying the legality of a foreigner's stay in the Republic of Poland, including matters related to verifying the legality of entry and stay. As part of the proceedings, the Head of the Office and the Voivode may also conduct an inspection.

In accordance with the procedure specified by the relevant law, the Head of the Customs and Tax Office is responsible for conducting inspections (to the appropriate extent). Authorities such as the Border Guard, the Police, the Head of the Office, the Voivode, and the Head of the Customs and Tax Office cooperate with central and local government authorities during inspections of the legality of foreigners' stay. Foreigners attempt to cross the border illegally in various ways and demonstrate creativity in this regard. Most often, the legality of a foreigner's stay is checked during an ID check. ID checks occur as a result of committing a misdemeanor, a negative ticket check, or when applying for refugee status, for example [1].

If an inspection reveals a foreigner's illegal stay, this carries criminal liability. These individuals, who are staying in the Republic of Poland illegally, meaning they do not possess documents authorizing such stay, are subject to a fine in the event of an inspection. A foreigner who, despite the inspectors' requests, fails to produce the aforementioned document, financial resources, or a document confirming the ability to obtain them is also subject to a fine. This penalty also applies to foreigners who, despite a decision obliging them to return, fail to leave Poland within the designated period, fail to report to the appropriate authority, or leave the place of residence assigned to them in connection with the

decision obliging them to leave the country and the guidelines contained therein. It is worth emphasizing that Polish law contains principles, conditions and procedures for providing assistance to foreigners in the territory of the Republic of Poland, including granting refugee status, subsidiary protection, granting asylum and temporary protection [2].

The control at the state borders additionally guarantees the security of the country and its citizens in various dimensions.

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ПРАВОВІ ТА АДМІНІСТРАТИВНІ АСПЕКТИ КОНТРОЛЮ ЩОДО ЗАКОННОСТІ ПЕРЕБУВАННЯ ІНОЗЕМЦІВ У ПОЛЬЩІ

У тезах представлено правові та адміністративні умови контролю щодо законності перебування іноземців на території Республіки Польща. Розглядається роль та компетенції органів, уповноважених проводити такі перевірки, зокрема Прикордонної служби, Поліції, керівника Управління у справах іноземців, воєвод та Національної податкової адміністрації. Також аналізуються процедури контролю та його тимчасового відновлення на внутрішніх кордонах країн у контексті Шенгенського кодексу про кордони. У дослідженні також висвітлюються практичні аспекти протидії нелегальній міграції та правові наслідки незаконного перебування іноземців.

Ключові слова: процедура контролю, нелегальна міграція, перебування іноземців, публічне управління.

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