

SPECIAL REPORT

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Fractured Europe

The Schengen Area and European border security



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May 2017

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Cover image: Traffic sign with two options, Schengen or Border Controls - free movement of EU citizens in area of European Union vs closed borders and re-established border-crossing and border guards © M-SUR / Shutterstock

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SCHENGEN

**BORDER
CONTROLS**

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First published May 2017

Published in Australia by the Australian Strategic Policy Institute

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Air travellers queue at border control at Heathrow Airport, London, March 2017. Passengers from the EU face uncertainty as the UK Government is poised to trigger article 50 to initiate brexit. © 1000 Words / Shutterstock.com

1. INTRODUCTION

In the early 21st century, globalisation was widely hailed as the dominant force affecting politics, economics and societies. The exponential growth of the internet and other information and communication technologies, the reduced cost of international travel and the removal of barriers to trade appeared to be creating an interconnected world in which borders, if not being eroded, were increasingly irrelevant. Yet events over the past two years, particularly in Europe, have shown that this trend was illusory. In 2017, borders are more important to nation states than ever, and the trend now appears to be one of reaffirming, fortifying and securitising national borders. Since the fall of the Berlin Wall, more than 40 countries around the world have built fences against more than 60 of their neighbours, and most cite security concerns and the prevention of illegal migration as justifications.¹

Perceptions of borders have changed, going beyond the ‘traditional understanding of the border as a clearly demarcated line, which separates two coherent territorial entities’, to instead emphasise the ‘proliferation and dialectic of bordering practices’.² National authorities no longer limit themselves to staffing border posts, and border management begins long before a traveller reaches the physical border (and often continues long afterwards as well). In a more securitised post-9/11 environment, border management doesn’t simply constitute the ‘usual border suspects in the usual areas—the fences, checkpoints, guards and so on—but is increasingly more mobile, networked, surveillance oriented and less (or more) visible depending on who you are’.³

New technology, especially ‘smart borders’ technology,⁴ is changing the way the border is managed and the way people and commodities are checked, particularly at airports. More and more people are now transiting countries through airports, with an estimated 879 million passengers travelling by air in the EU in 2014 and a year-on-year increase of 4.4%, according to Eurostat. The newly renamed European Border and Coast Guard Agency (Frontex) expects this growth to continue, stating that ‘passenger flows across the external border will ... increase significantly in the coming years, in particular at the air border due to rising global mobility.’⁵

In the EU, the topic of borders and border security is among the highest political priorities. Described as ‘one of the major achievements of European integration’⁶ and once seen as a model for the future, the Schengen Area is at a critical point in its history. The perceived migration ‘crisis’ faced by Europe since early 2015 called into question the idea of a borderless Europe, leading several countries to reinstate temporary border controls. Those concerns intensified following terrorist attacks in Paris, Brussels and other European cities, which resulted in calls for tighter border security in order to counter varied security threats.

The simultaneous crises of irregular migration and terrorism have each placed unprecedented pressure on one of the cornerstones of the European project: open borders and the free movement of people, goods and services. The picture that has emerged is one of a fractured Europe, in which Brussels has struggled to maintain the security of the external EU border while national capitals prioritise the security of their own domestic borders. In the context of growing national populism, efforts to achieve solidarity in the face of common challenges have not been forthcoming.

The political context has been a crucial factor: a by-product of these pressures has been an increased sense of nationalism among some EU member states and a rise in far-right political parties, further exacerbating the tension

between internal and external EU borders. The issues of migration and borders were also a key facet of the debate in the lead-up to the UK referendum on membership of the EU. While the UK isn't part of the Schengen Area, the outcome of the referendum, and the UK government's subsequent stated aim to withdraw from the EU, have placed additional strain on the concept of European integration and raised further questions about where the borders of Europe truly lie.

This paper examines the topic of border security in Europe (as well as the border security *of* Europe) and, in particular, two distinct challenges faced by the Schengen Area over the past two years: unprecedented levels of irregular migration into the EU and a series of terrorist attacks in EU cities. While they are separate issues, they have both had an important effect on debates about borders in the EU. The analysis is based on a systematic review of EU and national policy documents on border management and security, academic literature, a series of interviews with law enforcement practitioners in six EU member states, and a visit to Frontex in Warsaw in May 2016. Its aim is to assess some of the factors behind member states resorting to national over collective action in their response to these challenges, ultimately arguing for the creation of a European Agenda on Border Security and consensus from member states on its outcomes.

2. SCHENGEN, EUROPE AND THE EUROPEAN UNION

It's important to note from the outset that the European Union and the Schengen Area are two distinct entities. As Figure 1 demonstrates, membership of the Schengen Area doesn't depend on EU membership, and vice versa. Six EU member states aren't part of the Schengen Area; conversely, Iceland, Lichtenstein, Switzerland and Norway are all part of the Schengen Area, yet aren't members of the EU.

Figure 1: The Schengen Area and Europe



A variety of other multinational European organisations and agreements are also relevant to our perception of Europe's borders, and can be more or less divided into three distinct 'layers': a political layer (the EU), an economic layer (European Economic Area, the Eurozone), and a customs and borders layer (Schengen Area, Customs Union). No two arrangements have precisely the same membership, and this mosaic of agreements makes the question of where Europe's borders lie a complicated one. As O'Dowd reminds us, 'Europe has always been a continent of unsettled political borders', observing that 'at times, Europe has been fragmented into hundreds of political entities; at other times it has been the subject of grand projects of unification.'⁷

Before the establishment of the Schengen Area, there was no need for a formal European boundary that was distinguishable from a national border. That changed in June 1985, when an agreement was signed in the village of Schengen in Luxembourg, ultimately resulting in the removal of internal border controls between five countries (Luxembourg, France, the Netherlands, Belgium and West Germany). The outcome was one of the most significant changes in the history of border management, resulting not simply in the removal of border posts, but a fundamental rethink of borders in Europe and the creation of a distinction between an 'internal' and 'external' EU border.

As Grabbe states, 'the idea behind softening borders in the Schengen zone is that internal frontiers become soft, while external ones are hard, effectively creating a larger zone of free movement, but one with sharper edges ... so entry to the area is strictly controlled.'⁸ Once individuals have crossed the threshold into the Schengen Area, the agreed principle is that internal borders 'may be crossed at any point without a border check on persons, irrespective of their nationality, being carried out'. With the distinction between hard and soft borders, the Schengen Area has twin aims: to ensure tight controls at external borders, and to ensure the free movement of citizens internally. Bossong and Carrapico therefore describe Schengen as an 'ambiguous signifier for hard border security as well as freedom of movement within the EU'.⁹

This new approach required member states to exhibit a degree of mutual trust and confidence that every member state would maintain its external border to the same standard. For the first time, the nations of Europe were obliged to 'start thinking of their external borders not as individual states, but collectively',¹⁰ even while they valued their sovereignty and the right of each state to control its own borders. Over time and as membership expanded, the first 'cracks' would begin to appear, as member states began questioning the ability or willingness of other member states to control the external borders.

Following the ratification of the supplementary Schengen Implementing Convention in 1990, and the expansion of the Schengen Area to include eight further member states in the early 1990s, the Schengen Agreement became an integrated part of EU law with the signing of the Treaty of Amsterdam in 1997. The European Commission notes that the free movement of persons within the Schengen Area is a 'fundamental right guaranteed by the EU to its citizens'. As a result, the principles behind the Schengen Area have become closely aligned with the principle of integration espoused by the EU, and accompanied by strong normative debates on legitimacy.¹¹ Since its origins in 1985, the Schengen Agreement has slowly evolved from an agreement between six member states to one of the core aspects of the EU.

Today, the external border of the Schengen Area comprises 7,721 kilometres of land border, 42,673 kilometres of sea border, and around 600 airports.¹² In order to enhance trust between member states and to manage this external border effectively, a number of coordination mechanisms and agreements between states have been deemed necessary, particularly in the face of perceived growing insecurity since 9/11. At a meeting in Laeken in December 2001, the Council of the European Union stated that:

Better management of the Union's external border controls will help in the fight against terrorism, illegal migration networks and the traffic in human beings. The European Council asks the Council and the Commission to work out arrangements for cooperation between services responsible for external border control and to examine the conditions in which a mechanism or common services to control external borders could be created.¹³

Three subsequent developments are noteworthy in this regard: the formulation of the 'integrated border management' concept, the establishment of Frontex, and the introduction of the Schengen Borders Code.

In 2002, the European Council adopted the Plan for the Management of the External Borders of the Member States of the European Union, the first step in the development of a key facet of the EU's border management strategy, termed integrated border management. The premise behind integrated border management is that borders are made both open and secure through organisational and operational coordination, harmonisation of laws and policies and cooperation in related functions, such as common visa and asylum policies.

In order to encourage and facilitate this cooperation, in 2004 the European Commission established Frontex, the culmination of earlier efforts to coordinate between multiple border security agencies within the EU. As Frontex itself notes, the original driver of these efforts wasn't immigration or terrorism, but organised crime.¹⁴ The creation of Frontex wasn't a straightforward process: compromise was needed between those member states calling for more solidarity in the management of external borders and those reluctant to create a supranational body responsible for border security. As a result, Schengen members agreed that the primary function of the agency would be the coordination of national efforts against cross-border pressures.

Finally, in order to coordinate how both internal and external borders are managed, the Schengen Borders Code was formalised in 2006. The code attempts to provide a standard approach to European border management, explicitly requiring participating states to 'remove all and any obstacles to the free movement of people and goods across borders' within the Schengen Area, while also specifying the conditions under which permission may be granted to enter the area by crossing an external border.¹⁵ Among others, the code contains provisions for Schengen countries to exceptionally reintroduce border controls at their internal borders, but only in cases where there are serious threats to their public order or internal security, and only for a limited period.¹⁶

3. SCHENGEN'S UNPRECEDENTED CHALLENGES

The evolution of the Schengen Area contributed to the development of a comparatively sophisticated border management regime. That regime helped to facilitate inter-state cooperation and a standardised approach to managing both internal and external EU borders. This has been far from a straightforward process, and many have predicted or speculated about the demise of the Schengen Area throughout its 30-year history. There doesn't seem to have ever been a 'golden age' in which Schengen remained uncontroversial. From the longstanding debates over membership (including the UK and Ireland securing opt-outs, and ongoing resistance from some member states to the participation of Romania and Bulgaria), to disputes such as that between France and Italy over arrivals of North African refugees in April 2011 following the Arab Spring revolutions, controversy has reigned.

At the heart of this controversy is the fact that, even during times of non-crisis, Schengen exposes the tension between the goals of European integration, including the principle of solidarity between member states, and the core Westphalian principle of state sovereignty. Participating states must accept a balance between the significant economic benefits of free movement and the perceived relinquishment of sovereignty and loss of 'control' at their national borders. At the same time, there are unintended consequences to the principle of free movement of people and goods, and free movement within the Schengen 'bubble' may be exploited by criminals, terrorists and irregular migrants, necessitating cooperation between member states against these shared challenges. This may include the streamlining of such processes as mutual legal assistance; for some states, it may also include being called on to assist other countries to control what are still perceived to be the borders of nations rather than of the community. As noted by Fiott:

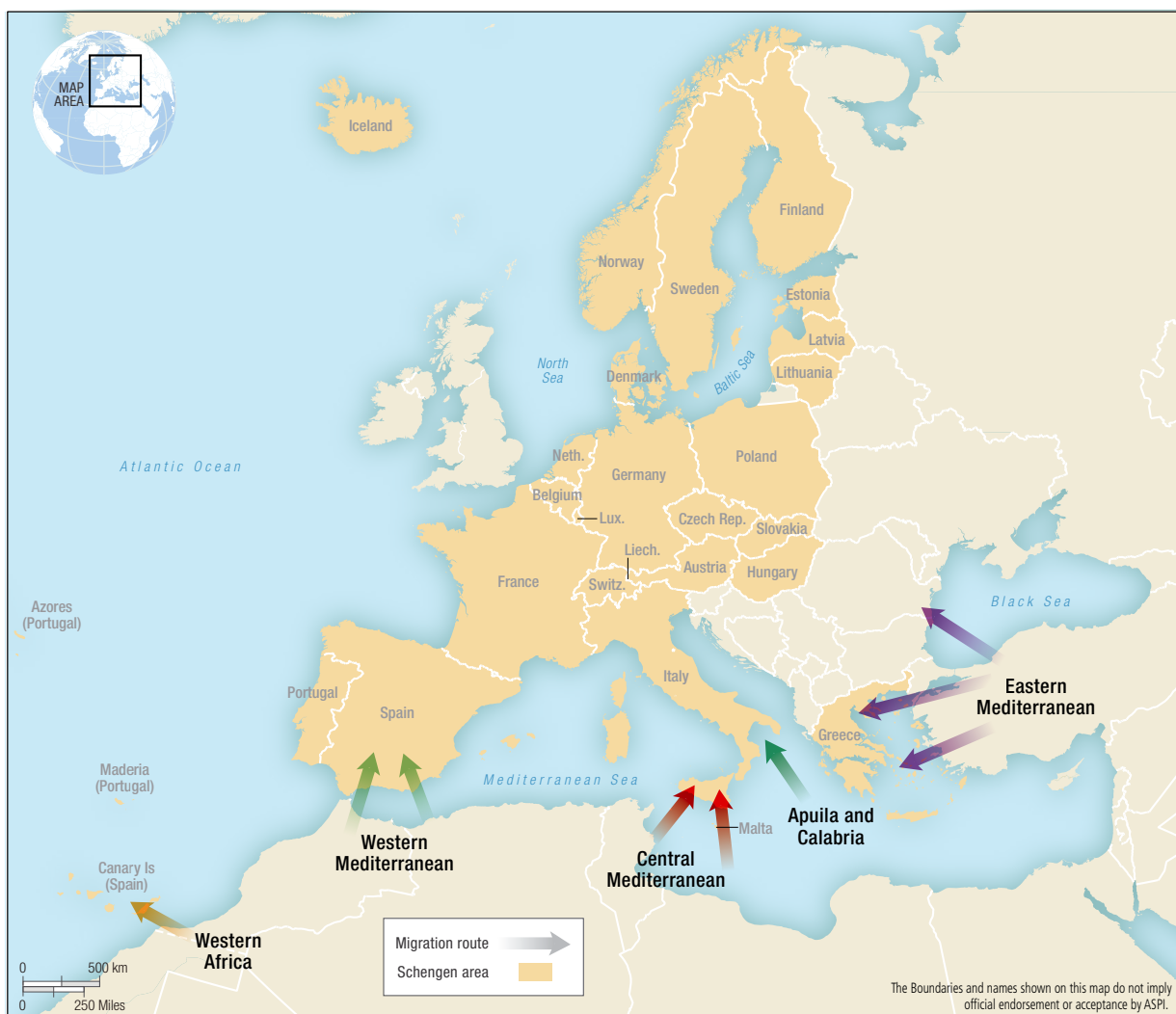
Steps towards greater European border security are likely to draw the ire of a number of EU member states, especially if such steps are seen—rightly or wrongly—as a usurpation of sovereignty. The paradox is that at a time when a pooling of sovereignty is most required, many states are reluctant to give up elements of their sovereignty.¹⁷

Against this backdrop, the EU, and in particular its external borders, have recently faced two major, distinct challenges: an unprecedented rise in cross-border irregular migration and a severe terrorist threat. While each of these challenges may not be new or exceptional, their perceived scale and scope have led many to describe them as 'unprecedented' situations or even 'crises'. The European Commission, for example, describes the Schengen system being 'shaken to its core by the scale of the challenge of facing up to the largest refugee crisis since the Second World War'.¹⁸ Some commentators, however, have rejected the terminology of 'crises'; in the context of irregular migration, Guild et al. argue that any crisis relates to EU member states' policy on the admission and reception of refugees rather than to migration or border control.¹⁹ Others note that the fear about these issues is disproportionate to the issues themselves and criticise the degree to which migration and terrorism have increasingly become conflated in people's minds. For the purposes of this paper, they are treated and referred to as distinct challenges rather than crises.

The challenge of irregular migration

Migration—including illegal migration—into Europe is far from a new phenomenon, but a period of sustained growth in external border crossings began in 2011, when thousands of Tunisians started to arrive at the Italian island of Lampedusa following the onset of the Arab Spring.²⁰ The volatile political and security situation in Libya following the collapse of the Gaddafi regime in August 2011 made the country a major point of departure for migrants and asylum seekers in their attempts to cross the Mediterranean Sea, across what is known as the Central Mediterranean migration route (Figure 2).

Figure 2: Mediterranean migration routes



In 2014, the scale of migration via the Central Mediterranean route began to attract headlines; the crossing was described as the ‘most lethal route in the world’ by the UN Refugee Agency after it was announced that 3,419 migrants lost their lives over the course of 2014.²¹ The 280,000 illegal border crossings in that year led Frontex to describe the situation as ‘the worst refugee crisis since the Second World War’.²² However, that figure would prove to be overshadowed by the record-breaking 2015 statistics, which recorded 1.8 million illegal border crossings associated with an estimated 1 million individuals.²³ It was now the conflict in Syria, in addition to ongoing violence in Iraq and Afghanistan, that had become the major driver of irregular migration to Europe. It also resulted in a shift in routes: most now arrived in Greece via the Eastern Mediterranean after transiting Turkey.

The sheer number of refugees and migrants arriving on Europe's shores not only created one of the largest humanitarian crises in Europe for many decades, but it has also, in the view of the European Commission, revealed 'serious deficiencies' at parts of the EU's external borders, resulting in a 'wave-through approach' being applied by some member states.²⁴ Frontex identified three choke-points where the number of arrivals simply overwhelmed authorities: the maritime border between Turkey and Greece, the Central Mediterranean border and, because of the entry through Greece, the border with western Balkan countries.²⁵ The lengthy external EU border along Greece's coastline has received the most attention:

In 2015, more than 868,000 persons entered into the Schengen area irregularly through this section of the external border. This massive inflow is of a nature that would put the external border control of any Member State under severe pressure. However, it does mean that there is an immediate need to address the current shortcomings in the protection of the external border by and in Greece. This is primarily the responsibility of Greece, but ultimately of the entire Union.²⁶

Greece has over 13,500 kilometres of coastline and 6,000 separate islands (of which around 200 are inhabited), so the scale of the border security challenge affecting the country has been greater than for any of its Mediterranean neighbours. At the same time, the severe economic crisis in Greece has forced a reduction in law enforcement budgets and restricted law enforcers' capabilities, while there have also been challenges in coordinating action by other member states and Frontex to support the Greek authorities.

The number of arrivals isn't the only problem when it comes to irregular migration. In the words of the UK House of Lords, Europe is witnessing a 'mixed migration challenge, whereby economic migrants and asylum seekers travel on the same routes' (although that has arguably always been the case).²⁷ A further complication is that both categories are vulnerable to smuggling and trafficking,²⁸ and the line between the two is often a fine one.²⁹ On the whole, there's a clear indication that organised crime groups are profiting from the scale of this irregular migration; intelligence from Europol indicates that more than 90% of all migrants reaching the EU use the facilitation services of a migrant smuggling network at some point during their journey.³⁰

In addition to the pressure faced at Europe's external border, a consequence of the unprecedented levels of irregular migration has been that the vast majority of migrants have undertaken 'secondary movements', particularly along the western Balkans route, resulting in around 1 million people travelling through the EU without proper travel documents.³¹ It's these secondary movements that have shaken the foundations of the Schengen Agreement, which was based on the perception that the 'hard' external borders would protect the 'soft' internal ones. While the number of irregular migrants caught many countries off guard, it was the fact that they reached the German, Austrian and Hungarian borders that raised a general alarm across the EU. The visibility, rather than simply the scale, of migration was therefore a crucial factor contributing to the perception of this moment as 'unprecedented'.

Member states—particularly those in northern Europe—began to face a challenge faced by southern European states for many years. They were consequently confronted with a range of associated issues, from asylum policy, the Dublin Regulation³² and the first arrival principle to immigration policy, the reduction of migrant and asylum seekers' deaths at sea, and the provision for introducing large numbers of migrants into concentrated areas. The extent to which such migration was perceived (or presented) as a 'problem' and, in particular, a 'security problem' largely depended on the migration histories and political landscapes of individual countries. Largely in response to internal political pressures, a number of EU member states opted for unilateral action to combat the problem as it affected them, over a multilateral response. In other words, national interests overrode the principle of solidarity.

The challenge of terrorism and free movement of extremists

'Terrorists know no borders', ominously warns an article from the European Commission's European Political Strategy Centre.³³ The terrorist attacks in European cities over the past two years have underscored the ongoing transnational threat faced by Europe. In January 2015, brothers Cherif and Said Kouachi opened fire at the offices of satirical magazine *Charlie Hebdo*. In total, they killed 17 people in the massacre and their subsequent three-day attempted escape. The most lethal attack in 2015 came in the form of a series of coordinated attacks in Paris on the night of 13 November. A total of nine gunmen and suicide bombers, led by suspected ringleader Abdelhamid Abaaoud, carried out attacks at the Stade de France, the Bataclan concert hall, and a number restaurants and bars, leaving 130 people dead and hundreds wounded. Four months later, in March 2016, five individuals conducted bombings at the main terminal of Brussels Zaventem international airport and the Maelbeek metro station, killing 32 people. Other notable attacks took place in Nice, Saint-Etienne-du-Rouvray, Copenhagen and Ansbach.

What connects many of these terrorist attacks is that they were carried out in the name of, or inspired by, the so-called Islamic State, also known as ISIS, ISIL and Daesh. According to Europol, 'the main concern reported by EU Member States continues to be jihadist terrorism and the closely related phenomenon of foreign terrorist fighters, travelling to and from conflict zones.'³⁴ The number of European citizens travelling to Syria to take part in the conflict there has significantly increased the risk from terrorism, according to Rob Wainwright, Director of Europol:

This is the highest terrorist threat we have faced in Europe since the days of 9/11. We have 5,000 Europeans who have been radicalized by [ISIS] and have travelled to Syria and Iraq and engaged in conflict experience. We suspect that about one-third of them have come back: That is our best guess. We don't know for sure. Of course many have come back and are not planning to engage in terrorist activity. Some are in rehab programs, some are in prison. That still leaves, however, maybe several hundred that are potential terrorists.³⁵

The border security implications of this terrorism threat have been twofold: at the external EU border, there's concern that Daesh extremists will be able to gain (re)entry to Europe, while at internal EU borders there's concern that extremists can move and operate freely across different European nations.

Two of the 13 November attackers in Paris had entered the EU through Greece as part of the large influx of refugees from Syria, and soon after the attacks it became evident that several bombers had come from Belgium and that some of the bombs had been made in a flat in Brussels. Several months later, it emerged that Turkish and Dutch authorities had alerted Belgian authorities about Brussels airport bomber Ibrahim el-Bakroui. El-Bakroui had been arrested by Turkish authorities in 2015 near the Syrian border and deported to the Netherlands.³⁶

The picture to emerge was that interlocking groups of radical young men, often with links to criminal networks, almost all with European citizenship, were able to move freely around the continent as well as back and forth to Syria.³⁷ As noted by *The Economist*, 'Ever since it became clear that the terrorists had strong links to Belgium, Peugeot's coming over the border from Brussels have seemed just as great a threat to France as planes flying in from Damascus.'³⁸

As a result, border security soon became a core feature of the debate. The European Commission reminded member states that 'Common high standards of border management are essential to fighting terrorism.'³⁹ The perceived facilitation of terrorist movements within the Schengen Area placed additional pressure on the EU itself to take action. The commission conceded that:

As recent terrorist attacks have demonstrated, the threat can come also from persons enjoying the right of free movement under Union law. Controls at the external borders need to be reinforced in order to be able to identify such persons and minimise risks to the internal security of the Schengen Area.⁴⁰

Following the November 2015 attacks in Paris, some of the strongest criticism came from Rob Noble, former head of Interpol, who argued that Europe's open-border arrangement 'is effectively an international passport-free zone for terrorists to execute attacks on the continent and make their escape'. He called for the Schengen system to be suspended, criticising countries that failed to 'properly check the identities of those who cross their borders' and suggesting that 'what once seemed a sensible idea now offers real and present danger'.⁴¹

This danger, others argue, covers not only terrorists but also one of their most sought-after possessions: firearms. A few days before the November 2015 Paris attacks, German police officers stopped a vehicle and discovered pistols, hand grenades, Kalashnikov rifles, ammunition and an explosive agent. The weapons were being transported from Montenegro to France in the car of a man allegedly linked to suspects behind the Paris attacks.⁴² According to Europol, the weapon of choice for terrorists is the AK-47,⁴³ which has iconic value, is easy to buy and can usually be acquired in the country where an attack is planned or in a neighbouring country from where it can be easily transported. The illegal trading of these weapons from former conflict regions in the western Balkans, as well as the wide availability of AK-47s and other military-grade arms on the 'dark net', are further law enforcement concerns.⁴⁴

In addition to their use by terrorists, the circulation of firearms for other criminal purposes, and indeed other forms of criminality facilitated by a lack of internal borders, shouldn't be overlooked. The role of organised crime groups in smuggling and trafficking people has already been noted, but the EU is also a lucrative target for other forms of cross-border crime, from drugs trafficking to the smuggling of counterfeit electronics, substandard medicines, tobacco and fuel. It can also be a target in other ways: stolen, doctored and fake passports from the Schengen Area are among the forms of identification most sought after by drug smugglers, human traffickers and other criminals.⁴⁵

Two overlapping challenges?

Few would contest that Europe has faced two substantial challenges in irregular migration and terrorism. But there's disagreement over the extent to which the two issues overlap following the claim that groups such as Daesh are slipping radicalised recruits, including European jihadists, through the vast migrant stream and into an unprepared Europe.⁴⁶ Some EU institutions have drawn an explicit link between the two. Frontex's latest risk analysis declared that the November 2015 Paris attacks 'clearly demonstrated' that irregular migratory flows could be used by terrorists to enter the EU.⁴⁷ Frontex cites the example of two terrorists involved in the attacks who had entered the EU through Leros in Greece as part of a large influx of refugees from Syria, using fraudulent Syrian documents.

Others have been more cautious. Europol and Interpol recognise that:

Terrorists may use migrant smugglers' resources to achieve their goals. There is an increased risk that foreign terrorist fighters may use the migratory flows to (re)enter the EU.⁴⁸

In its 2016 *European Union terrorism situation and trend report (TE-SAT)*, Europol noted that 'There is no concrete evidence to date that terrorist travellers systematically use the flow of refugees to enter Europe unnoticed', describing it as an 'occasional connection'.⁴⁹

It's worth highlighting that most of the terrorists involved in the attacks in Paris and Brussels weren't immigrants but were either nationals or bi-nationals of those countries. Arguably, the focus on the risk from returning foreign fighters overlooks the complex issue of 'radicalised' European youth inspired to carry out attacks and oversimplifies the terrorist threat in the EU. As with all of the assorted challenges facing the Schengen Area outlined in this chapter, it's too multifaceted to be treated simply as a migration or border control problem.

4. NATIONAL AND COLLECTIVE ACTION

The challenges outlined in the previous chapter are far from the first ‘crises’ to face the EU and its member states. What explains their impact on discussions over the very existence of the Schengen Area? According to Federica Mogherini, the EU’s foreign and security policy chief:

Schengen is different because the temptation to question it comes from inside. First it was the refugees, then terrorism. But what does Schengen have to do with terrorism? Nothing. It has in it the mechanisms that we need also to face these threats.⁵⁰

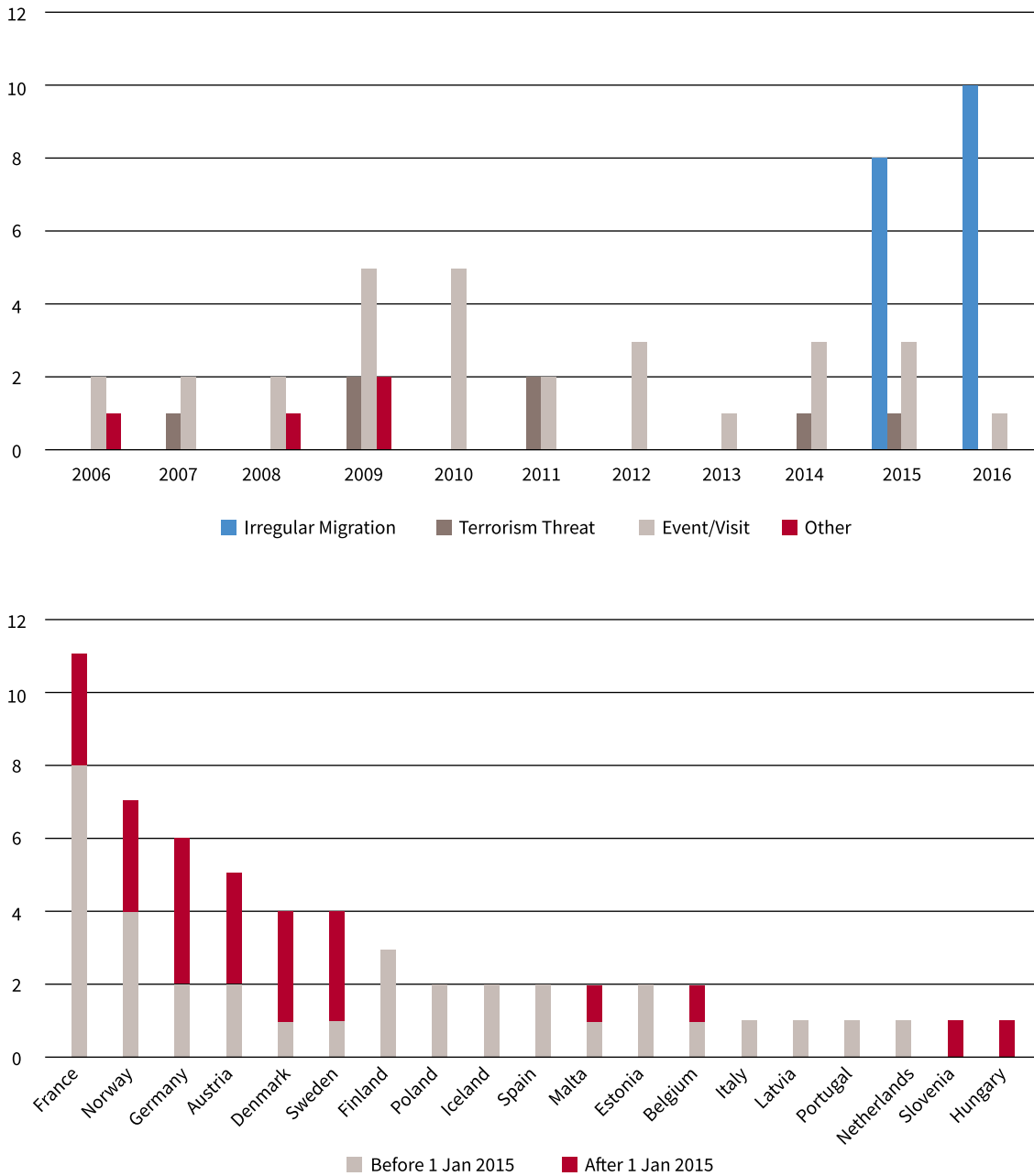
Dimitris Avramopoulos, the European Commission’s Migration, Home Affairs and Citizenship Commissioner, agreed. ‘Let me say that Schengen is not the problem,’ he said after the March 2016 Brussels attacks. ‘But let me also say that we cannot have a secure area of internal free movement without better control of our external borders.’⁵¹ The questions that remained were: who is responsible for improving this control? where does the boundary between national and collective action lie?

At the national level, thinking on how to improve the current situation differs among EU member states, not least due to their varying political cultures, threat assessments and migration traditions. In many countries, discussions on open borders and free movement are taking place in an increasingly polarised political climate in which many nationalist, anti-immigrant parties are ascendant.⁵² France has been at the forefront of introducing temporary controls at its national borders following the series of terrorist attacks on its soil, while some countries have managed to evade terrorist activity almost entirely. Germany and Sweden have accepted tens of thousands of migrants and refugees, while Hungary has built razor-wire fences along its borders with Serbia and Croatia.⁵³ At the European level, there have been countless calls for more unified European policies on border management, migration and security, yet the chances of successful collective action under such circumstances appear limited.

Irregular migration

Unilateral action taken by Schengen states can be seen most clearly in the context of irregular migration, in which states took unilateral action to securitise the ‘soft’ internal borders of the Schengen Area by means of immigration controls and physical borders as a result of a serious ‘breach’ at the external border. As demonstrated by Figure 3, there was a sharp increase in the number of member state notifications for temporary reintroductions of border controls between January 2015 and June 2016. The Schengen Borders Code allows for such measures in cases where there are ‘serious threats to their public order or internal security’, and this prerogative has been used on a number of occasions (typically for the purposes of safeguarding a high-profile event or state visit). What is telling, however, is that a ‘big influx of persons seeking international protection’ was first used as a justification in September 2015, and was used 18 times until June 2016 by eight countries of the Schengen Area: Germany, Austria, Belgium, Sweden, Denmark, Hungary, Slovenia and Norway.

Figure 3: Number of member states' notifications for temporary reintroductions of border controls, 2006–2016



Note: The figures for 2016 cover the first six months to 30 June 2016.

Source: European Commission.

The challenges facing Greece, in particular, have been mentioned, but long-term, large-scale inflows of migrants were a new experience for the other states, revealing the complexity of the challenge in managing sudden large flows, including determining the identity and motivation of the migrants.⁵⁴ Some countries introduced controls only at a small part of their internal borders or at certain specific points; such controls consisted of police patrols with the authority to perform border checks. Other states took more drastic measures, however. From January to July 2015, Frontex reported 102,342 illegal crossings into Hungary, which prompted Prime Minister Viktor Orban

to announce the erection of a barbed-wire fence on the border with Serbia in July 2015 (accompanied by new legislation criminalising irregular entries). Similarly, Austria announced in April 2016 that it planned to build a fence at the Brenner Pass, a border crossing with Italy. The Italian Prime Minister, Matteo Renzi, described the new border restrictions as ‘shamelessly against European rules, as well as being against history, against logic and against the future’.⁵⁵

Similar feuds have emerged between neighbouring states across the EU. In August 2015, Angela Merkel stated that ‘Europe needed to act together’, while at the same time her government was warning that it would ‘reintroduce national border controls unless other countries step up to the plate and share the refugee burden more equitably’.⁵⁶ The underlying problem was seemingly attributed to the ‘weaknesses’ of particular states, rather than the absence of a collective solution. At various points, it was evident that German, Hungarian, Slovak, Polish and many other EU government officials placed the blame for their problems squarely on Greece. In November 2015, the Prime Minister of Slovakia, Robert Fico, even called for the eviction of Greece from the Schengen Area, adding that member states ‘cannot tolerate one of the member countries openly refusing to fulfil its obligations to protect the Schengen borders ... In such a situation, the Schengen area is useless’.⁵⁷

Even within EU institutions, the effectiveness or otherwise of internal border controls has been the subject of much debate. Frontex questioned the effectiveness of such controls, claiming:

The main effect of the reintroduction of controls at internal borders has been the restraining of the chaos at the borders. However, between September and December 2015, internal controls have not reduced the general migratory flow, neither at the external nor internal borders.⁵⁸

In its eighth biannual report on the functioning of the Schengen Area, the European Commission agreed but argued that the controls nevertheless had value, highlighting the fact that:

whilst temporary reintroduction of the controls at internal border per se does not have any influence on the total number of migrants or asylum seekers arriving to the Schengen area, it allows to better manage [*sic*] their subsequent secondary movements in a structured way, enabling to make the best possible use of the available resources for registration, reception, relocation and (if applicable) return.⁵⁹

This perspective was reinforced by the Council of the EU, which decided that:

These reintroductions of controls at internal borders provide an adequate response to the identified threat to the internal security and public policy in compliance with the Schengen Borders Code, and these measures are necessary and are considered proportionate.⁶⁰

At the same time, the European Commission stressed that temporary controls were at best a short-term measure, arguing that:

... the current patchwork of unilateral decisions on the reintroduction of border controls needs to be replaced with a coordinated approach to temporary border controls, with the aim to subsequently lift all internal border controls as quickly as possible and with a clear target date of December 2016.⁶¹

Some commentators have criticised the ad hoc and at times inconsistent approach of the EU, warning that the:

lack of a coordinated and proportional EU response to irregular migration in the near-to-mid-term could continue to feed sentiments that push individual countries to emphasize national security over international protection. This could make closed borders, barbed-wire fences, and maritime pushbacks the policy norm rather than the exception.⁶²

As is discussed in Chapter 5, the EU has taken several steps to try to improve the situation (Figure 4), including increased intelligence sharing and a more robust mandate for Frontex. The agency itself warns that, in an environment of continued pressure on the EU's external borders, the challenge will be 'best addressed in a coordinated manner, requiring harmonised applications of legislation and pooling of resources'.⁶³

Figure 4: Key milestones in the EU response to the migration challenge



Source: European Commission.

Recently, Frontex has been transformed into the European Border and Coast Guard Agency, which has increased powers of intervention. Notably, however, only under the most extreme cases will it be able to enter a country without the consent of that country's government. Clause 28 of EU Regulation 2016/1624 creates an opportunity for the deployment of the agency without sovereign authority when 'control of the external border is rendered ineffective to such an extent that it risks jeopardising the functioning of the Schengen area'—which can be interpreted as an imminent existential threat to the Schengen Area. This falls well short of the original proposal that would have empowered it to enter a member state even against the wishes of its government—which would have marked a significant transfer of sovereignty from member states to the EU.⁶⁴

Terrorism

The response to the terrorism threat in Europe has seen a similar recourse to unilateral action by countries, although this is unsurprising given that 'national security remains the sole responsibility of each member state'⁶⁵ and, unlike migration, terrorism is unquestionably considered a national security concern.

Discussions at the EU level so far have largely focused on reasserting existing collective priorities; however, they have also considered further cooperation on counterterrorism, with a clear focus on the linkage between counterterrorism and border control.⁶⁶ According to Frontex, ‘Delineating the tasks and potential tools of those working at the borders to help combat this threat is an important discussion which should be undertaken.’⁶⁷ Some of the EU policy responses that have followed the most recent attacks, including the Council Conclusions on Counter-Terrorism adopted on 20 November 2015, have sought to reinforce the argument that an efficient way to respond to the terrorism threat is to strengthen external border controls and monitor cross-border movements of people within the Schengen Area.⁶⁸ Yet, as noted in the previous chapter, the number of terrorists known to have entered the EU under the guise of irregular migrants is minute. There’s a risk that the link established between terrorism and migration will generate a fear of each problem that’s disproportionate to the actual threat posed.

Given the weaponry deployed in some of the recent terrorist attacks, renewed focus at the EU level has also been placed on the means by which both terrorists and criminals are able to obtain and transport firearms without controls at internal borders. While Frontex called for ‘closer cooperation and information exchange between European law-enforcement authorities both inland and at the external borders’,⁶⁹ the European Commission signalled that two projects had been launched to align the Schengen Information System and Interpol’s firearms database, iArms, in order to improve their interoperability and enhance the traceability of firearms globally.⁷⁰ The Council of the EU, meanwhile, invited ‘Europol and Frontex to assist EU member states bordering the Western Balkans to increase controls of the external borders to detect smuggling of arms’.⁷¹

Finally, in the wake of terrorist attacks during 2015, the EU renewed efforts to introduce the European Passenger Name Record system, which is designed to improve data-sharing of passenger name records for flights and help to identify terrorist travel patterns. The commission also envisages the introduction of ‘smart borders’ to track third-country nationals’ movements across EU external borders.⁷² This forms part of the contemporary notion that data and intelligence are critical parts of a state’s border security, although it’s important to note that the impediments to intelligence sharing—whether legal, cultural or technological—are likely to remain, as discussed in the next chapter.

A divergence of political appetite

The roles that the EU and its agencies have played have differed significantly in response to each of the two challenges outlined above. Counterterrorism is unquestionably a national prerogative, and the blame for any perceived failing lies squarely with the relevant member state. At the same time, there has been a recognition that the cross-border nature of the threat often means that further collective action is needed on border security in addition to intelligence sharing. Specific proposals have been put forward to enhance cooperation at the EU level. In the case of migration, there was a sense that a collective EU response to the challenge was expected by countries, and it was only once that was seen to ‘fail’, and migrants began to cross the internal EU borders in significant numbers, that national action was taken to re-establish and securitise internal controls.

The requirement for collective action therefore appears to depend primarily on the political appetite of member states. National governments need to be seen to be taking action on terrorism, but there’s less willingness to increase immigration in the current political climate of many member states, which are happy for the EU and its agencies to take the lead on a response. Yet, given that the EU is an intergovernmental rather than a supranational organisation, there’s only so much independent action it can take, and it’s up to member states to agree on collective action. That’s not to say, however, that the EU is entirely free of blame. As Bossong and Carrapico put it, ‘when criticizing or reforming the EU’s regime for border and internal security, we need to address a large number of issues that cannot be reduced to the “lack of political will”’.⁷³

5. INSTITUTIONS, INTELLIGENCE AND EXPECTATIONS

Coordination between members is widely seen as a key tenet of any international organisation. As outlined in Chapter 4, member states have looked to the EU and its institutions to fulfil its coordinating role during recent crises, albeit in different ways. Calls for EU action have largely revolved around the need for greater sharing of more and better information across the Schengen Area to help address a contradiction between ‘the seemingly free movement of terrorists across Europe and the lack of EU-wide intelligence sharing’, in the words of Bureš.⁷⁴ At the heart of this problem is the tension between the recognition of the need for cooperation and the desire to retain sovereign control. The following quote from Keohane refers to counterterrorism, but is true in relation to most of the cross-border challenges faced by EU member states:

There is a paradox in the EU’s role in counter-terrorism. On the one hand, the governments agree in principle that co-operation at the EU level is a good thing because of the cross-border nature of the terrorist threat. On the other, they are slow to give the Union the powers (such as investigation and prosecution) and resources (such as spies and money) it would need to be truly effective. This is because security policy—especially when it concerns protecting citizens—goes to the core of national sovereignty, and governments are reluctant to give the EU powers that could interfere with their existing laws and national security practices.⁷⁵

As this chapter explores, issues of institutional design, intelligence sharing and misconceptions over the roles of some EU agencies are specific challenges hindering collective action on internal and external border security in the Schengen Area.

Institutions

Headquartered in Warsaw and operational since 2005, Frontex has grown from a staff of 30 to around 300.⁷⁶ Frontex doesn’t engage in border operations itself, but provides support to member states in their border control processes. To date, its primary roles have been situation monitoring and risk analysis (including publishing an annual risk analysis), assisting national authorities in coordinating joint operations at the borders, training border officers, and research. Its surveillance capabilities were increased as part of reforms to the agency in 2011 through the creation of both the Frontex Situational Centre and Eurosur.⁷⁷

In the wake of the increase in irregular migration, much political attention focused on Frontex’s response to the European migration crisis. The European Commission quickly realised that this migration crisis had exposed the agency’s limitations:

[I]nadequate resources in terms of staff and equipment, an inability to initiate and carry out return or border management operations and the absence of an explicit role to conduct search and rescue operations ... have hindered its ability to effectively address and remedy the situation.⁷⁸

The primary limitation of Frontex was therefore one of remit: its role had been determined by what Schengen members were willing to accept, rather than what was necessary. Of course, not all issues relating to management of the external EU border are the responsibility of Frontex. Member states still maintain responsibility for issues such

as visa policy, asylum, detention and immigration policy, not to mention cross-border crime. The agency laments that, in the past, it became ‘something of a scapegoat for anti-border protestors, blamed for unpopular policies and laws created either by the member states that Frontex serves or the Commission to which it answers’.⁷⁹

Some argue that while Frontex has been good at creating outputs—activities, projects and documents the agency can point to as the results of its work—it’s been less successful at translating those outputs into outcomes, or demonstrating the impact it has had in combating problems.⁸⁰ This is largely because the ‘deployment of Agency resources relies, firstly, on the willingness of Member States to send resources to the external border at a given moment in time and, secondly, on a formal request from a frontline Member State’.⁸¹ Guild et al. agree, noting that until now Frontex has been ‘highly dependent on EU member states’ political willingness to share human resources, assets/tools and relevant information, which has largely limited its autonomy’.⁸² Even in relation to its annual risk assessments, which are seen as a valuable output, the analysis can only be as good as the quantity and quality of data provided by member states. The agency spends a great deal of time and effort trying to negotiate common data reporting indicators between countries, which mightn’t share the same priorities when it comes to border management.

As noted in Chapter 4, one of the major responses of the EU to the migration crisis was the announcement of the plan to transform Frontex into the European Border and Coast Guard Agency. This isn’t the first time that this kind of concept has been considered. This idea originally emerged in 2001 out of fears expressed by some member states over the 2004 EU enlargement and the perceived insecurities arising from the shift of the EU’s external territorial border towards the perimeters of the new Eastern and Central European member states (Carrera 2010:2).⁸³

The agency has long sought a bigger budget and broader mandate, but little progress was made on proposals until 2015, when the numbers of irregular migrants reached unprecedented levels. As a result of the political pressure placed on the EU to act, the new agency was launched in October 2016. Its transformation includes:

- the formation of a rapid reserve pool of 1,500 border officials
- introducing the task of undertaking vulnerability assessments at the external borders
- enhancing cooperation on border management with non-EU countries
- allowing the agency to acquire its own equipment.

The creation of the rapid reserve pool is designed to address the frequent unwillingness of member states to provide personnel—a weakness exposed in the case of Greece, where Frontex asked member states to supply 743 guest officers to work at the external border in Greece and fewer than 450 were ultimately provided.⁸⁴

As noted in Chapter 4, the proposal to give the agency the right to intervene without an invitation from the member state was removed. It’s therefore likely that the ‘new’ Frontex will inherit some of the same challenges as its predecessor, particularly the reluctance of member states to activate border intervention mechanisms (leaving Frontex unable to intervene) and the lack of a mechanism to enforce compliance by member states. While few would be content to see the creation of an all-powerful supranational agency, many of the officials in EU member states to whom the author spoke were keen for Frontex to provide greater strategic leadership on border management in the Schengen Area. As Gros argues, ‘External security cannot be ensured as long as the defence of the external borders is left to individual member states, especially if one of them, Greece, is already facing a devastating economic crisis’.⁸⁵

A further change under the transformed agency is that the European Commission envisages combining the ‘traditional’ civilian Schengen border controls with maritime border surveillance, thereby involving both civilian and military authorities.⁸⁶ It called for a ‘functional approach’ so that national coastguard authorities would fall under the remit of the agency ‘to the extent that they carry out border control tasks’.⁸⁷ This is undoubtedly part of an effort to improve coordination between the more than 300 civilian and military authorities in member states responsible for carrying out coastguard functions (including areas such as maritime safety, security, search and rescue, border control, fisheries control, customs control and environmental protection).⁸⁸

Finally, the remit of Frontex has expanded to cover certain security threats. It will be able to include cross-border crime and terrorism in its risk analysis, process personal data of people suspected to be involved in acts of terrorism, and cooperate with other EU agencies and international organisations on the prevention of terrorism.⁸⁹ In this way, Frontex is likely to come into more regular contact with Europol in the future and, in particular, with its newly established European Counter Terrorism Centre (ECTC).

While Europol's counterterrorism role is relatively recent, it's a mature agency, having its roots in the Europol Drugs Unit established in 1994. Similarly to other international police organisations, Europol isn't an investigative police force and doesn't have autonomy to carry out its own investigations or make arrests. Instead, its objectives are to improve the effectiveness of and cooperation among the national police authorities in member states. The ECTC is described as the 'central hub in the EU in the fight against terrorism', with the specific aims of 'facilitating [improved] information exchange among CT authorities', including in investigating foreign fighters, illegal arms trafficking and terrorist financing, and bringing 'cross-border cooperation in this field to a new level'.⁹⁰

Unlike in the case of the migration crisis, few questions were asked of Europol or any other European-level organisations in the wake of the terrorist attacks in European cities over the past two years. Bureš argues that 'The impact of Europol's counterterrorism measures is difficult to assess because there is relatively little information available publicly',⁹¹ but that's perhaps unfair, given that the ECTC was launched only in January 2016 (although Europol did have a limited counterterrorism function before then).

Others are more optimistic and believe Europol will be able to build on its generally positive reputation and visible successes in tackling transnational organised crime to improve cross-border cooperation on terrorism. Ratzel believes that Europol's unique role allows it to offer 'the only EU-wide platform for multilateral exchange and analysis of personal data in relation to organized crime and terrorism via a secure network which is subject to strict regulations on handling of data based on specific handling codes'.⁹² The European Political Strategy Centre suggests that the ECTC should be strengthened beyond its 39 staff members and five seconded national experts and has argued for the ECTC to be:

more effectively staffed with personnel from Member States' services, not least in the form of permanent secondments of counter-terrorism experts, in addition to ad hoc support on enhanced cross-border investigations, carried out by the Joint Investigation Teams.⁹³

Intelligence

A collective approach to border security in Schengen is difficult to achieve without a shared intelligence picture on threats at both internal and external borders. Member state officials admit that there's a general reluctance among European intelligence agencies to share both information and personnel, and most prefer to exchange intelligence on a bilateral rather than multilateral basis. Member states may not want to share certain intelligence with all countries at the same time, and will of course be reluctant to share intelligence that could potentially reveal the identities of human sources or techniques used for intelligence collection. Only the Club de Berne, bringing together the heads of 25 EU domestic intelligence services plus those from Norway and Switzerland, and the Counter Terrorism Group come close to multilateral agreements. The Counter Terrorism Group cooperates closely with the EU, although it has no formal links to the organisation, given that 'most national intelligence services are reluctant to give the EU any formal role'.⁹⁴

The consensus appears to be that Europol has been successful in improving the exchange of criminal intelligence, although there may be some way to go before similar successes are seen in counterterrorism. Intelligence sharing on national security is 'not that easy', according to Gilles de Kerchove, the EU's counterterrorism coordinator, since 'We're not a federal state. Intelligence is the exclusive competence of member states'.⁹⁵ Bureš notes that national security and law enforcement agencies are still too often reluctant to share 'high-grade, real-time intelligence on terrorism that can be acted on immediately'.⁹⁶ Europol agrees, and following the November 2015 Paris attacks found

that ‘the exchange of information on CT matters between parties (Member States and between Member States and Europol) needs improving’.⁹⁷

Intelligence collected at the border is one example of this. Some media reporting has suggested that failures to exploit this intelligence are national problems rather than ‘European’ or ‘Schengen’ issues. Traynor cites the case of Mehdi Nemmouche, who killed four people at Brussels’ Jewish Museum in May 2014:

The French national had already been identified through the databases that are the heart of the Schengen system, although inadequately exploited. Nemmouche flew into Frankfurt after leaving Syria for Turkey and was flagged on arrival as suspicious in the Schengen databases, known as SIS and SIS-2. German police alerted the French authorities, who took no action. The atrocity highlighted how the key to effective policing of terrorism or organised crime—both by definition transnational and cross-border—lies in pooling intelligence and automatic sharing of information by security services across the 26 countries.⁹⁸

Frontex has praised the ‘increasing pool of sources of information and data from the external border’, including databases such as the second-generation Schengen Information System (SIS II) and Eurodac, the system for managing asylum applications.⁹⁹ SIS II allows national border authorities to access and exchange information and alerts on persons and objects such as stolen or lost cars, firearms and identity documents. According to the European Commission, SIS II ‘offers new functionalities, for example the use of biometric identifiers (e.g. fingerprints) . . . as well as the possibility of linking different kinds of alerts (e.g. an alert on a person and a vehicle)’.¹⁰⁰ The use of biometric data is becoming more common in relation to entry into the Schengen Area. For example, the Schengen Visa Information System now contains all data related to visa applications by third-country nationals who require a visa to enter the Schengen Area, including fingerprint and digital facial image data.¹⁰¹

A number of initiatives now underway focus on improving the sharing of intelligence across the EU and Schengen. Unfortunately, there’s no single agency responsible for improving intelligence sharing between member states, so the problem remains. Once again, the success of these measures will largely depend on the appetite of member states. Bureš suggests that ‘it is one thing for Europe’s policymakers to make public promises to improve the fight against terrorism via better intelligence sharing across Europe, and quite another thing for them to persuade the relevant national agencies to comply’.¹⁰²

The challenge isn’t so much that information isn’t shared within the EU, or with third countries, or shared in insufficient volumes; the problem is the effectiveness of this information sharing. Indeed, it’s unlikely that simply increasing the volume of information exchanged will lead to more successful outputs: ‘with greater information comes a greater challenge in utilising it effectively’, in the words of Frontex.¹⁰³ When considering reform at the EU level, priority should therefore be given to assessing the reasons why intelligence isn’t adequately exploited by the relevant national authorities, to ensuring better targeted and more accountable information exchange, and to boosting EU operational cooperation and joint cross-border investigations.¹⁰⁴

Expectations

As the previous two sections have touched upon, at times member states’ expectations of EU agencies such as Frontex and Europol don’t match reality, particularly in relation to their remit and ability to facilitate information exchange.

The traditional role of these agencies has been the coordination of initiatives, harmonisation of national legislation, support to operational work and exchanges of best practice. The agencies are rightly praised for the information they produce and place in the public domain. This includes the annual risk assessments by Frontex and the annual Europol TE-SAT report, as well as occasional publications on particular themes, such as Europol’s 2016 report, *Migrant smuggling into the EU*.

Yet, particularly for Frontex and the irregular migration challenge, this role is deemed to be no longer sufficient. Frontex itself has always maintained that its strength lies in its ability to enhance interagency cooperation, which

is an ‘important tool for responding when a particular border is under an extensive strain’.¹⁰⁵ Feedback from the author’s interviews with member state authorities, however, generally suggested that they would welcome more strategic direction and direct action from Frontex in response to particular challenges. Such comments are likely to ring alarm bells for Eurosceptics, who fear that this would represent ‘more Europe’ and another step towards supranational governance. This is representative of a more general contradiction, in which having ‘stronger’ European institutions appears desirable (particularly during times of crisis) yet proposals to expand their roles and powers are often blocked.

The changes to Frontex have so far received a mixed response. For example, Dimitriadi argues that the agency will suffer from the same unrealistic expectations as its predecessor:

It will undoubtedly help overburdened member states like Italy and Greece to process arrivals. However, the expectations for the new agency are too high—in sharp contrast to member states’ limited willingness to contribute. Despite the expansion of its mandate and powers, the agency’s resources remain limited, and various aspects of its operation are unclear.¹⁰⁶

Authorities also called for agencies such as the reformed Frontex to take the lead on exploring the use of new technology to enhance border security. This includes a set of propositions endorsed by the European Commission in 2011 aimed at establishing EU ‘smart borders’. A package of legislative proposals followed, the crux of which is the establishment of two new computerised systems for the processing of data related to people crossing the external borders of the EU: the Registered Traveller Programme and the Entry/Exit System. Taken together, these two systems would enable border control authorities to create and maintain electronic records on all non-EU travellers entering the Schengen Area.¹⁰⁷

In relation to intelligence sharing, there may again be limits to what can be expected of European agencies to overcome some of the challenges faced by law enforcement and intelligence agencies, including the interoperability of different systems, the legal obstacles of data protection and privacy rights, and the availability of data held by the private sector. Rather than try to overcome these challenges, some commentators have called on the EU agencies to simplify their own processes. For example, Bigo et al. have argued that ‘The current fragmented landscape of EU databases and information systems should be streamlined, clarified and made subject to independent judicial controls and guarantees.’¹⁰⁸ This would go some way to addressing what’s increasingly evident: maintaining securitised borders within the Schengen Area is only possible if the member states are willing to share criminal and national security intelligence in real time.

6. THE FUTURE OF BORDER SECURITY

Among policymakers in the EU, a recent apparent dispute has emerged between those who are ‘for’ borders and those who are ‘against’ them. In January 2016, Mark Rutte, the Dutch Prime Minister, ominously warned that ‘Big empires go down if the external borders are not well-protected.’¹⁰⁹ At the other end of the spectrum, the President of the European Commission, Jean-Claude Juncker, argued a few months later that ‘Borders are the worst invention ever made by politicians.’ Both sides seem to agree with Migration Commissioner Dimitris Avramopoulos, however, when he declared that the death of the Schengen Agreement would mean the ‘beginning of the end of the European project’.¹¹⁰ As the European Commission itself makes clear:

[S]everal Member States have resorted to reintroducing temporary internal border controls, placing in question the proper functioning of the Schengen area of free movement and its benefits to European citizens and the European economy. Restoring the Schengen area, without controls at internal borders, is therefore of paramount importance for the European Union *as a whole* [emphasis added].¹¹¹

The imminent departure of the UK from the EU demonstrates that dramatic European upheavals are certainly possible, but, given the parallels being drawn between the continuation of the Schengen Area and the future of the EU as a whole, the end of the Schengen Agreement doesn’t appear to be a realistic possibility. The Schengen Area may be fractured, but it isn’t irrevocably broken. The European Commission has, it argues, ‘repeatedly underlined that the Schengen framework cannot be held responsible for the current crisis. On the contrary, Schengen can be part of the solution.’¹¹² The problem, it would seem, is not in the principle of Schengen, but in the intersection between national and EU governance when it comes to border security—a tension that has remained controversial since the EU’s inception.

Recent events have proven beyond doubt that borders retain their importance, both for member states and for the EU more broadly. While the Schengen Area was built on the premise that ‘hard’ external borders would protect ‘soft’ internal ones, member states are seeking greater control over their national borders, whether as a result of external perceived threats or in reaction to internal political pressures (or a combination of the two). Beyond simply using border security to exercise their sovereignty, this is perhaps indicative of states wanting to maintain the ‘selective permeability’ of their borders and to achieve individually what the Schengen community has always sought collectively: open yet secure borders.

Schengen must adapt to this new environment in which states face collective challenges but often prefer unilateral responses. Members may turn their back on Schengen if it’s unable to accommodate both a level of strategic border security integration and the ability of members to act unilaterally. The transformation of Frontex is an important development in alleviating this tension, but it’s clear that the agency alone won’t be sufficient. Member states face ‘serious security threats that are growing in scale and sophistication’, according to the European Commission: ‘Many of today’s security challenges are cross-border and cross-sectoral in nature,’ and ‘No single Member State is able to respond to these threats on its own.’¹¹³

A European Agenda on Border Security would be a first step towards fostering a strategic response to border security in Europe. European Agendas on Migration and on Security, broadly defined, both exist, but a European

policy document specifically on border security is arguably long overdue. Few would dispute that the events over the past two years have revealed substantial weaknesses in the approach of the EU and its member states to security at the border. Those weaknesses have been 'well known to all but left unaddressed for reasons of political discord both in the [Common European Asylum System] and the external control of the Schengen border'.¹¹⁴

Of course, it's easy to call for 'more Europe' during times of crisis, which typically give an impetus for further integration. Yet a European Agenda on Border Security is necessary to address the three categories of challenges faced by the Schengen Area and the member states of the EU, as outlined in this paper:

- **Conceptual challenges:** The creation of the Schengen Area had the potential to answer the question of where the boundaries of Europe lie, but the existing mosaic of European agreements and institutions continues to make this a complex issue. The distinction made between 'internal' and 'external' borders is a logical one, but, as recent events have demonstrated, internal borders have not ceased to exist and their protection remains a priority for Schengen states.
- **Strategic challenges:** When the idea of Schengen was first proposed, there were those who were sceptical that borders could be both open and secure, and that scepticism remains to this day. Effective border security requires taking into account both security and economic concerns, balancing between using the border as an opportunity to intercept the illicit movement of people and goods while at the same time facilitating legitimate free movement and trade.
- **Operational challenges:** The nature of cross-border challenges has necessitated an increase in cooperation, yet for a number of reasons intelligence sharing continues to be problematic for member states, while the institutional arrangements for operational coordination at the border aren't yet fully developed. An Agenda on Border Security would identify where institutional and technological improvements are needed.

The development of an Agenda on Border Security wouldn't be a 'silver bullet' for all of the current challenges faced by the EU. Likewise, new agendas, policy frameworks and institutions will have no real impact without the buy-in and willingness of member states to support their implementation. Over recent months, questions of coordinating action at the external border and improving coordination and intelligence sharing to combat terrorism have merged with debates over migration, visa and asylum policies, Brexit, and fundamental issues of institutional design and decision-making within the EU. Member states will need to solve their contradictory relationship when it comes to many of these policy issues at the EU level.

The agenda would not fix these problems; however, it would provide much-needed strategic direction to the different initiatives of the EU to improve border security and would be a functional adaptation to the perpetually growing transnational dimension of issues such as migration, terrorism and organised crime.¹¹⁵ It would generate a policy focus on border security in Europe and ensure that member states don't have to 'resort' to taking unilateral action in the face of future challenges. Events over the past two years have shown the 'painful costs of technical, institutional and political fragmentation'.¹¹⁶ As noted by Frontex, the challenges posed by both irregular migration and terrorism have demonstrated that 'all Member States, be they of entry, transit or destination, are bound by the links of shared responsibility. This responsibility calls for initiatives that unite'.¹¹⁷ The development of a European Agenda on Border Security would be an important first step in this regard.

NOTES

- 1 'More neighbours make more fences', *The Economist*, 7 January 2016, [online](#).
- 2 R Bossong, H Carrapico, 'The multidimensional nature and dynamic transformation of European Borders and internal security', in Bossong & Carrapico (eds), *EU borders and shifting internal security: technology, externalization and accountability*, Springer International Publishing, Cham, 2016, 2.
- 3 A Cooper, 'Where are Europe's new borders? Ontology, methodology and framing', *Journal of Contemporary European Studies*, 2015, 23(4), 450.
- 4 'Smart Borders' is a 2013 European Commission policy package aimed at managing the external borders of the Schengen member states, fighting against irregular immigration and providing information on overstayers, as well as facilitating border crossings for pre-vetted frequent third-country national travellers.
- 5 European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), *Risk analysis for 2016*, Frontex Publications, Warsaw, 2016, 61.
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- 13 Council of the European Union (CEU), 'Note from the Presidency to the Strategic Committee on Immigration, Frontiers and Asylum/Mixed Committee EU/Iceland–Norway–Switzerland on the subject of integrated border management: strategy deliberations', Brussels, 21 November 2006, 2.
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ACRONYMS AND ABBREVIATIONS

ECTC European Counter Terrorism Centre

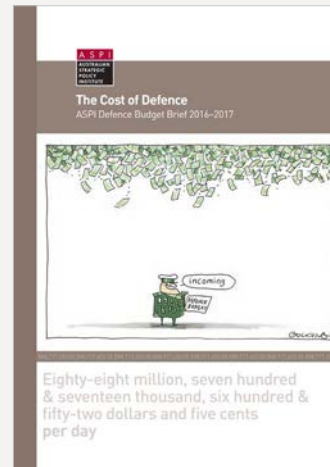
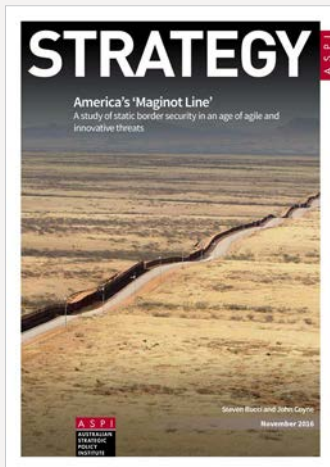
EU European Union

Frontex European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (now the European Border and Coast Guard Agency)

SIS Schengen Information System

UN United Nations

Some previous ASPI publications



Fractured Europe

The Schengen Area and European border security

The simultaneous 'crises' of irregular migration and terrorism have demonstrated the continued importance of border security for Schengen member states and the EU as a whole. The principles of the EU have become closely aligned with the existence of the Schengen Area, which created a distinction between 'internal' and 'external' borders in Europe; it also created a tension between the goals of European integration and the core Westphalian principle of state sovereignty. This paper assesses some of the factors behind member states resorting to national over collective action in response to recent challenges, exploring the role of intelligence and institutions such as Frontex, before ultimately arguing for the creation of a European Agenda on Border Security to provide a strategic framework for border security in Europe.