

A New Focus on Borders

Introduction

The rapid evolution of the European security environment over the last decade, combined with the changing nature of the threats and challenges to security and stability in the region, has led to a new emphasis being placed on issues related to borders and their functions. The sheer increase in the number of borders resulting from the emergence of new states after the end of the Cold War necessitates a new focus on their management and security. It is important to ensure they do not become a factor encouraging divisions, creating obstacles to co-operation and preventing the development of good neighbourly relations. On the other hand, the new threats we face – especially in the aftermath of 11 September 2001 – inevitably increased the need to ensure that properly managed borders remain an effective barrier against terrorism, trafficking, proliferation, organized crime and other transnational threats.

Border management is thus an issue of increasing international concern. The challenge is to find ways to enhance border management and security to a level that is commensurate with the threats posed by illegal cross-border activities while facilitating legitimate cross-border travel and commerce and protecting human rights.

While it is clear that some states are better equipped than others to respond adequately to these threats, it is becoming increasingly difficult, especially for countries in transition, to obtain concrete results in addressing them. For instance, police and border forces in these countries often need stronger political support and better training to develop the necessary professional competence to combat what they may see as a problem that does not affect them directly. After all in many cases illegal traffic flows through porous borders without necessarily posing a local threat. Low public-sector salaries and weak judicial systems, where successful prosecution is unlikely, provide little incentive to the forces of law and order to tackle such problems, especially when they face the danger of armed gangs prepared to use force to protect their “investments”. It would be unfair to expect more of undermanned and poorly paid border and police authorities, and until these emerging states are in a position to accelerate their democratic growth, either by themselves or with the help of the international community, there is little likelihood of improvement in the foreseeable future. Hence, there is a real need for the international community to increase the assistance it provides in border management and security.

Most international, regional and subregional organizations deal with border issues somewhere within their mandates, and they are generally paying increasing attention to these issues. This creates a need for enhanced co-operation between them on border-related issues, whether these concern legislation, economic or environmental matters, terrorism, police co-operation or a combination of all the above.

To combat these growing threats, most EU member states – together with Iceland and Norway – have adopted increasingly restrictive external-frontier controls, visa requirements and asylum policies under the Schengen system. The key points relate to measures designed to create a common area of security and justice following the abolition of checks at common borders. They include the harmonization of provisions relating to entry into the Schengen area and short stays therein by non-EU citizens (the uniform Schengen visa); asylum matters (determining in which member state an application for asylum may be submitted); measures to combat cross-border drugs-related crime; police co-operation (hot pursuit); and co-operation among Schengen states on judicial matters. Yet neither can this very complex regime address the root causes of the problems, nor can it require countries of origin – nations from which illegal goods or migrants originate – to take steps to tackle the problem. The Schengen regime must, therefore, be complemented by a wider effort on the part of the international community to involve all relevant countries and institutions in addressing border-related issues in all their many guises.

Definitions

When dealing specifically with border issues, since there is no legal or general definition of national “border management”, “border security” or “border policing”, it may be useful for the purposes of this paper to use working definitions along the following lines:

Border management embraces both security and policing issues, including all state-border-related legal, judicial, administrative, strategic and operational matters as well as decisions, instructions, arrangements and measures by all governmental bodies and agencies involved in any kind of border-related issues. As state borders define the size and extent of the national territory and by doing so clearly outline the domain of the respective national constitution, the management of national borders falls primarily under the jurisdiction of the respective national border police forces or border guards, who are then generally responsible for the execution of border-related governmental decisions.

Border security is the responsibility of civilian border police forces, which are considered to be the key border-management agency. In order to provide this security, border police forces will, perform tasks including sur-

veillance and patrolling on land (“green borders”), on water (national coastal territory on land and in harbours) and from the air. They will also control all cross-border traffic, for example by checking documents and verifying the rights of travellers to cross the border at all points of entry – whether by road, rail, air or sea. Searches carried out at checkpoints and along the “green borders” also form a part of this work.

Border policing includes the practical execution of border control measures both at recognized checkpoints and at the “green border” (migration), border surveillance using checkpoints and border patrols as well as in the border zone (e.g. through “border community policing”) and border search activities at checkpoints and in the border zone. It also includes all other preventive and reactive measures necessary for maintaining “border security” in general as well as in special cases and situations, including the prevention and investigation of crimes. Many of these aspects of border policing can be enhanced by improving risk-assessment and profiling techniques.

The OSCE's Role in Border Security, Border Management and Border Policing

In view of its comprehensive approach to security, the OSCE has the potential to assist participating States in all three aspects defined above. This role is firmly anchored in a number of official Documents, such as the Bucharest and Porto Ministerial Declarations.¹ In Bucharest (2001), Ministers identified a number of risks and challenges to security, and reaffirmed the importance of the OSCE's strengthened role in setting up effective mechanisms of co-operation to address them. They also agreed to broaden dialogue within the OSCE and to strengthen co-operation with other international, regional and subregional organizations and institutions all on the basis of the Platform for Co-operative Security. Additionally, they pledged to define the role of OSCE bodies, institutions and field operations in addressing these threats to security and stability, thus furthering the concept of common, comprehensive and indivisible security based on the sovereign equality and solidarity of states.

These principles were reaffirmed and further operationalized at the Porto Ministerial Council in December 2002, with the adoption of a Charter on Preventing and Combating Terrorism and a Declaration on Trafficking in Human Beings (in line with the then Chairmanship's focus on trafficking). These documents brought increased attention to border issues in general.

¹ The Bucharest and Porto Ministerial Council Documents are reprinted in: Organization for Security and Co-operation in Europe, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), OSCE Yearbook 2002, Baden-Baden 2003, pp. 391-417; Organization for Security and Co-operation in Europe, Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, reprinted in the current volume, pp. 421-455.

Moreover, several decisions were adopted in Porto, including those tasking the Permanent Council with developing a strategy to address threats to security and stability (Decision No. 2) and organizing an Annual Security Review Conference (Decision No. 3). Border-related issues will receive specific attention within these processes.

Most recently, at the Maastricht Ministerial Council in 2003, the participating States agreed on an OSCE Strategy to Address Threats to Security and Stability in the 21st Century. In particular, paragraph 35 states that: “Threats of terrorism and organized crime are often interlinked, and synergistic approaches to deal with them will be further explored. Cross-border movement of persons, resources and weapons as well as trafficking for the purpose of financing and providing logistic support play an increasing role for terrorist activities. The OSCE is committed to addressing these problems and to strengthening its capacities to promote open and secure borders, *inter alia*, through the elaboration of an OSCE Border Security and Management Concept in order to enhance capacity building and mutually beneficial inter-State co-operation.”² To this end, a working group has been established to enable the participating States to develop this concept during 2004.

At the level of field activities, the OSCE has a number of obvious advantages when compared to many organizations. OSCE field offices, the “eyes and ears” of the Organization, are ideally placed to play an early-warning role, for example in identifying problems and raising awareness of the activities of other organizations on the ground. Regular information-sharing meetings are a routine feature of the work of missions in the field, and these can serve to help avoid duplication and to identify gaps in programmes. There is room to expand this kind of activity. In many cases, field offices can supply a “framework” within which national and international actors may interact in a country. Such a framework also enables other national, and international partners, especially those with no permanent representation in a country, to operate more effectively. It can cover anything from providing in-country briefings, making available facilities for meetings at field or Secretariat level, rendering assistance in forming closer relations with government representatives, right through to acting as partners for implementation in specific projects. Given these assets, the OSCE’s potential to play its part in combating the new threats of the 21st century is significant.

Equally important at the more strategic – headquarters – level is the need to ensure that border-related work is shared effectively among those responsible. This ensures that the twin risks of overlap and loss of focus are minimized when defining responsibilities and drafting projects. The OSCE has recognized this and has established the post of Border Issues Co-ordination

2 Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, herein: OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century, pp. 1-10, here: p. 6.

Officer as a focal point within the Conflict Prevention Centre (CPC). This officer's main role will be to ensure that specific activities are handled by the appropriate department or unit. At the same time, he or she will be responsible for building the widest possible knowledge base of all border-related issues, enabling an accurate overview of all border-related matters being dealt with by internal departments, OSCE institutions, regional initiatives and international partners.

Responses to border issues within the OSCE include activities undertaken by various OSCE bodies, institutions and field operations and focus on a variety of aspects of border security, including police, customs and immigration. In view of this, the CPC has launched an internal co-ordination process for sharing information within the Secretariat and developing specific border projects.

Field Operations and Regional Issues

Ever since its first field missions were launched, the OSCE has been involved in a variety of ways with border issues in South-eastern Europe, the Caucasus and Central Asia. Until recently, this mainly took the form of border-monitoring activities. The *OSCE Spillover Monitor Mission to Skopje* was established with the basic remit to observe the former Yugoslav Republic of Macedonia's borders with Kosovo/Serbia and Montenegro and Albania and to give early warning of – foreseeable – problems as a result of the conflict to the north. In a similar vein, and following Decision 218 of the Permanent Council of 11 March 1998, the *OSCE Presence in Albania* was tasked with setting up a border-monitoring mission in the north of the country and was charged specifically with reporting on developments as they occurred across the border with Kosovo/Serbia and Montenegro. This operation meant that the OSCE was uniquely placed to give first-hand reports on a very volatile situation from an area that at the time suffered from a degree of lawlessness that prevented many other agencies, including most of the media, from gaining access to it. In Kosovo/Serbia and Montenegro, border control remains at the heart of many challenges facing the UN Mission in Kosovo (UNMIK). Well-resourced, multi-ethnic institutions of law and order are needed. Measures to build trust and confidence in these institutions are also vital. The establishment of functional police and border networks along with the development of networks embracing regional, European and global agencies will be instrumental in this.

The OSCE already has expertise in these areas, and this can be further developed. For example, the *OSCE Mission to Croatia* assists in organizing cross-border meetings of local police commanders, which has improved the operational ability of neighbouring local police forces. The overall goal is to harmonize operational and investigative efforts in order to eliminate gaps in

both awareness and enforcement. In 2002, the *OSCE Centre in Tashkent*, in close co-operation with the local regional office of the UN Office on Drugs and Crime (UNODC), organized an interagency cross-border training programme for border-control and customs agencies in Termez. In late 2003, the OSCE organized a follow-up programme that also involved Uzbek and Afghan border command and control organizations. The OSCE's contribution to this "Hayraton-Termez" project takes the form of training that focuses on combating cross-border trafficking in weapons by examining weapons-transfer documents, recognizing weapon markings, search-and-seizure procedures and accounting for illegal weapons. This is discussed more fully below. The *OSCE Mission to Moldova* increasingly finds that border issues play a role in resolving crucial areas of its mandate. Settling the Transnistria dispute will involve, among other things, finding a resolution to the question of a unified customs space for Moldova. With this in mind, the OSCE Mission assisted a team of experts from OSCE delegations and a representative of the European Commission in carrying out an assessment mission along the border between Ukraine and Moldova with the aim of making recommendations on resolving this question.

The OSCE Mission to Georgia is closely involved in monitoring the situation along the border between Georgia and the Chechen, Ingush and Dagestan Republics of the Russian Federation. On 15 December 1999 – following a request by the Georgian Government – the OSCE Permanent Council resolved to expand the mandate of the OSCE Mission to Georgia to "observe and report on movement across the border between Georgia and the Chechen Republic of the Russian Federation, both by vehicle and on foot".³ The Mission's Border Monitoring Operation (BMO) commenced its activities shortly thereafter. The geographical scope of the BMO's activities was expanded in 2002 and 2003 following decisions of the Permanent Council to extend the monitoring activities to the Ingush and the Dagestan segments of the Georgian-Russian border.⁴ In December 2002, the OSCE Permanent Council decided to enhance the operational efficiency of the Border Monitoring Operation on the Ingush and Chechen segments of the border.⁵

In carrying out their mandate, the OSCE border monitors are deployed along the 280 kilometre long stretch of the border. At present there are eight patrol bases (in Sno, Shatili, Girevi, Omalo, Napareuli, Kvareli, Akhalsopeli and Kabali) and a forward supply point at the airport in Telavi. The authorized strength of the operation is 144 international border monitors during the summer period (16 April to 15 November) and 111 border monitors during the winter period.

3 OSCE, Permanent Council, Decision No. 334 PC.DEC/334, 15 December 1999, p. 1.

4 Cf. OSCE, Permanent Council, Decision No. 450, Geographical Expansion of the Border Monitoring Operation of the OSCE Mission to Georgia, PC.DEC/450, 13 December 2001; OSCE, Permanent Council, Decision No. 523, Border Monitoring Operation of the OSCE Mission to Georgia, PC.DEC/523, 19 December 2002.

5 Cf. Decision No. 523, cited above (Note 4).

BMO personnel are unarmed and have no enforcement responsibilities. They fully respect the sovereignty of the Georgian authorities on Georgia's borders and in no way seek to assume any of their responsibilities. Security for the operation is provided by a special Security Detachment of the Georgian Border Guard, and the Georgian authorities guarantee the freedom of movement of OSCE personnel.

Monitoring is performed on foot, by car, by helicopter and, in winter conditions, on skis. The border monitors perform their activities during the day and at night. Their job in this very rough terrain is extremely demanding, even during the summer months, since they operate at altitudes reaching 3,500 metres above sea level.

Although the BMO faces a highly complex geo-political environment and has experienced a number of difficult periods during its activities, there is no doubt that the operation has contributed substantially to the reduction of tensions along the border. The presence of the OSCE monitors represents an important confidence-building instrument between the two OSCE participating States involved. This was recognized by the OSCE participating States during the last two OSCE Ministerial Council meetings (in Bucharest and Porto, respectively), when foreign ministers acknowledged the BMO to be a "significant contribution to stability and confidence in the region".⁶ Furthermore, the deployment and subsequent geographical expansions of this operation illustrate the ability of the Organization to react in a timely and comprehensive manner to requests for conflict-prevention activities in situations where participating States view security developments with concern.

Missions can generally also play a role in helping host governments obtain political support for improved border security, management policies and legislation. They can also assist with building institutional support at both the political and operational levels. The harmonization of legislation is another area where both a regional and a global approach needs to be adopted. Obtaining donor support for a number of border-related projects is another. But it is true to say that of the entire OSCE region, it is only in South-eastern Europe that there is a focus on border-related issues. However, even this is not yet as well developed as it might be: So far, all that exists is the broad agreement that such efforts are crucial to peace, security and stability in the region. There is a real need to agree on a joint policy. Certain levers can be applied to influence decision making, but the best situation would involve a co-ordinated, multilateral, regional approach, perhaps with the option of linking assistance to certain conditions. The Stability Pact for South Eastern Europe, within the scope of its Working Table III (Security Issues), has gone some way in its task of co-ordinating specific initiatives, but it has limitations

6 Ninth Meeting of the Ministerial Council, cited above (Note 1), p. 406; cf. also Tenth Meeting of the Ministerial Council, cited above (Note 1), therein: Statements by the Ministerial Council, pp. 431-442, here: p. 438.

and is not the instrument to realize the co-ordinated approach mentioned above.

A promising example of co-operation and interaction among international organizations in addressing border issues at a regional or subregional level was the May 2003 Ohrid Conference on border security and management. The overall purpose of this conference was to promote enhanced co-operation and co-ordination on border security and border management in the western Balkans. Instigated by NATO, the Conference was organized jointly by the EU, the Stability Pact, the OSCE and NATO itself. Consulting closely with all the countries concerned, it developed a common platform setting out political goals, objectives, principles and instruments as guidelines for the future work of partner organizations and the countries of the region. The OSCE's involvement stems from the fact that its comprehensive concept of security and its expertise in the field provide it with both the conceptual basis and the practical experience to contribute to the Conference aims.

The OSCE's practical contribution in this area mainly focused on civilian aspects of

- Training and advising police and border police (an OSCE representative chaired a panel on "Lessons learned and the way forward for bilateral and multilateral assistance for training and equipment of border service units")
- Assisting with and facilitating institution building, in particular regarding national and regional co-ordinating bodies
- Promoting regional co-operation, especially cross-border bilateral co-operation.

As an immediate follow up to the Ohrid Conference, the OSCE Chairmanship has proposed that a "Regional Border Police Joint Training Programme" be implemented by the Organization in 2004. To this end, a fact-finding mission visited most South-eastern European states in October 2003 to determine where the OSCE could most effectively provide assistance and where its efforts would likely find support.

It should also be noted that the "Ohrid process" is very much a "living" one with review meetings planned to take place at least annually. They will take stock of what has been achieved and of what remains to be done; they will also identify difficulties and gaps in the implementation of the commitments made in Ohrid.

Any additional OSCE role in support of border management will need to have a practical orientation and must complement other existing policies (for instance, the Integrated Border Management Concept of the EU Commission and NATO's role in border control and smuggling interdiction at the subregional level). Yet since this is likely to require additional resources, it will remain subject to the decision of participating States.

Anti-Terrorism

In the aftermath of the events of 11 September 2001, it has become clear that more needs to be done to meet emerging threats in the area of terrorism. As far as combating terrorism is concerned, the issue of border security and control is mainly relevant to the prevention of cross-border activity, including drug smuggling, trafficking in arms and human beings and bulk cash smuggling – all of which can be used to finance terrorist acts – and to the use by terrorists of fraudulent, stolen or counterfeit documents and transnational bribery to facilitate the illicit movement of goods and persons across borders. Viewed from the perspective of preventing and combating terrorism, it is probably advisable for the OSCE to focus mainly on the less contentious aspects of border management, rather than the politically sensitive matter of border monitoring with a view to interdiction. Border management activities where the OSCE could make a difference include the promotion of OSCE and other internationally accepted standards on combating illicit-trafficking activities; the drafting of model legislation on transnational bribery; encouraging the linking of migration databases; capacity building in the area of detecting stolen, counterfeit, and invalid travel documents; the promotion of measures for detecting inadequate export/import documents; encouraging cross-border co-operation; and the co-ordination of border officials' activities.

Anti-Trafficking

The OSCE's attempts to prevent and combat trafficking have focused primarily on trafficking in small arms and light weapons (SALW) and, increasingly, on preventing trafficking in human beings. The OSCE has adopted a significant set of commitments designed to prevent the former type of illegal activity. These are enshrined in the OSCE Document on SALW, a wide-ranging agreement that takes a comprehensive approach to the issue. Rather than focusing on border security and law enforcement, the Document aims to prevent the diversion of small arms and light weapons at source by implementing strict export, import and transit legislation. Furthermore, the Document emphasizes the removal of military-style weapons from society, especially in post-conflict settings.

The OSCE could provide additional assistance to participating States to translate these commitments into legislation. Indeed, some OSCE missions have already been working in this direction. In adopting the Document on SALW, OSCE participating States also recognized that effective enforcement of these commitments is critical and is dependent both on the capacity of the border-management and law-enforcement services and on their willingness and ability to co-operate and share information – even intelligence – across

borders. Section III of the Document sets out some measures for “Improving co-operation in law enforcement” and encourages participating States to facilitate and provide “regional, subregional and national training programmes and joint training exercises for law enforcement, customs and other appropriate officials”.⁷ The OSCE recognizes that trafficking in human beings is a growing problem and is committed to enhancing anti-trafficking efforts in defence of human rights and the fight against transnational organized crime. Criminals continue to regard trafficking in human beings as a low risk and highly profitable operation, while the existence of this trade has serious repercussions for the security of states by making borders porous for crime. Links have also been observed between trafficking in human beings and other trans-national criminal activities, such as arms trafficking.

Border Policing

Some 25 per cent of the OSCE’s international staff is now committed to police-related activities. The Strategic Police Matters Unit (SPMU) plays a central role in enhancing border-policing capacity. Its work begins with a critical assessment of needs by international experts. This is followed by the formulation of a support programme that takes into account both the requirements of the host state and, whenever possible, relevant activities undertaken by international partner organizations. The promotion of a long-term vision aimed at separating border policing from the guarding of borders – something that would entail amending state border legislation – is one area. Providing training on recognizing false documents is another.

Preliminary soundings are underway in South-eastern Europe with a view to restoring and equipping a regional academy for border-guards that would serve as a centre of excellence for the training of new personnel. The SPMU would then have the task of reviewing the curricula of courses run at all levels.

As OSCE participating States, field activities and institutions pursue a coherent and co-operative approach to combating trafficking in human beings, especially women and children, it is apparent that victims of trafficking are increasingly transferred from place to place, even across borders, in an attempt to make it harder to identify the traffickers involved.

The fact that a group of individuals is involved in trafficking in one “commodity” by no means precludes their trafficking in any other. Criminals will pursue whichever activities are lucrative and pose an acceptable level of risk. From the standpoint of law enforcement, the focus must be on the crimi-

7 Organization for Security and Co-operation in Europe, Forum for Security Co-operation, Vienna, 24 November 2000, OSCE Document on Small Arms and Light Weapons, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), OSCE Yearbook 2001, Baden-Baden, 2002, pp. 503-519, here: p. 511.

nals and not on the crime – hence the need for intelligence-led investigations. These require the skills, equipment and systems to manage and analyse data on crimes and criminals, and the systems need to be linked to and accessible to border police forces. While the OSCE and its partners in the field of anti-trafficking activities are not authorized to access and make use of intelligence on such criminal groups, it is understood that fighting trafficking in human beings does ultimately affect the activities of larger criminal operations. As with similar crime-related activities, mission members must not become involved in specific cases but should rather use the lessons learned in order to influence the direction of change. The Organization is currently considering the formulation of a strategy on how it, and in particular field missions, should tackle this problem.

Conclusion

The increasing awareness that appropriate border management and security policies are necessary to address a wide range of security concerns leaves little doubt that the OSCE will increase its involvement and commitment over time. While most missions and operations are already addressing border issues as an integral part of their mandates, others will only come to do so in the course of addressing cross-dimensional threats and challenges. Comprehensive border management must take into account the need for security and law and order and the economic benefits of trade across open borders, while, at the same time, ensuring respect for human rights and fundamental freedoms. These aspects broadly reflect the OSCE's three dimensions of security. The challenge for the OSCE will be to pull together its expertise and experience in the three dimensions into one coherent border-management strategy. If it succeeds, there is no doubt that it will have a significant role to play alongside other organizations and institutions.