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**Illegal Migration and Cross-Border Crime:
Challenges at the Eastern Frontier
of the European Union**

EBERHARD BORT

RSC No. 2000/9

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**ROBERT SCHUMAN CENTRE
FOR ADVANCED STUDIES**

**Illegal Migration and Cross-Border Crime:
Challenges at the Eastern Frontier
of the European Union**

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Introduction

To put migration and crime into the same heading should sound an alarm in most readers heads. Part of this paper indeed argues that linking the issues of movement of persons and cross-border crime should be strictly limited to the one connection that exists between the two: the (in)human trafficking of refugees by organised criminal gangs. Otherwise, one can assess both, migration and crime, as challenges which influence, and will continue to influence, border policies, particularly at the present and future eastern frontiers of the European Union.

Since the fall of the Berlin Wall, frontiers have increasingly returned to the political and academic discourse in Europe.¹ It is easy to understand why. New international frontiers have been created (e.g., the Baltic states, ex-Yugoslavia; the “velvet divorce” of Czechslovakia, or Moldova), some by democratic agreement, others by physical force. Other “old” boundaries have changed their function fundamentally, particularly in the case of the former Iron Curtain. At the same time, the rhetoric about a borderless Europe within the European Union has been, at least partially, translated into reality. Since March 1995, the 1985 Schengen Agreement and the 1990 Schengen Convention have been progressively implemented, blurring the distinction between international and sub-state boundaries within the EU.

Yet, the vision of open borders and its realisation is not solely seen as a positive development, anxieties and even fears have accompanied it:

In many countries, citizens have become fearful that they are now being invaded not by armies and tanks but by migrants who speak other languages, worship other gods, belong to other cultures and, they fear, will take their jobs, occupy their land, live off their welfare system and threaten their way of life, their environment, and even their polity.²

Will open borders be an invitation for criminals to cross freely (drug trafficking, cigarette and car smuggling, human trafficking, illegal weapons trading, money laundering, etc.) and illegal immigrants and “fraudulent asylum seekers”³ to move easily between one European country and another?

The Schengen process requires that the abolishment of border controls at the internal frontiers be matched by a standardised strengthening of controls at the external frontiers of “Schengenland”. Does that mean that the eastern frontier of the European Union, opened in 1989/90 from the East, is subsequently in the process of experiencing a degree of closure from the West? How does that match attempts at developing institutionalised cross-border co-operation along that frontier?

As all the eastern neighbours of the European Union have applied for membership, and negotiations for accession have commenced in 1998 with five of these applicant states (Poland, the Czech Republic, Hungary, Slovenia and Estonia), the erstwhile Iron Curtain (with the obvious exception of the frontier dividing Germany during the Cold War, which became the present eastern frontier of the EU) is destined to become an internal EU boundary in the first decade of the new millennium.

Part of the accession process is the demand by EU member states and by the EU itself that the applicant states police their eastern frontiers efficiently. Schengen standards, in other words, are being exported eastward in order to secure the future eastern frontier of the European Union.

The main issues at stake are immigration and crime which are often being joined, with or without good reason, into one general problem. Against the backdrop of an economic divide, which is even deeper at the southern frontier of the European Union than along its eastern borders, and which is replicated at the future eastern frontier of the EU further east, organised crime, both in smuggling of illegal goods and illegal persons, is perceived as a threat to Western societies. Economic divides are seen as hampering co-operation, particularly police and border guard co-operation; in many areas — where fragile neighbouring regimes, like the Ukraine, cannot even pay their frontier guards — corruption blurs the boundaries between the so-called forces of law and order and the lawbreakers.

There is no internationally accepted clear-cut definition of organised crime. The best description so far was formulated by a working party of police and judicial authorities in 1990. According to this informal text, the main features of organised crime are:

the pursuit of profit or power by the planned commission of crimes which, when taken singly or together, are of a serious nature, involving co-operation by more than two persons working as a team over a long or indefinite period, where such co-operation involves: (a) the use of commercial or quasi-commercial structures, (b) the use of violence or other methods of intimidation, or (c) the exercise of influence on the political process, the media, judicial authorities or the functioning of the economy.⁴

Minority problems (600,000 Hungarians live in Slovakia, 2.7 million in Romania⁵) are seen as becoming potentially exacerbated by new dividing Schengen frontiers if, say, Hungary is in, but its neighbours are denied membership. This in turn could, just like the wars in the Balkans — from

Croatia and Bosnia-Herzegovina to Kosovo and Albania have demonstrated — produce further migratory pressure.

This intricate and sometimes unclear or even contradictory picture of conflicting functions of frontiers, especially at the external frontiers (and the expected future frontiers) of the EU — torn between enhanced co-operation and integration (requiring open frontiers) and the perceived need for strict controls (requiring limits to this openness) — results in a political discourse which highlights the issue of migration and the need for harmonised and strict identity controls, at the borders and beyond, in what has been called a return to spatial approaches to security and control, including border zones and police co-operation far beyond national frontiers.

The Schengen Process

When the 1985 and 1990 Schengen agreements came into force in 1995, they were intended to cope with the effects of dismantling identity checks on frontiers between member states by consequent strengthening and harmonisation of checks at the external frontier. Since free movement of persons also implied the free movement of criminals, persons wanted for serious criminal offences or persons in need of protection or *personae non grata* were reported through the Schengen Information System, available on-line in all the member states and at the major ports of entry to the EU. There are probably now about 45,000 on-line access points and about 14 million records.⁶ A rapid response system (the *Sirène* offices) was put in place in member states to act in case of any transfrontier criminal threat, or in case additional information was required about persons or about the legality of a request.

This system inevitably had an effect on the neighbouring states of the European Union and even on distant states which had privileged relationships with members of the European Union — such as those between the Latin American with the Iberian states. Millions of people who could previously enter states without a visa found this was now a requirement because the Schengen agreements included a visa policy common to all Schengen states. Criminal law enforcement co-operation (if one excludes the often rudimentary exchange of information through Interpol) remained on a bilateral basis between member and non-member states of the EU, but the latter became aware of a new system of closer co-operation between the member states in this domain, reinforced by a new non-operational European police office, Europol, in The Hague.

At a meeting of Ministers of the Interior of all twelve Schengen states in Berlin in December 1998, visa harmonisation was declared a top priority. A reduction of the “grey list” was agreed (the original intention had been to abolish it altogether by 1 January 1999⁷) aiming at a common visa regime in “Schengenland”, with a “black list” of countries from where visa are required for one and all of the Schengen states, and a “white list” of states where none are required, ending the problem that people from “grey list” countries might have visa-free entry in one or some of the Schengen countries, but not in others, but are then able to move freely because control of persons has been abolished at the internal Schengen frontiers. At the same meeting, the ministers decided that control of persons would remain in place at Greece’s frontiers which had not passed the efficiency test of the Schengen inspection group.⁸

The Eastern Frontier

When Austria and Italy implemented Schengen (between 1 October 1997 and 1 April 1998) the former Iron Curtain, opened from the East in 1989, became the external Schengen frontier of the EU. This was feared as a threat to cross-border relations in the neighbouring states to the east. And when there was a trial run of Schengen external frontier controls at the Italian-Slovene border in October 1997, this caused considerable disruption.⁹ Yet by April 1998, the expected barrier did not materialise — at least not to the extent expected.¹⁰ The Slovenian border authorities had taken the Schengen threat seriously, and persuaded their own government to adopt the Schengen criteria (of identity and customs checks) at their Croatian frontier, and convinced the Italian, Austrian and EU authorities that Slovenia has — practically — implemented Schengen (without being part of it) at its external non-EU frontiers. This, obviously, made it possible for border controls with Italy and Austria to remain relatively flexible, even after Schengen had become fully operational on 1 April 1998.

Yet this does not obscure the unease which is being felt beyond the external frontier of the EU about the Schengen process. From Poland to Slovenia, there is concern at being obliged to implement Schengen norms — in the negotiations of which these countries had no right to participate.¹¹

Slovenia may have been successful in saving its partially-open frontiers with Italy and Austria, yet at a price. Slovakia, as can be experienced when crossing from Bratislava to Vienna, has not been as successful — or has not tried as hard to implement Schengen-type frontier controls at its eastern frontier. Long queues are also reported

from the Austro-Hungarian borders.¹² Hungary, the Czech Republic and Poland, as well as Estonia — those states with whom negotiations for EU accession have started in March 1998 — are under increasing pressure to police their Eastern frontiers efficiently. This seems to have resulted in far-reaching changes of border controls, particularly in Poland, but also in the Czech Republic and Hungary. A closure of the Hungarian-Romanian frontier, for example, has implications for the large Hungarian minority in Romania.

The Schengen Agreements thus cast a shadow beyond the present European Union. The EU Commissioner in charge of the Single Market, Mario Monti, told the Polish government, for instance, that Poland's chances of joining the EU depended to a great deal on how well it could police its borders. The strengthening of Poland's eastern frontier is seen — particularly in Germany — as the attempt to erect a first serious obstacle to illegal migration and illegal trade from east to west. To be more effective in doing this, Poland aspires to become a member of the European Union and of the Schengen accord, with access to the Schengen Information System at Strasbourg.

The Saxon Minister for the Interior supported the wish of applicant states in East and Central European countries to participate in the Schengen Information System and maintained that a full link to the Strasbourg-based computer system could be installed by mid-1999.¹³ Yet, it is well known that the SIS computer cannot cope with the Scandinavian enlargement of Schengen, let alone extension to the East. The whole system has to be re-designed and equipped (The date expected for the introduction of the new, revamped system, is around 2003).

The economic price for these measures is heavy. In east Poland, more than 1,000 local traders rallied against the “economic catastrophe” caused by tighter border controls. Incomes in eastern border towns have dropped dramatically, unemployment has risen. There has been a sharp fall in trading, not only in the border areas, but also at Warsaw's economically important “Russian bazaar”. Here, trading has fallen by about 30 percent since the introduction of the new aliens' law and the new visa regime. In 1997, the turnover of the Warsaw bazaar was, according to Poland's Market Economy Research Institute, in the region of £350 million.

So far, Poland has not followed the demand by EU spokesmen to introduce visa requirements analogous to the EU, because the limited restrictions already introduced have affected sales to visitors from Russia and Belarus (and Germany). The informal export trade is estimated to earn Poland £5.9bn per annum.¹⁴

But there are also problems of policing, because Poland's eastern neighbours cannot, or will not co-operate. "Chaos and corruption"¹⁵ was the recent verdict of the respectable *Süddeutsche Zeitung*., summing up the situation at the frontiers between Poland and Kaliningrad in the north, as well as Lithuania, Belarus and the Ukraine, not necessarily at all control points, but concerning the large "green border" — 407 km with Belarus, 526 km with the Ukraine. While in Belarus, as at the time of the Soviet Union, the army still exercises a measure of control from the east, the Ukrainian side is totally deficient in their policing of the border. When Ukrainian frontier guards ceased to receive their salaries in 1997, they were wont to recoup the money by assisting illegal migrants to cross the frontier. But corruption is supposed to be widespread on both sides of the Polish-Ukrainian border.¹⁶ As frontiers are only controllable if there is co-operation with the other side, Poland attempts a delicate balancing act — stabilising and effectively controlling the borders (since 1991, more 80.000 illegals have been arrested at the Ukrainian border alone¹⁷), but avoiding total closure towards the East: "Poland, too, does not want barriers at its eastern frontiers, Poland's Foreign Secretary, Bronislaw Geremek stressed on a visit to Bonn in November 1997.¹⁸ And the Minister for Europe, Ryszard Carmacki used the image of a tightly controlled border which could, at the same time, function as a bridge to the large markets of Russia, Belarus and the Ukraine. Stabilising the states which have emerged from the rubble of the Soviet Union, he stated, must be in both Poland's and the West's interest.¹⁹

Marek Bienkowski, in charge of the Polish border guards, announced the building of fifteen new border crossings on the eastern frontier by 2001, along with an increase of the number of border guards and the installation, aided by EU PHARE money, of electronic passport-reading equipment at border check-points. Poland introduced a new aliens law at the beginning of this year, which has led to protests from Russia; several border crossings were blocked by Russians. Belarus withdrew its ambassador from Warsaw. But there is also protest from Polish traders who depend on cross-border traffic. Ukrainians and Lithuanians must now prove that they have sufficient means to sustain themselves in Poland. Russians and Belarusians must have Polish invitations or pre-paid hotel-vouchers if they want to cross into Poland.²⁰ The Czech Republic, in January 1998, listed 12 countries — including the Ukraine, Russia and Belarus — for which it would introduce visa requirements, but had not acted upon it by the end of that year.

The figures of illegals arrested at the 810 km-long Czech-German border had reached 43,000 in the year 1993, but had then declined to 19,000 in 1995 (nearly back to the level of 1991). A first attempt at explaining this was to credit the new international frontier between the

Czech Republic and Slovakia (since the beginning of 1993) for effecting that fall in numbers, the new border acting as a filter for the Czech-German frontier.²¹ But there seems to be reluctance on both sides of that new frontier to introduce rigorous measures (hardly anybody in the area can envisage the Czech-Slovak border as a future external frontier of the EU²²), and since 1996 the numbers have risen again so that the Department of Migration in Prague now considers the effects of the drastic tightening of the German asylum laws in 1993 as the main reason for the temporary decline of arrests. In 1997, there were 29,339 arrests; a figure reached in 1998 by September, indicating a total for 1998 of about 40,000. Among them are illegal migrants from further east and from Turkey, but the main group, since the beginning of the Kosovo crisis, have been ethnic Albanians from Kosovo using, according to Czech police, a "human-smuggling pipeline running through the former Czechoslovakia".²³ Kosovo Albanians and other refugees from former Yugoslavia are, in most cases, bound for Germany, where "colonies" of their compatriots already exist. 72.2% of the illegal migrants have Germany as their destination — 60% of them cross into Saxony. Mostly, they try to cross in groups, aided by organised human smugglers, paying up to £5,000 for their services. Between January and September 1998, more than 650 "Schleuser" (criminal human traffickers) were arrested at this border.²⁴ To get a better perspective on these figures, they ought to be seen against a backdrop of no less than 210 million legal crossings of the Czech frontiers in 1997.

Co-operation between the border authorities in Germany, Poland and the Czech Republic seem better developed — regular meetings, comparing notes, frequent communications, common training and exchanges — than further south, as can be seen, for example at the Austrian-Slovak crossing of Berg/Bratislava, where communication between both sides is rare, and often has to be conducted indirectly via Vienna and Bratislava. From the Austro-Hungarian border (historically, certainly one of the most symbolic frontiers of Europe) long queues are being reported since Schengen was fully implemented by Austria on 1 April 1998, caused by Austrian border police, a new special police force with a "martial outlook".²⁵

Immediately after the opening of the border in 1989, the Czech Republic started a programme of renovating and enlarging border-crossings along the frontier with Germany, which has led to Rozvadov/Waidhaus now functioning as a motorway crossing. Using European PHARE money, Hungary has undertaken to open three new border-crossings on its Romanian border, two on its Ukrainian border, one on the Slovene border, as well as upgrading Rajka on the Slovak border as a motorway crossing. As has already been mentioned, if

Hungary joins the European Union (and Schengen, which has been integrated into the *acquis communautaire* in the 1997 Amsterdam Treaty on European Union), this could “cut off” the sizeable Hungarian minorities in Slovakia and Romania. And while Slovakia, with its new government after Meciar, might rejoin the “fast-track route” to EU membership,²⁶ there is little hope that Romania would do likewise.

Estonia, the fifth applicant state likely to be an early entrant to the EU, is also in a difficult position. Being, like the other candidates for EU membership, under particular pressure to strengthen its border controls and bring them in line with Schengen procedures as part of the negotiation for membership process, this could cause difficulties if it is not synchronised with Latvia and Lithuania.

Moreover, Estonia is on extremely bad terms with Russia mainly, the Russians argue, because of the precarious status of the Russian third of the Estonian population being discriminated against in terms of language, minority and citizenship rights, a point supported by the concern shown by the EU and the Council of Europe. Estonians counter that Russia has unilaterally fortified the border (against international usage, where border demarcations are set in consultation with neighbours), a border formerly purely administrative, between two Soviet republics, and resulting from an imperial transfer of territory after the Second World War, when Stalin forced a large strip of Eastern Estonia to be ceded to Russia. Russia has insisted on this borderline, even after the fall of communism (Estonia has relented on the demand for a return of this land to comply with EU conditions for accession: i.e. no claims to foreign territory, but still Russia refuses to sign the negotiated settlement — which, in turn, is seen by Estonians as a Russian threat of keeping all options open).

It is a highly “unnatural” and martial border (leading in one case straight through the middle of an Estonian house), characterised by watchtowers, barbed wire and a no man's land — for some commentators most reminiscent of the Iron Curtain. The situation is further exacerbated by the fact that the Russian border region of Pskov has returned an ultra-nationalist governor of Zhirinovskiy's LDPR party as regional governor, as this party calls for the restoration of the Soviet-era borders.

Russia is still determined to block any of the Baltic states' desire of becoming members of NATO and has instead proposed a Pact of Regional Security and Stability. But only Lithuania has, in October 1997, signed a border treaty with Russia.

All the Baltic states are regarded as highly permeable transit countries for illegal migrants. But in view of EU enlargement, potential legal labour migration within an enlarged EU has also caused concern, particularly among Conservative politicians in Germany who see huge problems if EU-enlargement towards the East does not go hand in hand with very long transition periods before the introduction of free movement of people. 340,000 to 680,000, additional work migrants annually would, they argue, put problematic pressure on the ailing labour markets of western Europe. The Christian Democrats have therefore demanded that freedom of movement can only become operational by 2015 at the earliest.²⁷ The Bavarian government orchestrated these fears by issuing a statement they expected another 2 million ethnic Germans from the former Soviet Union to exercise their right to come to Germany.²⁸ The debate about the changes of citizenship laws proposed by the new German “red-green” government and particularly the proposal of dual citizenship has provoked highly speculative figures of a potentially massive influx of relatives of foreigners with dual citizenship in Germany, especially from Turkey.²⁹ Politicians of the Bavarian CSU have come up with a figure of up to 600,000 additional immigrants. Yet, as Klaus Barwig has shown, this is a “horror scenario” without any foundation. He calculates a realistic number as being closer to 4,000!³⁰

But this is not just a phenomenon of the German right. People in the Austrian borderlands, for instance, seem also more than reluctant to welcome Hungary in the EU:

Many Austrians actively oppose it, especially those living in border regions such as Burgenland, in the belief that free labour migration will endanger their jobs and an increased flow of refugees put pressure on already stretched Austrian capacity to receive the 500,000 or so people they have absorbed in recent years.³¹

Yet, all these figures, and the fears based on them, seem to ignore the fact that, in Germany for instance, the data for 1997 indicate that more foreigners left the country than entered it. 615 000 new arrivals were outnumbered by 637 000 who left.³² They also seem to ignore that the “wave” of labour migration predicted when Spain and Portugal joined did not materialise.³³

Migration, not always distinguishing between legal and illegal, has thus become a dominant theme in public debate across Europe. The past few years have seen a barrage of alarming — perhaps more alarmist rather than alarming? — news about millions of people waiting to cross the frontiers of Europe, some legally, most of them illegally. In August 1998, it was reported that the secret services (no clearer specification was

given) were warning that there was sustained migratory pressure on the European Union from the East and from the South.³⁴ Figures were given: 2.5 to 3 million potential migrants in Russia, Belarus and the Ukraine, intending to emigrate via the Baltic states to Scandinavia; in Kiev alone, 200,000 migrants were reported to be waiting for human traffickers to smuggle them to Western Europe; 500,000 ready to go in Poland; in Turkey, according to the same sources, there are presently up to one million illegal residents whose ultimate aim is reaching the West. A recent survey, published in January 1999 and conducted in all the major sender countries by the European Observatory for Migrations contradicts these prognostications, suggesting that the propensity to emigrate is high, but that the potential immigrants want to go to the US, Canada, Australia and New Zealand rather than to Germany, France, let alone the UK. The International Organisation for Migration (IOM) comes to a similar conclusion in an extensive study presented at their headquarters in Geneva: it is improbable, the study argues, that Western Europe will be flooded by mass immigration. What has to be reckoned with is that many from Eastern Europe will seek temporary employment in the West.³⁵

What is apparent is that people in Europe seem to harbour an unfocused, general anxiety about frontiers no longer providing the protection they once did. Organised cross-border crime, trafficking of drugs and other smuggled goods, and organised human trafficking seem to indicate that frontier controls are no longer as effective as they once were. This may be changing as populations become more accustomed to the absence of frontier controls at the internal frontiers. This absence is widely welcomed in frontier regions. In general, the French — normally very sensitive to these matters — seem to have adopted a reasonably relaxed attitude about open frontiers, and those living in the frontier regions seem very pleased with the new situation. Law enforcement agencies seem to have adapted to the new situation without undue difficulty. The nature of frontiers is perceived as changing. New information technology for surveillance and identity control is widely seen as a key factor in securing efficient frontier controls.

A final paradox is that policing internal as well as external frontiers has also entailed the creation of border zones — sometimes referred to as a return of the *limes* (Foucher 1998) — where random checks are allowed.³⁶ In April 1997, the Austrian Secretary of State in the Ministry of the Interior, revealed that with the implementation of Schengen in October 1997 a 30 kilometre-wide “security veil” would be installed along the German border, with a significantly increased police presence., and that German police could pursue criminals unlimited by space and time in Austria.³⁷ Dr Horst Eisel, Assistant Director for Frontiers at the German Ministry of Internal Affairs, has put it thus:

The spatial approach clearly ought to take precedence over the purely linear approach to geographic boundaries. The latter is no longer a match for today's challenges, because individual and collective security begins beyond our borders and continues well on this side of them.³⁸

Cross-Border Crime

The European, reporting on Europol, painted a glaring picture of:

a grim post-Cold War pattern of crime..., with gangsters from the former Soviet bloc having a stranglehold in the West on prostitution, racketeering and the trade in stolen cars. Drugs are also pouring in from the east, with Poland now the third largest producer of amphetamines.³⁹

Indeed, the real existing dangers of cross-border crime must not be underestimated. Leslie Holmes has argued that, "at their most extreme, substantial rises in the proportion of illegality in international economic activity can destabilise national economies".⁴⁰ The rise in internal and cross-border crime in Eastern Europe, and particularly in the countries of the former Soviet Union, can be pinned down to the difficult transitional situation in these countries: post-communist states attempting, in Claus Offe's term, a "triple transition": the rapid and simultaneous transformation of their political systems, their economic systems, and their boundaries and identities.⁴¹

This "triple transition" is grafted upon a pre-1989 experience under communism, where corruption and dodging the state were part of the political culture, "creating an environment of institutionalised illegality".⁴² Economic decline had long laid the foundations of a flourishing shadow economy, before the fraught transformation into market economies provided new opportunities for criminals to exploit deficiencies in inadequately-regulated markets which could not match demand and supply. Yet this is not just an internal problem of the post-communist countries. There seems to be wide-spread interaction between organised criminals in post-communist states and established criminal structures in the West, as "all sorts of crime can cross borders".⁴³

- **Street prostitution** has been visibly increasing on the German-Polish and German-Czech borders, as well as on the Austro-Czech and Austro-Slovak borders.⁴⁴
- Prague is reported to have become a centre for **money laundering** for the Chechnya mafia, operating from there in conjunction with dubious Liechtenstein firms.⁴⁵ Large-scale money-laundering, one of the chief operations of transnational crime, could be made even easier, some

sources argue, by the introduction of the Euro.⁴⁶ The financial service centres of Geneva, Zurich, Zug and Lugano in Switzerland are, according to a report by the Federal Police Office in Berne, affected by organised money laundering. More than 150 persons and 90 firms resident in Switzerland are suspected to have dealings with the Russian Mafia.⁴⁷ A report of Confcommercio, an umbrella organisation of Italian tourism, catering and trade organisations, claimed that up to one-fifth of the banks, restaurants and bars, estate agencies, gold and antiques businesses, travel agencies and shops in Italy were in the hand of organised criminals: 15 percent of all hotels, 24 percent of all building sites, 25 percent of financial services and 70 percent of the cement market and of the manufacturing of imitation brand clothing.⁴⁸

- Concerning the border between Slovakia and Austria, the Austrian *Kurier* reported exhaustively on the “Bratislava-Connection”, the cross-border “drug tourism” between Bratislava and Vienna (only 60 km apart). Not only, according to the *Kurier*, is Bratislava a centre for the “car-smuggling mafia”, the city’s “by far largest economic branch” is organised **drug-trafficking** and drug-related crime, based foremost on the heavy price difference between the two cities. The situation is worsened by “insider views” that the police on the Slovak side is corrupt, so that little can be done against the “avalanche of drugs” coming through Bratislava.⁴⁹ The classic “Balkan route” from Turkey through Bulgaria, Yugoslavia and Austria has, partly as a reaction to the Yugoslav wars, split into two: a southern route via Greece and Italy; and a new northern route via Ukraine and Poland.⁵⁰
- One of the most frequent features is **passport forgery**. In 1997 alone, German border police confiscated 1,700 false passports at the Polish border, mostly involving Polish citizens. But the real problem are stolen passports, passports issued under false names by the authorities, or passports sold to potential illegal migrants. These are hard to detect at the routine controls, even when fed through the Schengen computers.⁵¹
- Illegal trade in **arms and weaponry**, and smuggling of **nuclear substances**, across the Iron Curtain was deemed impossible; now, customs officers at the German frontiers can hardly contain their amazement at what is being smuggled — quantities of up to 1,000 rounds of ammunition, anti-tank weapons, and hand grenades, often in small cars, adding the danger of explosions in case of an accident.⁵²

- The organised **human trafficking** syndicates, often operating from places like Moscow or Minsk, but also from Georgia, Armenia and Asian countries, use the infrastructure of Red Army barracks and former Intourist agencies and the latest in navigation technology.⁵³ It is estimated that human trafficking earns these organised, criminal cartels up to \$5 bn a year.⁵⁴ The most “popular” routes for human trafficking, according to the *Bundesgrenzschutz*, are the “eastern channel” (Almaty, Moscow, St Petersburg, Minsk, Vilnius) and the “Balkan channel” (Romania, Hungary, Moldova, Russia, Ukraine, Poland).⁵⁵ The *Süddeutsche Zeitung* noted the connection between the drastic tightening of the German asylum laws in 1993 and the increase of illegal migration. As the door was closed in the face of asylum, refugees have been driven into the arms of unscrupulous human smuggling organisations, paying up to £5,000 per head for their services.⁵⁶ In January 1999, a major trial began in Amberg, Bavaria, involving seven Vietnamese and one German accused of having smuggled more than a hundred illegal migrants – mostly Chinese – across the Czech-Bavarian border.⁵⁷

Again, it must be stressed that, as Achim Hildebrandt of the German Project Group on Visa Harmonisation in the Ministry of the Interior recently put it, “the migrant is not the criminal; he or she is the victim of crime”.⁵⁸ If there is a connection between illegal migration and organised crime, it is human trafficking. And human trafficking is not a consequence of open borders, but of closed borders. By tightening border control, would-be refugees are driven into the arms of organised human smugglers.

Undoubtedly, the discourse of migration control has become intricately linked with the discourses on crime and security in what Jef Huysmans and Didier Bigo have both called a process of “securisation”.⁵⁹ Security has become a much broader concept, compared with the focus on military concerns which dominated the discourse until the changes of 1989/90, encompassing new risks and threats to society, the economy and the polity itself.⁶⁰ This constitution of a security continuum, including the control of frontiers and immigration among police activities in the fight against crime is, Bigo argues, “not a natural response to the changes in criminality”, but rather a proactive mixing of crime and immigration issues.⁶¹ Barry Buzan has coined the term “societal security”, describing the shift of security concerns from protection of the state to protection against threats, or perceived threats, against society and identity, or the identity and security of groups within a society.⁶²

In the notorious strategy paper concerning the Geneva Convention, which the Austrian government formulated during Austria's presidency of the EU (and which was withdrawn after paramount criticism), the whole refugee problematic was categorised under "illegal migration", and linked migration policies explicitly with policies against organised crime.⁶³ Yet, the Dublin Convention and the Schengen Agreements had already equated the threat of migration with the fight against drugs, acts of terrorism and international, cross-border and organised crime.

Refining border controls as a means of exclusion can be seen as a response to the threat to societal security. Yet reinforced borders, a fortress mentality, although being often invoked when Schengen is criticised, are no longer really conceivable as practical solutions for internal security needs. It is undeniable that the security of individuals has become deterritorialised.⁶⁴ Internal security now implies collaboration with foreign countries and is thus linked to foreign policy, and the 1980s and 1990s marked the beginning of a public debate on policing, coinciding with the emergence of a discourses on urban insecurity and the city on the one hand, and discourses on stopping immigration of unskilled workers on the other.⁶⁵

Agitated by the media coverage of the dangers posed by illegal migration and cross-border crime, particularly in the borderlands press, connecting crime and migration, "civic guards" were formed on the German side of the German-Polish border in 1998, subverting the authority of the state and its law enforcement agencies. This, despite the fact that the statistics show no higher rate of criminality in the border region than in the rest of the country.⁶⁶

A particularly sad chapter are the casualties at the border, particularly refugees drowning in the Oder and Neisse rivers, led by their smugglers to remote river banks and dangerous currents because these are the least policed spots of the border. Nearly a hundred corpses have been fished out of the rivers in the past few years, a watery grave putting an end to journeys which often had covered thousands of miles.⁶⁷

There have been two predominant modes of reaction to the challenges of cross-border crime: increased security protection at borders, (yet not necessarily restricted to the actual borderline), and increased international cross-border co-operation.

The former, "law and order", German Minister of the Interior, Manfred Kanther, called the borderlands to the east of Germany a "crime zone".⁶⁸ He pointed out the increase in cross-border crime in general (Russian mafia, cigarettes and car smuggling, drug trafficking, illegal

weapons trade, fraud and money laundering, and smuggling of human beings), but with an emphasis on securing the borders against criminals, human trafficking and illegal immigration.⁶⁹ Apart from investing heavily into new surveillance technology, he also increased the number of border guards (*Bundesgrenzschützer*) to 6500 along the German-Polish and German-Czech borders.

In an attempt to combat the rise in cross-border criminality, police forces are increasing their co-operation across frontiers. Co-operation between border police at the German-Polish and the German-Czech borders is already highly developed, with permanent exchange of notes, common training, and daily communication.⁷⁰ At the Austro-Slovak and Austro-Hungarian frontiers, this is much less the case. In 1996, the European Commission started to sponsor seminars and a placement scheme for EU border police, with the intention to create an institutionalised network of exchange and co-operation.⁷¹ Seminars on detection of fraudulent documents are being held, and the collaboration between, for instance, car rental firms and police organisations in the East and Central European states are being intensified, which has already led to arrests and disruption of routes.⁷² This is not only happening in an internal European context. The US State Department has invested more than \$8 million into police training in Hungary. In 1995, the International Law Enforcement Academy (ILEA) was founded in Budapest, offering eight-week courses for law enforcement agents from Hungary and other East Central European states, concentrating on combating terrorism, drug-related crime and economic criminality. This seems to go hand in hand with a much-needed improvement the Hungarian government provides for its underpaid — and allegedly corrupt — police force, and efforts to establish closer co-operation between the secret services in the East and in the West.⁷³

There are signs of success. Police co-operation along the so-called “Balkan route” has resulted in the biggest-ever seizure of heroin in 1998, 8,112 kilograms, up 17.3 percent compared with 1997.⁷⁴ Liaison officers from Germany have been sent to Turkey and ten other states in Central and Eastern Europe. Along the “Balkan route”, 1,736 alleged drug-traffickers were registered in 1998, against a figure of 1482 in 1997.⁷⁵ Seizure of hard drugs was up 3 percent from 1997 to 1998, Ecstasy pills 35 percent, and the volume of intercepted hashish and marihuana doubled.⁷⁶

How big the threat of organised cross-border crime really is, is “a matter of judgement rather than fact”.⁷⁷ It is noteworthy, though, that a survey of crime statistics in Central and East European states revealed, despite the *proviso* of their actual accuracy, that “crime rates in the post-

communist states have remained still considerably below those of many leading Western states".⁷⁸

Sometimes one cannot but feel that the campaign against organised crime has had to serve as a surrogate for the Cold War enemy which had vanished after the fall of the Wall: "The defeat of communism has created a "threat vacuum" that has given rise to a search for new enemies".⁷⁹ The police, Peter Cullen has argued, "have an obvious institutional interest in painting the picture blacker than the reality".⁸⁰ The discourse on organised and cross-border crime has undoubtedly been instrumentalised by law enforcement authorities:

"to endorse the 'modernization' and 'professionalization' of the German police force and to legitimize the extension of its arsenal of legal investigative tools to include, for example, electronic surveillance".⁸¹

The question is, furthermore, whether the investment in control, particularly at the eastern frontier of the EU, delivers value for money.

At the eastern borders of Germany there is a higher concentration of border police than at any other border of Europe — 6500 border guards and a further 1500 unskilled semi-official "auxiliaries". Surveillance technique is state of the art, and highly expensive. One thermo-nightsight spyglass costs c.£70,000. Following German unification, the manpower of the *Bundesgrenzschutz* (BGS) was nearly doubled between 1989 and 1997, from 24,982 to 40,100 border guards; the budget of the BGS rose in the same period from £0.43 bn to £0.96 bn.⁸²

All this in order to make the net tighter. Yet even hardliners like Kanther have to admit that there are limits to control. A democratic country, eschewing walls and barbed wire would, he conceded, not be able to have a hermetically closed frontier.⁸³ In the long-run, intensified police and security co-operation seems far more promising than concentrating on border security, with its drawbacks in cross-border communication and co-operation.

Cross-Border Co-operation

Cross-border regionalism has flourished over the past two decades, beginning in the heartlands along the western border of Germany, and taking a new step in the 1990s, when — in response to the opening of the Iron Curtain — Euroregions were set up from the Finno-Russian border down to Austria, Slovakia, Hungary and Slovenia.⁸⁴

Peripheral borderlands are one of the legacies of the nation-state, and particularly along the East-West divide (*vide* the German "Zonenrandgebiet"). It is because of the memory of that fact that the new rhetoric of the lasting importance of the nation state is viewed with scepticism in the borderlands of Europe. Regionalism, and in particular cross-border regionalism has been seen as a challenge to traditional notions of state sovereignty,⁸⁵ but also as a tool to develop formerly peripheral regions. Wherever possible, Euroregions are based on common cultural and historical experience, but primarily they are a pragmatic economic enterprise for economic development, funded by the European Union's Interreg and PHARE programmes. (The Czech Republic, for example, receives 340 million ECU through PHARE between 1995 and 1999.)⁸⁶

The establishment of cross-border co-operation seems to show that a translation of practical concerns from West to East is well underway. The frequently expressed need for cross-border co-operation (environment, infrastructure, tourism, security) matches certain regional reform concepts, devolving planning authority and decision-making processes to the regions. The regional context may also be more conducive to solving problems of national minorities and even provide regional solutions for international problems. Regionalisation and "integrated borderlands",⁸⁷ rather than a nineteenth-century model of the nation state could offer a more tranquil future for non-homogenous states with large ethnic minorities within their borders.

Cross-border regionalism seemed to develop, for instance, in the German-Czech borderlands despite the fraught negotiations between Germany and the Czech Republic about coming to a final agreement about the property of, and compensation for, the Sudeten Germans. The accord of January 1997 took nearly a year (and changes in government on both sides) to be fully implemented, but it is generally seen as opening up new opportunities for intensified cross-border co-operation.⁸⁸

There are, however, reasons for being cautious about a simple transfer of Western models to the Eastern borderlands. Different centre-periphery relations ought to be considered. Jutta Seidel of the State Chancellery of the Free State of Saxony, speaking about her experience in organising transfrontier co-operation between Saxony and Poland, and Saxony and the Czech Republic, emphasised the initial difficulties which had to be overcome and which resulted from administrative centralisation in the Czech and Polish Republics. According to Seidel, it took years to create trust and willingness in Warsaw and Prague to allow their western border regions a degree of planning autonomy which would allow them to negotiate directly with their German counterparts.⁸⁹

The potential of conflict between centre and periphery may be exacerbated by the major differences between the situations in the West and the East. While in the West, especially along the German frontier, states with roughly similar wage levels and costs of living started collaborating across their borders after the Second World War, the Eastern Frontier of the European Union became, under the conditions of the Cold War, a profound economic frontier.⁹⁰ If problems of extreme economic inequality have caused anxieties among the countries bordering the EU to the east about economic and political subordination,⁹¹ are other regions within Poland, the Czech Republic and other Central and Eastern European Countries not confronted by a similar question: why should the regions bordering on the EU be privileged by cross-border incentives? In other words, is the newly emerging, perhaps common, identity of the transfrontier regions a forerunner for integrating the whole of the states concerned into the EU, or does it reinforce the considerable disparities between East and West, town and country, within the applicant states? Does it cause resentment against these apparently privileged regions and, by challenging state centralism, cause a threat to the integrity of the state itself?⁹²

On aggregate, cross-border co-operation is undoubtedly deemed to be a positive force,⁹³ enhancing communication and collaboration, and thus adding to stability and, by implication, to control. Here, in the borderlands, any functional change of frontiers is felt immediately, whether it has been the implementation of Schengen or whether it will be the opening of borders as a consequence of EU accession. Institutionalised cross-border co-operation is a laboratory for European concepts to deal with these questions.⁹⁴

The implementation of Schengen and the accession process of Central European states to the European Union, highlighted by the establishment of these Euroregions which, in order to function effectively, require a high permeability of borders — the border as bridge, as communicative channel rather than barrier — add up to a confusing, sometimes even contradictory and ambiguous picture of a frontier with elements of both openness and closure.⁹⁵

A “Fuzzy Logic”

Migration control may well be a myth,⁹⁶ but its connection with the security discourse, problems of citizenship and control of frontiers, particularly in the sensitive field of identity controls, makes it a timely and necessary target for inquiry, particularly — but not exclusively — concerning the external borderlands of the European Union which, with

all the ambiguities referred to on the outset, are perceived as being under migratory stress.

Some tentative conclusions can be drawn for future policies concerning “the new frontier” in the East:

- The mixing of perception and realities can lead to symbolic politics which, though appearing to be remedies against perceived threats, may prove, in the long run, counter-productive to stability and prosperity in the macro-region.
- Security at and beyond borders can best be guaranteed through co-operation. Closed borders are not an option.
- Getting used to open frontiers is a learning process in a time of transition, where new identities and roles are being shaped.
- Organised crime and issues of migration must be clearly separated, with the exception of illegal trafficking (where the smuggler, not the smuggled, is the criminal).
- Human trafficking is a consequence of frontier restrictions, rather than of open borders.
- Financial and organisational support for the economies and the institution-building processes of civil society in the post-communist countries should have priority, as their present deficiencies, in combination with the gap in prosperity between East and West, are the main sources of organised crime structures.

In a recent article, *The Economist* referred to the different time zones and the different economic zones at the Estonian-Russian border.⁹⁷ Not only do people on both sides of this border live in different actual time zones, they — and they share this experience with many other border regions in East-Central Europe — also live, figuratively speaking, in different time zones, in different phases of development. And what is true for Central Europe, might well have implications for the Mediterranean, if at least the moderate goals formulated at the Barcelona Conference of November 1995 are to be translated into reality.

A free society, Didier Bigo reminds us,

“is one with open frontiers and plural identities. This implies both that behaviour is adaptable and that there must be acceptance of illegality at the margins. Whether European politicians accept it or not, a free society now

implies tolerance of international phenomena decoupled from territory, characterised by transnational networks and the penetration of national territories".⁹⁸

Looking towards the future, it might help to conclude with Michel Foucher's notion of borders being "time inscribed into space or, more appropriately, time written in territories",⁹⁹ i.e. temporary, functional arrangements, and that in a Central Europe, which embarked on fundamental changes in 1989/90, "a "fuzzy logic", less rational, less rigid, but allowing historical transition to take place",¹⁰⁰ may be a necessary condition we have to live with for the foreseeable future.

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NOTES

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² Myron Weiner (1995) *The Global Migration Crisis: Challenges to states and to Human Rights*, New York, Harper Collins, p.2.

³ Patrick Fitzgerald (1995) "Repelling Borders", *New Statesman & Society*, 17 February.

⁴ Hans-Ludwig Zachert (1995) "Die Entwicklung der Organisierten Kriminalität in Deutschland", *Aus Politik und Zeitgeschichte*, B23, p.13.

⁵ Paul Gillespie uses that figure for Romania ("Hungary presses reluctant EU for accession date", *The Irish Times*, 16 January 1999); Romanian sources, citing the census of 1992, speak of 1.62 million Hungarians living in Romania. See Jürgen Nowak (1994) *Europas Krisenherde*, Reinbek bei Hamburg, Rowohlt, p.133, who also gives the figure of 570,000 Hungarians in Slovakia, according to the census of 1991 (p.135). Alasdair Stewart gives the Hungarian minority in Romania as "numbering some 2m": *Migrants, Minorities and Security in Europe (Conflict Studies 252)*, London, Research Institute for the Study of Conflict and Terrorism, 1992, p.8; see also George Schoepflin, "Hungary and its Neighbours", *Chaillot Paper*, No.7, Paris, Institute for Security Studies of WEU, (May 1993), p.37; and P. Dunay, "Hungarian-Romanian Relations: A Changed Paradigm?", *Chaillot Papers*, No.26, Paris, Institute for Security Studies of WEU (June 1997), p.6 — both tending towards the unofficial 2 million figure.

⁶ Evidence to the House of Lords, Select Committee on European Communities Sub Committee F, 9 January 1999.

⁷ See Anne Schmidl-Wrulich (1998) "Die von der Österreichischen Präsidentschaft erzielten Ergebnisse", in Monica den Boer (ed.) *Schengen's Final Days*, Maastricht, European Institute for Public Administration, pp.67-75.

⁸ Greece started to participate in the Schengen procedures on 1 December 1997. See "Personenkontrollen bei Griechenland-Reisen bleiben", *Süddeutsche Zeitung*, 17 December 1998.

⁹ Melita Richter-Malabotta. (1998) "Some Aspects of Regional and Transfrontier Cooperation in a Changing Europe", in M. Anderson and E. Bort (eds) *Schengen and the Southern Frontier of the European Union*, Edinburgh, ISSI, pp. 41-72; especially pp. 65-67.

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¹⁹ "Deutsche profitieren von Polens Beitritt", *Süddeutsche Zeitung*, 9 April 1998.

²⁰ Ian Traynor, *art. cit.*

²¹ See E Bort (1996) "Coping with a New Situation", in M. Anderson and E. Bort (eds.) *Boundaries and Identities: The Eastern Frontier of the European Union*, Edinburgh, ISSI, pp. 61-62.

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²⁴ Figures supplied by Dr. Milos Mrkvice, interviewed by E Bort, Prague, 24 September 1998. See also Martina Fietz, "Warum Tschechien in seine Grenzen investieren mu?", *Die Welt*, 20 October 1998.

²⁵ Michael Frank "Da geraet Europa an seine Grenzen", *Süddeutsche Zeitung*, 5 Januar 1999.

²⁶ Paul Gillespie, "Not much success as Czechs find fruits of democracy sour", *The Irish Times*, 9 January 1999.

²⁷ Martin S. Lambeck, "Union sieht Gefahren bei Ost-Erweiterung", *Die Welt*, 8 July 1998.

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²⁹ For the background, see Douglas B. Klusmeyer (1993) "Aliens, Immigrants, and Citizens: The Politics of Inclusion in the Federal Republic of Germany", *Daedalus*, 122, 3, pp. 81-114.

³⁰ Klaus Barmer, a migration expert of the Catholic Academy of Stuttgart-Hohenheim, quoted in Heribert Prantl, "Wieviel Nachzug?", *Süddeutsche Zeitung*, 22 January 1999.

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³³ Karin Kneissl, "Die Grenze im Kopf wird lange bleiben", *Die Welt*, 24 October 1998.

³⁴ Peter Scherer, "Geheimdienste schlagen Alarm", *Die Welt*, 21 August 1998.

³⁵ Alfred Zaenker, "Die meisten Migranten kommen zum Arbeiten nach Deutschland", *Die Welt*, 20 March 1999.

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⁸⁵ Eberhard Bort (1997) "Crossing the EU Frontier: Eastern Enlargement of the EU, Cross-Border Regionalism and State Sovereignty", in *Interregiones* 6, pp.20-31.

⁸⁶ Wolfgang Jung, "Grenzverkehr", *Süddeutsche Zeitung*, 11 November 1998; see also Beate Neuss, Peter Jurczek and Wolfram Hilz (eds), (1998) *Grenzübergreifende Kooperation im Oestlichen Mitteleuropa*, Tübingen: Europaeisches Zentrum für Foederalismus-Forschung.

⁸⁷ O. J. Martínez, (1994) "The Dynamics of Border Integration: New Approaches to Border Analysis", in C. H. Schofield (ed.), *Global Boundaries*, London, Routledge, pp.1-15.

⁸⁸ Peter Schmitt (1997) "Neue Chancen für "Euregio Egrensis", in *Süddeutsche Zeitung*, 27 January 1997.

⁸⁹ Jutta Seidel, in conversation with Malcolm Anderson and Eberhard Bort, Edinburgh, 13 May 1996.

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⁹¹ Malcolm Anderson (1996) *Frontiers*, London, Pinter, p.180.

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⁹³ Particularly in an external and comparative perspective, as in Anthony Asiwaju, (1996) "Public Policy for Overcoming Marginalization: Borderlands in Africa, North America and Western Europe", in Sam Nolutshungu (ed.), *Margins of Insecurity: Minorities and International Security*, Rochester, N.Y., Rochester University Press, pp. 251-83; especially pp. 272-78.

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⁹⁶ Didier Bigo (1998) "Frontiers and Security in the European Union: The Illusion of Migration Control", in M. Anderson and E. Bort (eds.), *The Frontiers of Europe*, London, Pinter, pp. 148-64.

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⁹⁸ Didier Bigo, "Frontiers and Security in the European Union", p.161.

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